



## **CEMETERIES LOCAL LAW 2020**

***CEMETERIES ACT 1954***

***LOCAL GOVERNMENT ACT 1995***

**CEMETERIES ACT 1986**  
**LOCAL GOVERNMENT ACT 1995**

**SHIRE OF KOJONUP**  
**CEMETERIES LOCAL LAW 2020**

ARRANGEMENT

**PART 1 – PRELIMINARY**

- 1.1 Citation
- 1.2 Application
- 1.3 Commencement
- 1.4 Repeal
- 1.5 Interpretation

**PART 2 – ADMINISTRATION**

- 2.1 Powers and functions of CEO

**PART 3 – APPLICATION FOR FUNERALS**

- 3.1 Application for burial
- ~~3.2 Application for cremation~~
- 3.3 Applications to be accompanied by certificates etc
- ~~3.4 Certificate of identification~~
- 3.5 Minimum notice required

**PART 4 – FUNERAL DIRECTORS**

- 4.1 Funeral director's licence expiry
- ~~4.2 Single funeral permits~~
- ~~4.3 Application refusal~~

**PART 5 – FUNERALS**

*Division 1 – General*

- ~~5.1 Requirements for funerals and coffins~~
- ~~5.2 Funeral processions~~
- 5.3 Vehicle entry restricted
- 5.4 Vehicle access and speed limitations
- 5.5 Offenders may be ordered to leave
- ~~5.6 Conduct of funeral by Board~~

~~*Division 2 – Cremation*~~

- ~~5.7 Metal coffins prohibited~~
- ~~5.8 Polyvinyls, etc, prohibited~~
- ~~5.9 Depositing the coffin~~
- ~~5.10 Removal of the name plate and lead strip~~
- ~~5.11 Removal of metal fittings~~

~~*Division 3 – Placement of ashes*~~

- 5.12 Disposal of ashes
- ~~5.13 Availability of ashes~~

~~5.14 – Ashes held by the Board~~

**PART 6 – BURIALS**

- 6.1 Depth of graves
- 6.2 Mausoleum, etc

**PART 7 – MEMORIALS AND OTHER WORK**

*Division 1 – General*

- 7.1 Application for monumental work
- 7.2 Placement of monumental work
- 7.3 Removal of rubbish
- 7.4 Operation of work
- 7.5 Removal of sand, soil or loam
- 7.6 Hours of work
- 7.7 Unfinished work
- 7.8 Use of wood
- 7.9 Plants and trees
- 7.10 Supervision
- 7.11 Australian War Graves
- 7.12 Placing of glass domes and vases

*Division 2 – Lawn Section*

- 7.13 Specification of monuments
- 7.14 Headstones

*Division 3 – Memorial plaque section*

- 7.15 Requirements of a memorial plaque

*Division 4 – Licensing of monumental masons*

- 7.16 Monumental mason's licence
- 7.17 Expiry date, non-transferability
- 7.18 Carrying out monumental work
- 7.19 Responsibilities of the holder of a monumental mason's licence

**PART 8 – GENERAL**

- 8.1 Animals
- 8.2 Damaging and removing of objects
- 8.3 Withered flowers
- 8.4 Littering and vandalism
- 8.5 Advertising
- 8.6 Obeying signs and directions
- 8.7 Removal from the cemetery
- 8.8 Exhumation of a body**

**PART 9 – OFFENCES AND MODIFIED PENALTY**

- 9.1 General
- 9.2 Modified penalties

**Schedule 1 – Modified penalties**

**Schedule 2 – Infringement notice**

**Schedule 3 – Infringement withdrawal notice**

***CEMETERIES ACT 1986***  
***LOCAL GOVERNMENT ACT 1995***

**Shire of Kojonup**  
**Cemeteries Local Law 2020**

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 Kojonup resolved on [date of adoption resolution after completion of public consultation period] to adopt the following local law.

**PART 1 – PRELIMINARY**

**1.1 Citation**

This local law may be cited as the Shire of Kojonup Cemeteries Local Law 2020.

**1.2 Application**

This local law applies to the Kojonup (Reserve 30382), Muradup (Reserve 18715) and Boscabel (Reserve 17988) public cemeteries located in the district.

**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 *Shire of Kojonup Cemeteries Local Law 1999* published in the *Government Gazette* on 16 May 2000 is repealed.

**1.5 Interpretation**

In this local law, unless the context otherwise requires –

“**Act**” means the *Cemeteries Act 1986*;

“**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;

“**authorised officer**” means an employee of the Board authorised 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 Kojonup;

“**CEO**” means the chief executive officer, for the time being, of the Board;

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

“**funeral director**” means a person holding a current funeral director’s licence;

“**local government**” means Shire of Kojonup;

“**mausoleum**” means a building or construction wholly above or partially above and below ground level, so constructed as to allow the deposition of dead bodies into a compartment in the wall or floor and being sealed from view;

“**monumental mason**” means a person holding a current monumental mason’s licence;

“**personal representative**” means the administrator or executor of an estate of a deceased person;

“**set fee**” refers to fees and charges set by a resolution of the Board 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

“**vault**” means a below ground lined grave with one or more sealed compartments constructed to specifications approved from time to time by the Board.

## **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 cemetery.

## **PART 3 – APPLICATION FOR FUNERALS**

### **3.1 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.

### ~~3.2 Application for cremation~~

- ~~(1) A person who desires to hold a funeral within the cemetery shall, in the case of the cremation of a dead body :
  - ~~(a) make an application to the Board in the form determined by the Board from time to time; and~~
  - ~~(b) lodge with the application referred to in paragraph (a), a permit to cremate issued in accordance with the Cremation Act 1929.~~~~

### **3.3 Applications to be accompanied by certificates etc**

All applications referred to in clauses 3.1 and 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 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 ~~or crematorium within 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 a 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) A funeral director shall complete a certificate in the form determined by the Board from time to time, 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.

### **3.5 Minimum notice required**

All bookings to hold a funeral shall be made with the Board at least 48 hours prior to the time proposed for burial on the application, otherwise an extra charge may be made.

## **PART 4 - FUNERAL DIRECTORS**

### **4.1 Funeral director's licence expiry**

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

### **4.2 Single funeral permits**

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, ~~or~~ ~~crematorium~~.

### **4.3 Application refusal**

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 ~~or~~ ~~crematorium~~ are not structurally sound or are otherwise inadequate or inappropriate, or on any other grounds.

## **PART 5 – FUNERALS**

### *Division 1 – General*

### **5.1 Requirements for funerals and coffins**

- (1) A person shall not bring a dead body into the cemetery unless –
- (a) the Board has approved an application for the burial ~~or cremation~~ 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 10 mm in height.

## **5.2 Funeral processions**

The time fixed by the Board for any burial ~~or cremation~~ 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 ~~or clause 3.2~~ shall pay the set fee for being late.

## **5.3 Vehicle entry restricted**

- (1) Subject to clause 5.3(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 cemetery.
- (2) This clause shall not apply to persons using wheelchairs or motorised wheelchairs.

## **5.4 Vehicle access and speed limitation**

- (1) A person shall drive a vehicle on a vehicular access way or the constructed roadway or other areas designated for the use of vehicles within the cemetery, unless otherwise authorised by the CEO.
- (2) A person driving a vehicle, within a cemetery, shall not exceed the speed limit of 25 km per hour, and shall comply with the signs and directions in the cemetery.

## **5.5 Offenders may be ordered to leave**

- (1) A person committing an offence under clause 5.4 may be ordered to leave the cemetery by the CEO or an authorised officer.
- (2) A person who has been ordered to leave the cemetery by the CEO or an authorised officer is to leave immediately in a peaceful manner and not cause a disruption or be a nuisance to the funeral congregation or ceremony or procession.

## **5.6 Conduct of funeral by Board**

- (1) When conducting a funeral under section 22 of the Act the Board may –
  - (a) require a written request for it to conduct a funeral to be lodged with it;
  - (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 ~~or cremate~~ that dead body ~~but may cremate the dead body only when a permit to cremate has been obtained for that body under the Cremation Act 1929~~;
  - (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;
  - (g) do or require anything which it considers is necessary or convenient for the conduct of a funeral by it.

## *~~Division 2—Cremation~~*

## ~~**5.7—Metal coffins prohibited**~~

~~Metal or metal lined coffins shall not be accepted by the Board for cremation at the cemetery.~~

## ~~**5.8—Polyvinyls, etc, prohibited**~~

~~The use of polyvinyl or its derivative, polyurethane, aerosol cans, other sealed containers, glass and/or other materials determined from time to time to be not appropriate to the cremation process by the Board, in or upon coffins presented for cremation at the cemetery is prohibited.~~

#### **~~5.9 Depositing the coffin~~**

- ~~(1) The funeral director shall deposit the coffin for cremation upon the catafalque in the crematorium chapel or at such other position within the cemetery as may be determined from time to time by the Board.~~
- ~~(2) Once the coffin has been deposited for cremation in accordance with subclause (1), all further services will be rendered by and be under the sole control of the Board.~~

#### **~~5.10 Removal of the name plate and lead strip~~**

~~The Board shall remove the name plate and lead strip from the coffin prior to cremation at a cemetery and the lead strip shall be placed in the container with the ashes.~~

#### **~~5.11 Removal of metal fittings~~**

~~The Board may remove any metal or other fittings on coffins presented for cremation at the cemetery which in the opinion of the Board could impede the cremation or cause damage to the cremation equipment.~~

### *Division 3 – Placement of ashes*

#### **5.12 Disposal of ashes**

- (1) The 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 –

Niche wall	Granite seat
Memorial wall	Family grave
Garden of remembrance	Book of remembrance
Ground niche	Scattering to the winds
Memorial rose, tree or shrub	Memorial gardens
Family shrub	Other memorials approved by the Board
Memorial desk	

- (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 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 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.

#### **~~5.13 Availability of ashes~~**

~~Subject to compliance with clause 5.12 and upon the payment of the set fee, the ashes of a deceased person that have not been placed within the cemetery will be made available to the~~



~~personal representative of the deceased person during the normal office hours of the Board after the expiration of 24 hours after the completion of the cremation at the cemetery.~~

#### ~~5.14 Ashes held by the Board~~

~~(1) If at the expiration of 6 months from the date of cremation at a cemetery –~~

~~(a) the ashes of the deceased person have not been claimed; or~~

~~(b) no arrangements have been made for the placement of the ashes of a deceased person by the personal representative, then the Board may dispose of the ashes in the cemetery by any of the methods listed in clause 5.12.~~

~~(2) If prior to the expiration of 6 months from the date of cremation the personal representative of the deceased person requests the Board to store the ashes of the deceased person, and pays to the Board the set fee monthly in advance for such storage, the Board shall store the ashes in safe custody.~~

~~(3) Notwithstanding subclause (2), should the personal representative default in the payment of the fee referred to in subclause (2), the Board may dispose of the ashes in the cemetery by any of the methods listed in clause 5.12.~~

## **PART 6 – BURIALS**

### **6.1 Depth of graves**

(1) A person shall bury a coffin within the cemetery so that the distance between the top of the coffin and the original surface of the ground is –

(a) not less than 750 mm, or

(b) not less than 600 mm,

unless permission to vary the distance or depth of grave is granted by an authorised officer.

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

### **6.2 Mausoleum, etc**

(1) A person other than the Board shall not construct a brick grave, crypt, vault or mausoleum within the cemetery.

(2) A person may request the Board to construct a vault or mausoleum within the cemetery which vault or mausoleum shall at all times remain the property of the Board.

(3) An application under subclause (2) shall be in writing and shall be accompanied by payment of the set fee.

(4) A person shall not place a dead body in a mausoleum except –

(a) in a closed coffin; and

(b) in a soundly constructed chamber; and

(c) in accordance with subclause (5).

- (5) The number of burials in a chamber must not exceed the number for which the chamber was designed.

## **PART 7 – MEMORIALS AND OTHER WORK**

### *Division 1 – General*

#### **7.1 Application for monumental work**

A 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.

#### **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 same.

#### **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 8.00am and 6.00pm on weekdays, and 8.00am 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 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, other than as a temporary marker and with 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 Australian War Graves**

- (1) Notwithstanding anything in this local law to the contrary, the Office of Australian War Graves –
- (a) may place a memorial on a military grave; and
  - (b) is not required to pay the set fee for any memorial that is placed upon a military grave.

### **7.12 Placing of glass domes and vases**

- (1) A person shall not place glass domes, vases or other grave ornaments –
- (a) outside the perimeter of a grave in the cemetery as defined in the plans kept and maintained under section 40(2) of the Act; or
  - (b) on the lawn in an area set aside by the Board as a lawn or a memorial plaque section.

#### *Division 2 – Lawn section*

### **7.13 Specification of monuments**

- (1) All monuments in the lawn section of a cemetery shall –
- (a) be made of natural stone; and
  - (b) be placed upon a base of natural stone; and
  - (c) comply with the following specifications –
    - (i) the overall height of the monument above the original surface of the grave shall not exceed 1.05 m;
    - (ii) the height of the base of the monument above the original surface of the grave shall not be less than 150 mm nor more than 450 mm;
    - (iii) the width of the base of the monument shall not exceed 1.20 m;
    - (iv) the depth of the base of the monument shall not exceed 300 mm; and
  - (d) have foundations extending to the bottom of the grave unless concrete beam foundations are provided by the Board.
- (2) An admiralty bronze memorial plaque may be attached to a monument erected or being erected in the lawn section of the cemetery.
- (3) A person shall not display any trade names or marks upon any monument erected within the lawn section of the cemetery.

### **7.14 Headstones**

In the lawn section of the cemetery, that part of a headstone above its base shall not extend horizontally beyond that base.

#### *Division 3 – Memorial plaque section*

### **7.15 Requirements of a memorial plaque**

- (1) All memorial plaques placed in a memorial plaque section of the cemetery shall –
- (a) be made of admiralty bronze or any other material approved by the Board; and
  - (b) not be less than the dimensions 380 mm x 280 mm, nor more than 560 mm x 305 mm.
- (2) All memorial plaques made of admiralty bronze shall –
- (a) not exceed 20 mm in thickness; and
  - (b) be placed upon a base mounting approved by the Board.

- (3) All memorial plaques made of stone shall –
- (a) not exceed 50 mm in thickness placed upon a base mounting approved by the Board; or
  - (b) not be less than 100 mm in thickness if it is not to be placed upon a base mounting.

*Division 4 – Licensing of Monumental Masons*

**7.16 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 works 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.

**7.17 Expiry date, non-transferability**

- (1) A monumental mason’s licence –
- (a) shall be valid from the date specified therein until 30 June next following; and
  - (b) is not transferable.

**7.18 Carrying out monumental work**

- (1) 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 7.16; or
  - (b) is an employee of a person who holds such a licence; or
  - (c) is authorised by the Board to do so.

**7.19 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, the Act and any other written law which may affect the carrying out of monumental works.

**PART 8 – GENERAL**

**8.1 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 8.4, 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 Withered flowers**

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**

- (1) A person shall not –
- (a) break or cause to be broken any glass, ceramic or other material in or upon the cemetery;
  - (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**

- (1) A person shall not advertise or carry on any trade, business or profession within the cemetery without the prior written approval of the Board.
- (2) The Board may consider and grant approval 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 Exhumation of a body**

**A person wishing to exhume a body from a Shire of Kojonup public cemetery must complete Form 12 – Application for Exhumation.**

### **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 \$500.00 and if the offence is a continuing one to a further penalty not exceeding \$20.00 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 the fourth column of Schedule 1.
- (3) The prescribed form of the infringement notice referred to in section 63(1) of the Act is set out in the 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 – Modified penalties**

[cl. 9.2]

**Offences and Modified Penalties**

<b>Item No.</b>	<b>Clause</b>	<b>Nature of offence</b>	<b>Modified penalty</b>
1	5.4(1)	Not driving vehicle on vehicular access way or constructed roadways or within designated areas	\$50.00
2	5.4(2)	Exceeding speed limit	\$50.00
3	7.3	Not removing rubbish and surplus materials	\$50.00
4	7.5	Unauthorised use of sand, earth or other material taken from another part of the cemetery	\$50.00
5	7.7	Leaving uncompleted works in an untidy or unsafe condition	\$50.00
6	8.1	Unauthorised bringing in of animal into cemetery or permitting animal to remain in cemetery	\$50.00
7	8.3	Damaging and removing of objects	\$50.00
8	8.5	Littering and vandalism	\$50.00
9	8.6	Unauthorised advertising and/or trading	\$50.00
10	8.7	Disobeying sign or lawful direction	\$50.00

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## Schedule 2 – Infringement notice

[cl. 9.2(3)]

### Infringement Notice

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 Kojonup Cemeteries Local Law **2020**.

\_\_\_\_\_  
(Authorised Person)

#### Offence

- ☐ Not driving vehicle on vehicular access way or designated areas
- ☐ Exceeding speed limit
- ☐ Not removing rubbish and surplus materials
- ☐ Unauthorised use of materials taken from another part of the cemetery
- ☐ Leaving uncompleted works in an untidy or unsafe condition
- ☐ Unauthorised animal in cemetery
- ☐ Damaging and removing of objects
- ☐ Littering and vandalism
- ☐ Unauthorised advertising and/or trading
- ☐ Disobeying sign or lawful direction

☐ 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 Kojonup at 93 Albany Highway, Kojonup between the hours of 9 a.m. to 4.30 p.m., Monday to Friday.

Please make cheques payable to Shire of Kojonup. Payments by mail should be addressed to –

The Chief Executive Officer  
Shire of Kojonup  
93 Albany Highway  
KOJONUP WA 6395

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 – Infringement withdrawal notice

[cl. 9.2(4)]

#### Withdrawal of Infringement Notice

No. \_\_\_\_\_

Date \_\_\_\_/\_\_\_\_/\_\_\_\_

To: [<sup>[1]</sup> \_\_\_\_\_]

Infringement Notice No \_\_\_\_\_ dated \_\_\_\_/\_\_\_\_/\_\_\_\_ for the alleged offence of <sup>[2]</sup>

Penalty <sup>[3]</sup> \$ \_\_\_\_\_ is withdrawn.

(Delete whichever does not apply)

- \* No further action will be taken.
- \* It is proposed to institute court proceedings for the alleged offence.

\_\_\_\_\_  
(Authorised Person)

<sup>[1]</sup> Insert name and address of alleged offender.

<sup>[2]</sup> Insert short particulars of offence alleged.

<sup>[3]</sup> Insert amount of penalty prescribed.

Dated: 20 .

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

-----  
NAME IN BLOCK LETTERS, President.

-----  
NAME IN BLOCK LETTERS, Chief Executive Officer

\_\_\_\_\_



## **~~APPENDIX 1~~**

~~Deletion if you do not have an existing by-law to repeal~~

### **~~clause 1.4~~**

~~delete the entire clause and re-number the **Interpretation** clause as “1.4”.~~

~~Deletions if you will not have a Crematorium~~

### **~~clause 1.5~~**

~~delete the definition of “ashes”~~

~~delete the definition of “personal representative”~~

### **~~clause 3.2~~**

~~delete~~

### **~~clause 3.4(1)~~**

~~delete “or crematorium within the cemetery,”~~

### **~~clause 4.2~~**

~~delete “, or crematorium”~~

### **~~clause 4.3~~**

~~delete “or crematorium,”~~

### **~~clause 5.1, para (a)~~**

~~delete “or cremation”~~

### **~~clause 5.2~~**

~~Delete “or cremation” and “or clause 3.2”~~

### **~~clause 5.6, para (d)~~**

~~delete~~

### **~~clause 5.6, para (e)~~**

~~delete “or the ashes placed”~~

### **~~Part 5, Division 2~~**

~~delete~~

### **~~Part 5, Division 3~~**

~~delete~~

## **~~Appendix 2~~**

### **~~Deletions (Lawn Section/Memorial Plaque Section)~~**

~~If you will have neither a Lawn Section nor a Memorial Plaque Section—~~

#### **~~clause 7.12~~**

~~delete and substitute—~~

~~“7.12 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.”~~

~~If you will not have a Lawn Section but will have a Memorial Plaque Section—~~

#### **~~clause 7.12, para (b)~~**

~~delete “a lawn or”~~

~~If you will not have a Memorial Plaque Section but will have a Lawn Section—~~

~~delete “or a memorial plaque”~~

~~If you will not have a Lawn Section—~~

#### **~~Part 7, Division 2~~**

~~delete~~

~~If you will not have a Memorial Plaque Section—~~

#### **~~Part 7, Division 3~~**

~~delete~~

**Shire of Kojonup Cemeteries Local Law 2020**  
**Form 1**  
**CEMETERIES ACT 1986**  
**GRANT OF RIGHT OF BURIAL**

[cl. 3.1]

By virtue of the *Cemeteries Act 1986*, the Shire of Kojonup, in consideration of the sum shown hereunder paid by the Payer indicated on behalf of the Grantee named in the Schedule, hereby grants to the said Grantee the **RIGHT** of **BURYING BODIES** in that piece of ground within the Compartment, Section and Number on the plan of the Cemetery as shown hereunder.

**TO HOLD** the same to the said Grantee for the period of twenty five (25) years from the date hereof, for purposes of burial only.

This Grant is issued subject to all Local Laws and Regulations now or hereafter in force, made, or to be made under the above Act, or any future Act or Acts.

**SCHEDULE**

GRANT NO:.....

GRANTEE:

Name.....

Address.....

.....

PAYER:

Name.....

Address.....

.....

SUM IN CONSIDERATION..... Dollars

**OFFICE RECORDS**

GRAVE SITE -

Compartment.....

Deceased.....

Section.....

Application Number.....

Number.....

Register Folio.....

\_\_\_\_\_  
Signature of Issuing Officer

\_\_\_\_\_  
Designation

\_\_\_\_\_  
Date

NB: This grant is an important document and **MUST BE PRODUCED** before the grave can be reopened and to an authorised monumental mason for the establishment of any headstone.

\_\_\_\_\_

**Shire of Kojonup Cemeteries Local Law 2020**  
**Form 2**  
**CEMETERIES ACT 1986**  
**DECLARATION OF OWNERSHIP OF MISSING “GRANT OF RIGHT OF BURIAL”**

I, [a]  
of [b]

do solemnly and sincerely declare as follows –

1. I am the person described as [c]  
in the Grant of Right of Burial numbered .....  
issued by the Shire of Kojonup on [d] .....
2. [e]
3. I have not transferred any of my rights under the said Grant to any person.

This declaration is true and I know that it is an offence to make a declaration knowing that it is false in a material particular.

This declaration is made under the *Oaths, Affidavits and Statutory Declarations Act 2005* at [f]  
\_\_\_\_\_ [g] \_\_\_\_\_ by –

Signature of Declarant \_\_\_\_\_

In the presence of –

Signature of Authorised Witness: \_\_\_\_\_

Name of authorised witness and  
qualification as such a witness [h] \_\_\_\_\_

[a] Full name of Declarant

[b] Address and Occupation of Declarant

[c] State whether Grantee or Assignee

[d] Date

[e] Set out circumstances leading to loss or destruction of Grant, and if lost, action taken by Declarant to ascertain whereabouts of Grant.

[f] Address of the place

[g] Date

[h] Refer to Schedule 2 in the *Oaths, Affidavits and Statutory Declarations Act 2005* for list of authorised witnesses for statutory declarations (eg: Bailiff, Chemist, etc)

\_\_\_\_\_

**Shire of Kojonup Cemeteries Local Law 2020**  
**Form 3**  
***CEMETERIES ACT 1986***  
**ASSIGNMENT OF GRANT OF RIGHT OF BURIAL**

[cl. 3.4]

To the Shire of Kojonup

I, .....  
of .....  
being the holder of a grant of right of burial numbered .....  
and issued by the Shire of Kojonup on .....  
in respect of the ..... Cemetery for good and  
valuable consideration assign all my rights under that grant  
to .....  
(Full name)  
of .....  
(address)

Dated this ..... day of ..... 20 .....

.....  
Signature of person assigning grant

.....  
Signature of person to whom grant is assigned

.....  
Signature of witness

Registered by the Shire of Kojonup on the ..... day of ..... 20 .....

.....  
Authorised Officer

\_\_\_\_\_

Shire of Kojonup Cemeteries Local Law 2020

Form 4

CEMETERIES ACT 1986

APPLICATION FOR BURIAL AND INSTRUCTION FOR GRAVE

[cl. 3.1]

APPLICATION No.....  
SURNAME OF DECEASED: .....  
OTHER NAMES: .....  
OCCUPATION: .....  
ADDRESS: .....  
AGE: ..... DATE OF DEATH: .../.../20....  
DATE & TIME OF BURIAL: ..... .. / .. / 20... RELIGIOUS AFFILIATION:  
AREA: ..... SECTION: ..... GRAVE NO: .....  
LENGTH & WIDTH OF COFFIN: ..... DEPTH OF GRAVE: .....  
SIZE OF GROUND: ..... GRANT NO: .....

GRAVE TYPE:

PLACE "X" IN BOX IF:

FIRST INTERMENT	<input type="checkbox"/>
MALE:	<input type="checkbox"/>
FEMALE:	<input type="checkbox"/>
IS A GRANT REQUIRED:	No: <input type="checkbox"/>
	Yes: <input type="checkbox"/>

OTHER INTERMENT APPLICATION NUMBERS:

.....  
.....  
.....  
.....

NAME AND ADDRESS OF APPLICANT FOR/OR CURRENT HOLDER OF GRANT OF RIGHT OF BURIAL: .....

.....

SIGNATURE: ..... DATE: .../.../20...

NAME OF MINISTER OR PERSON  
OFFICIATING:

NAME OF FUNERAL  
DIRECTOR:

SIGNATURE:.....

SIGNATURE:.....

DATE: ...../...../20...

DATE: ...../...../20...

NAME AND ADDRESS OF PERSON MAKING APPLICATION FOR BURIAL:

.....

SIGNATURE: ..... DATE: ...../...../20...

DOCTOR'S CERT, REQ'D: ☐  
GRANT OF BURIAL SENT:...../...../20...  
MONUMENTAL MASON: .....

CORONER'S ORDER REC'D: ☐  
RECEIPT No. ISSUED: .....  
DATE WORKS APPROVED: ...../...../20...

\_\_\_\_\_

**Shire of Kojonup Cemeteries Local Law 2020**  
**Form 5**  
**CEMETERIES ACT 1986**  
**APPLICATION FOR CREMATION AND INSTRUCTION FOR ASHES**

[cl. 3.2]

APPLICATION No:.....  
SURNAME OF DECEASED: .....  
OTHER NAMES: .....  
OCCUPATION: .....  
ADDRESS: .....  
AGE: ..... DATE OF DEATH: ...../...../20...  
DATE & TIME OF BURIAL: ...../...../20... RELIGIOUS AFFILIATION: .....  
AREA: ..... SECTION: ..... GRAVE NO:.....  
GRANT NUMBER: .....

GRAVE TYPE:

PLACE "X" IN BOX IF:

MALE: ☐

FEMALE: ☐

OTHER INTERMENT APPLICATION NUMBERS:

.....  
.....  
.....  
.....

NAME AND ADDRESS OF ADMINISTRATOR:

.....  
.....

SIGNATURE

.....

DATE: .....

DISPOSAL DETAILS:

.....  
.....

NAME OF MINISTER OR PERSON NAME OF FUNERAL  
OFFICIATING: DIRECTOR:

.....

SIGNATURE: SIGNATURE:

DATE: .../.../19... DATE: .../.../20...

DATE CREMATION PERMIT ISSUED: .../.../20...

No. OF CREMATION PERMIT: .....

RECEIPT No: .....

TELEPHONE No: .....

CERT. OF CREMATION PREPARED: .../.../20...

LETTERS RE DISPOSAL OF ASHES SENT: .../.../20...

ORDERED: .../.../20...

COMPLETED: .../.../20...

=====

**Shire of Kojonup Cemeteries Local Law 2020**  
**Form 6**  
**CEMETERIES ACT**  
**CERTIFICATE OF IDENTIFICATION**

{cl. 3.4(1)}

I, .....  
of .....  
hereby certify that on the ..... day of ..... 20 ..... at .....  
I identified the body of a deceased person as that of .....  
The body was in a coffin bearing the name plate/inscription marked:  
.....

SIGNED: .....

WITNESS: .....

=====



**Shire of Kojonup Cemeteries Local Law 2020**  
**Form 5**  
***CEMETERIES ACT 1986***  
**CERTIFICATE DISPENSING WITH IDENTIFICATION**

[cl. 3.4(2)]

I, .....  
of .....  
the funeral director engaged to arrange the funeral of the body of .....

certify that –

- (a) the body has not been identified because –  
\* in my opinion, the body is not in a fit state to be viewed  
\* after reasonable effort I have been unable to have an identification made;

and

- (b) the body is in a coffin bearing the name plate/inscription marked: .....

.....

Dated this ..... day of ..... 20 .....

Signed: .....

Endorsed by the applicant for the funeral: .....

(Full name)

Signed: .....

(Signature)

(\* delete if inapplicable)

\_\_\_\_\_

**Shire of Kojonup Cemeteries Local Law 2020**  
**Form 6**  
**CEMETERIES ACT 1986**  
**APPLICATION FOR FUNERAL DIRECTOR'S LICENCE**

[s. 17(1)]

[i] .....  
hereby applies for the issue of a licence for the period beginning ..... day of ..... 20...  
and ending on 30 June 20.... [ii] to undertake funerals within the Cemetery and in support of such  
application supplies the following particulars.

**1. To be completed by all Applicants**

- (a) Trading name of business  
.....
- (b) Address from which business will be carried out .....  
..... Telephone No: .....
- (c) Number of years for which Applicant has previously held a Funeral Director's Licence ...
- (d) Details of offences under the *Cemeteries Act 1986*, *Cremation Act 1929* or the Local Law  
of any Cemetery for which the Applicant or persons employed by the applicant have been  
convicted  
.....
- (e) Full name, address and capacity of person completing this application  
[iii] .....

**2. To be completed if Applicant is a Company**

- (a) Full names and address of:  
Director/s .....  
Manager/s .....  
Secretary .....
- (b) Registered Office .....

**3. To be completed if Applicant is a Partner**

Full name and address of partner/s  
.....  
.....

**4. To be completed if Applicant is neither Company nor Partnership**

Full name [iv] .....  
Address .....

Signature of person completing application  
.....

**DIRECTIONS FOR COMPLETION**

- [i] Name of Applicant or Company or business name
- [ii] The maximum period is one year
- [iii] State whether applying in person or own behalf, or  
as a partner of a firm or a manager of a Company
- [iv] If this information has already been given under  
item 1(e) write "as in item 1(e)"

**OFFICE USE ONLY**

Received .....  
Referred to Council .....  
Approved .....  
Licence issued .....

**Shire of Kojonup Cemeteries Local Law 2020**

**Form 7**

***CEMETERIES ACT 1986***

**FUNERAL DIRECTOR'S LICENCE**

[s. 17(2)]

.....  
of .....  
is hereby licensed to undertake funerals within the ..... Cemetery from the  
.....day of ..... 20 ..... until 30 June 20 .....  
Place of business.....  
Conditions.....  
.....  
.....

Given this .....day of ..... 20 ...  
by authority of the Shire of Kojonup.

.....  
Chief Executive Officer

## [cl. 4.2]

1. Medical Certificate  
Coroner's Certificate  
Permit to Cremate  
Application for Burial  
Application for Cremation
2. I have permission to re-open the grave if required.
3. The deceased will be enclosed in a substantial casket having the following dimensions –  
Length ..... Width ..... Depth .....
4. The casket will be obtained from .....
5. There will be legible name stamped on a lead plate under the name plate on the top of the coffin.
6. The vehicle used to transport the coffin within the cemetery is a suitable vehicle of the following description –  
Vehicle Make ..... Type ..... Year .....
7. If a permit is issued I will comply with the Shire of Kojonup Cemeteries Local Law 2020 and conditions prescribed by the local government and pay the required fees.

(Signature) .....

Licence issued:

**Shire of Kojonup Cemeteries Local Law 2020**  
**Form 9**  
***CEMETERIES ACT 1986***  
**AUTHORITY FOR PLACEMENT OF ASHES**

[cl. 5.12]

**Application No. ....**

Of the Late .....  
Died ..... Aged .....

Instructions for placement of ashes –

Total amount payable ..... \$.....  
If second interment state name of first interment .....  
Location (if known) .....  
Name of personal representative: .....  
Address .....  
Telephone: (Home) ..... (Work) .....  
Signature ..... Date .....

---

**Shire of Kojonup Cemeteries Local Law 2020**  
**Form 10**  
***CEMETERIES ACT 1986***  
**APPLICATION FOR MONUMENTAL WORK**

[cl. 7.1]

Application No. ....  
Grant No. ....  
Name of Deceased .....  
Area ..... Section ..... Grave No. ....  
Name of Applicant .....  
Address of Applicant .....

I HEREBY CERTIFY THAT I AM AUTHORISED AS/BY THE HOLDER OF THE GRANT OF RIGHT OF BURIAL FOR THE ABOVEMENTIONED GRAVE TO APPROVE ERECTION OF THE MEMORIAL DETAILED HEREIN AND I ACCEPT THAT THE APPROVAL ISSUED WILL BE SUBJECT TO CONDITIONS STIPULATED IN THE *CEMETERIES ACT 1986*, THE GRANT OF RIGHT OF BURIAL AND THE LOCAL LAW AND REGULATIONS NOW OR HEREAFTER IN FORCE.

Signature ..... Date .....

NOTE: The Shire of Kojonup is indemnified against any liability attributed to any incorrect statements or information contained in this form.

**DETAILS OF MASON:**

This section to be completed by the monumental mason –

Name of Firm .....  
Quoted Cost ..... Date .....  
Address .....  
Signature of Mason .....  
Do You Wish To: (Please Tick)  
Add further inscription ☐  
Renovate or add further ☐  
Install a new Memorial ☐

**PLAN AND SPECIFICATIONS:**

NOTE: All plans and specifications of memorials submitted must be carefully drawn and **fully** dimensioned and all materials specified. All descriptions to be in BLOCK LETTERS, all ornaments etc, to be shown and dimensioned. Size of dowels and dowel holes to be specified.

\_\_\_\_\_

**Shire of Kojonup Cemeteries Local Law 2020**  
**Form 11**  
**CEMETERIES ACT 1986**  
**APPLICATION FOR MONUMENTAL MASON'S LICENCE**

[cl. 7.16]

I/We the undersigned hereby apply for the issue of a licence for the period beginning on (date) .....20..... and ending on (date) ..... 20 ..... to undertake and complete monumental work within the cemetery and in support of this application enclose a fee of \$ ..... and provide the following particulars.

1. **To be completed by all Applicants**

- (a) Address from which business will be carried on: .....  
..... Telephone No: .....  
(b) Number of years for which Applicant has previously held a Monumental Mason's Licence: .....  
(c) Full name, address and capacity of person completing this application: .....  
.....

2. **To be completed if the Applicant is a Company**

- (a) Full names and addresses of:  
Director/s .....  
.....  
Manager/s .....  
Secretary .....  
(b) Registered Office: .....  
.....

3. **To be completed if Applicant is a Partner**

- (a) Full name and address of partner/s .....  
.....

4. **To be completed if Applicant is neither a Company nor Partnership**

Full name: .....  
Address: .....

Dated: ..... 20....

Signature:.....

---

**Shire of Kojonup Cemeteries Local Law 2020**

MONUMENTAL MASON'S LICENCE

Date Received .....

Date Approved .....

Conditions: .....  
.....

Signature of Issuing Officer: ..... Designation: .....

Date: .....

\_\_\_\_\_

**Shire of Kojonup Cemeteries Local Law 2020**  
**Form 12**  
**CEMETERIES ACT 1986**  
**APPLICATION FOR EXHUMATION**

**Cemetery Location:** .....

**1. Applicant's Details**

Surname: ..... Mr ..... Mrs ..... Ms ..... Other .....

First Names: .....

Address: .....

Town: ..... Postcode: .....

Telephone Number: ..... Email: .....

Relationship to Deceased: .....

**2. Deceased and Grave Details**

Surname: .....

First Names: .....

Date of Birth: ..... Date of Death: .....

Cemetery: .....

Section: ..... Plot: .....

Grant Holder: .....

**As Grantee, I approve the re-opening of this grave**

**Signature:** ..... **Date:** .....

*Statutory Declaration (please circle)*      *Yes*      *No*

*(Required only where the applicant for the funeral is not the Grantee or the Grantee is deceased and the internment is for a person other than the Grantee. Please submit with this application.)*

**3. Exhumation Details**

Type of Exhumation (please circle):

Grave to Grave                      Grave to Crematorium                      Coroner's Request

Reason for Exhumation: .....



.....  
.....

Receiving Cemetery/Crematorium:.....

Section:.....Plot:.....

Grant Holder/Permit Holder:.....

**4. Attachments**

Original Grave Grant of Right	Yes	No	
New Grave Grant of Right	Yes	No	N/A
Permit to Cremate	Yes	No	N/A
Copy of Minister's Approval	Yes	No	

**Details of Person Submitting Application if different to above (Funeral Directors, Contractors etc)**

Name:.....Company:.....

Address:.....Mobile No.:.....

.....Signature:.....

.....Date:.....



## **FENCING LOCAL LAW 2020**

*LOCAL GOVERNMENT ACT 1995*

**LOCAL GOVERNMENT ACT 1995**

**SHIRE OF KOJONUP**

**FENCING LOCAL LAW 2020**

Under the powers conferred by the *Local Government Act 1995* and all other powers enabling it, the Shire of Kojonup resolved on **date** to make the following local law.

**PART 1—PRELIMINARY**

**1.1 Citation**

This local law is the Shire of Kojonup Fencing Local Law 2020.

**1.2 Commencement**

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

**1.3 Purpose and effect**

- (1) The purpose of this local law is to prescribe a sufficient fence and the standard for the construction of fences throughout the district.
- (2) The effect of this local law is to establish the minimum requirements for fencing within the district.

**1.4 Application**

This local law applies throughout the district.

**1.5 Repeal**

Nil

**1.6 Definitions**

In this local law —

*Act* means the *Dividing Fences Act 1961*;

*applicant* means a person who makes an application for approval under this local law;

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

*Barbed wire fence* means a wire or strand of wires having small pieces of sharply pointed wire twisted around it at short intervals;

*boundary fence* has the meaning given to it by the *Act*;

*Building Surveyor* means a Building Surveyor of the local government;

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

*Commercial Lot* means a lot where a commercial use—

- (a) is or may be permitted under the district planning scheme; and

- (b) is or will be the predominant use of the lot;

***dangerous*** in relation to any fence means—

- (a) an electrified fence other than a fence approved by the local government under this local law;
- (b) a fence containing barbed wire other than a fence erected and maintained in accordance with this local law;
- (c) a fence containing exposed broken glass, asbestos fibre, razor wire or any other potentially harmful projection or material; or
- (d) a fence which is likely to collapse or fall, or part of which is likely to collapse or fall, from any cause;

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

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

***dividing fence*** has the meaning given to it by the *Act*;

***electrified fence*** means a fence carrying or designed to carry an electric charge;

***fence*** means any structure, not including a retaining wall, used or functioning as a barrier, irrespective of where it is located and includes any gate;

***front boundary*** means the boundary line between a lot and the thoroughfare upon which that lot abuts, or in the case of a lot abutting on more than one thoroughfare, the boundary line between the lot and the primary thoroughfare;

***front fence*** means a fence erected on the front boundary of a lot or on a line adjacent to the front boundary;

***front setback area*** means the area between the building line of a lot and the front boundary of that lot;

***height*** in relation to a fence means the vertical distance between—

- (a) the top of the fence at any point; and
- (b) the ground level or, where the ground levels on each side of the fence are not the same, the higher ground level, immediately below that point;

***Industrial Lot*** means a lot where an industrial use—

- (a) is or may be permitted under the district planning scheme; and
- (b) is or will be the predominant use of the lot;

***licence*** means an electrified fence licence or a razor wire fence licence;

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

**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” under section 3.53 of the *Local Government Act 1995*;

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

**notice of breach** means a notice referred to in clause 5.1;

**occupier** has the meaning given to it in the *Local Government Act 1995*;

**owner** has the meaning given to it in the *Local Government Act 1995*;

**razor wire fence** means a coiled strong wire with pieces of sharp cutting edges set across it at close intervals;

**Residential Lot** means a lot where a residential use—

- (a) is or may be permitted under the district planning scheme; and
- (b) is or will be the predominant use of the lot;

**retaining wall** means any structure which prevents the movement of soil or retains soil or structures in order to allow ground levels of different elevations to exist adjacent to one another;

**Rural Lot** means a lot where a rural use—

- (a) is or may be permitted under the district planning scheme; and
- (b) is or will be the predominant use of the lot;

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

**Special Rural Lot** means a lot where a special rural use—

- (a) is or may be permitted under the district planning scheme; and
- (b) is or will be the predominant use of the lot;

**sufficient fence** means a fence described in clause 2.1

**thoroughfare** has the meaning given to it by the *Local Government Act 1995*, but does not include a private thoroughfare which is not under the management or control of the local government.

## **1.7 Licence fees and charges**

All licence fees and charges applicable under this local law shall be determined by the local government from time to time in accordance with section 6.16 of the *Local Government Act 1995*.

## **PART 2—FENCES**

### *Division 1—Sufficient fences*

#### **2.1 Sufficient fences**

- (1) A person shall not erect a dividing fence or a boundary fence that is not a sufficient fence.
- (2) Subject to subclauses (3) and (4), a sufficient fence—
  - (a) on a Residential Lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of Schedule 2;
  - (b) on a Commercial Lot and on an Industrial Lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of Schedule 3; and
  - (c) on a Rural Lot and on a Special Rural Lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of Schedule 4.
- (3) Where a fence is erected on or near the boundary between—
  - (a) a Residential Lot and an Industrial Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of Schedule 2;
  - (b) a Residential Lot and a Commercial Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of Schedule 3;
  - (c) a Residential Lot and a Rural Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of Schedule 4;
  - (d) a Residential Lot and a Special Rural Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of Schedule 4; and
  - (e) a Special Rural Lot and a Rural Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of Schedule 4.
- (4) An application must be made to the local government for grant of consent to any variation to the specifications in Schedules 2, 3 and 4.
- (5) Unless an authorised person determines otherwise, a sufficient fence on a boundary between lots other than those specified in subclause (3) is a dividing fence constructed in accordance with the specifications and requirements of Schedule 2.
- (6) Notwithstanding any other provision in this local law, a dividing fence or boundary fence constructed of masonry, stone or concrete shall be a sufficient fence only if it is designed by a suitably qualified structural engineer and constructed in accordance with that design where—
  - (a) it is greater than 1 800 millimetres in height; or
  - (b) the Building Surveyor so requires.
- (7) Notwithstanding any other provision in this local law, a dividing fence or boundary fence shall not exceed 1 800 millimetres in height unless the approval of the local government has been obtained for such a fence.

## *Division 2—General*

### **2.2 Fences within front setback areas**

- (1) A person shall not, without the written consent of the Building Surveyor, erect a free-standing fence greater than 1 200 millimetres in height, within the front set-back area of a Residential Lot within the district.
- (2) The Building Surveyor may approve the erection of a fence of a height greater than 1 200 millimetres in the front setback area of a Residential Lot only if the fence on each side of the driveway into the lot across the front boundary is to be angled into the lot for a distance of not less than 1 500 millimetres along the frontage to a distance of not less than 1 500 millimetres from the frontage in order to provide appropriate splayed lines of vision for a motorist using the driveway for access to a thoroughfare.
- (3) The provision of subclause (2) shall not apply to a fence—
  - (a) of open construction that does not obscure the lines of vision of a motorist using the driveway for access to a thoroughfare; or
  - (b) that does not adjoin a footpath.

### **2.3 Gates in fences**

- (1) A person shall not erect a gate in a fence which does not—
  - (a) open into the lot; or
  - (b) open by sliding parallel and on the inside of the fence, which it forms part of, when closed.

### **2.4 Depositing fencing material on public place**

A person shall not deposit or permit the deposit of any materials whatsoever used in the construction or maintenance of any fence, on any thoroughfare, public place or local government property unless the approval of the local government has been obtained.

### **2.5 Fences on a Rural Lot**

A person shall not, without the written consent of the Building Surveyor, erect a fence on a Rural Lot of a height exceeding 1 500 millimetres.

### **2.6 Fences within the gazetted townsite**

Fences within the gazetted townsite are to be constructed of a type that prevents large animals escaping and dogs entering.

### **2.7 Maintenance of fences**

An owner of a lot on which a fence is erected shall maintain the fence in good condition so as to prevent it from becoming dangerous, dilapidated, or unsightly to the amenity of the locality.

### **2.8 Fences across rights-of-way, public access ways or thoroughfares**

A person must not, without the approval of the local government, erect or maintain a fence or obstruction of a temporary or permanent nature across any right-of-way, public access way or

thoroughfare so as to impede or prevent use of those facilities in the manner for which they are intended and constructed.

## **2.9 General discretion of the local government**

- (1) Notwithstanding the provisions of clause 2.1, the local government may approve the erection or repair of a dividing fence which is not a sufficient fence where all of the owners of the lots to be separated by the dividing fence make an application for approval for that purpose.
- (2) In determining whether to grant its approval under subclause (1), the local government may consider whether the erection or retention of the fence would have an adverse effect on—
  - (a) the safe or convenient use of any land;
  - (b) the safety or convenience of any person; or
  - (c) the visual amenity of the locality.

### *Division 3—Fencing materials*

Where required by the Building Surveyor, fencing designs are to be certified by a practicing structural engineer as being suitable for wind loadings found in Region D Category 2 areas in accordance with the current edition of AS/NZS 1170.0:2002 Structural design actions - General principles.

## **2.10 Pre-used fencing materials**

- (1) Notwithstanding clause 2.1, a person shall not construct a fence on a Residential Lot, a Commercial Lot or an Industrial Lot from pre-used materials without the approval of the local government.
- (2) Where the local government approves the use of pre-used materials in the construction of a fence under subclause (1), that approval shall be conditional on the applicant painting or treating the pre-used material as directed by the Building Surveyor.

## **2.11 Barbed wire fences and spiked or jagged materials**

- (1) This clause does not apply to a fence constructed wholly or partly of razor wire.
- (2) An owner or occupier of a Residential Lot or a Commercial Lot shall not erect, affix or allow to remain on any fence on such a lot any barbed wire or other material with spiked or jagged projections, unless the prior written approval of the local government has been obtained.
- (3) An owner or occupier of an Industrial Lot shall not erect, affix or allow to remain on any fence bounding that lot any barbed wire or other materials with spiked or jagged projections unless the wire or other materials are carried on posts at an angle of 45 degrees, and unless the bottom row of wire or other materials is setback 150mm from the face of the fence and is not nearer than 2000mm from the ground level.
- (4) If the posts which carry the barbed wire or other materials referred to in subclause (3) are angled towards the outside of the lot bounded by the fence, the face of the fence must be set back from the lot boundary a sufficient distance to ensure that the angled posts, barbed wire or other materials do not encroach on adjoining land.
- (5) An owner or occupier of a lot shall not erect, affix or allow to remain as part of any fence or wall, whether internal or external, on that lot any broken glass.
- (6) An owner or occupier of a Rural Lot shall not erect, affix or allow to remain any barbed wire upon a fence on that lot where the fence is adjacent to a thoroughfare or other public place



unless the barbed wire is fixed to the side of the fence posts furthest from the thoroughfare or other public place.

## **2.12 Electrified and razor wire fences**

- (1) An owner or occupier of a lot shall not—
  - (a) construct or use an electrified fence on that lot without obtaining the approval of the local government in the form prescribed in Schedule 5; or
  - (b) construct a fence wholly or partly of razor wire on that lot without obtaining the approval of the local government in the form prescribed in Schedule 6.
- (2) The local government shall not approve an application for the purpose of subclause (1)(a)—
  - (a) in respect of a lot which is or which abuts a Residential Lot;
  - (b) unless the prohibited fence complies with “AS/NZS 3016:2002 Electrical installations—Electricity security fences”; and
  - (c) unless provision is made so as to enable the fence to be rendered inoperable during the hours of business operations, if any, on the lot where it is erected.
- (3) The local government shall not approve an application for the purpose of subclause (1)(b)—
  - (a) if the fence is within 3 000 millimetres of the boundary of the lot; or
  - (b) where any razor wire used in the construction of the fence is less than 2 000 millimetres or more than 2 400 millimetres above the ground level.
- (4) An application for approval for the purpose of subclauses (1)(a) or (1)(b) shall be made by the owner of the lot on which the fence is or is to be erected, or by the occupier of the lot with the written consent of the owner.

## **2.13 Prohibited fencing materials**

A person shall not affix or use broken glass in the construction of any fence.

# **PART 3—APPROVALS**

## **3.1 Application for approval**

- (1) Where a person is required to obtain the approval of the local government under this local law, that person shall apply for approval in accordance with subclause (2).
- (2) An application for approval under this local law shall—
  - (a) be in the form determined by the local government;
  - (b) be signed by the applicant and the owner of the lot;
  - (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 6.19 of the *Local Government Act 1995*.
- (3) The local government may require an applicant to provide additional information reasonably related to an application before determining an application for approval.
- (4) The local government may refuse to consider an application for approval which is not in accordance with subclauses (2) and (3).

### **3.2 Decision on application for approval**

- (1) The local government may—
  - (a) approve an application for approval unconditionally or subject to any conditions; or
  - (b) refuse to approve an application for approval.
- (2) If the local government approves an application for approval, it is to issue to the applicant an approval in the form determined by the local government.
- (3) If the local government refuses to approve an application for approval, 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 an approval or which are to be taken to be imposed on an approval, the clause does not limit the power of the local government to impose other conditions on the approval under subclause (1)(a).

### **3.3 Compliance with approval**

Where an application for approval has been approved, the applicant and the owner or occupier of the lot to which the approval relates, shall comply with the terms and any conditions of that approval.

### **3.4 Duration of approval**

Unless otherwise stated in the form of approval, an approval granted under this local law—

- (a) runs with the lot to which it relates;
- (b) may be relied upon by any subsequent occupier or owner of the lot; and
- (c) may be enforced by the local government against a subsequent occupier or owner of the lot.

## **PART 4—MISCELLANEOUS**

### **4.1 False or misleading statement**

A person shall not make a false or misleading statement in connection with any application, requirement or request under this local law.

## **PART 5—NOTICES OF BREACH**

### **5.1 Notices of breach**

- (1) Where a breach of any provision of this local law has occurred in relation to a fence on a lot, the local government may give a notice in writing to the owner of that lot.
- (2) A notice of breach shall—
  - (a) specify the provision of this local law which has been breached;
  - (b) specify the particulars of the breach; and
  - (c) state that the owner is required to remedy the breach within the time specified in the notice.
- (3) Should an owner fail to comply with a notice of breach, the local government may, by its employees, agents or contractors enter upon the lot to which the notice relates and remedy the

breach, and may recover the expenses of so doing from the owner of the lot in a court of competent jurisdiction.

- (4) The provisions of this clause are subject to section 3.25 and item 12 of Division 1 of Schedule 3.1 of the *Local Government Act 1995* and any entry on to land will be in accordance with Part 3, Division 3 of that *Act*.

## **PART 6—OFFENCES**

### **6.1 Offences and penalties**

- (1) A person who fails to comply with a notice of breach commits an offence and is liable upon conviction to a penalty of not less than \$250 and not exceeding \$5 000 and, if the offence is a continuing offence, to a maximum daily penalty of \$500.
- (2) A person who fails to comply with or who contravenes any provision of this local law commits an offence and is liable on conviction to a penalty of not less than \$250 and not exceeding \$5 000 and, if the offence is a continuing offence, to a maximum daily penalty of \$500.

### **6.2 Modified penalties**

- (1) An offence against any provision of this local law is a prescribed offence for the purposes of section 9.16(1) of the *Local Government Act 1995*.
- (2) The amount appearing in the final column of Schedule 1, directly opposite a prescribed offence in that Schedule, is the modified penalty for that prescribed offence.
- (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.

### **6.3 Form of notices**

For the purposes of this local law—

- (a) the form of the infringement notice referred to in sections 9.16 and 9.17 of the *Local Government Act 1995* is to be in the form of Form 2 of Schedule 1 of the *Local Government (Functions and General) Regulations 1996*; and
- (b) the form of the withdrawal of infringement notice referred to in section 9.20 of the *Local Government Act 1995* is to be in the form of Form 3 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

## **PART 7—OBJECTIONS AND REVIEW**

### **7.1 Objections and review**

When the local government makes a decision under clause 3.2, the provision of Part 9 Division 1 of the *Local Government Act 1995*, and regulation 33 of the Local Government (Functions and General) Regulations 1996, apply to that decision.

---

*Schedule 1*  
**OFFENCES AND MODIFIED PENALTIES**  
[clause 6.2(2)]

<b>Item No</b>	<b>Clause No.</b>	<b>Nature of offence</b>	<b>Modified penalties \$</b>
<b>1</b>	2.1(1)	Erect a fence which is not a sufficient fence	<b>250</b>
<b>2</b>	2.2	Erect a fence greater than 1 200mm in height within a front setback area without the written consent of the Building Surveyor	<b>250</b>
<b>3</b>	2.3(a)	Erect a gate in a fence not opening into the lot	<b>200</b>
<b>4</b>	2.3(b)	Erect a gate in a fence not sliding parallel and inside a fence	<b>200</b>
<b>5</b>	2.6	Failure to maintain a fence in good condition to prevent the fence becoming dangerous, dilapidated or unsightly	<b>250</b>
<b>6</b>	2.7	Erect or maintain a fence or obstruction of temporary or permanent nature across a right-of way, public access way or thoroughfare without approval	<b>250</b>
<b>7</b>	2.9(1)	Construct a dividing fence on a Residential, Commercial or Industrial Lot from pre-used materials without written approval	<b>250</b>
<b>8</b>	2.10(2)	Erect a fence using barbed wire or material with spiked or jagged projections in the fence construction without approval	<b>250</b>
<b>9</b>	2.11(1)	Construct, erect or use razor wire in a fence or electrify a fence without approval	<b>250</b>
<b>10</b>	2.12	Affix, or use, any broken glass in a fence	<b>250</b>
<b>11</b>	3.3	Failure to comply with terms or conditions of approval	<b>250</b>
<b>12</b>	6.1	Failure to comply with notice of breach	<b>250</b>

## ***Schedule 2***

### **SPECIFICATIONS FOR A SUFFICIENT FENCE ON A RESIDENTIAL LOT**

[clause 2.1(2)(a)]

Each of the identified categories in this Schedule is a sufficient fence on a Residential Lot and the fence design being certified by a practicing structural engineer as being suitable for wind loadings found in Region D Category 2 areas in accordance with AS/NZS 1170.0:2002 Structural design actions - General principles.

#### **Timber fence**

- (a) corner posts to be 125mm x 125mm x 2 400mm and intermediate posts to be 125mm x 75mm x 2 400mm spaced at 2 400mm centres;
- (b) corner posts to be strutted two ways with 100mm x 50mm x 450mm sole plates and 75mm x 50mm struts;
- (c) intermediate posts to be doubled yankee strutted with 150mm x 25mm x 450mm struts; (d) all posts to have tops with a 60mm weather cut and to be sunk at least 600mm into the ground;
- (d) rails to be 75mm x 50mm with each rail spanning 2 bays of fencing double railed or bolted to each post with joints staggered;
- (e) the fence to be covered with 75mm x 20mm sawn pickets, 1 800mm in height placed 75mm apart and affixed securely to each rail; and
- (f) the height of the fence to be 1 800mm except with respect to the front set back area for which there is no minimum height but which is subject to clause 7.

#### **Corrugated fence**

A fence constructed of corrugated fibre reinforced pressed cement or steel sheeting constructed to manufacturer's specifications or which satisfies the following specifications—

- (a) a minimum in-ground length of 25 per cent of the total length of the sheet, but in any case shall have a minimum in-ground depth of 600mm;
- (b) the total height and depth of the fence to consist of a single continuous fibre reinforced cement or steel sheet;
- (c) the sheets to be lapped and capped with extruded “snap-fit” type capping in accordance with the manufacturers written instructions; and
- (d) the height of the fence to be 1 800mm except with respect to the front set back area for which there is no minimum height but which is subject to clause 7.

#### **Brick, stone or concrete fence**

A fence constructed of brick, stone or concrete, which satisfies the following requirements and specifications—

- (a) a site classification is to be provided by a professional engineer in accordance with AS 2870-2011 Residential slabs and footings as amended;
- (b) the footing is to be designed in accordance with AS 2870-2011 Residential slabs and footings as amended;
- (c) footings of minimum 225mm x 150mm concrete 15MPa or 300mm x 175mm brick laid in cement mortar;
- (d) fences to be offset a minimum of 200mm at maximum 3 000mm centres or 225mm x 100mm engaged piers to be provided at maximum 3 000mm centres;
- (e) expansion joints in accordance with the manufacturer's written instructions; and
- (f) the height of the fence to be 1 800mm except with respect to the front set back area for which there is no minimum height but which is subject to clause 2.2.

### **Composite fence**

A composite fence which satisfies the following specifications for the brick construction—

- (1)
    - (a) brick piers of minimum 345mm x 345mm at 1 800mm centres bonded to a minimum height base wall of 514mm;
    - (b) each pier shall be reinforced with one R10 galvanised starting rod 1 500mm high with a 250mm horizontal leg bedded into a 500mm x 200mm concrete footing and set 65mm above the base of the footing. The top of the footing shall be 1 course (85mm) below ground level;
    - (c) the minimum ultimate strength of brickwork shall be 20MPa. Mortar shall be a mix of 1 part cement, 1 part lime and 6 parts sand;
    - (d) the ground under the footings is to be compacted to 6 blows per 300mm and checked with a standard falling weight penetrometer; and
    - (e) control joints in brickwork shall be provided with double piers at a maximum of 6-metre centres;
  - or
  - (2)
    - (a) brick piers of a minimum 345mm x 345mm x 2 700mm centres bonded to the base wall; and
    - (b) each pier shall be reinforced with two R10 galvanised starting rods as previously specified.
-

### ***Schedule 3***

## **SPECIFICATIONS FOR A SUFFICIENT FENCE ON A COMMERCIAL LOT OR AN INDUSTRIAL LOT**

[clause 2.1(2)(b)]

Each of the identified categories in this Schedule, with minimum and maximum specifications where stated, is a sufficient fence on a Commercial Lot or an Industrial Lot and the fence design being certified by a practicing structural engineer as being suitable for wind loadings found in Region D Category 2 areas in accordance with the current edition of AS/NZS 1170.0:2002 Structural design actions - General principles.

### **Galvanised or PVC fence and gate**

A fence constructed of galvanised or PVC coated non-rail link mesh, chain mesh or steel mesh which satisfies the following specifications—

- (a) corner posts to be minimum 50mm nominal bore x 3.5mm and with footings of a 225mm diameter x 900mm;
- (b) intermediate posts to be minimum 37mm nominal bore x 3.15mm at maximum 3.5m centres and with footings of a 225mm diameter x 600mm;
- (c) struts to be minimum 30mm nominal bore x 3.15mm fitted at each gate and 2 at each corner post and with footings 225mm x 600mm;
- (d) cables to be affixed to the top, centre and bottom of all posts and to consist of 2 or more 3.15mm wires twisted together or single 4mm wire;
- (e) non-rail link, chain or steel mesh is to be to a height of 2 000mm on top of which are to be 3 strands of barbed wire carrying the fence to a height of 2 400mm in accordance with the requirements and standards of the local planning schemes; and
- (f) galvanised link mesh wire to be 2 000mm in height and constructed of 50mm mesh 2.5mm galvanised iron wire and to be strained, neatly secured and laced to the posts and affixed to cables. Vehicle entry gates shall provide an opening of not less than 3.6m and shall be constructed of 25mm tubular framework with 1 horizontal and 1 vertical stay constructed of 20mm piping and shall be covered with 50mm x 2.5mm galvanised link mesh strained to framework. Gates shall be fixed with a drop bolt and locking attachment.

### **Other fences**

- (a) a fence of cement sheet or steel sheeting constructed to the minimum specifications referred to in Schedule 2;
- (b) a fence constructed of aluminium sheeting when supported on posts and rails provided that it is used behind a building line and is of a minimum height of 1 800mm but no greater than 2 400mm; or
- (c) a fence of timber, brick, stone or concrete constructed to the minimum specifications referred to in Schedule 2.



***Schedule 4***  
**SPECIFICATIONS FOR A SUFFICIENT FENCE ON A RURAL LOT**  
**OR SPECIAL RURAL LOT**

[clause 2.1(2)(c)]

Each of the identified categories in this Schedule, with minimum and maximum specifications where stated is a sufficient fence on a Rural Lot or a Special Rural Lot and the fence design being certified by a practicing structural engineer as being suitable for wind loadings found in Region D Category 2 areas in accordance with the current edition of AS/NZS 1170.0:2002 Structural design actions - General principles.

**Non-electrified fence**

- (a) wire shall be high tensile wire and not less than 2.5mm. A minimum of 5 wires shall be used, generally with the lower wires spaced closer together than the higher wires so as to prevent smaller stock passing through, and connected to posts in all cases.
- (b) posts shall be of indigenous timber or other suitable material including—
  - (i) timber impregnated with a termite and fungicidal preservative;
  - (ii) standard iron star pickets; or
  - (iii) concrete;
- (c) cut not less than 1 800mm long x 50mm diameter at small end if round or 125mm x 60mm if split or sawn.
- (d) posts to be set minimum 600mm in the ground and 1 200mm above the ground; and
- (e) strainer posts shall be not less than 2 250mm long and 150mm diameter at the small end (tubular steel to be 50mm in diameter) and shall be cut from indigenous timber or other suitable material. These shall be placed a minimum of 1 000mm in the ground.

**Electrified fence**

An electrified fence having 4 wires is a sufficient fence if constructed generally in accordance with a non-electrified fence.

*Schedule 5*

**LICENCE FOR APPROVED ELECTRIFIED FENCE**

[clause 2.11(1)(a)]

This is to certify that

(1) \_\_\_\_\_

of (2)

\_\_\_\_\_ is licensed, subject to the conditions set out below, to have and use an electrified fence on

\_\_\_\_\_ (address)

from \_\_\_\_\_ 20 \_\_\_\_\_ and until this licence is transferred or cancelled.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
Chief Executive Officer  
Shire of Kojonup

**Conditions of Licence—**

The holder of the licence must—

- (a) display the licence in a prominent position on the land or premises on which the electrified fence has been erected;
- (b) upon the request of a Building Surveyor produce to him or her the licence;
- (c) within 14 days of a change in the ownership or occupation of the land or premises in respect of which the licence has been granted, notify the Chief Executive Officer in writing of the details of that change or those changes;
- (d) obtain the written consent of the local government prior to the commencement of any alteration, addition or other work relating to or affecting the electrified fence; and
- (e) comply with AS/NZS 3016:2002 Electrical installations - Electric security fences.

**Transfer by Endorsement**

This licence is transferred to (3)

\_\_\_\_\_ of (4)

\_\_\_\_\_ from and including the date of this endorsement.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
Chief Executive Officer  
Shire of Kojonup

\_\_\_\_\_  
(1) Name

(2) Address

(3) Name

(4) Address

*Schedule 6*

**LICENCE FOR APPROVED RAZOR WIRE FENCE**

[clause 2.11(1)(b)]

This is to certify that (1)

---

of (2)

---

is licensed , subject to the conditions set out below, to have a fence constructed wholly or partially of razor wire at

---

(address)

From \_\_\_\_\_ 20\_\_ and until this licence is transferred or cancelled.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_

Chief Executive Officer

Shire of Kojonup

**Conditions of licence—**

(a) display the licence in a prominent position on the land or premises on which the fence has been erected;

(b) upon the request of a Building Surveyor produce to him or her the licence;

(c) within 14 days of a change in the ownership or occupation of the land or premises in respect of which the licence has been granted, notify the Chief Executive Officer in writing of the details of that change or those changes; and

(d) obtain the written consent of the local government prior to the commencement of any alteration, addition or other work relating to or affecting the fence.

**Transfer by Endorsement**

This licence is transferred to (3)

---

of (4)

---

from and including the date of this endorsement.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_

---

Chief Executive Officer  
Shire of Kojonup

---

(1) Name

(2) Address

(3) Name

(4) Address

Dated:

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

President

Chief Executive Officer



# **LOCAL GOVERNMENT PROPERTY LOCAL LAW 2020**

*Local Government Act 1995*

*Local Government Act 1995*

**SHIRE OF KOJONUP**

**LOCAL GOVERNMENT PROPERTY LOCAL LAW 2020**

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**TABLE OF CONTENTS**

---

**PART 1 - PRELIMINARY**

- 1.1 Citation
- 1.2 Definitions
- 1.3 Interpretation
- 1.4 Application
- 1.5 Repeal

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

*Division 1 - Determinations*

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

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

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

*Division 3 - Transitional*

- 2.9 Signs taken to be determinations

**PART 3 - PERMITS**

*Division 1 - Preliminary*

- 3.1 Application of Part

### ***Division 2 - Applying for a permit***

- 3.2 Application for permit
- 3.3 Decision on application for permit

### ***Division 3 - Conditions***

- 3.4 Conditions which may be imposed on a permit
- 3.5 Imposing conditions under a policy
- 3.6 Compliance with and variation of conditions

### ***Division 4 - General***

- 3.7 Agreement for building
- 3.8 Duration of permit
- 3.9 Renewal of permit
- 3.10 Transfer of permit
- 3.11 Production of permit
- 3.12 Cancellation of permit

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

- 3.13 Activities needing a permit
- 3.14 Permit required to camp outside a facility
- 3.15 Permit required for possession and consumption of liquor

### ***Division 6 - Responsibilities of permit holder***

- 3.16 Responsibilities of permit holder

## **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
- 4.2 Behaviour detrimental to property
- 4.3 Taking or injuring any fauna
- 4.4 Intoxicated persons not to enter local government property
- 4.5 No prohibited drugs

### ***Division 2 - Signs***

- 4.6 Signs

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

### ***Division 1 - Swimming pool areas***

- 5.1 When entry must be refused
- 5.2 Consumption of food or drink may be prohibited

***~~Division 2 — Beaches~~***

- ~~5.3 Powers of surf life saving club members~~
- ~~5.4 Authorizing other persons~~
- ~~5.5 Persons to comply with signs and directions~~

***Division 3 2 - Fenced or closed property***

- ~~5.6~~ 5.3 No entry to fenced or closed local government property

***Division 4 3 - Toilet blocks and change rooms***

- ~~5.7~~ 5.4 Only specified gender to use entry of toilet block or change room

***Division 5 4 - Aerodrome (airport)***

- ~~5.8~~ 5.5 Access of animals restricted

***Division 6 5 - Golf course***

- ~~5.9~~ 5.6 Interpretation
- ~~5.10~~ 5.7 Observance of special conditions of play

**PART 6 - FEES FOR ENTRY ON TO LOCAL GOVERNMENT PROPERTY**

- 6.1 No unauthorized entry to function

**~~PART 7 — JETTIES AND BRIDGES~~**

***~~Division 1 — Preliminary~~***

- ~~7.1 Interpretation~~

***~~Division 2 — Consents and fees~~***

- ~~7.2 Application for consent and application fee~~

***~~Division 3 — Prohibitions on use of jetty~~***

- ~~7.3 When use of jetty is prohibited~~

***~~Division 4 — Mooring boats to jetties~~***

- ~~7.4 Method of mooring boat~~

***~~Division 5 — When boats may remain at jetty~~***

- ~~7.5 When boat may remain moored~~
- ~~7.6 Authorized person may order removal of boat~~



~~*Division 6 — Launching of boats*~~

~~7.7 — Restrictions on launching~~

~~*Division 7 — Cargo or other goods*~~

- ~~7.8 — Loading and discharging~~
- ~~7.9 — Outgoing cargo not to be stored on jetty~~
- ~~7.10 — Removal of incoming cargo from jetty~~
- ~~7.11 — Authorized person may direct removal~~
- ~~7.12 — Handling of bulk cargo~~

~~*Division 8 — Polluting surrounding area*~~

~~7.13 — Polluting surrounding area~~

~~*Division 9 — Fishing from jetties and bridges*~~

~~7.14 — Limitations on fishing~~

**PART 8 7 - SALEYARDS**

*Division 1 - Preliminary*

~~8.1~~ 7.1 Interpretation

*Division 2 - Sale of stock*

- ~~8.2~~ 7.2 Requirements of auctioneer's licence
- ~~8.3~~ 7.3 Sale times to be approved
- ~~8.4~~ 7.4 Order of sales

*Division 3 - Care of and responsibility for stock*

- ~~8.5~~ 7.5 Diseased and injured stock
- ~~8.6~~ 7.6 Care of stock
- ~~8.7~~ 7.7 When purchaser becomes responsible for stock
- ~~8.8~~ 7.8 Time limit for removal of stock
- ~~8.9~~ 7.9 Removal of unsold stock
- ~~8.10~~ 7.10 Removal of dead or maimed stock

*Division 4 - Payment of fees*

- ~~8.11~~ 7.11 Payment of yard fees
- ~~8.12~~ 7.12 Documents may be inspected

*Division 5 - Control of dogs*

- ~~8.13~~ 7.13 Only working dogs allowed
- ~~8.14~~ 7.14 Diseased dogs prohibited

## **PART-9 8 - OBJECTIONS AND APPEALS**

~~9.1~~ 8.1 Application of Division 1, Part 9 of the Act

## **PART ~~10~~ 9 - MISCELLANEOUS**

~~10.1~~ 9.1 Authorized person to be obeyed

~~10.2~~ 9.2 Persons may be directed to leave local government property

~~10.3~~ 9.3 Disposal of lost property

~~10.4~~ 9.4 Liability for damage to local government property

## **PART ~~11~~ 10 - ENFORCEMENT**

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

~~11.1~~ 10.1 Offence to fail to comply with notice

~~11.2~~ 10.2 Local government may undertake requirements of notice

### *Division 2 - Offences and penalties*

#### *Subdivision 1 - General*

~~11.3~~ 10.3 Offences and general penalty

#### *Subdivision 2 - Infringement notices and modified penalties*

~~11.4~~ 10.4 Prescribed offences

~~11.5~~ 10.5 Form of notices

### *Division 3 – Evidence in legal proceedings*

~~11.6~~ 10.6 Evidence of a determination

## **SCHEDULE 1 - PRESCRIBED OFFENCES**

## **SCHEDULE 2 - DETERMINATIONS**

## **SCHEDULE 3 - GOLF COURSE RESERVE**

*Local Government Act 1995*

**SHIRE OF KOJONUP**

**LOCAL GOVERNMENT PROPERTY LOCAL LAW 2020**

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Kojonup resolved on *[insert date]* to make the following local law.

**PART 1 - PRELIMINARY**

**Citation**

1.1 This local law may be cited as the Shire of Kojonup Local Government Property Local Law 2020.

**Definitions**

1.2 In this local law unless the context otherwise requires -

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

"**aircraft**" has the meaning given to it in the *Civil Aviation Act 1988* (Cth)

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

"**authorized person**" means a person authorized by the local government under section 9.10 of the *Act* to perform any of the functions of an authorized person under this local law;

"**boat**" means any ship, vessel or structure capable of being used in navigation by water, however propelled or moved, and includes a jet ski;

"**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;

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

"**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;

**"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 Kojonup;

**"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*;

**"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;

**"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;

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

**"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 wheel-chair or any device designed for use, by a physically impaired person on a footpath;
- (d) a pram, a stroller or a similar device; and
- (e) a boat.

## **Interpretation**

1.3 In this local law unless the context otherwise requires a reference to local government property includes a reference to any part of that local government property.

## **Application**

- 1.4
- (1) This local law applies throughout the district and in the sea adjoining the district for a distance of 200 metres seawards from the low water mark at ordinary spring tides.
  - (2) This local law is subject to any written law and law of the Commonwealth about assistance animals as defined in the *Disability Discrimination Act 1992* (Commonwealth) section 9(2).
  - (3) Notwithstanding 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.

## **Repeal**

1.5 (1) *The Shire of Kojonup Local Government Property Local Law published in the Government Gazette on 16 May 2000 is repealed.*

(2) Where a policy was made or adopted by the local government under or in relation to a local law repealed by this local law, then the policy is to no longer have any effect on and from the commencement day.

(3) The Council may resolve that notwithstanding subclause (2), specified policies continue, or are to be taken to have continued, to have effect on and from the commencement day.

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

### ***Division 1 - Determinations***

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

2.1(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.

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

2.2 (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.

### **Discretion to erect sign**

2.3 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.

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

2.4 A person shall comply with a determination.

### **Register of determinations**

2.5 (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*.

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

2.6 (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***

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

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

- (a) bring, ride or drive an animal;
- (b) take, ride or drive a vehicle, or a particular class of vehicle;
- (c) fly or use a motorised model aircraft;
- (d) use a children's playground provided that the person is under an age specified in the determination, but the determination is not to apply to a person having the charge of a person under the specified age;
- (e) launch, beach or leave a boat;
- (f) take or use a boat, or a particular class of boat;
- (g) deposit refuse, rubbish or liquid waste, whether or not of particular classes, and whether or not in specified areas of that local government property;
- (h) play or practice –
  - (i) golf or archery;
  - (ii) pistol or rifle shooting, but subject to the compliance of that person with the *Firearms Act 1973*; or
  - (iii) a similar activity, specified in the determination, involving the use of a projectile which, in the opinion of the local government may cause injury or damage to a person or property;
- (i) ride a bicycle, a skateboard, rollerblades, a sandboard or a similar device; and
- (j) wear no clothing.

(2) A determination may specify the extent to which and the manner in which an activity referred to in subclause (1) may be pursued and in particular –



- (a) the days and times during which the activity may be pursued;
- (b) that an activity may be pursued on a class of local government property, specified local government property or all local government property;
- (c) that an activity is to be taken to be prohibited on all local government property other than that specified in the determination;
- (d) may limit the activity to a class of vehicles, boats, equipment or things, or may extend it to all vehicles, boats, equipment or things;
- (e) may specify that the activity can be pursued by a class of persons or all persons; and
- (f) may distinguish between different classes of the activity.

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

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

- (a) smoking on premises;
- (b) riding a bicycle, a skateboard, rollerblades, a sandboard or a similar device;
- (c) taking, riding or driving a vehicle or a particular class of vehicle on the property;
- (d) riding or driving a vehicle of a particular class or any vehicle above a specified speed;
- (e) taking or using a boat, or a particular class of boat;
- (f) the playing or practice of -
  - (i) golf, archery, pistol shooting or rifle shooting; or
  - (ii) a similar activity, specified in the determination, involving the use of a projectile which, in the opinion of the local government may cause injury or damage to a person or property;
- (g) the playing or practice of any ball game which may cause detriment to the property or any fauna on the property; and
- (h) the traversing of sand dunes or land which in the opinion of the local government has environmental value warranting such protection, either absolutely or except by paths provided for that purpose.

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

- (a) the days and times during which the activity is prohibited;
- (b) that an activity is prohibited on a class of local government property, specified local government property or all local government property;

- (c) that an activity is prohibited in respect of a class of vehicles, boats, equipment or things, or all vehicles, boats, equipment or things;
- (d) that an activity is prohibited in respect of a class of persons or all persons; and
- (e) may distinguish between different classes of the activity.

(3) In this clause –

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

### ***Division 3 - Transitional***

#### **Signs taken to be determinations**

2.9 (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***

#### **Application of Part**

3.1 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***

#### **Application for permit**

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

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

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

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

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

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

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

3.3 (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.

### ***Division 3 - Conditions***

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

3.4 (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.

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

3.5 (1) In this clause –

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

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

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

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

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

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

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

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

### ***Division 4 - General***

#### **Agreement for building**

3.7 Where a person applies for a permit to erect a building on local government property the local government may enter into an agreement with the permit holder in respect of the ownership of the materials in the building.

#### **Duration of permit**

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

- (a) otherwise stated in this local law or in the permit; or
- (b) cancelled under clause 3.12.

#### **Renewal of permit**

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

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

#### **Transfer of permit**

3.10 (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.

### **Production of permit**

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

### **Cancellation of permit**

3.12 (1) Subject to clause 9.1, 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***

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

3.13 (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, unless the charge is for entry to land or a building hired by a voluntary non-profit organisation;
- (j) light a fire on local government property except in a facility provided for that purpose;
- (k) parachute, hang glide, abseil or base jump from or on to local government property;
- (l) erect a building or a refuelling site on local government property;
- (m) make any excavation on or erect or remove any fence on local government property;
- (n) erect or install any structure above or below ground, which is local government property, for the purpose of supplying any water, power, sewer, communication, television or similar service to a person;
- (o) depasture any horse, sheep, cattle, goat, camel, ass or mule on local government property; or
- (p) conduct or take part in any gambling game or contest or bet, or offer to bet, publicly.

(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).

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

3.14 (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) A person shall not without a permit –

- (a) camp on, lodge at or occupy any structure at night for the purpose of sleeping on local government property; or
  - (b) erect any tent, camp, hut or similar structure on local government property other than a beach shade or windbreak erected for use during the hours of daylight and which is dismantled during those hours on the same day.
- (4) The maximum period for which the local government may approve an application for a permit in respect of paragraph (a) or (b) of subclause (3) is that provided in regulation 11(2)(a) of the *Caravan Parks and Camping Grounds Regulations 1997*.

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

3.15 (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.

### **Division 6 - Responsibilities of permit holder**

#### **Responsibilities of permit holder**

3.16 A holder of a permit shall in respect of local government property to which the permit relates –

(a) ensure that an authorized 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) 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**

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

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

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

(b) interferes with the enjoyment of a person using the property.

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

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

(2) In subclause (1) –

'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 any thing on the local government property, such as a plant, a seat provided for the use of any person or a building.

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

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

(2) 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.

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

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

#### **No prohibited drugs**

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

### ***Division 2 - Signs***

#### **Signs**

4.6 (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***

#### **When entry must be refused**

5.1 A Manager or an authorized person shall refuse admission to, may direct to leave or shall remove or cause to be removed from a pool area any person who –

- (a) is -
  - (i) under the age of 10 years and who is unaccompanied by a responsible person over the age of 16 years;
  - (ii) suffering from any gastrointestinal disease, skin infection or other disease that is communicable in an aquatic environment; or
  - (iii) in an unclean condition; or
  - (iv) wearing unclean clothes; or
  - (v) under the apparent influence of alcohol, drugs or alcohol and drugs.
- (b) is to be refused admission under and in accordance with a decision of the local government for breaching any clause of this local law.

#### **Consumption of food or drink may be prohibited**

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

### ***Division 2 – Beaches***

#### **~~Powers of surf life saving club members~~**

~~5.3 (1) Subject to subclause (2), the local government may authorize under section 9.10 of the Act the members of a surf life saving club to perform all or any of the following functions in relation to a beach–~~

- ~~— (a) patrol any beach;~~
- ~~— (b) carry out any activity on any beach;~~
- ~~— (c) erect signs designating bathing areas and signs regulating, prohibiting or restricting specified activities on the whole or any part of a beach or in or on the water adjacent to the beach and to direct persons on the beach or in or on the water to comply with such signs;~~
- ~~— (d) temporarily enclose any area with rope, hessian, wire or any other means for the conduct of surf life saving club activities; and~~

~~— (e) — direct persons to leave the water adjacent to a beach during dangerous conditions or if a shark is suspected of being in the vicinity of a beach.~~

~~— (2) — Under subclause (1), the local government shall authorize only those members who have been recommended by the surf life saving club as competent to perform the functions referred to in that subclause in respect of which they are authorized.~~

~~— (3) — Under subclause (1), the local government may authorize members generally, or in relation to particular times, days or months.~~

### **Authorizing other persons**

~~5.4 (1) A local government may authorize, under section 9.10 of the Act, a person to perform all or any of the functions referred to in clause 5.3(1) in relation to a beach.~~

~~— (2) — Under subclause (1), the local government shall authorize only those persons who, in the reasonable opinion of the local government, are competent to perform the functions referred to in clause 5.3(1) in respect of which they are authorized.~~

~~— (3) — Under subclause (1), the local government may authorize a person generally, or in relation to particular times, days or months.~~

~~— (4) — Where the local government has authorized members of a surf life saving club under clause 5.3(1) and a person under subclause (1) in relation to the same beach, so that they can perform all or any of the functions referred to in clause 5.3(1) contemporaneously, the local government is to specify which authorization is rendered ineffective when both are exercised.~~

### **Persons to comply with signs and directions**

~~5.5 — A person shall —~~

~~— (a) — not act in contravention of any sign erected on a beach under clause 5.3(1)(c);~~

~~— (b) — not enter an area which has been temporarily closed with rope, hessian, wire or any other means for the conduct of surf life saving club activities, unless he or she is a member of the club or has obtained permission to enter from the club; and~~

~~(c) — comply with any direction given under clause 5.3(1)(c) or 5.3(1)(e);~~

~~notwithstanding that the sign or the direction was erected or given, as the case may be, by a person referred to in clause 5.4(1).~~

## ***Division 3 2 - Fenced or closed property***

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

~~5.6~~ **5.3** 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 authorized to do so by the local government.

## ***Division 4 3 - Toilet blocks and change rooms***

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

~~5.7~~ 5.4 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 shall not use that entry of the toilet block or change room; or
- (b) males, then a person of the female gender shall not use that entry of the toilet block or change room.

(2) Paragraphs (a) and (b) of subclause (1) do not apply to a child, when accompanied by a parent, guardian or caregiver, where the child is –

- (a) under the age of 8 years; or
- (b) otherwise permitted by an authorised person to use the relevant entry.

### ***Division 5.4 - Aerodrome (airport)***

#### **Access of animals restricted**

~~5.8~~ 5.5 (1) 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;
  - (c) the animal has been air freighted to the aerodrome; or
  - (d) the person is authorized 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).

### **Division 6.5 - Golf course**

#### **Interpretation**

~~5.9~~ 5.6 In this Division –

**"controller"** means the person appointed by the local government to direct, control and manage a golf course;

**"golf course"** means that portion of a golf course reserve which is laid out as a golf course and includes all tees, fairways, greens, practice tees, practice fairways, practice greens and any driving range; and

**"golf course reserve"** means the local government property described in Schedule 3 and includes all buildings, structures, fittings, fixtures and equipment on that land.

## **Observance of special conditions of play**

~~5.10~~ 5.7 While on a golf course, every player shall observe and comply with a –

- (a) direction of a controller in respect of any special conditions of play; and
- (b) requirement of any notice erected to direct or control play.

## **PART 6 - FEES FOR ENTRY ON TO LOCAL GOVERNMENT PROPERTY**

### **No unauthorized entry to function**

6.1 (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 authorized, 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 – JETTIES AND BRIDGES~~**

### **~~Division 1 – Preliminary~~**

#### **~~Interpretation~~**

~~7.1 (1) This Part only applies to bridges and jetties which are local government property.~~

~~(2) In this Part –~~

~~"jetty" means any jetty, pier, wharf or landing place which is local government property; and~~

~~"bulk cargo" means bulk produce, such as grain, coal, oil or mineral ore, which is not packaged.~~

### **~~Division 2 – Consents and fees~~**

#### **~~Application for consent and application fee~~**

~~7.2 (1) Where a person is required to obtain the consent of the local government under this Part, the person is to apply for that consent in the manner required by the local government.~~

~~(2) The local government may require an application for consent made under subclause (1) to be accompanied by a fee.~~

~~(3) If an application for consent is not made in the manner required by the local government or the fee which is to accompany that application is not paid, the local government may refuse to consider the application for consent.~~

~~—(4) The local government shall give its decision on an application for consent, in writing to the person who applied for that consent.~~

~~—(5) Where a fee is referred to in this Part, the fee must be imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.~~

### ~~*Division 3—Prohibitions on use of jetty*~~

#### ~~**When use of jetty is prohibited**~~

~~7.3—A person shall not land at, use or go on any part of a jetty which is—~~

~~——(a)——under construction or repair; or~~

~~——(b)——closed,~~

~~unless that person has first obtained the consent of the local government.~~

### ~~*Division 4—Mooring boats to jetties*~~

#### ~~**Method of mooring boat**~~

~~7.4—A person in control of a boat shall not moor or make fast the boat to a jetty, or to any part of the jetty, except to such mooring piles, ring bolts or other fastenings as are provided.~~

### ~~*Division 5—When boats may remain at jetty*~~

#### ~~**When boat may remain moored**~~

~~7.5—A person in control of a boat shall not moor or make fast the boat to a jetty unless—~~

~~(a) the boat is in distress and then only to effect the minimum repairs necessary to enable the  
——boat to be moved elsewhere;~~

~~(b) the embarking or disembarking of passengers is in progress, and then not for a consecutive  
——period exceeding 2 hours without the prior consent of the local government;~~

~~(c) the loading or discharging of cargo or other goods is in progress in accordance with  
——Division 7; or~~

~~(d) where the boat is used at that time for commercial purposes, the person has first paid the  
——fee (if any) for such mooring or making fast to the local government.~~

#### ~~**Authorized person may order removal of boat**~~

~~7.6—Notwithstanding anything to the contrary in this Part, a person in control of a boat moored or fastened to or alongside a jetty shall remove it immediately upon being directed to do so by an authorized person.~~

### ~~*Division 6—Launching of boats*~~

### **Restrictions on launching**

~~7.7—A person shall not launch a boat from or over any jetty (other than a boat ramp) unless she or he has first obtained the consent of the local government.~~

### ***Division 7—Cargo or other goods***

### **Loading and discharging**

~~7.8—A person in control of a boat shall not allow the boat to come alongside or be moored or made fast to a jetty for the purpose of loading or discharging cargo or other goods—~~

~~(a)—until the cargo or other goods are ready to be loaded or discharged; or~~

~~—(b)—without the consent of the local government—~~

~~(i)—between the hours of 6.00pm to 6.00am on the next day; or~~

~~—(ii)—for longer than 2 consecutive hours.~~

### **Outgoing cargo not to be stored on jetty**

~~7.9—A person in control of cargo or other goods intended for loading on to a boat shall—~~

~~—(a)—not allow them to be stored or placed on a jetty unless and until the boat is moored or fastened to or alongside the jetty; and~~

~~—(b)—load them on to the boat as soon as practicable after the boat is moored or fastened to or alongside the jetty.~~

### **Removal of incoming cargo from jetty**

~~7.10—Any person unloading cargo or other goods from a boat on to a jetty shall remove them, or cause them to be removed from the jetty as soon as practicable, but not later than 6.00pm on the day on which they were placed there.~~

### **Authorized person may direct removal**

~~7.11—An authorized person may direct a person who, in the opinion of the authorized person, is in charge of cargo or other goods which remain on a jetty contrary to any provision of this Part to remove them from the jetty.~~

### **Handling of bulk cargo**

~~7.12—Except with the prior consent of the local government, a person shall not place or deposit bulk cargo from a vehicle, boat or container on to a jetty.~~

### ***Division 8—Polluting surrounding area***

### **Polluting surrounding area**

~~7.13—A person shall not tip or deposit anything on to a jetty so as to pollute the surrounding area.~~

~~*Division 9 — Fishing from jetties and bridges*~~

~~**Limitations on fishing**~~

~~7.14 A person shall not—~~

~~(a) fish from a jetty or a bridge so as to obstruct or interfere with the free movement of a boat approaching or leaving the jetty or the bridge or so as to unreasonably interfere with the use of the jetty or the bridge by any other person; or~~

~~—(b) hang or spread a fishing net from, on or over any part of a jetty or a bridge.~~

**PART 8 7 - SALEYARDS**

*Division 1 - Preliminary*

**Interpretation**

~~8.1~~ 7.1 In this Part -

"**auction**" has the meaning given to it in the *Auction Sales Act 1973*;

"**sale**" means a sale by way of auction;

"**saleyard**" means local government property which is used for the sale of stock;

"**stock**" has the meaning given to "livestock" in the *Auction Sales Act 1973*; and

"**stock agent**" means any person appointed by the owner of stock to sell that stock at a saleyard.

*Division 2 - Sale of stock*

**Requirements of auctioneer's licence**

~~8.2~~ 7.2 A person shall not sell by way of auction any stock at a saleyard unless that person is the holder of an auctioneer's licence to sell stock under the *Auction Sales Act 1973*.

**Sale times to be approved**

~~8.3~~ 7.3 Sales are to be conducted at a saleyard only on such days and at such times as may be appointed by a stock agent with the prior approval of the CEO.

**Order of sales**

~~8.4~~ 7.4 The order in which stock agents conduct sales on any day under clause 8.3 is to be the order agreed to by those stock agents, and in default of agreement, as directed by the CEO or an authorized person.



### ***Division 3 - Care of and responsibility for stock***

#### **Diseased and injured stock**

~~8.5~~ 7.5 (1) A person shall not -

- (a) offer for sale any stock which is diseased, emaciated, injured or suffering from ill health for sale at a saleyard; or
- (b) deliver to any saleyard any stock which is diseased, emaciated, injured or suffering from ill health.

(2) Where in the opinion of an authorized person stock at a sale yard is diseased, emaciated, injured or suffering from ill health, the authorized person may direct the stock agent of the stock, or if there is no stock agent, the owner or the person apparently in control of that stock, to remove that stock immediately from the saleyard.

#### **Care of stock**

~~8.6~~ 7.6 Where the stock is yarded in any saleyard the stock agent (or if there is no stock agent, the owner) shall -

- (a) ensure that the stock is properly cared for; and
- (b) if the stock is kept yarded for more than 24 hours, provide the stock with adequate food and water.

#### **When purchaser becomes responsible for stock**

~~8.7~~ 7.7 The purchaser of any stock yarded in a saleyard is responsible for such stock from the time the contract of sale is entered into.

#### **Time limit for removal of stock**

~~8.8~~ 7.8 The purchaser of any stock at a saleyard is to remove such stock from the saleyard by 5.00pm on the day after the day of sale, or by such later time as may be allowed by an authorized person.

#### **Removal of unsold stock**

~~8.9~~ 7.9 Where stock yarded in a saleyard remain unsold, the stock agent or, if there is no stock agent, the owner of the stock is responsible for the care and removal of such stock from the saleyard.

#### **Removal of dead or maimed stock**

~~8.10~~ 7.10 Stock which have died or which have been maimed shall be immediately removed from the saleyard where the stock -

- (a) are unsold, by the stock agent, or if there is no stock agent, the owner; or
- (b) have been sold, by the purchaser.

#### *Division 4 - Payment of fees*

##### **Payment of yard fees**

~~8.11~~ 7.11 Where stock is brought into a saleyard for a sale or any other purpose by a stock agent or owner, that stock agent or owner shall -

- (a) within 7 days of bringing the stock into a saleyard, give the local government a written statement signed by the stock agent or owner advising -
  - (i) the total number of stock by class brought into the saleyard; and
  - (ii) the date on which the stock was brought into the saleyard; and
- (b) within 28 days of bringing the stock into a saleyard, pay the local government the applicable yard fees set by the local government.

##### **Documents may be inspected**

~~8.12~~ 7.12 The stock agent or owner shall, on demand by the CEO, make available to the CEO for inspection such documents as may be necessary to enable the CEO to verify a statement given under clause 8.11.

#### *Division 5 - Control of dogs*

##### **Only working dogs allowed**

~~8.13~~ 7.13 A person shall not bring into a saleyard any dog which will not be used for working with stock in that saleyard on the day which it is brought in.

##### **Diseased dogs prohibited**

~~8.14~~ 7.14 A person shall not bring or permit to be brought into a saleyard a dog which is diseased.

### **PART 98 - OBJECTIONS AND APPEALS**

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

~~9.1~~ 8.1 When the local government makes a decision as to whether it will -

- (a) grant a person a permit or consent under this local law; or
- (b) renew, vary, or cancel a permit or consent that a person has under this local law,

the provisions of Division 1 of Part 9 of the *Act* and regulations 32A and 33 of the Regulations apply to that decision.

### **PART 109 - MISCELLANEOUS**

### **Authorized person to be obeyed**

~~10.1~~ 9.1 A person on local government property shall obey any lawful direction of an authorized person and shall not in any way obstruct or hinder an authorized person in the execution of her or his duties.

### **Persons may be directed to leave local government property**

~~10.2~~ 9.2 An authorized person may direct a person to leave local government property where she or he reasonably suspects that the person has contravened a provision of any written law.

### **Disposal of lost property**

~~10.3.9.3~~ 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.

### **Liability for damage to local government property**

~~10.4~~ 9.4 (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 ~~11~~ 10 - ENFORCEMENT**

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

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

~~11.1~~ 10.1 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.

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

~~11.2~~ 10.2 Where a person fails to comply with a notice referred to in clause 11.1, 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***

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

~~11.3~~ 10.3 (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***

#### **Prescribed offences**

~~11.4~~ 10.4 (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 authorized 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.

#### **Form of notices**

~~11.5~~ 10.5 (1) For the purposes of this local law –

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

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

### ***Division 3 – Evidence in legal proceedings***

#### **Evidence of a determination**

~~11.6~~ 10.6 (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) It is to be presumed, unless the contrary is proved, that the determination was properly made and that every requirement for it to be made and have effect has been satisfied.

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

**SCHEDULE 1**  
**PRESCRIBED OFFENCES**

<b>CLAUSE</b>	<b>DESCRIPTION</b>	<b>MODIFIED PENALTY \$</b>
2.4	Failure to comply with determination	125
3.6	Failure to comply with conditions of permit	125
3.13(1)	Failure to obtain a permit	125
3.14(3)	Failure to obtain permit to camp outside a facility	125
3.15(1)	Failure to obtain permit for liquor	125
3.16	Failure of permit holder to comply with responsibilities	125
4.2(1)	Behaviour detrimental to property	125
4.4	Under influence of liquor or prohibited drug	125
4.6(2)	Failure to comply with sign on local government property	125
5.2	Consuming food or drink in prohibited area	125
<del>5.5</del>	<del>Failure to comply with sign or direction on beach</del>	<del>125</del>
5.6	Unauthorized entry to fenced or closed local government property	125
5.7	Gender not specified using entry of toilet block or change room	125
5.8(1)	Unauthorized presence of animal on aerodrome	350
5.8(2)	Animal wandering at large on aerodrome – person in charge	350
5.8(3)	Animal wandering at large on aerodrome – owner	350
5.10	Failure to comply with direction of controller or notice on golf course	125
6.1(1)	Unauthorized entry to function on local government property	125
<del>7.3</del>	<del>Unauthorized use of any part of jetty which is closed or under repair or construction</del>	<del>125</del>
<del>7.4</del>	<del>Mooring of boats in unauthorized manner</del>	<del>125</del>

<del>7.5</del>	<del>Unauthorized mooring of a boat to jetty</del>	<del>125</del>
<del>7.6</del>	<del>Failure to remove moored boat on direction of authorized person</del>	<del>125</del>
<del>7.7</del>	<del>Launching of boat from jetty without consent</del>	<del>125</del>
<del>7.8</del>	<del>Mooring when not ready to load or discharge cargo, at times not permitted or for longer than permitted</del>	<del>125</del>
<del>7.9</del>	<del>Unlawful storing of goods on jetty</del>	<del>125</del>
<del>7.10</del>	<del>Removing goods from jetty during other than permitted hours</del>	<del>125</del>
<del>7.11</del>	<del>Failure to remove cargo on jetty on direction of authorized person</del>	<del>125</del>
<del>7.12</del>	<del>Unauthorized deposit of bulk cargo on jetty</del>	<del>125</del>
<del>7.14</del>	<del>Fishing from jetty or bridge so as to obstruct a boat or another person</del>	<del>125</del>
<del>87.2</del>	Selling by way of auction without licence	125
<del>87.8</del>	Failure to remove stock	250
<del>87.10</del>	Failure to immediately remove dead or maimed stock	250
<del>87.11</del>	Failure to give statement or pay fees to local government	250
<del>87.12</del>	Failure to produce documents for inspection by local government	250
<del>87.13</del>	Unauthorized entry of dog into saleyard	125
<del>4410.1</del>	Failure to comply with notice	250

## **SCHEDULE 2**

### **DETERMINATIONS**

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

#### **PART 1 – PRELIMINARY**

##### **Definitions**

1.1 In these determinations unless the context otherwise requires –

**"local law"** means the *Local Government Property Local Law* made by the local government;

##### **Interpretation**

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

**SCHEDULE 3**  
**GOLF COURSE**  
**RESERVE 16076**  
**WESTCOURT ROAD, KOJONUP**

Dated \_\_\_\_\_ 20\_\_\_\_

The Common Seal of the                    )  
Shire of Kojonup                            )  
was affixed by                                )  
authority of a resolution                    )  
of the Council in the                        )  
presence of -                                 )

\_\_\_\_\_  
Chief Executive Officer

\_\_\_\_\_  
Mayor/President





**Local Government (Council Meetings) Local Law 2020**

*Local Government Act 1995*

WESTERN AUSTRALIA

*Local Government Act 1995*

**SHIRE OF KOJONUP**

**Local Government (Council Meetings) Local Law 2020**

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ARRANGEMENT

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**Table of Contents**

<b>Part 1 - Preliminary .....</b>	<b>6</b>
1.1 Citation.....	6
1.2 Commencement.....	6
1.3 Application and intent .....	6
1.4 Interpretation .....	6
1.5 Repeal.....	7
1.6 Provisions of the <i>Act</i> , Regulations and other legislation .....	6
<b>Part 2 – Establishment and membership of committees .....</b>	<b>7</b>
2.1 Establishment of committees .....	7
2.2 Types of committees .....	7
2.3 Delegation of some powers and duties to certain committees .....	7
2.4 Limits on delegation of powers and duties to certain committees .....	7
2.5 Appointment of committee Members .....	8
2.6 Tenure of committee membership.....	8
2.7 Resignation of committee Members .....	8
2.8 Register of delegations to committees .....	8
2.9 Committees to report.....	8
<b>Part 3 - Calling and convening meetings .....</b>	<b>8</b>
3.1 Ordinary and special Council meetings .....	8
3.2 Calling Council meetings.....	8
3.3 Convening Council meetings .....	8
3.4 Calling committee meetings.....	8
3.5 Public notice of meetings .....	8
<b>Part 4 – Presiding Member and quorum .....</b>	<b>9</b>
<i>Division 1: Who presides .....</i>	<i>9</i>
4.1 Who presides .....	9
4.2 When the Deputy President can act.....	9
4.3 Who acts if no President .....	9
4.4 Election of Presiding Members of committees .....	9
4.5 Election of Deputy Presiding Members of committees.....	9
4.6 Functions of Deputy Presiding Members.....	9
4.7 Who acts if no Presiding Member.....	9
<i>Division 2 – Quorum .....</i>	<i>9</i>
4.8 Quorum for meetings .....	9
4.9 Reduction of quorum for Council meetings.....	9
4.10 Reduction of quorum for committee meetings.....	9
4.11 Procedure where no quorum to begin a meeting .....	9
4.12 Procedure where quorum not present during a meeting .....	9
4.13 Names to be recorded.....	9
<b>Part 5 - Business of a meeting .....</b>	<b>10</b>
5.1 Business to be specified .....	10
5.2 Order of business.....	10

5.3	Motions of which previous notice has been given .....	10
5.4	New business of an urgent nature .....	11
5.5	Adoption by exception resolution .....	11
<b>Part 6 - Public participation.....</b>		<b>11</b>
6.1	Meetings generally open to the public .....	11
6.2	Meetings not open to the public .....	11
6.3	Question time for the public.....	12
6.4	Question time for the public at certain meetings.....	12
6.5	Minimum question time for the public.....	12
6.6	Procedures for question time for the public .....	12
6.7	Other procedures for question time for the public .....	12
6.8	Distinguished visitors.....	13
6.9	Deputations .....	13
6.10	Petitions.....	13
6.11	Presentations .....	14
6.12	Participation at committee meetings .....	14
6.13	Council may meet to hear public submissions.....	14
6.14	Public Inspection of agenda materials.....	15
6.15	Confidentiality of information withheld .....	15
6.16	Recording of proceedings .....	15
6.17	Prevention of disturbance.....	15
<b>Part 7 - Questions by Members .....</b>		<b>20</b>
<b>Part 8 – Conduct of Members .....</b>		<b>16</b>
8.1	Members to be in their proper places .....	16
8.2	Respect to the Presiding Member.....	16
8.3	Titles to be used .....	16
8.4	Advice of entry or departure .....	16
8.5	Members to indicate their intention to speak .....	16
8.6	Priority of speaking.....	16
8.7	Presiding Member may take part in debates .....	16
8.8	Relevance .....	17
8.9	Speaking twice .....	17
8.10	Duration of speeches .....	17
8.11	No speaking after conclusion of debate .....	17
8.12	No interruption.....	17
8.13	Personal explanations.....	17
8.14	No reopening of discussion.....	17
8.15	Adverse reflection .....	17
8.16	Withdrawal of offensive language .....	18
<b>Part 9 - Preserving order.....</b>		<b>18</b>
9.1	Presiding Member to preserve order .....	18
9.2	Point of order.....	18
9.3	Procedures on a point of order .....	18
9.4	Calling attention to breach .....	19
9.5	Ruling by the Presiding Member .....	19
9.6	Continued breach of order.....	19
9.7	Right of Presiding Member to adjourn.....	19
<b>Part 10 - Debate of substantive motions.....</b>		<b>19</b>
10.1	Motions to be stated and in writing.....	19
10.2	Motions to be supported.....	19
10.3	Unopposed business .....	19
10.4	Only one substantive motion at a time .....	20
10.5	Order of call in debate.....	20
10.6	Limit of debate .....	20
10.7	Member may require question to be read.....	20
10.8	Consent of seconder required for alteration .....	20

10.9	Order of amendments .....	20
10.10	Form of an amendment .....	20
10.11	Amendment must not negate original motion .....	20
10.12	Relevance of amendments.....	20
10.13	Mover of motion may speak on amendment .....	20
10.14	Effect of an amendment .....	20
10.15	Withdrawal of motion or amendment .....	21
10.16	Right of reply .....	21
<b>Part 11</b>	<b>- Procedural motions .....</b>	<b>21</b>
11.1	Permissible procedural motions .....	21
11.2	No debate .....	21
11.3	Who may move .....	21
11.4	Procedural motions - right of reply on substantive motion .....	22
11.5	Meeting to proceed to the next business .....	22
11.6	Debate to be adjourned.....	22
11.7	Meeting now adjourn .....	22
11.8	Question to be put .....	22
11.9	Member to be no longer heard .....	22
11.10	Ruling of the Presiding Member to be disagreed with .....	22
<b>Part 12</b>	<b>- Disclosure of interests .....</b>	<b>22</b>
12.1	Disclosure of interests .....	22
<b>Part 13</b>	<b>- Voting .....</b>	<b>23</b>
13.1	Question - when put .....	23
13.2	Voting.....	23
13.3	Majorities required for decisions.....	23
13.4	Method of taking vote .....	23
<b>Part 14</b>	<b>- Minutes of meetings.....</b>	<b>23</b>
14.1	Keeping of minutes .....	23
14.2	Content of minutes .....	23
14.3	Public inspection of unconfirmed minutes.....	24
14.4	Confirmation of minutes .....	24
<b>Part 15</b>	<b>- Adjournment of meeting.....</b>	<b>24</b>
15.1	Meeting may be adjourned.....	24
15.2	Effect of adjournment .....	24
<b>Part 16</b>	<b>- Revoking or changing decisions .....</b>	<b>24</b>
16.1	Requirements to revoke or change decisions .....	24
16.2	Limitations on powers to revoke or change decisions .....	24
16.3	Implementing a decision .....	24
<b>Part 17</b>	<b>- Suspension of Local Laws.....</b>	<b>25</b>
17.1	Suspension of Local Laws .....	25
17.2	Where Local Laws do not apply .....	25
17.3	Cases not provided for in Local Laws.....	25
<b>Part 18</b>	<b>- Meetings of electors .....</b>	<b>26</b>
18.1	Electors' general meetings.....	26
18.2	Matters for discussion at general electors' meeting.....	26
18.3	Electors' special meetings .....	26
18.4	Requests for electors' special meetings .....	26
18.5	Convening electors' meetings.....	26
18.6	Who presides at electors' meetings .....	26
18.7	Procedure for electors' meetings .....	26
18.8	Participation of non-electors .....	26
18.9	Voting at electors' meetings .....	26
18.10	Minutes of electors' meetings.....	26
18.11	Decisions made at electors' meetings .....	26

**Part 19 - Enforcement.....26**  
19.1 Penalty for breach .....26  
19.2 Who can prosecute .....32

SHIRE OF KOJONUP

Local Government (Council Meetings) Local Law 2020

Under the powers conferred by the *Local Government Act 1995* and under all other relevant powers, the Shire of Kojonup resolved on **[INSERT DATE]** to make the following local law.

Part 1 - Preliminary

1.1 Citation

- (1) This local law may be cited as the Shire of Kojonup Local Government (Council Meetings) Local Law 2020.

1.2 Commencement

By virtue of section 3.14 of the *Act*, these Local Laws come into operation 14 days after the date of their publication in the *Government Gazette*.

1.3 Application and intent

- (1) These Local Laws provide rules and guidelines which apply to the conduct of meetings of the Council and its committees and to meetings of electors.
- (2) All meetings are to be conducted in accordance with the *Act*, the Regulations and these Local Laws.
- (3) These Local Laws are intended to result in:
  - (a) better decision-making by the Council and committees;
  - (b) the orderly conduct of meetings dealing with Council business;
  - (c) better understanding of the process of conducting meetings; and
  - (d) the more efficient and effective use of time at meetings.

1.4 Interpretation

- (1) In these Local Laws unless the context otherwise requires:

***absolute majority*** has the meaning given to it in the *Act*;

***75% majority*** has the meaning given to it in the *Act*;

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

***CEO*** means the Chief Executive Officer of the Local Government;

***committee*** means a committee of the Council established under section 5.8 of the *Act*;

***committee meeting*** means a meeting of a committee;

***Council*** means the Council of the Shire of Kojonup;

***Local Government*** means the Shire of Kojonup;

***President*** means the President of the Local Government or other Presiding Member at a Council meeting under section 5.6 of the *Act*;

***meeting*** means a meeting of the Council or a committee, as the context requires;

***Member*** has the meaning given to it in the *Act*;

***Presiding Member*** means:

- (a) in respect of the Council, the person presiding under section 5.6 of the *Act*; and

- (b) in respect of a committee, the person presiding under sections 5.12, 5.13, and 5.14 of the *Act*;

**Regulations** means the Local Government (Administration) Regulations 1996;

**simple majority** means more than 50% of the members present and voting; and,

**substantive motion** means an original motion or an original motion as amended, but does not include an amendment or a procedural motion.

- (2) Unless otherwise defined in these Local Laws, the terms and expressions used in these Local Laws are to have the meaning given to them in the Act and Regulations.

## **1.5 Repeal**

- (1) *The Shire of Kojonup Local Laws Relating to Standing Orders published in the Government Gazette on 01 August 1997 is repealed.*

## **1.6 Provisions of the Act, Regulations and other legislation**

- (1) Throughout these Local Laws, provisions of the *Act* and Regulations, and provisions of other legislation, are reproduced in a boxed format.
- (2) The purpose of reproducing these provisions is to assist the reader by giving a fuller picture of related legislative provisions that also apply to meetings of the Council, committees and electors.
- (3) The reproduced provisions of the *Act* and Regulations and other legislation:
- (a) are to be treated as footnotes and are not part of these Local Laws (see section 32(2) of the *Interpretation Act 1984*); and
  - (b) reproduce only the provisions that were in force at the time that the Council resolved to adopt these Local Laws and therefore may not necessarily be correct at a future date.

# **Part 2 – Establishment and membership of committees**

## **2.1 Establishment of committees**

- (1) The establishment of committees is dealt with in the *Act*.
- (2) A Council resolution to establish a committee under section 5.8 of the *Act* is to include:
- (a) the terms of reference of the committee;
  - (b) the number of council members, officers and other persons to be appointed to the committee;
  - (c) the names or titles of the council members and officers to be appointed to the committee;
  - (d) the names of other persons to be appointed to the committee or an explanation of the procedure to be followed to determine the appointments; and
  - (e) details of the delegation of any powers or duties to the committee under section 5.16 of the *Act*.
- (3) These Local Laws are to apply to the conduct of committee meetings.

## **2.2 Types of committees**

The types of committees are dealt with in the *Act*.

## **2.3 Delegation of some powers and duties to certain committees**

The delegation of some powers and duties to certain committees is dealt with in the *Act*.

## **2.4 Limits on delegation of powers and duties to certain committees**

The limits on the delegation of powers and duties to certain committees are dealt with in the *Act*.

**2.5 Appointment of committee members**

The appointment of committee members is dealt with in the *Act*.

**2.6 Tenure of committee membership**

Tenure of committee membership is dealt with in the *Act*.

**2.7 Resignation of committee members**

The resignation of committee members is dealt with in the Regulations.

**2.8 Register of delegations to committees**

The register of delegations to committees is dealt with in the *Act*.

**2.9 Committees to report**

A committee:

- (a) is answerable to the Council; and
- (b) is to report on its activities when, and to the extent, required by the Council.

### **Part 3 - Calling and convening meetings**

**3.1 Ordinary and special Council meetings**

(1) Ordinary and special Council meetings are dealt with in the *Act*.

(2) An ordinary meeting of the Council, held on a monthly basis or otherwise as determined by the Council, is for the purpose of considering and dealing with the ordinary business of the Council.

(3) A special meeting of the Council is held for the purpose of considering and dealing with Council business that is urgent, complex in nature, for a particular purpose or confidential.

**3.2 Calling Council meetings**

The calling of Council meetings is dealt with in the *Act*.

**3.3 Convening Council meetings**

(1) The convening of a Council meeting is dealt with in the *Act*.

(2) Subject to subclause (3), the CEO is to give at least 72 hours' notice, for the purposes of section 5.5, in convening a special meeting of the Council.

(3) Where, in the opinion of the President or at least one-third of the Members, there is a need to meet urgently, the CEO may give a lesser period of notice of a special Council meeting.

**3.4 Calling committee meetings**

The CEO is to call a meeting of any committee when requested by the President, the Presiding Member of a committee or any two members of that committee.

**3.5 Public notice of meetings**

Public notice of meetings is dealt with in the Regulations.



## **Part 4 – Presiding Member and quorum**

### ***Division 1: Who presides***

#### **4.1 Who presides**

Who presides at a Council meeting is dealt with in the *Act*.

#### **4.2 When the Deputy President can act**

When the Deputy President can act is dealt with in the *Act*.

#### **4.3 Who acts if no President**

Who acts if there is no President is dealt with in the *Act*.

#### **4.4 Election of Presiding Members of committees**

The election of Presiding Members of committees and their deputies is dealt with in the *Act*.

#### **4.5 Election of Deputy Presiding Members of committees**

The election of Deputy Presiding Members of committees is dealt with in the *Act*.

#### **4.6 Functions of Deputy Presiding Members**

The functions of Deputy Presiding Members are dealt with in the *Act*.

#### **4.7 Who acts if no Presiding Member**

Who acts if no Presiding Member is dealt with in the *Act*.

### ***Division 2 – Quorum***

#### **4.8 Quorum for meetings**

The quorum for meetings is dealt with in the *Act*.

#### **4.9 Reduction of quorum for Council meetings**

The power of the Minister to reduce the number for a quorum and certain majorities is dealt with in the *Act*.

#### **4.10 Reduction of quorum for committee meetings**

The reduction of a quorum for committee meetings is dealt with in the *Act*.

#### **4.11 Procedure where no quorum to begin a meeting**

The procedure where there is no quorum to begin a meeting is dealt with in the Regulations.

#### **4.12 Procedure where quorum not present during a meeting**

If at any time during a meeting a quorum is not present, the Presiding Member is:

- (a) immediately to suspend the proceedings of the meeting for a period of up to 15 minutes; and
- (b) if a quorum is not present at the expiry of that period, the Presiding Member is to adjourn the meeting to some future time or date.

#### **4.13 Names to be recorded**

At any meeting:

- (a) at which there is not a quorum present; or
  - (b) which is adjourned for want of a quorum,
- the names of the Members then present are to be recorded in the minutes.

## **Part 5 - Business of a meeting**

### **5.1 Business to be specified**

- (1) No business is to be transacted at any ordinary meeting of the Council other than that specified in the agenda, without the approval of the Presiding Member or the Council.
- (2) No business is to be transacted at a special meeting of the Council other than that given in the notice as the purpose of the meeting.
- (3) Subject to subclause (4), no business is to be transacted at an adjourned meeting of the Council other than that:
  - (a) specified in the notice of the meeting which had been adjourned; and
  - (b) which remains unresolved.
- (4) Where a meeting is adjourned to the next ordinary meeting of the Council then, unless the Council resolves otherwise, the business unresolved at the adjourned meeting is to be dealt with before considering Reports (Item 10) at that ordinary meeting.

### **5.2 Order of business**

- (1) Unless otherwise decided by the Council the order of business at any ordinary meeting of the Council is to be as follows:
  1. Declaration of Opening/Announcement of Visitors
  2. Announcements from the Presiding Member
  3. Attendance
    - 3.1 Apologies
    - 3.2 Approved leave of absence
  4. Declaration of interest
  5. Public Question Time
    - 5.1 Response to previous public questions taken on notice
    - 5.2 Public question time
  6. Confirmation of minutes
  7. Presentations
    - 7.1 Petitions
    - 7.2 Presentations
    - 7.3 Deputations
    - 7.4 Delegates' reports
  8. Method of dealing with agenda business
  9. Reports
  10. Applications for leave of absence
  11. Motions of which previous notice has been given
  12. Questions from Members without notice
  13. New business of an urgent nature introduced by decision of the meeting
  14. Meeting closed to public
    - 14.1 Matters for which the meeting may be closed
    - 14.2 Public reading of resolutions that may be made public
  15. Closure
- (2) Unless otherwise decided by the Council, the order of business at any special meeting of the Council is to be the order in which that business stands in the agenda of the meeting.
- (3) In determining the order of business for any meeting of the Council, the provisions of the *Act* and Regulations relating to the time at which public question time is to be held are to be observed. *[See section 5.24 of the Act; and regulations 6 & 7 of the Regulations]*

### **5.3 Motions of which previous notice has been given**

- (1) Unless the *Act*, Regulations or these Local Laws otherwise provide, a Member may raise at a meeting such business as he or she considers appropriate, in the form of a motion, of which notice has been given in writing to the CEO and which has been included on the agenda.
- (2) A notice of motion under subclause (1) is to be given at least 7 clear working days before the meeting at which the motion is moved.

- (3) A notice of motion is to relate to the good governance of the district.
- (4) The CEO -
  - (a) may, with the concurrence of the President, may exclude from the notice paper any notice of motion deemed to be, or likely to involve, a breach of any of these Local Laws or any other written law;
  - (b) will inform Members on each occasion that a notice has been excluded and the reasons for that exclusion;
  - (c) may, after consultation with the Member where this is practicable, make such amendments to the form but not the substance as will bring the notice of motion into due form; and
  - (d) may provide to the Council relevant and material facts and circumstances pertaining to the notice of motion on such matters as policy, budget and law.
- (5) A motion of which notice has been given is to lapse unless:
  - (a) the Member who gave notice of it, or some other Member authorised by the originating Member in writing, moves the motion when called on; or
  - (b) the Council on a motion agrees to defer consideration of the motion to a later stage or date.
- (6) If a notice of motion is given and lapses under subclause (5), notice of a motion in the same terms or to the same effect is not to be given again for at least 3 months from the date of such lapse.

#### **5.4 New business of an urgent nature**

- (1) In cases of extreme urgency or other special circumstances, matters may, on a motion by the Presiding Member that is carried by the meeting, be raised without notice and decided by the meeting.
- (2) In subclause (1), 'cases of extreme urgency or other special circumstances' means matters that have arisen after the preparation of the agenda that are considered by the Presiding Member to be of such importance and urgency that they are unable to be dealt with administratively by the Local Government and must be considered and dealt with by the Council before the next meeting.

#### **5.5 Adoption by exception resolution**

- (1) In this clause 'adoption by exception resolution' means a resolution of the Council that has the effect of adopting, for a number of specifically identified reports, the officer recommendation as the Council resolution.
- (2) Subject to subclause (3), the Local Government may pass an adoption by exception resolution.
- (3) An adoption by exception resolution may not be used for a matter:
  - (a) that requires a 75% majority or a special majority;
  - (b) in which an interest has been disclosed;
  - (c) that has been the subject of a petition or deputation;
  - (d) that is a matter on which a Member wishes to make a statement; or
  - (e) that is a matter on which a Member wishes to move a motion that is different to the recommendation.

## **Part 6 - Public participation**

### **6.1 Meetings generally open to the public**

Meetings being generally open to the public is dealt with in the *Act*.

### **6.2 Meetings not open to the public**

- (1) The CEO may, at any time, recommend that a meeting or part of a meeting be closed to members of the public.

- (2) The Council or a committee, in one or more of the circumstances dealt with in the *Act*, may at any time, by resolution, decide to close a meeting or part of a meeting.
- (3) If a resolution under subclause (2) is carried:
  - (a) the Presiding Member is to direct everyone to leave the meeting except:
    - (i) the Members;
    - (ii) the CEO; and
    - (iii) any Officer specified by the Presiding Member; and
  - (b) the meeting is to be closed to the public until, at the conclusion of the matter justifying the closure of the meeting to the public, the Council or the committee, by resolution, decides otherwise.
- (4) A person who fails to comply with a direction under subclause (3)(a) may, by order of the Presiding Member, be removed from the meeting.
- (5) While the resolution under subclause (2) remains in force, the operation of clause 8.9 is to be suspended until the Council or the committee, by resolution, decides otherwise.
- (6) A resolution under this clause may be made without notice.
- (7) Unless the Council resolves otherwise, once the meeting is reopened to members of the public, the Presiding Member is to ensure that any resolution of the Council made while the meeting was closed is to be read out including a vote of a Member to be included in the minutes.

### **6.3 Question time for the public**

Question time for the public is dealt with in the *Act*.

### **6.4 Question time for the public at certain meetings**

Question time for the public at certain meetings is dealt with in the Regulations.

### **6.5 Minimum question time for the public**

Minimum question time for the public is dealt with in the Regulations.

### **6.6 Procedures for question time for the public**

Procedures for question time for the public are dealt with in the Regulations.

### **6.7 Other procedures for question time for the public**

- (1) A member of the public who raises a question during question time, is to state his or her name and address.
- (2) A question may be taken on notice by the Council for later response.
- (3) When a question is taken on notice the CEO is to ensure that:
  - (a) a response is given to the member of the public in writing; and
  - (b) a summary of the response is included in the agenda of the next meeting of the Council.
- (4) Where a question relating to a matter in which a relevant person has an interest is directed to the relevant person, the relevant person is to:
  - (a) declare that he or she has an interest in the matter; and
  - (b) allow another person to respond to the question.
- (5) Each member of the public with a question is entitled to ask up to 2 questions before other members of the public will be invited to ask their questions.
- (6) Where a member of the public provides written questions then the Presiding Member may elect for the questions to be responded to as normal business correspondence.

- (7) The Presiding Member may decide that a public question shall not be responded to where:
  - (a) the same or similar question was asked at a previous meeting, a response was provided and the member of the public is directed to the minutes of the meeting at which the response was provided;
  - (b) the member of the public uses public question time to make a statement, provided that the Presiding Member has taken all reasonable steps to assist the member of the public to phrase the statement as a question; or
  - (c) the member of the public asks a question that is offensive or defamatory in nature, provided that the Presiding Member has taken all reasonable steps to assist the member of the public to phrase the question in a manner that is not offensive or defamatory.
- (8) A member of the public shall have two minutes to submit a question.
- (9) The Council, by resolution, may agree to extend public question time.
- (10) Where an answer to a question is given at a meeting, a summary of the question and the answer is to be included in the minutes.

### **6.8 Distinguished visitors**

If a distinguished visitor is present at a meeting of the Council, the Presiding Member may acknowledge the presence of the distinguished visitor at an appropriate time during the meeting, and the presence of that visitor shall be recorded in the minutes.

### **6.9 Deputations**

- (1) Any person or group wishing to be received as a deputation by the Council is to either:
  - (a) apply, before the meeting, to the CEO for approval; or
  - (b) with the approval of the Presiding Member, at the meeting, address the Council.
- (2) The CEO may either:
  - (a) approve the request and invite the deputation to attend a meeting of the Council; or
  - (b) refer the request to the Council to decide by simple majority whether or not to receive the deputation.
- (3) Unless the council resolves otherwise, a deputation invited to attend a Council meeting:
  - (a) is not to exceed 5 persons, only 2 of whom may address the Council, although others may respond to specific questions from Members;
  - (b) is not to address the Council for a period exceeding 10 minutes without the agreement of the Council; and,
  - (c) additional members of the deputation may be allowed to speak with the leave of the Presiding Member.
- (4) Any matter which is the subject of a deputation to the Council is not to be decided by the Council until the deputation has completed its presentation.

### **6.10 Petitions**

- (1) A petition is to -
  - (a) be addressed to the President;
  - (b) be made by electors of the district;
  - (c) state the request on each page of the petition;
  - (d) contain the name, address and signature of each elector making the request, and the date each elector signed;
  - (e) contain a summary of the reasons for the request; and
  - (f) state the name of the person to whom, and an address at which, notice to the petitioners can be given.
- (2) Upon receiving a petition, the Local Government is to submit the petition to the relevant officer to be included in his or her deliberations and report on the matter that is the subject of the petition, subject to subclause(3).

- (3) At any meeting, the Council is not to vote on any matter that is the subject of a petition presented to that meeting, unless:
  - (a) the matter is the subject of a report included in the agenda; and
  - (b) the Council has considered the issues raised in the petition.

#### **6.11 Presentations**

- (1) In this clause, a “presentation” means the acceptance of a gift or an award by the Council on behalf of the Local Government or the community.
- (2) A presentation may be made to the Council at a meeting only with the prior approval of the CEO.

#### **6.12 Participation at committee meetings**

- (1) In this clause a reference to a person is to a person who:
  - (a) is entitled to attend a committee meeting;
  - (b) attends a committee meeting; and
  - (c) is not a member of that committee.

A member of the public is entitled to attend a committee meeting only where a local government power or duty has been delegated to that committee: see section 5.23(1)(b) of the *Act*.

- (2) Without the consent of the Presiding Member, no person is to address a committee meeting.
- (3) The Presiding Member of a committee may allow a person to make an oral submission to the committee for up to 3 minutes.
- (4) A person addressing the committee with the consent of the Presiding Member is to cease that address immediately after being directed to do so by the Presiding Member.
- (5) A person who fails to comply with a direction of the Presiding Member under subclause (4) may, by order of the Presiding Member, be removed from the committee room.
- (6) The Council may make a policy dealing with the circumstances in which a person may be given consent to address a committee meeting.

#### **6.13 Council may meet to hear public submissions**

- (1) Where an item on the agenda at a Council meeting is contentious and is likely be the subject of a number of deputations, the Council may resolve to meet at another time to provide a greater opportunity to be heard.
- (2) The CEO and the President shall set the time and date of the meeting to provide the opportunity to be heard.
- (3) Where the Council resolves to meet to provide the opportunity to be heard under subclause (1), the Presiding Member shall:
  - (a) instruct the CEO to provide local public notice of the time and date when the Council will meet to provide an opportunity to be heard;
  - (b) provide a written invitation to attend the meeting to provide the opportunity to be heard to all members of the public who have applied under clause 6.9 to make a deputation on the issue; and
  - (c) cause minutes to be kept of the meeting to provide the opportunity to be heard.
- (4) A meeting held under subclause (1) shall be conducted only to hear submissions. The council shall not make resolutions at a meeting to provide the opportunity to be heard.
- (5) At a meeting held under subclause (1), each person making a submission shall be provided with the opportunity to fully state his or her case.

- (6) A member of the public shall be limited to 10 minutes in making an oral submission, but this period may be extended at the discretion of the Presiding Member.
- (7) Once every member of the public has had the opportunity to make a submission the Presiding Member is to close the meeting.
- (8) The CEO is to ensure that a report is included on the agenda of the next Council meeting summarising each submission made at the meeting.
- (9) The Council must not resolve on the matter that is the subject of a meeting to provide the opportunity to be heard until it has received the CEO's report under subclause (8).

#### **6.14 Public Inspection of agenda materials**

The right of the public to inspect the documents referred to, and in accordance with, regulation 14 of the Regulations may be exercised at the [Shire of Kojonup, 93-95 Albany Highway, Kojonup](#) and on the Local Government's website.

#### **6.15 Confidentiality of information withheld**

- (1) Information withheld by the CEO from the public under regulation 14(2) of the Regulations is to be:
  - (a) identified in the agenda of a Council meeting under the item "Matters for which meeting may be closed";
  - (b) marked "*Confidential*" in the agenda; and
  - (c) kept confidential by Officers and Members until the Council resolves otherwise.
- (2) A member or an officer in receipt of confidential information under subclause (1) or information that is provided or disclosed during a meeting or part of a meeting that is closed to the public is not to disclose any of that information to any person other than another member or an officer to the extent necessary for the purpose of carrying out his or her duties.
- (3) Subclause (2) does not apply where a member or officer discloses the information to his or her lawyer or government officer for the purpose of seeking advice in order to lawfully fulfil his or her role and responsibilities.

#### **6.16 Recording of proceedings**

A person is not to use any electronic, visual or vocal recording device or instrument to record the proceedings of the Council without the permission of the Presiding Member.

#### **6.17 Prevention of disturbance**

- (1) A reference in this clause to a person is to a person other than a member.
- (2) A person addressing the Council shall extend due courtesy and respect to the Council and the processes under which it operates and shall comply with any direction by the Presiding Member.
- (3) A person observing a meeting shall not create a disturbance at a meeting, by interrupting or interfering with the proceedings, whether by expressing approval or dissent, by conversing or by any other means.
- (4) A person shall ensure that his or her mobile telephone or audible pager is not switched on or used during any meeting of the Council.
- (5) A person shall not behave in a manner that is contrary to section 75 of the Criminal Code.

## **Part 7 - Questions by Members**

- (1) Members may ask questions relating to an item on the notice paper or on matters related to the good government of persons in the district.

- (2) A Member requesting general information from an Officer at a Council meeting may ask a question without notice and with the consent of the Presiding Member, may ask one or more further questions of that Officer or another Officer present at the meeting.
- (3) Where possible the Officer shall endeavour to answer the question to the best of his or her knowledge and ability, however, if the information is unavailable or the answer requires research or investigation, the Officer may ask that -
  - (i) the question be placed on notice for the next meeting of Council; and
  - (ii) the answer to the question be given to the Member who asked it within 14 days.
- (4) Every question and answer -
  - (i) is to be brief and concise; and
  - (ii) is not to be accompanied by argument, expression of opinion or statement of facts, except to the extent necessary to explain the question or answer.
- (5) In answering any question, an Officer may qualify his or her answer and may at a later time in the meeting or at a subsequent meeting alter, correct, add to or otherwise amend the original answer.

## **Part 8 – Conduct of Members**

### **8.1 Members to be in their proper places**

- (1) At the first meeting held after each election day, the CEO is to allot, alphabetically by ward, a position at the Council table to each Member.
- (2) Each Member is to occupy his or her allotted position at each Council meeting.

### **8.2 Respect to the Presiding Member**

After the business of a Council has been commenced, a Member is not to enter or leave the meeting without first paying due respect to the Presiding Member.

### **8.3 Titles to be used**

A speaker, when referring to the President, Deputy President or Presiding Member, or a Member or Officer, is to use the title of that person's office.

### **8.4 Advice of entry or departure**

During the course of a meeting of the Council, a Member is not to enter or leave the meeting without first advising the Presiding Member, in order to facilitate the recording in the minutes of the time of entry or departure.

### **8.5 Members to indicate their intention to speak**

A Member of the Council who wishes to speak is to indicate his or her intention to speak by raising his or her hand or by another method agreed by the Council.

### **8.6 Priority of speaking**

- (1) Where two or more Members indicate, at the same time, their intention to speak, the Presiding Member is to decide which Member is entitled to be heard first.
- (2) A decision of the Presiding Member under subclause (1) is not open to discussion or dissent.
- (3) A Member is to cease speaking immediately after being asked to do so by the Presiding Member.

### **8.7 Presiding Member may take part in debates**

The Presiding Member may take part in a discussion of any matter before the Council, subject to compliance with these Local Laws.



## **8.8 Relevance**

- (1) A Member is to restrict his or her remarks to the motion or amendment under discussion, or to a personal explanation or point of order.
- (2) The Presiding Member, at any time, may:
  - (a) call the attention of the meeting to:
    - (i) any irrelevant, repetitious, offensive or insulting language by a Member; or
    - (ii) any breach of order or decorum by a Member; and
  - (b) direct that Member, if speaking, to discontinue his or her speech.
- (3) A Member is to comply with the direction of the Presiding Member under subclause (2) by immediately ceasing to speak.

## **8.9 Speaking twice**

A Member is not to address the Council more than once on any motion or amendment except:

- (a) as the mover of a substantive motion, to exercise a right of reply;
- (b) to raise a point of order; or
- (c) to make a personal explanation.

## **8.10 Duration of speeches**

- (1) A Member is not to speak on any matter for more than 5 minutes without the consent of the Council which, if given, is to be given without debate.
- (2) An extension under this clause cannot be given to allow a Member's total speaking time to exceed 10 minutes.

## **8.11 No speaking after conclusion of debate**

A Member is not to speak on any motion or amendment:

- (a) after the mover has replied; or
- (b) after the question has been put.

## **8.12 No interruption**

A Member is not to interrupt another Member who is speaking unless:

- (a) to raise a point of order;
- (b) to call attention to the absence of a quorum;
- (c) to make a personal explanation under clause 8.13; or
- (d) to move a procedural motion that the Member be no longer heard (see clause 11(1)(e) .

## **8.13 Personal explanations**

- (1) A Member who wishes to make a personal explanation relating to a matter referred to by another Member who is then speaking is to indicate to the Presiding Member his or her intention to make a personal explanation.
- (2) The Presiding Member is to determine whether the personal explanation is to be heard immediately or at the conclusion of the speech by the other Member.
- (3) A Member making a personal explanation is to confine his or her observations to a succinct statement relating to a specific part of the speech at which he or she may have been misunderstood.

## **8.14 No reopening of discussion**

A Member is not to reopen discussion on any Council decision, except to move that the decision be revoked or changed (see Part 16).

## **8.15 Adverse reflection**

- (1) A Member is not to reflect adversely on a decision of the Council except on a motion that the decision be revoked or changed (see Part 16).

- (2) A Member is not:
  - (a) to reflect adversely on the character or actions of another Member or Officer; or
  - (b) to impute any motive to a Member or Officer,
 unless the meeting resolves, without debate, that the question then before the meeting cannot otherwise be adequately considered.
- (3) A Member is not to use offensive or objectionable expressions in reference to any Member, Officer or other person.
- (4) If a Member specifically requests, immediately after their use, that any particular words used by a Member be recorded in the minutes:
  - (a) the Presiding Member is to cause the words used to be taken down and read to the meeting for verification; and
  - (b) the Council may, by resolution, decide to record those words in the minutes.

#### **8.16 Withdrawal of offensive language**

- (1) A Member who, in the opinion of the Presiding Member, uses an expression which:
  - (a) in the absence of a resolution under clause 8.15:
    - (i) reflects adversely on the character or actions of another Member or Officer; or
    - (ii) imputes any motive to a Member or Officer; or
  - (b) is offensive or insulting,
 must, when directed by the Presiding Member, withdraw the expression and make a satisfactory apology.
- (2) If a Member fails to comply with a direction of the Presiding Member under subclause (1), the Presiding Member may refuse to hear the Member further on the matter then under discussion and call on the next speaker.

## **Part 9 - Preserving order**

### **9.1 Presiding Member to preserve order**

- (1) The Presiding Member is to preserve order, and, whenever he or she considers necessary, may call any Member to order.
- (2) When the Presiding Member speaks during a debate, any Member then speaking, or indicating that he or she wishes to speak, is immediately to sit down and every Member present is to preserve strict silence so that the Presiding Member may be heard without interruption.
- (3) Subclause (2) is not to be used by the Presiding Member to exercise the right provided in clause 8.7 , but to preserve order.

### **9.2 Point of order**

- (1) A Member may object, by way of a point of order, only to a breach of:
  - (a) any of these Local Laws; or
  - (b) any other written law.
- (2) Despite anything in these Local Laws to the contrary, a point of order:
  - (a) takes precedence over any discussion; and
  - (b) until determined, suspends the consideration or discussion of any other matter.

### **9.3 Procedures on a point of order**

- (1) A Member who is addressing the Presiding Member is not to be interrupted except on a point of order.
- (2) A Member interrupted on a point of order is to resume his or her seat until:
  - (a) the Member raising the point of order has been heard; and
  - (b) the Presiding Member has ruled on the point of order,
 and, if permitted, the Member who has been interrupted may then proceed.

#### **9.4 Calling attention to breach**

A Member may, at any time, draw the attention of the Presiding Member to any breach of these Local Laws.

#### **9.5 Ruling by the Presiding Member**

- (1) The Presiding Member is to rule on any point of order which is raised by either upholding or rejecting the point of order.
- (2) A ruling by the Presiding Member on a point of order:
  - (a) is not to be the subject of debate or comment; and
  - (b) is to be final unless the majority of Members then present and voting, on a motion moved immediately after the ruling, dissent from the ruling.
- (3) Subject to a motion of dissent being carried under subclause (2), if the Presiding Member rules that:
  - (a) any motion, amendment or other matter before the meeting is out of order, it is not to be considered further; and
  - (b) a statement made or act done by a Member is out of order, the Presiding Member may require the Member to make an explanation, retraction or apology.

#### **9.6 Continued breach of order**

If a Member:

- (a) persists in any conduct that the Presiding Member had ruled is out of order; or
- (b) refuses to make an explanation, retraction or apology required by the Presiding Member under clause 9.5(3),

the Presiding Member may direct the Member to refrain from taking any further part in the matter under discussion, other than by voting, and the Member is to comply with that direction.

#### **9.7 Right of Presiding Member to adjourn**

- (1) For the purpose of preserving or regaining order, the Presiding Member may adjourn the meeting for a period of up to 15 minutes.
- (2) On resumption, the debate is to continue at the point at which the meeting was adjourned.
- (3) If, at any one meeting, the Presiding Member adjourns the meeting more than once for the purpose of preserving or regaining order, the second or subsequent adjournment may be to a later time on the same day or to another day.

### **Part 10 - Debate of substantive motions**

#### **10.1 Motions to be stated and in writing**

Any Member who wishes to move a substantive motion or an amendment to a substantive motion:

- (a) is to state the substance of the motion before speaking to it; and
- (b) if required by the Presiding Member, is to put the motion or amendment in writing.

#### **10.2 Motions to be supported**

- (1) A substantive motion or an amendment to a substantive motion is not open to debate until it has been seconded.
- (2) A motion to revoke or change a decision made at a Council meeting is not open to debate unless the motion has the support required under regulation 10 of the Regulations.

#### **10.3 Unopposed business**

- (1) Immediately after a substantive motion has been moved and seconded, the Presiding Member may ask the meeting if any Member opposes it.
- (2) If no Member opposes the motion, the Presiding Member may declare it carried without debate and without taking a vote.

- (3) A motion declared carried under this clause is to be recorded in the minutes as a unanimous decision of the Council.
- (4) If a Member opposes a motion, the motion is to be dealt with under this Part.
- (5) This clause does not apply to a motion to revoke or change a decision which has been made at a Council meeting (see Part 16).

**10.4 Only one substantive motion at a time**

When a substantive motion is under debate at a meeting of the Council, no further substantive motion is to be accepted. The Council is not to consider more than one substantive motion at any time.

**10.5 Order of call in debate**

The Presiding Member is to call speakers to a substantive motion in the following order:

- (a) the mover to state the motion;
- (b) a seconder to the motion;
- (c) the mover to speak to the motion;
- (d) the seconder to speak to the motion;
- (e) a speaker against the motion;
- (f) a speaker for the motion;
- (g) other speakers against and for the motion, alternating where possible; and
- (h) mover takes right of reply which closes debate.

**10.6 Limit of debate**

The Presiding Member may offer the right of reply and put a substantive motion to the vote if he or she believes that sufficient discussion has taken place even though all Members may not have spoken.

**10.7 Member may require question to be read**

A Member may require the question or matter under discussion to be read at any time during a debate, but not so as to interrupt any other Member who is speaking.

**10.8 Consent of seconder required for alteration**

The mover of a substantive motion may not alter the wording of the motion without the consent of the seconder.

**10.9 Order of amendments**

Any number of amendments may be proposed to a substantive motion, but when an amendment is moved to a substantive motion, no second or subsequent amendment is to be moved or considered until the first amendment has been withdrawn, carried or lost.

**10.10 Form of an amendment**

An amendment must add, delete, or substitute words to the substantive motion.

**10.11 Amendment must not negate original motion**

An amendment to a substantive motion cannot negate the original motion or the intent of the original motion.

**10.12 Relevance of amendments**

Each amendment is to be relevant to the motion in respect of which it is moved.

**10.13 Mover of motion may speak on amendment**

Any Member may speak during debate on an amendment.

**10.14 Effect of an amendment**

If an amendment to a substantive motion is carried, the motion as amended then becomes the substantive motion, on which any Member may speak and any further amendment may be moved.

### **10.15 Withdrawal of motion or amendment**

- (1) Subject to subclause (2), the Council may, without debate, grant leave to withdraw a motion or amendment on the request of the mover of the motion or amendment and with the approval of the seconder.
- (2) Where an amendment has been proposed to a substantive motion, the substantive motion is not to be withdrawn, except by consent of the majority of Members present, until the amendment proposed has been withdrawn or lost.

### **10.16 Right of reply**

- (1) The mover of a substantive motion has the right of reply.
- (2) The mover of any amendment to a substantive motion has a right of reply.
- (3) The right of the reply may only be exercised:
  - (a) where no amendment is moved to the substantive motion – at the conclusion of the discussion on the motion; or
  - (b) where one or more amendments have been moved to the substantive motion – at the conclusion of the discussion on the substantive motion and any amendments.
- (4) After the mover of the substantive motion has commenced the reply:
  - (a) no other Member is to speak on the question;
  - (b) there is to be no further discussion on, or any further amendment to, the motion.
- (5) The right of the reply is to be confined to rebutting arguments raised by previous speakers and no new matter is to be introduced.
- (6) At the conclusion of the right of reply, the substantive motion, or the substantive motion as amended, is immediately to be put to the vote.

## **Part 11 - Procedural motions**

### **11.1 Permissible procedural motions**

In addition to the right to move an amendment to a substantive motion (under Part 10), a Member may move the following procedural motions:

- (a) that the meeting proceed to the next item of business;
- (b) that the debate be adjourned;
- (c) that the meeting now adjourn;
- (d) that the question be now put;
- (e) that the Member be no longer heard;
- (f) that the ruling of the Presiding Member be disagreed with;
- (g) that the meeting be closed to the public (see clause 6.2).

### **11.2 No debate**

- (1) The mover of a motion specified in paragraph (a), (b), (c), (f) or (g) of clause 11.1 may speak to the motion for not more than five minutes, the seconder is not to speak other than to formally second the motion, and there is to be no debate on the motion.
- (2) The mover of a motion specified in paragraph (d) or (e) of clause 11.1 may not speak to the motion, the seconder is not to speak other than to formally second the motion, and there is to be no debate on the motion.

### **11.3 Who may move**

No person who has moved, seconded, or spoken for or against the substantive motion, or any amendment to the substantive motion, may move any procedural motion which, if carried, would close the debate on the substantive motion or amendment.

#### **11.4 Procedural motions - right of reply on substantive motion**

The carrying of a procedural motion which closes debate on the substantive motion or amendment and forces a decision on the substantive motion or amendment does not deny the right of reply to the mover of the substantive motion.

#### **11.5 Meeting to proceed to the next business**

The motion “that the meeting proceed to the next business”, if carried, has the effect that:

- (a) the debate on the substantive motion or amendment ceases immediately;
- (b) no decision is made on the substantive motion;
- (c) the Council moves to the next item of business; and
- (d) there is no requirement for the matter to be raised again for consideration.

#### **11.6 Debate to be adjourned**

A motion “that the debate be adjourned”:

- (a) is to state the time to which the debate is to be adjourned; and
- (b) if carried, has the effect that all debate on the substantive motion or amendment ceases immediately, but continues at the time stated in the motion.

#### **11.7 Meeting now adjourn**

- (1) A Member is not to move or second more than one motion of adjournment during the same sitting of the Council.
- (2) Before putting the motion for the adjournment of the Council, the Presiding Member may seek leave of the Council to deal first with matters that may be the subject of an adoption by exception resolution (see clause 5.5).
- (3) A motion “that the meeting now adjourn”:
  - (a) is to state the time and date to which the meeting is to be adjourned; and
  - (b) if carried, has the effect that the meeting is adjourned to the time and date specified in the motion.
- (4) A meeting adjourned under subclause (3) is to continue from the point at which it was adjourned, unless the Presiding Member or the Council determines otherwise.

#### **11.8 Question to be put**

- (1) If the motion “that the question be now put”, is carried during debate on a substantive motion without amendment, the Presiding Member is to offer the right of reply and then put the motion to the vote without further debate.
- (2) If the motion “that the question be now put” is carried during discussion of an amendment, the Presiding Member is to put the amendment to the vote without further debate.
- (3) This motion, if lost, causes debate to continue.

#### **11.9 Member to be no longer heard**

If the motion “that the member be no longer heard”, is carried, the speaker against whom the motion has been moved cannot speak further on the current substantive motion, or any amendment relating to it, except to exercise the right of reply if he or she is the mover of the substantive motion.

#### **11.10 Ruling of the Presiding Member to be disagreed with**

If the motion “that the ruling of the Presiding Member be disagreed with”, is carried, that ruling is to have no effect and the meeting is to proceed accordingly.

## **Part 12 - Disclosure of interests**

#### **12.1 Disclosure of interests**

Disclosure of interests is dealt with in the *Act*.

## **Part 13 - Voting**

### **13.1 Question - when put**

- (1) Immediately after the debate on any question is concluded and the right of reply has been exercised, the Presiding Member -
  - (a) is to put the question to the Council; and
  - (b) if requested by any Member, is to again state the terms of the question.
- (2) A Member is not to leave the meeting when the Presiding Member is putting any question.

### **13.2 Voting**

Voting is dealt with in the *Act* and the Regulations.

### **13.3 Majorities required for decisions**

The majorities required for decisions of the Council and committees are dealt with in the *Act*.

### **13.4 Method of taking vote**

- (1) In taking the vote on any motion or amendment the Presiding Member:
  - (a) is to put the question, first in the affirmative, and then in the negative;
  - (b) may put the question in this way as often as may be necessary to enable him or her to determine whether the affirmative or the negative has the majority of votes;
  - (c) may accept a vote on the voices or may require a show of hands; and,
  - (d) is, subject to this clause, to declare the result.
- (2) If a Member calls for a show of hands, the result of the vote is to be determined on the count of raised hands.
- (3) If a member of council or a committee specifically requests that there be recorded -
  - (a) his or her vote; or,
  - (b) the vote of all members present,on a matter voted on at a meeting of the council or committee, the person presiding is to cause the vote or votes, as the case may be, to be recorded in the minutes.
- (4) If a Member calls for a division:
  - (a) those voting in the affirmative are to pass to the right of the Chair; and
  - (b) those voting in the negative are to pass to the left of the Chair.
- (5) For every division, the CEO is to record:
  - (a) the name of each member who voted; and
  - (b) whether he or she voted in the affirmative or negative.

## **Part 14 – Minutes of meetings**

### **14.1 Keeping of minutes**

The keeping and confirmation of minutes are dealt with in the *Act*.

### **14.2 Content of minutes**

- (1) The content of minutes is dealt with in the Regulations.
- (2) In addition to the matters required by regulation 11, the minutes of a Council meeting is to include, where an application for approval is refused or the authorisation of a licence, permit or certificate is withheld or cancelled, the reasons for the decision.

### **14.3 Public inspection of unconfirmed minutes**

The public inspection of unconfirmed minutes is dealt with in the Regulations.

### **14.4 Confirmation of minutes**

- (1) When minutes of an ordinary meeting of the Council are distributed for consideration prior to their confirmation at the next meeting, if a Member is dissatisfied with the accuracy of the minutes, the Member may provide the Local Government with a written copy of the alternative wording to amend the minutes no later than 7 clear working days before the next ordinary meeting of the Council.
- (2) At the next ordinary meeting of the Council, the Member who provided the alternative wording shall, at the time for confirmation of minutes -
  - (a) state the item or items with which he or she is dissatisfied; and
  - (b) propose a motion clearly outlining the alternative wording to amend the minutes.
- (3) Members must not discuss items of business contained in the minutes, other than discussion as to their accuracy as a record of the proceedings.

## **Part 15 - Adjournment of meeting**

### **15.1 Meeting may be adjourned**

The Council may adjourn any meeting:

- (a) to a later time on the same day; or
- (b) to any other time on any other day, including a time which coincides with the conclusion of another meeting or event.

### **15.2 Effect of adjournment**

Where any matter, motion, debate or meeting is adjourned under these Local Laws:

- (a) the names of Members who have spoken on the matter prior to the adjournment are to be recorded in the minutes;
- (b) debate is to be resumed at the next meeting at the point where it was interrupted; and
- (c) the provisions of clause 8.9 [speaking twice] apply when the debate is resumed.

## **Part 16 – Revoking or changing decisions**

### **16.1 Requirements to revoke or change decisions**

The requirements to revoke or change a decision made at a meeting are dealt with in regulation 10 of the Regulations.

### **16.2 Limitations on powers to revoke or change decisions**

- (1) Subject to subclause (2), the Council or a committee is not to consider a motion to revoke or change a decision:
  - (a) where, at the time the motion is moved or notice is given, any action has been taken under clause 16.3 to implement the decision; or
  - (b) where the decision is procedural in its form or effect.
- (2) The Council or a committee may consider a motion to revoke or change a decision of the kind described in subclause (1)(a) if the motion is accompanied by a written statement of the legal and financial consequences of carrying the motion.

### **16.3 Implementing a decision**

- (1) In this clause:
  - (a) "authorisation" means a licence, permit, approval or other means of authorising a person to do anything;
  - (b) "implement", in relation to a decision, includes:
    - (i) communicate notice of the decision to a person affected by, or with an interest in, the decision; and



- (ii) take any other action to give effect to the decision; and
  - (c) "valid notice of revocation motion" means a notice of motion to revoke or change a decision that complies with the requirements of the *Act*, Regulations and the Local Laws and may be considered, but has not yet been considered, by the Council or a committee as the case may be.
- (2) Subject to subclause (4), and unless a resolution is made under subclause (3), a decision made at a meeting is not to be implemented by the CEO or any other person until the afternoon of the first business day after the commencement of the meeting at which the decision was made.
  - (3) The Council or a committee may, by resolution carried at the same meeting at which a decision was made, direct the CEO or another person to take immediate action to implement the decision.
  - (4) A decision made at a meeting is not to be implemented by the CEO or any other person:
    - (a) if, before commencing any implementation action, the CEO or that person is given a valid notice of revocation motion; and
    - (b) unless and until the valid notice of revocation motion has been determined by the Council or the committee as the case may be.
  - (5) The CEO is to ensure that members of the public attending the meeting are informed by an appropriate notice that a decision to grant an authorisation:
    - (a) is to take effect only in accordance with this clause; and
    - (b) cannot be acted upon by the person who has been granted the authorisation unless and until the decision has been implemented in accordance with this clause.

## **Part 17 - Suspension of Local Laws**

### **17.1 Suspension of Local Laws**

- (1) A Member may at any time move that the operation of one or more of the provisions of these Local Laws be suspended.
- (2) A Member moving a motion under subclause (1) is to state the reasons for the motion but no other discussion is to take place.
- (3) A motion under subclause (1) which is:
  - (a) seconded; and
  - (b) carried by an absolute majority,
 is to suspend the operation of the clause or clauses to which the motion relates for the duration of the meeting, unless the meeting earlier resolves otherwise.

### **17.2 Where Local Laws do not apply**

- (1) In situations where:
  - (a) one or more provisions of these Local Laws have been suspended;
  - or
  - (b) a matter is not regulated by the *Act*, the Regulations or these Standing Orders,
 the Presiding Member is to decide questions relating to the conduct of the meeting.
- (2) The decision of the Presiding Member under subclause (1) is final, except where a motion is moved and carried under clause 11.10.

### **17.3 Cases not provided for in Local Laws**

The Presiding Member is to decide questions of order, procedure, debate, or otherwise in cases where these Local Laws, the *Act* or the Regulations are silent. The decision of the Presiding Member in these cases is final, except where a motion is moved and carried under clause 11.10.

## **Part 18 - Meetings of electors**

### **18.1 Electors' general meetings**

Electors' general meetings are dealt with in the *Act*.

### **18.2 Matters for discussion at electors' general meetings**

The matters to be discussed at electors' general meetings are dealt with in the Regulations.

### **18.3 Electors' special meetings**

Electors' special meetings are dealt with in the *Act*.

### **18.4 Requests for electors' special meetings**

Requests for electors' special meetings are dealt with in the Regulations.

### **18.5 Convening electors' meetings**

Convening electors' meetings is dealt with in the *Act*.

### **18.6 Who presides at electors' meetings**

Who presides at electors' meetings is dealt with in the *Act*.

### **18.7 Procedure for electors' meetings**

(1) The procedure for electors' meetings is dealt with in the *Act* and the Regulations.

(2) In exercising his or her discretion to determine the procedure to be followed at an electors' meeting, the Presiding Member is to have regard to these Local Laws.

### **18.8 Participation of non-electors**

A person who is not an elector of the Local Government shall not take part in any discussion at an electors' meeting unless the meeting, by resolution, permits the person do so.

### **18.9 Voting at electors' meetings**

Voting at electors' meetings is dealt with in the Regulations.

### **18.10 Minutes of electors' meetings**

Minutes of electors' meetings are dealt with in the *Act*.

### **18.11 Decisions made at electors' meetings**

Decisions made at electors' meetings are dealt with in the *Act*.

## **Part 19 - Enforcement**

### **19.1 Penalty for breach**

A person who breaches a provision of these Local Laws commits an offence.

**Penalty: \$5,000.00 and a daily penalty of \$500.00.**

### **19.2 Who can prosecute**

Who can prosecute is dealt with in the *Act*.

Dated: *[INSERT DATE]*

The Common Seal of the Shire of Kojonup  
was affixed by the authority of  
a resolution of Council in the presence of:

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*[INSERT NAME OF PRESIDENT]*  
President

---

*[INSERT NAME OF CEO]*  
Chief Executive Officer