

## SHIRE OF BROOMEHILL-TAMBELLUP

### Minutes of the Ordinary Meeting of Council held in the Tambellup Council Chambers on Thursday 21<sup>st</sup> August 2008 commencing at 4.00pm.

#### 1. RECORD OF ATTENDANCE

<b><u>Present:</u></b>	Jan Grimoldby	Commissioner
	Joanne Trezona	Chief Executive Officer
	Peter Bentley	Manager Administrative and Customer Services
	Vicki Webster	Executive Officer

**Gallery:** There were six members of the public present.

#### 2. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

The Commissioner Jan Grimoldby welcomed visitors and staff to the meeting and declared the meeting open at 4.00pm.

#### 3. RESPONSE TO PREVIOUS QUESTIONS TAKEN ON NOTICE

Nil

#### 4. PUBLIC QUESTION TIME / PUBLIC COMMENTS ON AGENDA ITEMS

Nil

#### 5. DECLARATION OF INTEREST

Nil

#### 6. PETITIONS / DEPUTATIONS / PRESENTATIONS / SUBMISSIONS

Nil

#### 7. CONFIRMATION OF PREVIOUS MEETING MINUTES

##### 7.1 Ordinary Meeting of Council held Thursday 17<sup>th</sup> July 2008

*080801*

*The Commissioner resolved that the Minutes of the Ordinary Meeting of Council held Thursday 17<sup>th</sup> July 2008 be confirmed as a true and accurate record of proceedings.*

## **8. ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION**

### **Regional Road group Meeting**

The Chief Executive Officer and I attended the Regional Roads Group meeting in Denmark in late July. At this meeting some additional funding became available under the Black Spot program and we requested that the intersection of Hassell and Pootenup Roads be reviewed by the Technical Group with a view to supporting this project.

### **Local Government Week**

I attended the Local Government Week conference in Perth, accompanied by the CEO at the end of July. The conference included the AGM for Western Australian Local Government Association members. The most controversial issue was the consideration of endorsing the Sustainability document. Ultimately, endorsement was deferred to enable a further one day discussion to take place. This will occur on 15<sup>th</sup> September and will be attended by the CEO and myself.

A high point of the conference was the awarding of the first prize for Junior Primary School section of the Banners in the Terrace competition to the Broomehill Primary School. We are hoping that the banner will be available for public display next month.

### **Works Manager**

On Monday 18<sup>th</sup> August, the CEO, myself and a technical specialist, Mr Ian Daniels from the Shire of Murray, interviewed applicants for the position of Works Manager. The position is new and reflects the increased level of activity in the new Shire. While a recommendation has not yet been made, we hope to be in a position to offer the job to an applicant in the near future.

### **Prospective Councillor Workshop**

On Wednesday 20<sup>th</sup> August, I attended a workshop conducted by the WA Electoral Commission on the process for postal voting in the inaugural Broomehill-Tambellup elections, to be held in October 2008.

## 9. MATTERS FOR DECISION

### 9.1 ADOPTION OF THE 2008-2009 BUDGET

<b>Program:</b>	<b>Governance</b>		
<b>Attachment:</b>	<b>Draft Budget for 2008-2009</b>		
<b>File Ref:</b>	<b>ADM0121</b>		
<b>Author:</b>	<b>J M Trezona</b>	<b>Chief Executive Officer</b>	
<b>Date:</b>	<b>15 August 2008</b>		
<b>Disclosure of Interest:</b>	<b>Nil</b>		

**Summary:** Council to consider for adoption the 2008-2009 draft budget.

**Background:** **Overview**

#### **Operating Budgets**

This budget maintains a high level of operating service levels to the community. The Shire provides the majority of funds for operating outlays from grants and rates.

<b>Funds from</b>	<b>Amount</b>	<b>Outlays</b>	<b>Amount</b>
Rates	807,330	Roads	973,419
Grants/Contributions	1,719,268	Recreation	394,296
Fee & Charges	285,393	Community Services	486,867
Other	73,893	Governance/Other	1,031,301
	2,885,884		2,885,884

Fees and charges have been reviewed so that uniform charges are applied over the district for the same service. Rubbish charges have been increased to keep pace with the increase in sanitation costs. Fees set by other state legislation such as planning and building fees have increased with that legislation.

Operating outlays are dominated by the provision of services and facilities to the community in the form of roads, recreation and community services. The Governance amount includes \$373,538 for expenses relating to the merger of the two former Shires which is fully funded by a grant provided by the state government for this purpose.

#### **Capital Budgets**

This budget represents some substantial outlays on road works in the district. The former Shires have been successful in obtaining considerable grant funds for road works in 2008/09.

<b>Funds from</b>	<b>Amount</b>	<b>Outlays</b>	<b>Amount</b>
Rates	583,639	Roads	1,669,000
Grants	1,139,097	Plant/Equipment	1,134,760
Reserves	525,436	Land/Buildings	457,000
Assets	684,500	Other	39,500
Opening	452,488	Debt	84,900
	3,385,160		3,385,160

### Rating and Valuations

Together with the merger of the two Shires has been a revaluation of unimproved value properties throughout the district. The former Shires applied different rating charges in 2007/08. The following rate in the dollar were applied –

	2007/08		+/-%
	Tambellup	Broomehill	
General GRV	10.7860	9.5920	12.4%
General UV	1.3600	1.2595	8.0%
Minimum rate	250.00	250.00	0.0%

The rates levied in 2007/08 show a 12.4% variance for GRV and 8.0% variance for UV assessments between the two local governments.

If the same amount of rates were to be raised from the 2007/08 valuations and applied uniformly across the district then the following rate in the dollar would need to be applied. In this case the properties in the district of former district of Tambellup would have reduction of around 3.8% whilst the former Broomehill district would see increases of 8.1% GRV and 3.9% UV.

#### *Impact of the revaluation of properties in 2008/09*

Together with the revaluation of unimproved value properties there were two properties that had values changed due to redevelopment activity. In addition some 66 properties in the Broomehill village have had their valuation basis changed from unimproved values to gross rental values. The effect of this change would see a 24.3% reduction in rates raised from these properties from \$21,788 to \$16,500.

#### *Valuation - Unimproved Values - percentage change from revaluation*



The average increase in values was 14.7% whilst the median was 8.1%. The range of variations was from 50% increases to no change from the 2007/08 values.

### **Rating 2008/09**

The table below shows the previous rates applied by the former Shires of Broomehill and Tambellup compared to the rates to be levied in 2008/09.

Valuation basis	2007/08	2008/09
Unimproved	1.2595 / 1.36*	1.287
Gross Rental	9.592 / 10.786*	11.042
Minimum	\$250.00	\$275.00

\*Broomehill/ Tambellup

The combined impact of a uniform rate in the dollar for all properties in the district and the annual revaluation of unimproved value properties have impacted on properties in different ways. The proposed budget provides for a gross rate revenue increase of 6.6% (7.0% after discount) over the budget revenue imposed by the two former local governments.

Changes to the rate in the dollar levied in 2007/08 by the former Shires have been affected by –

- Different rates in the dollar imposed by each Shire (up to 12.4% for GRV and 8.0% for UV) means that to impose a uniformed rate in the dollar there will be rate adjustments between the two former local government districts,
- Revaluation of Unimproved Value properties,
- Change in rating for some 66 unimproved value properties to gross rental values,
- Reassessment of two properties due to changes/improvements,
- Increase in the rate in \$ to fund 2008/09 budget.

The rates in the dollar have been modelled to consider these matters. Calculations were based on the valuations available as at 30 June 2008 and the rate revenue that these valuations could raise using the 2007/08 rate in the dollar levied. The gross amount of rates levied, before discount, was \$1.420m as at 30 June 2008.

To impose a uniform rate in the dollar valuation across the district the gross rental value rate in the dollar is 10.368c. The equivalent unimproved value rate in the dollar was 1.308c. This was reduced to 1.208c as a result of the revaluation to UV properties.

To fund the expanded capital works budgets it is necessary to increase the base rate in the dollar by 6.5%. This means that the gross rental value rate will move from the equalisation rate of 10.368c to 11.042c. The unimproved value rate in the dollar will move from 1.208c to 1.287c.

The individual changes in rates paid throughout the district will be affected by the equalisation rate in \$, the revaluation of unimproved value properties and the increase required for this budget.

The average increase in values was 14.7% whilst the median was 8.1%. The range of variations was from 50% increases to no change from the 2007/08 values.

The following graphs analyse the rate changes arising from the 2008/09 budget.

**Rates 2008/09 versus 2007/08 - percentage change - All properties**



Changes in rates paid are affected by the following –

- Increase in minimum rate by 10% from \$250.00 to \$275.00,
- Reduction in the rate in the \$ for properties in the former Shire of Tambellup as a result of the uniform rate for both GRV and UV properties,
- Increase in the rate in the \$ for properties in the former Shire of Broomehill as a result of the uniform rate for both GRV and UV properties,
- Reduction in rate arising from a change in valuation method from unimproved values to gross rental values for 66 properties in the Broomehill Village, and
- Increases in the unimproved values arising from the revaluation of properties by the Valuer-General
- Increase in the uniform rate in \$ of 6.5% to fund 2008/09 budget.

### Reserves

The reserves maintained by the former Shires have been amalgamated. Those reserves used for a common purpose have been combined, whilst other reserves held for a specific purpose have been retained with the name and purpose defining the previous intention. The following reserves are maintained by the Shire.

**Leave Reserve** - to be used to meet the Council's Long Service Leave liability for its employees.

**Plant Reserve** - to be used for the purchase of major plant.

**Fire Fighting Equipment Reserve** - to be used to ensure that fire fighting equipment is maintained and upgraded as necessary. This reserve is to be finalised in 2008/09.

**Building Reserve** - to be used for the replacement of Council buildings and costs associated with subdivision and development of land.

**Computer Reserve** - to be used for the replacement or upgrade computer hardware and software.

**Tambellup Recreation Ground & Pavilion Reserve** - to be used to maintain and develop sport and recreational facilities at the Tambellup Recreation Ground and Pavilion.

**Broomehill Recreation Complex Reserve** - to be used for works at the Broomehill Recreation Complex in agree the Management Committee of Broomehill Recreational Complex Inc.

**Broomehill Village Hall Replacement Reserve** - to be used for the replacement of the existing Broomehill Village Hall with a modern multi-functional facility or refurbishing the existing building.

**Housing Reserve** - to be used for major repairs to Shire owned houses.

**Roads Reserve** - to be used for development or renewal of the Shires road network.

**Public Open Space Reserve** - funds are provided from contributions made by developers in lieu of providing public open space. The Reserve is to be used for development of Public Open Space.

The Fire Fighting Equipment and the Road reserve will be finalised in 2008/09 in funding the projects in the budget. Major plant replacement will reduce the funds in the Plant reserve whilst the Building reserve will be increased by the proceeds from property sale. The redevelopment of the Broomehill Hall will utilise \$60,000 from the reserve.

A new reserve titled "Public Open Space Reserve" will be established this year from contributions made by developers in lieu of providing public open space. The Reserve is to be used for development of Public Open Space.

**SUMMARY**

	<b>Opening 1 July</b>	<b>Interest</b>	<b>Transfers</b>	<b>Used</b>	<b>Closing 30 June</b>
Leave Reserve	96,204	5,800	10,000	0	112,004
Plant Reserve	346,439	3,100	150,000	(440,000)	59,539
Fire Fighting	3,176	0	0	(3,176)	0
Building Reserve	253,302	19,400	200,000	(100,000)	372,702
Computer Reserve	19,610	1,100	0	0	20,710
Tambellup Recreation Ground & Pavilion	6,128	300	0	0	6,428
Broomehill Recreation Complex Reserve	35,094	2,400	8,600	0	46,094
Broomehill Village Hall Replacement Reserve	109,653	2,700	0	(60,000)	52,353
Housing Reserve	21,441	1,200	0	0	22,641
Roads Reserve	300,860	0	0	(300,860)	0
Public Open Space	0	0	10,000	0	10,000
<b>Total</b>	<b>1,191,907</b>	<b>36,000</b>	<b>368,600</b>	<b>(904,036)</b>	<b>692,471</b>

**Road Works**

This budget represents a substantial increase in the amount of road works in the district. The former Shires have been successful in obtaining considerable grant funds for road works. The following road works are included in this budget.

**REGIONAL ROAD GROUP**

- Broomehill Kojonup Road (*Widen, prime seal to 7.00m SLK 10.5 - 14.02*)
- Tieline Road (*Reseal 10mm - preservation SLK 0.19 - 3.8 & 8.8 - 11.83*)
- Broomehill Kojonup Road (*Reseal 10mm - preservation SLK 0.74 - 3.86 & 4.8 - 5.60*)
- Gnowangerup Tambellup Road (*Widen seal to 7.0m SLK 9.6 - 12.4*)
- Pootenup Road (*Gravelsheeting SLK 10.0 - 14.0*)
- Tambellup West Road (*Widen seal to 7.0m SLK 18.4 - 22.6*)
- Tambellup West Road (*Reconstruct and widen seal to 7.0m SLK .02 - 1.5*)

**ROADS TO RECOVERY**

- Pootenup Road (Sealing)
- Pootenup Road 2007/08(Sealing)
- Brassey Road (Resheet)
- Punchmirup South Road (Replace box culvert)
- Nookanellup Road (Resheeting)
- Gnowangerup Tambellup Road (Reseal - 5.0 kms)

**BLACK SPOT**

- Birt Road (*Extend culvert and improve curve alignment*)



**Loans**

The Shire will commence operations with outstanding debt of \$551,672 as at 1 July 2008. No new loans are proposed in this budget.

The Shire has a manageable debt level with a large proportion of debt retiring in 2009/10 and further self-supporting loan retiring in 2012/13.

**Conclusion**

This budget represents the maintenance of facilities and services at service levels previously operated by the former Shires of Broomehill and Tambellup. The major aspect of the budget is the restructure of the revenue resources of rates and fees and charges. The budget addresses the differential rating and fee structure previously applied by each of the former Shires. A uniform rate has been applied and fees equalised throughout the Shire.

Operating levels have been maintained and additional resources have been applied in road works. This budget continues the projects initiated by the former Shires and maintains the replacement of major plant and equipment in accordance with the previous replacement programs.

**Comment:**

**Consultation:** Nil

**Statutory**

**Environment:** The Local Government Act 1995 section 6.2 requires a local government to prepare and adopt (by absolute majority) an annual budget prior to 31 August in each year.

**Policy** Nil

**Implications:**

**Financial**

**Implications:** The adoption of the annual budget sets the financial framework for the year.

**Strategic**

**Implications:** This issue is not dealt with in Plan

**Voting**

**Requirements:** Simple Majority

**Officer / Council****Resolution: 080802***“The Commissioner resolved:***1. 2008/09 MUNICIPAL FUND BUDGET**

*That Council BY AN ABSOLUTE MAJORITY in accordance with the provisions of Section 6.2 of the Local Government Act 1995 to adopt as amended the 2008/09 Municipal Fund Budget of estimated Operating Revenues and Expenditures as summarised in the Operating Statements forming:*

- *Income Statement by Nature/Type*
- *Income Statement by Program*
- *Cash Flow Statement*
- *Rates Setting Statement*
- *Notes to and forming part of the 2008/2009 budget*

**2. GENERAL RATES**

*That Council BY AN ABSOLUTE MAJORITY in accordance with the provisions of Section 6.32 of the Local Government Act 1995 sets general rates in accordance with the following:-*

<b>GROSS RENTAL VALUES</b>	<b>Rate in \$</b>	<b>Minimum</b>
<i>Uniform rate</i>	<i>11.042c</i>	<i>\$275.00</i>
<b>UNIMPROVED VALUES</b>		
<i>Uniform rate</i>	<i>1.287c</i>	<i>\$275.00</i>

**3. DOMESTIC REFUSE CHARGES**

*That Council BY AN ABSOLUTE MAJORITY in accordance with the provisions of the Waste Avoidance and Resource Recovery Act 2007 imposes the following domestic refuse charges (exclusive of GST) for the 2008/09 financial year:*

<i>Residential - including recycling</i>	<i>225.00</i>
<i>Residential - without recycling</i>	<i>130.00</i>
<i>Commercial - including recycling</i>	<i>245.00</i>
<i>Commercial - without recycling</i>	<i>150.00</i>
<i>Residential - Recycling</i>	<i>95.00</i>
<i>Commercial - Recycling</i>	<i>95.00</i>
<i>240 Litre Wheelie Bin</i>	<i>at cost</i>
<i>Tipping Fee - cubic metre</i>	<i>11.00</i>
<i>Asbestos Disposal - trailer/ute</i>	<i>110.00</i>
<i>Asbestos Disposal - truckload</i>	<i>220.00</i>

#### **4. DISCOUNTS AND EARLY PAYMENT INCENTIVES**

***That Council BY AN ABSOLUTE MAJORITY in accordance with the provisions of Section 6.46 of the Local Government Act 1995, offers the following discount and early payment incentives for the payment of rates and charges:-***

- ***A 10% discount on 2008/09 general rates, and***
- ***Eligibility to enter an early incentive draw for the following prize:-***  
***\$200 donated by the Tambellup Cranbrook Community Bank***

***if:-***

***full payment of all current and arrears of rates, Emergency Services Levy (ESL), domestic refuse charge, is received by Council within 28 days of the issue date on the annual rate notice.***

#### **5. PAYMENT OPTIONS**

***That Council BY AN ABSOLUTE MAJORITY in accordance with the provisions of Section 6.45 and 6.50 of the Local Government Act 1995, offers the following payment options for the payment of rates -***

##### ***1. One Instalment***

- ***Payment in full (including all arrears) within 28 days of the issue date of the annual rate notice and be eligible for a 10% discount on current general rates and minimum payments only and eligibility to enter the rates incentive scheme for prizes; or***
- ***Payment in full within 35 days of the issue date of the annual rate notice.***

##### ***2. Two Instalments***

- ***The first instalment of 50% of the total current rates, ESL, domestic refuse charge, private swimming pool inspection fees inclusive of GST, instalment charge, plus the total outstanding arrears payable within 35 days of date of issue of the annual rate notice.***
- ***The second instalment, of 50% of the total current rates, ESL, domestic refuse charge, private swimming pool inspection fees inclusive of GST and instalment charge, payable 4 months after the due date of the first instalment.***

##### ***3. Four Instalments***

- ***The first instalment of 25% of the total current rates, ESL, domestic refuse charge, private swimming pool inspection fees inclusive of GST and instalment charge, plus the total outstanding arrears payable within 35 days of date of issue of the annual rate notice.***
- ***The second, third and fourth instalment, each of 25% of the total current rates, ESL, domestic refuse charge, private swimming pool inspection fees inclusive of GST and instalment charge, payable as follows:-***

***Second, Third and Fourth instalments to be made at two monthly intervals thereafter.***

## **6. LATE PAYMENT PENALTY INTEREST**

*That Council BY AN ABSOLUTE MAJORITY in accordance with the provisions of Sections 6.13 and 6.51 of the Local Government Act 1995, and Regulations 19A and 70 of the Local Government (Financial Management) Regulations 1996, adopts an interest rate of 11.0% per annum. Interest will be levied on all current and arrears of general rates, current and arrears of ESL, current and arrears domestic refuse charges, current and arrears of private swimming pool inspection fees (including GST), current and arrears of costs of collection and arrears of penalty interest instalment fees, calculated on a simple interest basis on arrears amounts which remain unpaid and current amounts which remain unpaid after 35 days from the issue date of the original rate notice, or the due date of the instalment and continues until the instalment is paid.*

*Excluded are deferred rates, instalment current amounts not yet due under the two or four payment options, registered pensioner portions and current government pensioner rebate amounts.*

*Such interest is to be charged daily on the outstanding balance on the day of calculation.*

## **7. INSTALMENTS AND ARRANGEMENTS ADMINISTRATION FEES AND INTEREST CHARGES**

*That Council BY AN ABSOLUTE MAJORITY:*

*1. That in accordance with the provisions of Section 6.45 of the Local Government Act 1995, for the 2008/09 financial year, imposes the following administration fees and interest charges for payment of rates ESL, domestic refuse charge, and private swimming pool inspection fees inclusive of GST:*

### *(a) Two Instalment Option*

*An administration fee of \$10.00 for each instalment arrangement, together with an interest charge of 5.5% per annum, calculated on a simple interest basis on:*

- 50% of the total current general rate (including specified area rate), ESL, domestic refuse charge, and private swimming pool inspection fees inclusive of GST calculated from the due date of the first instalment to the due date of the second instalment.*

### *(b) Four Instalment Option*

*An administration fee of \$10.00 for each instalment arrangement, together with an*

- 75% of the total current general rate (including specified area rate), ESL, domestic refuse charge and private swimming pool inspection fees inclusive of GST calculated 35 days from the date of issue of the annual rate notice to the due date of the first instalment;*

- *50% of the total current general rate (including specified area rate), ESL, domestic refuse charge and private swimming pool inspection fees inclusive of GST calculated from the due date of the first instalment to the due date of the second instalment; and*
- *25% of the total current general rate (including specified area rate), ESL, domestic refuse charge and private swimming pool inspection fees inclusive of GST calculated from the due date of the second instalment to the due date of the third instalment.*

**c) Special Arrangements Option**

*In addition to the late payment interest of 11.0% an arrangement administration fee of \$10.00 per assessment for each payment agreement.*

*2. In accordance with the provisions of Section 6.49 of the Local Government Act 1995, authorises the Chief Executive Officer to, during the 2008/09 financial year, enter into special payment agreements with ratepayers for the payment of rates, ESL, Domestic Refuse Charge and Private Swimming Pool Inspection Fees inclusive of GST.*

**8. CREATION OF SPECIFIC RESERVE**

*That Council BY AN ABSOLUTE MAJORITY in accordance with the provisions of Sections 6.11 of the Local Government Act 1995 approves the following Specific Reserve Account:-*

- *Leave Reserve - to be used to meet the Council's Long Service Leave liability for its employees.*
- *Plant Reserve - to be used for the purchase of major plant.*
- *Fire Fighting Equipment Reserve - to be used to ensure that fire fighting equipment is maintained and upgraded as necessary. This reserve is to be finalised in 2008/09.*
- *Building Reserve - to be used for the replacement of Council buildings and costs associated with subdivision and development of land.*
- *Computer Reserve - to be used for the replacement or upgrade computer hardware and software.*
- *Tambellup Recreation Ground & Pavilion Reserve - to be used to maintain and develop sport and recreational facilities at the Tambellup Recreation Ground and Pavilion.*
- *Broomehill Recreation Complex Reserve - to be used for works at the Broomehill Recreation Complex in agree the Management Committee of Broomehill Recreational Complex Inc.*
- *Broomehill Village Hall Replacement Reserve - to be used for the replacement of the existing Broomehill Village Hall with a modern multi-functional facility or refurbishing the existing building.*
- *Housing Reserve - to be used for major repairs to Shire owned houses.*
- *Roads Reserve - to be used for development or renewal of the Shires road network.*

*Public Open Space Reserve - funds are provided from contributions made by developers in lieu of providing public open space. The Reserve is to be used for development of Public Open Space.*

**9. 2008/09 SCHEDULE OF FEES AND CHARGES**

*That Council BY AN ABSOLUTE MAJORITY in accordance with the provisions of Section 6.16 of the Local Government Act 1995, adopts the 2008/09 Schedule of Fees and Charges contained in Note 5 of the budget statements.*

**10. DETERMINING MATERIAL VARIANCES**

*That in accordance with the provisions of the Local Government (Financial Management) Regulations 1996 section 34(5) the material variance as reported in the statements of financial activity in the financial year ending 30 June 2009 will be 10% and \$10,000.*

**11. MEMBERS FEES AND ALLOWANCES**

**ATTENDANCE FEES**

*That Council BY AN ABSOLUTE MAJORITY in accordance with the provisions of Section 5.99 of the Local Government Act 1995, and Regulation 34 of the Local Government (Administration) Regulations 1996, adopts the prescribed minimum annual allowance for attendance fees for the President and Councillors.*

**PRESIDENT AND DEPUTY PRESIDENT ALLOWANCE**

*That Council BY AN ABSOLUTE MAJORITY in accordance with the provisions of Section 5.98(5) and 5.98A of the Local Government Act 1995, and Regulation 33 and 33A of the Local Government (Administration) Regulations 1996, adopts the prescribed minimum annual allowance for the President and Deputy President.*

**TRAVELLING EXPENSES**

*That Council BY AN ABSOLUTE MAJORITY in accordance with the provisions of Section 5.99A of the Local Government Act 1995, and Regulation 34AB of the Local Government (Administration) Regulations 1996, adopts that travelling expenses are reimbursed to elected members at the rate provided in the Public Service Award 1992.*

**TELECOMMUNICATIONS ALLOWANCE**

*That Council BY AN ABSOLUTE MAJORITY in accordance with the provisions of Section 5.99A of the Local Government Act 1995, and Regulation 34A of the Local Government (Administration) Regulations 1996, adopts a Telecommunications Allowance of \$200 per Councillor per year."*

**Reason For Change to  
Recommendation:**

**9.2 CREDITORS ACCOUNTS PAID FOR JULY 2008**


---

<b>Program:</b>	<b>Other Property and Services</b>	
<b>Attachment:</b>	<b>List of Payments for July 2008</b>	
<b>File Ref:</b>	<b>Nil</b>	
<b>Author:</b>	<b>KP O’Neill</b>	<b>Finance Officer</b>
<b>Date:</b>	<b>15<sup>th</sup> August 2008</b>	
<b>Disclosure of Interest:</b>	<b>Nil</b>	

---

**Summary:** Attached is the list of Creditors accounts paid during the period 30<sup>th</sup> June to the 31<sup>st</sup> July 2008.

**Background:**

**Comment:** **Summary of Payments**

**Shire of Broomehill-Tambellup**

Municipal Fund	\$40,773.96
Trust Fund	\$450.00
Credit Cards	\$593.60
<b>TOTAL</b>	<b>\$41,817.56</b>

**Shire of Broomehill**

Municipal Fund	\$41,539.02
Trust Fund	\$8,606.83
Credit Card	\$1,497.38
<b>TOTAL</b>	<b>\$51,643.23</b>

**Shire of Tambellup**

Municipal Fund	\$43,374.60
Trust Fund	\$250.00
Credit Card	\$197.31
<b>TOTAL</b>	<b>\$43,821.91</b>

**Consultation:** Nil

**Statutory Environment:** Nil

**Policy Implications:** Nil

**Financial Implications:** List of Creditors paid since the previous Council meeting.

**Strategic Implications:** This issue is not dealt with in the Plan

**Voting Requirements:** Simple Majority

**Officer / Council**

**Resolution:** 080803

*“The Commissioner resolved-*

- 1. That the Creditors accounts paid for the Shire of Broomehill-Tambellup, being Municipal Fund EFT payments totalling \$40,773.96, Trust Fund cheque number 1 and totalling \$450.00 and Credit Card payments of \$593.60, be adopted.*
- 2. That the Creditors accounts paid for the Shire of Broomehill, being Municipal Fund EFT payments and cheques numbered 19365 to 19401 inclusive and totalling \$41,539.02 Trust Fund EFT payments totalling \$8606.83 and Credit Card payments of \$1497.38, be adopted.*
- 3. That the Creditors accounts paid for the Shire of Tambellup, being Municipal Fund EFT Payments and cheques numbered 20433 to 20469 inclusive and totalling \$43,374.60, Trust Fund cheque number 351 totalling \$250.00 and Credit Card Payments of \$197.31, be adopted.”*

**Reason For Change to Recommendation:**



**SHIRE OF BROOMEHILL-TAMBELLUP****Municipal Fund & Trust Fund Payments****Presented to Council on the 21st August 2008**

Financial Management Regulations No. 12 &amp; No. 13

<b>Chq/EFT</b>	<b>Date</b>	<b>Name</b>	<b>Description</b>	<b>Municipal</b>	<b>Trust</b>
1	30/07/2008	SALLY WALKER	Refund of Bond Paid for Hire of Hall 28 June 2008		450.00
EFT25	14/07/2008	JAN GRIMOLDBY	Commissioner Travelling for June 2008	341.19	
EFT	22/07/2008	SALARIES & WAGES	Bulk Payment Wages F.E. Friday 18 July 2008	38,074.41	
EFT	22/07/2008	SALARIES & WAGES	Interim Pay - FE Coyne	1,519.36	
EFT4	22/07/2008	ALBANY FINANCE	Payroll deductions	254.00	
EFT5	22/07/2008	KEYSTART	Payroll deductions	475.00	
EFT6	22/07/2008	SHIRE OF BROOMEHILL-TAMBELLUP	Payroll deductions	110.00	
				<b>40,773.96</b>	<b>450.00</b>

**Credit Card Payments**

1 to 31 July 2008

Fuel OTA	83.00
Fuel BH000	362.10
Council Meeting Supplies	140.50
Card Fees	8.00
	<b>593.60</b>

**SHIRE OF BROOMEHILL**  
**Municipal Fund & Trust Fund Payments**  
**Presented to Council on the 21st August 2008**  
Financial Management Regulations No. 12 & No. 13

<b>Chq/EFT</b>	<b>Date</b>	<b>Name</b>	<b>Description</b>	<b>Municipal</b>	<b>Trust</b>
EFT12	30/06/2008	SHIRE OF BROOMEHILL	Nett GST for Hidden Treasures - transfer to Muni to remit to ATO		3,206.83
EFT13	30/06/2008	SHIRE OF BROOMEHILL	50% Retention Bond for House incorrectly paid from Municipal		5,400.00
19365	30/06/2008	AUSTRALIA POST	Postage - June 2008	14.05	
19366	30/06/2008	BROOMEHILL RECREATIONAL COMPLEX	Final dinner for Shires	1,180.00	
19367	30/06/2008	BTW CONTRACTING PTY LTD	Hose clamps and nuts	36.00	
19368	30/06/2008	COURIER AUSTRALIA	Freight on stationery	34.69	
19369	30/06/2008	DAVID WILLS & ASSOCIATES	Consulting work Lot 263 Lathom Street - Subdivision costs	2,112.00	
19370	30/06/2008	DP & JM BOYLE	Purchase of 2,500 cm3 gravel - various road projects	6,050.00	
19371	30/06/2008	INDEPENDENT VALUERS OF WEST AUST.	Subdivision costs - Valuation Fee For Lot 263 Lathom St	1,650.00	
19373	30/06/2008	KATANNING STOCK & TRADING CO	3/4 elbows for depot"	7.50	
19374	30/06/2008	KEMPIN FARMS	Purchase of Gravel	880.00	
19375	30/06/2008	LANDGATE	GRV revaluation schedule R2008/3	686.30	
19376	30/06/2008	MICHAEL COLLINS	Purchase of 2,500 cm3 gravel - various road projects	2,750.00	
19377	30/06/2008	NEAT' N' TRIM UNIFORMS PTY LTD	Uniform - TC	77.36	
19378	30/06/2008	PETER BENTLEY	Fuel for car, LGMA conference expenses reimbursement	279.36	
19379	30/06/2008	SHIRE OF GNOWANGERUP	April, May, June Health inspections	1,925.00	
19380	30/06/2008	SYNERGY	Street lighting 24 May to 24 June 2008	402.15	
19381	30/06/2008	TOWN OF NARROGIN	June Building Surveyors costs	1,426.43	
19382	30/06/2008	TRAVEL TOWER	Pruning trees 08 June 08	2,990.00	
19383	30/06/2008	WARREN BLACKWOOD WASTE	Purchase of 10 Wheelie Bins, Recycling Collection June 2008	1,339.00	
19384	30/06/2008	WOOD & GRIEVE ENGINEERS	Progress claim June 2008 - Engineering Services	748.00	
19385	30/06/2008	BUILDERS' REGISTRATION BOARD OF WA	BRB Levy collections for May & June 2008	126.00	
19386	30/06/2008	BUILDING & CONSTRUCTION INDUSTRY TRAINING FUND	BCITF Levy collections for May & June 2008	600.80	
19387	30/06/2008	BEST OFFICE SYSTEMS	5273 black and white photocopies @ 1.65c per unit	87.01	
19388	30/06/2008	BKW CO-OPERATIVE	Lotterywest Grant expense - Sony Hi-Fi for Bootscooting Group	1,538.40	
19389	30/06/2008	BRENTON STEWART ELECTRICS	Repair fault at communications tower Fairfield Rd	526.74	
19390	30/06/2008	COURIER AUSTRALIA	Freight on stationery	20.95	

**SHIRE OF BROOMEHILL**  
**Municipal Fund & Trust Fund Payments**  
**Presented to Council on the 21st August 2008**  
Financial Management Regulations No. 12 & No. 13

<b>Chq/EFT</b>	<b>Date</b>	<b>Name</b>	<b>Description</b>	<b>Municipal</b>	<b>Trust</b>
19391	30/06/2008	GRAY & LEWIS	Consulting services May-June,2008 - Lot 263 Lathom St	577.50	
19392	30/06/2008	GREAT SOUTHERN WASTE DISPOSAL	Household rubbish collection June 2008	656.66	
19393	30/06/2008	HALANSON EARTHMOVING	Dig Broomehill rubbish pit	2,227.50	
19394	30/06/2008	HELEN BIGNELL	6 floral table arrangements for Council dinner	180.00	
19395	30/06/2008	JOHN KINNEAR AND ASSOCIATES	Resurvey Lot 1 and 761 Wandoo Rd	3,850.00	
19397	30/06/2008	KATANNING LOGISTICS	Freight on pipes for Broomehill/Kojonup Road	3,957.18	
19398	30/06/2008	LINCOLNS	Interim Audit for 2007/08	1,716.00	
19399	30/06/2008	NEAT' N' TRIM UNIFORMS PTY LTD	Uniform - TC	28.70	
19400	30/06/2008	TAMBELLUP G & T MOTORS	Water pump for fire unit	671.00	
19401	30/06/2008	JR & A HERSEY PTY LTD	Various protective clothing	186.74	
				<b>41,539.02</b>	<b>8,606.83</b>

**Credit Card Payments**

JUNE 2008	Westnet Subscriptions	49.95
	Fuel BH000	586.97
	Refreshments & Supplies for Council & Staff Function	860.46
		<b>1497.38</b>

**SHIRE OF TAMBELLUP**  
**Municipal Fund & Trust Fund Payments**  
**Presented to Council on the 21st August 2008**  
Financial Management Regulations No. 12 & No. 13

Chq/EFT	Date	Name	Description	Municipal	Trust
351	30/06/2008	GREAT STHN ABORIGINAL HEALTH SERVICE	Refund of Bond paid for Pavilion Hire on 9 June 2008		250.00
EFT23	30/06/2008	MURRAY BOWMAN	Council Meeting Fees & Travelling Allowance Feb to June 2008	620.00	
EFT24	30/06/2008	TRACEY KING	Council meeting fees Feb to June 2008	690.00	
20433	30/06/2008	AIR LIQUIDE	Ocy & Acet cylinder rental June 2008	67.87	
20434	30/06/2008	BEST OFFICE SYSTEMS	17,900 colour copies @ 3.3c per unit	1,037.17	
20435	30/06/2008	COURIER AUSTRALIA	Freight on stationery	31.96	
20436	30/06/2008	GREAT SOUTHERN WASTE DISPOSAL	Rubbish collection June 2008	1,537.01	
20437	30/06/2008	KATANNING STOCK & TRADING	Bolts, galv. bend, nipples	48.20	
20438	30/06/2008	KIM BOULTON	20 Hrs Records Management 23 June to 27 June 2008	820.00	
20439	30/06/2008	LANDGATE	UV interim valuations schedule R2008/02	123.20	
20440	30/06/2008	NEAT N' TRIM UNIFORMS PTY LTD	Uniforms - JT	305.85	
20441	30/06/2008	PERFECT COMPUTER SOLUTIONS PTY LTD	Excess computer support for 07/08	5,442.13	
20442	30/06/2008	RECORDS MAINTENANCE & STORAGE	Tube Clips For Records Management	23.76	
20443	30/06/2008	RON BACK	Consultancy Fees for Amalgamation processes	8,628.49	
20444	30/06/2008	SHIRE OF GNOWANGERUP	Health contractor services for April, May & June 2008	2,307.69	
20445	30/06/2008	STARTRACK EXPRESS	Freight on parts for portable toilets	61.04	
20446	30/06/2008	SYNERGY	Electricity for street lights 24 May to 24 June 2008	698.85	
20447	30/06/2008	TAMBELLUP DELI	Fuel & Newspapers for June 2008	157.60	
20448	30/06/2008	TAMBELLUP G & T MOTORS	Accommodation K.Bolton (records management) - 8 to 14 June 08	386.10	
20449	30/06/2008	TAMBELLUP PLAYGROUP	1/2 costs rainwater tank for Playgroup Building	355.00	
20450	30/06/2008	TAMBELLUP POST CAFE	Council catering for various June meetings	830.35	
20451	30/06/2008	TAMBELLUP SETTLER'S MART	Tool Box meeting food	160.59	
20452	30/06/2008	TAYLOR NOTT & MOLINARI	Obtain new titles for lot 58643 and 58651	583.30	
20453	30/06/2008	TELSTRA	Mobile and Office phone charges	857.21	
20454	30/06/2008	WARREN BLACKWOOD WASTE	Rubbish collection June 2008	967.30	
20455	30/06/2008	WOOD & GRIEVE ENGINEERS	Progress claim June 2008 - Engineering Services	885.50	
20456	30/06/2008	BUILDERS REGISTRATION BOARD	BRB Levy collected May & June 2008	157.50	

**SHIRE OF TAMBELLUP**  
**Municipal Fund & Trust Fund Payments**  
**Presented to Council on the 21st August 2008**  
Financial Management Regulations No. 12 & No. 13

<b>Chq/EFT</b>	<b>Date</b>	<b>Name</b>	<b>Description</b>	<b>Municipal</b>	<b>Trust</b>
20457	30/06/2008	BUILDING & CONSTRUCTION INDUSTRY TRAINING FUND	BCITF Levy collected for May & June 2008	580.80	
20458	30/06/2008	CONPLANT	Gasket kits and oil filter for roller	322.30	
20459	30/06/2008	FLETCHER'S BLOCKPAVE	500 grey masonry blocks for Gnowangerup Road bridgeworks	2,105.00	
20460	30/06/2008	GREAT SOUTHERN TOYOTA	Service of ute TA052	332.55	
20461	30/06/2008	HOWARD MACHINERY	Various parts for mower	599.35	
20462	30/06/2008	KATANNING LOGISTICS	Freight on concrete pipes for Gnowangerup Road bridgeworks	5,338.14	
20463	30/06/2008	KATANNING STOCK & TRADING	4 globes for depot	203.00	
20464	30/06/2008	LANDMARK	Fertilizer for oval	2,517.96	
20465	30/06/2008	LINCOLNS	Interim audit fee for 2007/08	1,980.00	
20466	30/06/2008	OLIVIA LETTER	Catering 35 people x \$15 24 June 2008	525.00	
20467	30/06/2008	STARTRACK EXPRESS	Freight on parts for roller	61.13	
20468	30/06/2008	TAMBELLUP G & T MOTORS	Various parts & repairs for plant items	1,005.70	
20469	30/06/2008	DARRYL PICKETT	Refund overpayment of vehicle licensing - overcharged on EFTPOS transaction	20.00	
				<b>43,374.60</b>	<b>250.00</b>

**Credit Card Payments**

JUNE 2008

Fuel OTA  
Card Fee152.31  
45.00**197.31**

9.3 PROPOSED CEMETERIES LOCAL LAW 2008	
<b>Program:</b>	<b>Governance</b>
<b>Attachment:</b>	<b>Proposed Cemeteries Local Law 2008</b>
<b>File Ref:</b>	<b>ADM0080</b>
<b>Author:</b>	<b>JM Trezona                      Chief Executive Officer</b>
<b>Date:</b>	<b>22<sup>nd</sup> July 2008</b>
<b>Disclosure of Interest:</b>	<b>Nil</b>

**Summary:** The purpose of this report is to allow the Presiding Person to give notice to the meeting of the purpose and effect of the Proposed Cemeteries Local Law 2008, for the Council to adopt the proposed Local Law and to allow for advertising of the proposed Local Law for public comment.

**Background:** The Proposed Cemeteries Local Law 2008 is based on the Model Cemeteries Local Law developed by WALGA and approved by the Joint Standing Committee on Delegated Legislation. The proposed Local Law includes those amendments previously adopted by the former Shires of Broomehill and Tambellup to the Model Local Law.

The **Purpose** of this local law is to provide for the orderly management of all cemeteries within the Shire of Broomehill-Tambellup district in accordance with established plans and to create offences for inappropriate behaviour within the cemetery grounds.

The **Effect** of this local law is that all persons engaged in the administration of the cemetery, burying deceased in the cemetery, or otherwise providing services to or making use of the cemetery are to comply with the provisions of this local law.

**Comment:** Both of the former Shires had adopted the Model Cemeteries Local Law with amendments. Those amendments which deleted reference to having a crematorium and mausoleum within the cemeteries have been incorporated into the Proposed Cemeteries Local Law 2008 as presented.

There are no conflicts between the amendments to the model Local Law made by the former Shires.

**Consultation:** The local law is advertised for public comment for a period of forty two days. Any submission received must be considered by Council before making the local law.

**Statutory Environment:** Regulation 7 of the *Local Government (Constitutional) Regulations 1998*, prescribes that although an order has abolished the former Shires of Broomehill and Tambellup and created a new Shire of Broomehill-Tambellup;

- the local laws that applied in the former Shires continue to apply in respect of the former Shire districts;
- the local laws of the former Shires are to be administered and enforced by the new Shire of Broomehill-Tambellup; and

- the local laws of the former Shires may be amended or repealed by the new Shire as if they were local laws of the new Shire.

Although the Cemeteries Local Law is made under the *Cemeteries Act 1986*, the Act requires that the process on the Local Government Act be followed.

As it is proposed to adopt a new Local Law, the following processes as set out in section 3.12 of the *Local Government Act 1995*, must be observed –

1. at a Council meeting the person presiding is to give notice of the purpose and effect of the proposed local law by ensuring that:-
  - (a) the purpose and effect of the proposed local law is included in the agenda for that meeting; and
  - (b) the minutes of the meeting of the Council include the purpose and effect of the proposed local law.
2. a local government is to:-
  - (a) Give Statewide public notice stating that –
    - (i) the local government proposes to make a local law, the purpose and effect of which is summarised in the notice;
    - (ii) a copy of the proposed local law may be inspected or obtained at any place specified in the notice; and
    - (iii) submissions about the proposed local Law may be made to a local government before a date to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;
  - (b) As soon as the notice is given, give a copy of the proposed local law and a copy of the notice is to forwarded to the relevant Minister;
  - (c) Provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.

After the last day for submissions, the local government is to consider any submissions made and may make the local law as proposed or make a local law that is not significantly different from what was proposed.

The Local Law is then published in the Government Gazette and a copy sent to the relevant Minister and the State Parliament Joint Standing Committee on Delegated Legislation.

The local law comes into effect fourteen days after publication in the Government Gazette.

**Policy Implications:** Nil

**Financial Implications:** The proposed local law needs to advertised in a newspaper circulating throughout the State and once made by Council is required to be advertised in the Government Gazette.

**Strategic Implications:** This issue is not dealt with in the Plan

**Voting Requirements:** Simple Majority

**Officer / Council Resolution:** *080804*

*“The Commissioner resolved –  
That Council adopt the Proposed Cemeteries Local Law 2008 in the  
form presented and Council’s intention to make the proposed Local Law  
be advertised Statewide inviting public submissions.”*

**Reason For Change  
to Recommendation:**



**CEMETERIES ACT 1986  
LOCAL GOVERNMENT ACT 1995**

**SHIRE OF BROOMEHILL-TAMBELLUP**

**CEMETERIES LOCAL LAW 2008**

**CEMETERIES ACT 1986  
LOCAL GOVERNMENT ACT 1995**

**CEMETERIES LOCAL LAW 2008**

**ARRANGEMENT**

**PART 1 – PRELIMINARY**

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

**PART 2 - ADMINISTRATION**

- 2.1 Powers and Functions of CEO

**PART 3 – APPLICATION FOR FUNERALS**

- 3.1 Application for Burial
- 3.2 Applications to be Accompanied by Certificates etc
- 3.3 Certificate of Identification
- 3.4 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 Expelled
- 5.6 Conduct of Funeral by Board

*Division 2 – Placement of Ashes*

- 5.7 Disposal of Ashes

**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 – Licensing of Monumental Masons*

- 7.13 Monumental Mason's Licence
- 7.14 Expiry Date, Non-Transferability
- 7.15 Carrying out Monumental Work
- 7.16 Responsibilities of the Holder of a Monumental Mason's Licence
- 7.17 Cancellation of a Monumental Mason's Licence

**PART 8 – GENERAL**

- 8.1 Animals
- 8.2 Guide Dogs
- 8.3 Damaging and Removing of Objects
- 8.4 Withered Flowers
- 8.5 Littering and Vandalism
- 8.6 Advertising
- 8.7 Obeying Signs and Directions
- 8.8 Removal from the Cemetery

**PART 9 – OFFENCES AND MODIFIED PENALTY**

- 9.1 General
- 9.2 Modified Penalties

**First Schedule – Modified Penalties**

**CEMETERIES ACT 1986  
LOCAL GOVERNMENT ACT 1986**

Shire of Broomehill-Tambellup

**CEMETERIES LOCAL LAW 2008**

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 Broomehill-Tambellup resolved on the .....to make the following local law.

**PART 1 - PRELIMINARY**

**1.1 Citation**

This local law may be cited as the *Shire of Broomehill-Tambellup Cemeteries Local Law. 2008*.

**1.2 Application**

This local law applies to the Broomehill, Tambellup and Pindellup public cemeteries.

**1.3 Definitions**

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;

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

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

“**Board**” means the Shire of Broomehill-Tambellup;

“**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.

**1.4 Repeal**

The following local laws are repealed:-

The former *Shire of Broomehill Cemeteries Local Law 2000* as published in the *Government Gazette* on 5 September 2000.

The former *Shire of Tambellup Local Law Relating to the Tambellup and Pindellup Public Cemeteries 1998* as published in the *Government Gazette* on 5 March 1999.

## **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 Applications to be Accompanied by Certificates etc**

All applications referred to in clause 3.1 shall be accompanied by either a medical certificate of death or a Coroner's order of burial, and a certificate issued under clause 3.3, in respect of the body.

### **3.3 Certificate of Identification**

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

(a) in the opinion of the Funeral Director, the dead body is not in a fit state to be viewed;

or

(b) after reasonable effort the Funeral Director is unable to arrange for a person to identify the dead body.

(2) Where:

(a) in the opinion of the Funeral Director, the dead body is not in a fit state to be viewed;

or

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

then the Funeral Director shall complete a certificate in the form determined by the Board from time to time.

### **3.4 Minimum Notice Required**

All bookings to hold a funeral shall be made with the Board at least twenty four 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 the 30th day of June in 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.

## **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, 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**

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

- (a) the Board has approved an application for the burial of that dead body in accordance with Part 3 of this local law;
- (b) it is enclosed in a coffin which in the opinion of the Board is structurally sound and bears the name of the deceased person indelibly inscribed in legible characters on a plate on the coffin's lid; and
- (c) under the plate referred to in paragraph (b) there is a substantive lead strip bearing the surname of the deceased person stamped in legible characters, each character being not less than 10 mm in height.

### **5.2 Funeral Processions**

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

### **5.3 Vehicle 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 Limitations**

Vehicles shall proceed within the cemetery by the constructed roadway or other areas designated for the use of vehicles and shall not exceed the speed of 25km per hour.

### **5.5 Offenders may be Expelled**

A person committing an offence under clause 5.4 may be expelled from the cemetery by the CEO or an authorised officer.

### **5.6 Conduct of Funeral by Board**

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 that dead body;
- (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 - Placement of Ashes*

#### **5.7 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

Family Shrub

Scattering to the Winds

Other memorials approved by the Board

(2) Subject to sub-clauses (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.

## **PART 6 - BURIALS**

### **6.1 Depth of Graves**

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

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

(b) in any circumstances less than 600mm.

(2) The permission of the authorised officer in sub-clause (1) (a) will only be granted where in the opinion of the authorised officer exceptional circumstances require granting of that permission.

## **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 6pm 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**

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**

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

#### *Division 2 - Licensing of Monumental Masons*

### **7.13 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 sub-clause (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.

### **7.14 Expiry Date, Non-Transferability**

A monumental mason's licence:

- (a) shall, subject to clause 7.17, be valid from the date specified therein until the 30th day of June next following; and
- (b) is not transferable.

### **7.15 Carrying out Monumental Work**

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

- (a) is the holder of a current monumental mason's licence issued pursuant to clause 7.13 or does so as the employee of a person who holds such a licence; or
- (b) is authorised by the Board to do so.

### **7.16 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.

### **7.17 Cancellation of a Monumental Mason's Licence**

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

- (a) that the holder of the licence has committed a breach of the requirements and conditions of the licence, this local law, the Act or any other written law which may affect the carrying out of monumental works;
- (b) that, in the opinion of the Board, the conduct of the holder of the licence or any person in the employ of that holder in carrying out or attempting to carry out any works within the cemetery, is inappropriate or unbecoming; or

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

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

(3) An aggrieved person whose licence has been terminated under subclause (1) may appeal to the State Administrative Tribunal for a review of the decision of the Board under this clause in the manner stated in section 19(2) of the Act.

## **PART 8 - GENERAL**

### **8.1 Animals**

Subject to clause 8.2, a person shall not bring an animal into or permit an animal to enter or remain in the cemetery, other than with the approval of the CEO or an authorised officer.

### **8.2 Guide Dogs**

Clause 8.1 shall not apply to a hearing impaired person or a person who is blind or partially blind and is accompanied by a hearing or guide dog.

### **8.3 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.

### **8.4 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.

### **8.5 Littering and Vandalism**

A person shall not:

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

### **8.6 Advertising**

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

### **8.7 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.

### **8.8 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.

## 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 the First Schedule 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 the First Schedule is set out in the fourth column of the First Schedule.

(3) The form of the notice referred to in section 9.17 of the *Local Government Act 1995* is to be in or substantially in the form of Form 2 of Schedule 1 of the *Local Government (Functions and General) Regulations 1996*;

(4) The form of the notice referred to in section 9.20 of the *Local Government Act 1995* is to be in or substantially in the form of Form 3 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

**FIRST SCHEDULE**  
CEMETERIES ACT, 1986  
SHIRE OF BROOMEHILL-TAMBELLUP  
**CEMETERIES LOCAL LAW 2008**

**MODIFIED PENALTIES**

Item No.	Clause	Nature of Offence	Modified Penalty
1	5.4	Excessive speed	\$50.00
2	5.4	Unauthorised use - driving of vehicles	\$50.00
3	7.3	Placing and removal of rubbish and surplus materials	\$50.00
4	7.7	Leaving uncompleted works in an untidy or unsafe condition	\$50.00
5	8.1	Animal at large	\$50.00
6	8.5	Dumping of Rubbish	\$50.00
7	8.6	Unauthorised advertising, and/or trading	\$50.00
8	8.7	Disobeying sign or lawful direction	\$50.00

Dated: ..... 2008 .

The Common Seal of the Shire of Broomehill-Tambellup was affixed by authority of a resolution of the Council in the presence of:

, Shire President  
J. TREZONA, Chief Executive Officer

## 9.4 PROPOSED DOGS LOCAL LAW 2008

---

<b>Program:</b>	Governance	
<b>Attachment:</b>	Proposed Dogs Local Law 2008	
<b>File Ref:</b>	ADM0080	
<b>Author:</b>	JM Trezona	Chief Executive Officer
<b>Date:</b>	21 <sup>st</sup> July 2008	
<b>Disclosure of Interest:</b>	Nil	

---

**Summary:** The purpose of this report is to allow the Presiding Person to give five notice to the meeting of the purpose and effect of the Proposed Dogs Local Law 2008, for the Council to adopt the proposed Local Law and to allow for advertising of the proposed Local Law for public comment.

**Background:** The Proposed Dogs Local Law 2008 is based on the Model Dogs Local Law developed by WALGA and approved by the Joint Standing Committee on Delegated Legislation. The Proposed Local Law includes those amendments previously adopted by the former Shires to the Shire of Moora and the Model Local Law.

The **Purpose** of the local law is to make provisions about the impounding of dogs, to control the number of dogs that can be kept on the premises and the manner of keeping those dogs and to prescribe areas in which dogs are prohibited and dog exercise areas.

The **Effect** of the local law is to extend the controls over dogs which exist under the *Dog Act 1976*.

**Comment:** Both of the former Shires had adopted the Shire of Moora Dog Local Law by reference with amendments. In addition Broomehill had also adopted the Model Dogs Local Law. Those amendments have been incorporated into the proposed Dogs Local Law 2008 presented.

Areas from which dogs are prohibited and dog exercise areas as described in the former Shire's Dog Local Laws have been incorporated in the proposed local law presented.

The only conflict between the amendments to the Model Dogs Local Law made by the former Shires was the inclusion by Broomehill of "a theatre or picture garden" in the prohibited areas. It is not included in the proposed local law.

**Consultation:** The local law is advertised for public comment for a period of forty two days. Any submission received must be considered by Council before making the local law.

**Statutory Environment:** Regulation 7 of the *Local Government (Constitutional) Regulations 1998*, prescribes that although an order has abolished the former Shires of Broomehill and Tambellup and created a new Shire of Broomehill-Tambellup;

- the local laws that applied in the former Shires continue to apply in respect of the former Shire districts;
- the local laws of the former Shires are to be administered and enforced by the new Shire of Broomehill-Tambellup; and
- the local laws of the former Shires may be amended or repealed by the new Shire as if they were local laws of the new Shire.

Although the Dogs Local Laws is made under the *Dog Act 1976*, the Act requires that the process in the *Local Government Act 1995* be followed.

As it is proposed to adopt a new Local Law, the following processes, as set out in section 3.12 of the *Local Government Act 1995*, must be observed —

1. At a Council meeting the person presiding is to give notice of the purpose and effect of the proposed local law by ensuring that:-
  - (a) the purpose and effect of the proposed local law is included in the agenda for that meeting; and
  - (b) the minutes of the meeting of the Council include the purpose and effect of the proposed local law.
2. A local government is to -
  - (a) give Statewide public notice stating that -
    - (i) the local government proposes to make a local law, the purpose and effect of which is summarised in the notice;
    - (ii) a copy of the proposed local law may be inspected or obtained at any place specified in the notice; and
    - (iii) submissions about the proposed local Law may be made to a local government before a date to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;
  - (b) as soon as the notice is given, give a copy of the proposed Local Law and a copy of the notice is to be forwarded to the relevant Minister.
  - (c) provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.

After the last day for submissions, the local government is to consider any submissions made and may make the local law as proposed or make a local law that is not significantly different from what was proposed.

The local law is then published in the Government Gazette and a copy sent to the relevant Minister and the State Parliament Joint Standing Committee on Delegated Legislation.

The local law comes into effect fourteen days after publication in the Government Gazette.

**Policy Implications:** Nil

**Financial Implications:** The proposed local law needs to be advertised in a newspaper circulating throughout the State and once made by Council is required to be advertised in the Government Gazette.

**Strategic**

**Implications:** This issue is not dealt with in the Plan

**Voting Requirements:**

Simple Majority

**Officer / Council**

**Resolution:** 080805

*“The Commissioner resolved –  
That Council adopt the Proposed Dogs Local Law 2008 in the form  
presented and Councils intention to make the proposed Local Law be  
advertised Statewide inviting public submissions.”*

**Reason For Change to  
Recommendation:**

**DOG ACT 1976  
LOCAL GOVERNMENT ACT 1995**

**SHIRE OF BROOMEHILL-TAMBELLUP**

**DOGS LOCAL LAW 2008**

**DOG ACT 1976  
LOCAL GOVERNMENT ACT 1995**

SHIRE OF BROOMEHILL TAMBELLUP

**DOGS LOCAL LAW 2008**

**TABLE OF CONTENTS**

**PART 1 – PRELIMINARY**

- 1.1 Citation
- 1.2 Applications
- 1.3 Definitions
- 1.4 Repeal

**PART 2 – IMPOUNDING OF DOGS**

- 2.1 Charges and Costs
- 2.2 Attendance of Pound keeper at Pound
- 2.3 Release if Impounded Dog
- 2.4 No Breaking Into or Destruction of Pound

**PART 3 – REQUIREMENTS AND LIMITATIONS OF KEEPING DOGS**

- 3.1 Dogs to be Confined
- 3.2 Limitations on the Number of Dogs

**PART 4 – APPROVED KENNEL ESTABLISHMENTS**

- 4.1 Interpretation
- 4.2 Application for Licence for Approved Kennel Establishment
- 4.3 Notice of Proposed Use
- 4.4 Exemption from Notice Requirements
- 4.5 When Application can be Determined
- 4.6 Determination of Application
- 4.7 Where Application can be Approved
- 4.8 Conditions of Approval
- 4.9 Compliance with Conditions of Approval
- 4.10 Fees
- 4.11 Form of Licence
- 4.12 Period of Licence
- 4.13 Variation or Cancellation of Licence
- 4.14 Transfer
- 4.15 Notification
- 4.16 Inspection of Kennel

**PART 5 – DOGS IN PUBLIC PLACES**

- 5.1 Places where Dogs are Prohibited Absolutely
- 5.2 Places which are Dog Exercise Areas

**PART 6 – MISCELLANEOUS**

- 6.1 Offence to Excrete



**PART 7 – ENFORCEMENT**

- 7.1 Interpretation
- 7.2 Modified Penalties
- 7.3 Issue of Infringement Notice
- 7.4 Failure to Pay Modified Penalty
- 7.5 Payment of Modified Penalty
- 7.6 Withdrawal of Infringement Notice
- 7.7 Service

**SCHEDULE 1**

**SCHEDULE 2**

**SCHEDULE 3**

**DOG ACT 1976  
LOCAL GOVERNMENT ACT 1995**

SHIRE OF BROOMEHILL-TAMBELLUP

**DOGS LOCAL LAW 2008**

Under the powers conferred by the *Dog Act 1976* and the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Broomehill-Tambellup resolved on to make the following local law.

**PART 1 - PRELIMINARY**

**1.1 Citation**

This local law may be cited as the *Shire of Broomehill-Tambellup Dogs Local Law 2008*.

**1.2 Application**

This local law applies throughout the district.

**1.3 Definitions**

In this local law unless the context otherwise requires -

“**Act**” means the *Dog Act 1976*;

“**authorized person**” means a person authorized by the local government to perform all or any of the functions conferred on an authorized person under this local law;

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

“**local government**” means the Shire of Broomehill-Tambellup;

“**pound keeper**” means a person authorized by the local government to perform all or any of the functions conferred on a “pound keeper” under this local law;

“**Regulations**” means the *Dog Regulations 1976*;

“**thoroughfare**” has the meaning given to it in section 1.4 of the *Local Government Act 1995*;  
and

“**town planning scheme**” means a town planning scheme made by the local government under the Planning and Development Act 2005 which applies throughout the whole or a part of the district.

**1.4 Repeal**

The following local laws are repealed –

The former Shire of Broomehill -

*By-laws Relating to Dogs* as published in the *Government Gazette* on 14 July 1989;

*Dogs Local Law 2000* as published in the *Government Gazette* on 5 September 2000;

*Dogs Local Law* as published in the *Government Gazette* on 3 April 2001.

The former Shire of Tambellup –

*By-laws Relating to Dogs* as published in the *Government Gazette* on 24 March 1972;

*Dogs Local Law* as published in the *Government Gazette* on 2 December 2003.

## PART 2 - IMPOUNDING OF DOGS

### 2.1 Charges and costs

The following are to be imposed and determined by the local government under sections 6.16 - 6.19 of the *Local Government Act 1995* -

- (a) the charges to be levied under section 29(4) of the Act relating to the seizure and impounding of a dog;
- (b) the additional fee payable under section 29(4) of the Act where a dog is released at a time or on a day other than those determined under clause 2.2; and
- (c) the costs of the destruction and the disposal of a dog referred to in section 29(15) of the Act.

### 2.2 Attendance of pound keeper at pound

The pound keeper is to be in attendance at the pound for the release of dogs at the times and on the days of the week as are determined by the CEO.

### 2.3 Release of impounded dog

(1) A claim for the release of a dog seized and impounded is to be made to the pound keeper or in the absence of the pound keeper, to the CEO.

(2) The pound keeper is not to release a dog seized and impounded to any person unless that person has produced, to the satisfaction of the pound keeper, satisfactory evidence -

- (a) of her or his ownership of the dog or of her or his authority to take delivery of it; or
- (b) that he or she is the person identified as the owner on a microchip implanted in the dog.

### 2.4 No breaking into or destruction of pound

A person who -

- (a) unless he or she is the pound keeper or a person authorized to do so, releases or attempts to release a dog from a pound; or
- (b) destroys, breaks into, damages or in any way interferes with or renders not dog-proof -
  - (i) any pound; or
  - (ii) any vehicle or container used for the purpose of catching, holding or conveying a seized dog,commits an offence.

Penalty: Where the dog is a dangerous dog, \$2,000; otherwise \$1,000.

## PART 3 - REQUIREMENTS AND LIMITATIONS ON THE KEEPING OF DOGS

### 3.1 Dogs to be confined

(1) An occupier of premises on which a dog is kept must -

- (a) cause a portion of the premises on which the dog is kept to be fenced in a manner capable of confining the dog;
- (b) ensure the fence used to confine the dog and every gate or door in the fence is of a type, height and construction which having regard to the breed, age, size and physical condition of the dog is capable of preventing the dog at all times from passing over, under or through it;
- (c) ensure that every gate or door in the fence is kept closed at all times when the dog is on the premises and is fitted with a proper latch or other means of fastening it;
- (d) maintain the fence and all gates and doors in the fence in good order and condition; and
- (e) where no part of the premises consists of open space, yard or garden or there is no open space or garden or yard of which the occupier has exclusive use or occupation, ensure

that other means exist on the premises (other than the tethering of the dog) for effectively confining the dog within the premises.

(2) Where an occupier fails to comply with subclause (1), he or she commits an offence.

Penalty: Where the dog kept is a dangerous dog, \$2,000; otherwise \$1,000.

### **3.2 Limitation on the number of dogs**

(1) This clause does not apply to premises which have been -

- (a) licensed under Part 4 as an approved kennel establishment; or
- (b) granted an exemption under section 26(3) of the Act.

(2) The limit on the number of dogs which may be kept on any premises is, for the purpose of section 26(4) of the Act -

- (a) 2 dogs over the age of 3 months and the young of those dogs under that age if the premises are situated within a townsite; or
- (b) 4 dogs over the age of 3 months and the young of those dogs under that age if the premises are situated outside a townsite.

## **PART 4 - APPROVED KENNEL ESTABLISHMENTS**

### **4.1 Interpretation**

In this Part and in Schedule 2 -

“**licence**” means a licence to keep an approved kennel establishment on premises;

“**licensee**” means the holder of a licence;

“**premises**”, in addition to the meaning given to it in section 3 of the Act, means the premises described in the application for a licence; and

“**transferee**” means a person who applies for the transfer of a licence to her or him under clause 4.14.

### **4.2 Application for licence for approved kennel establishment**

An application for a licence must be made in the form of that in Schedule 1, and must be lodged with the local government together with -

- (a) plans and specifications of the kennel establishment, including a site plan;
- (b) copies of the notices to be given under clause 4.3;
- (c) written evidence that either the applicant or another person who will have the charge of the dogs, will reside on the premises or, in the opinion of the local government, sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare;
- (d) a written acknowledgement that the applicant has read and agrees to comply with any code of practice relating to the keeping of dogs nominated by the local government; and
- (e) the fee for the application for a licence referred to in clause 4.10(1).

### **4.3 Notice of proposed use**

(1) An applicant for a licence must give notice of the proposed use of the premises as an approved kennel establishment after the application for a licence has been lodged –

- (a) once in a newspaper circulating in the district; and
- (b) to the owners and occupiers of any premises adjoining the premises.

(2) The notices in subclause (1) must specify that -

- (a) any written submissions as to the proposed use are to be lodged with the CEO within 14 days of the date the notice is given; and
- (b) the application and plans and specifications may be inspected at the offices of the local government.

### (3) Where –

- (a) the notices given under subclause (1) do not clearly identify the premises; or
- (b) a notice given under subclause (1)(a) is of a size or in a location in the newspaper which, in the opinion of the local government, would fail to serve the purpose of notifying persons of the proposed use of the premises,

then the local government may refuse to determine the application for a licence until the notices or notice, as the case may be, is given in accordance with its directions.

#### **4.4 Exemption from notice requirements**

Where an application for a licence is made in respect of premises on which an approved kennel establishment is either a -

- (a) permitted use; or
- (b) use which the local government may approve subject to compliance with specified notice requirements,

under a town planning scheme, then the requirements of clauses 4.2(b), 4.3 and 4.5(a) do not apply in respect of the application for a licence.

#### **4.5 When application can be determined**

An application for a licence is not to be determined by the local government until -

- (a) the applicant has complied with clause 4.2;
- (b) the applicant submits proof that the notices referred to in clause 4.3(1) have been given in accordance with that clause; and
- (c) the local government has considered any written submissions received within the time specified in clause 4.3(2)(a) on the proposed use of the premises.

#### **4.6 Determination of application**

In determining an application for a licence, the local government is to have regard to –

- (a) the matters referred to in clause 4.7;
- (b) any written submissions received within the time specified in clause 4.3(2)(a) on the proposed use of the premises;
- (c) any economic or social benefits which may be derived by any person in the district if the application for a licence is approved;
- (d) the effect which the kennel establishment may have on the environment or amenity of the neighbourhood;
- (e) whether the approved kennel establishment will create a nuisance for the owners and occupiers of adjoining premises; and
- (f) whether or not the imposition of and compliance with appropriate conditions of a licence will mitigate any adverse effects of the approved kennel establishment identified in the preceding paragraphs.

#### **4.7 Where application cannot be approved**

The local government cannot approve an application for a licence where -

- (a) an approved kennel establishment cannot be permitted by the local government on the premises under a town planning scheme; or
- (b) an applicant for a licence or another person who will have the charge of the dogs will not reside on the premises, or, in the opinion of the local government, sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare.

#### **4.8 Conditions of approval**

- (1) The local government may approve an application for a licence subject to the conditions contained in Schedule 2 and to such other conditions as the local government considers appropriate.
- (2) In respect of a particular application for a licence, the local government may vary any of the conditions contained in Schedule 2.

#### **4.9 Compliance with conditions of approval**

A licensee who does not comply with the conditions of a licence commits an offence.

Penalty: Where a dog involved in the contravention is a dangerous dog, \$2,000 and a daily penalty of \$200; otherwise \$1,000 and a daily penalty of \$100.

#### **4.10 Fees**

- (1) On lodging an application for a licence, the applicant is to pay a fee to the local government.
- (2) On the issue or renewal of a licence, the licensee is to pay a fee to the local government.
- (3) On lodging an application for the transfer of a valid licence, the transferee is to pay a fee to the local government.
- (4) The fees referred to in subclauses (1) to (3) are to be imposed and determined by the local government under sections 6.16 - 6.19 of the *Local Government Act 1995*.

#### **4.11 Form of licence**

The licence is to be in the form determined by the local government and is to be issued to the licensee.

#### **4.12 Period of licence**

- (1) The period of effect of a licence is set out in section 27(5) of the Act.
- (2) A licence is to be renewed if the fee referred to in clause 4.10(2) is paid to the local government prior to the expiry of the licence.
- (3) On the renewal of a licence the conditions of the licence at the time of its renewal continue to have effect.

#### **4.13 Variation or cancellation of licence**

- (1) The local government may vary the conditions of a licence.
- (2) The local government may cancel a licence –
  - (a) on the request of the licensee;
  - (b) following a breach of the Act, the Regulations or this local law; or
  - (c) if the licensee is not a fit and proper person.
- (3) The date a licence is cancelled is to be, in the case of –
  - (a) paragraph (a) of subclause (2), the date requested by the licensee; or
  - (b) paragraphs (b) and (c) of subclause (2), the date determined under section 27(6) of the Act.
- (4) If a licence is cancelled the fee paid for that licence is not refundable for the term of the licence that has not yet expired.

#### **4.14 Transfer**

- (1) An application for the transfer of a valid licence from the licensee to another person must be –
  - (a) made in the form determined by the local government;
  - (b) made by the transferee;
  - (c) made with the written consent of the licensee; and
  - (d) lodged with the local government together with –

- (i) written evidence that a person will reside at or within reasonably close proximity to the premises the subject of the licence; and
  - (ii) the fee for the application for the transfer of a licence referred to in clause 4.10(3).
- (2) The local government is not to determine an application for the transfer of a valid licence until the transferee has complied with subclause (1).
- (3) The local government may approve, whether or not subject to such conditions as it considers appropriate, or refuse to approve an application for the transfer of a valid licence.
- (4) Where the local government approves an application for the transfer of a valid licence, then on the date of approval, unless otherwise specified in the notice issued under clause 4.15(b), the transferee becomes the licensee of the licence for the purposes of this local law.

#### **4.15 Notification**

The local government is to give written notice to -

- (a) an applicant for a licence of the local government's decision on her or his application;
- (b) a transferee of the local government's decision on her or his application for the transfer of a valid licence;
- (c) a licensee of any variation made under clause 4.13(1);
- (d) a licensee when her or his licence is due for renewal and the manner in which it may be renewed;
- (e) a licensee when her or his licence is renewed;
- (f) a licensee of the cancellation of a licence under clause 4.13(2)(a); and
- (g) a licensee of the cancellation of a licence under paragraphs (b) or (c) of clause 4.13(2), which notice is to be given in accordance with section 27(6) of the Act.

#### **4.16 Inspection of kennel**

With the consent of the occupier, an authorized person may inspect an approved kennel establishment at any time.

## PART 5 - DOGS IN PUBLIC PLACES

### 5.1 Places where dogs are prohibited absolutely

(1) Subject to section 8 of the Act and section 66J of the *Equal Opportunity Act 1984* dogs are prohibited absolutely from entering or being in any of the following places –

- (a) a public building, unless permitted by a sign;
- (b) all premises or vehicles classified as food premises or food vehicles under the Health (Food Hygiene) Regulations 1993;
- (c) Playgroup Centre Lot 4 India/Journal Streets, Broomehill;
- (d) Recreation Complex – Reserve 22820, Broomehill;
- (e) Primary School – Reserve 1697, Broomehill; and
- (f) Part Reserve 19757 East Terrace, Tambellup, easterly from East Terrace to the eastern boundary of Reserve 19757 and south of Howard Street to the southern boundary of Reserve 19757.

(2) If a dog enters or is in a place specified in subclause (1), every person liable for the control of the dog at that time commits an offence.

Penalty: Where the dog is a dangerous dog, \$2,000; otherwise \$1,000.

### 5.2 Places which are dog exercise areas

(1) Subject to clause 5.1 and subclause (2) of this clause, for the purposes of sections 31 and 32 of the Act, the following are dog exercise areas –

- (a) Reserve 634 Javelin Street, Broomehill;
- (b) Reserve 1698 Spencer Road, Broomehill;
- (c) Lot 24 Broomehill/Kojonup Road, Broomehill;
- (d) Part of Reserve 19757 East Terrace, Tambellup, not including those areas stated in clause 5.1(f); and
- (e) Reserve 22607 Garrity Street Tambellup.

(2) Subclause (1) does not apply to –

- (a) land which has been set apart as a children's playground;
- (b) an area being used for sporting or other activities, as permitted by the local government, during the times of such use; or
- (c) a car park.

## PART 6 - MISCELLANEOUS

### 6.1 Offence to excrete

(1) A dog must not excrete on –

- (a) any thoroughfare or other public place; or
- (b) any land which is not a public place without the consent of the occupier.

(2) Subject to subclause (3), if a dog excretes contrary to subclause (1), every person liable for the control of the dog at that time commits an offence.

Penalty: \$200.

(3) The person liable for the control of the dog does not commit an offence against subclause (2) if any excreta is removed immediately by that person.



## **PART 7 - ENFORCEMENT**

### **7.1 Interpretation**

In this Part -

“**infringement notice**” means the notice referred to in clause 7.3; and

“**notice of withdrawal**” means the notice referred to in clause 7.6(1).

### **7.2 Modified penalties**

(1) The offences contained in Schedule 3 are offences in relation to which a modified penalty may be imposed.

(2) The amount appearing in the third column of Schedule 3 directly opposite an offence is the modified penalty payable in respect of that offence if -

(a) the dog is not a dangerous dog; or

(b) the dog is a dangerous dog, but an amount does not appear in the fourth column directly opposite that offence.

(3) The amount appearing in the fourth column of Schedule 3 directly opposite an offence is the modified penalty payable in respect of that offence if the dog is a dangerous dog.

### **7.3 Issue of infringement notice**

Where an authorized person has reason to believe that a person has committed an offence in respect of which a modified penalty may be imposed, he or she may issue to that person a notice in the form of Form 7 of the First Schedule of the Regulations.

### **7.4 Failure to pay modified penalty**

Where a person who has received an infringement notice fails to pay the modified penalty within the time specified in the notice, or within such further time as may in any particular case be allowed by the CEO, he or she is deemed to have declined to have the offence dealt with by way of a modified penalty.

### **7.5 Payment of modified penalty**

A person who has received an infringement notice may, within the time specified in that notice or within such further time as may in any particular case be allowed by the CEO, send or deliver to the local government the amount of the penalty, with or without a reply as to the circumstances giving rise to the offence, and the local government may appropriate that amount in satisfaction of the penalty and issue an acknowledgment.

### **7.6 Withdrawal of infringement notice**

(1) Whether or not the modified penalty has been paid, an authorized person may withdraw an infringement notice by sending a notice in the form of Form 8 of the First Schedule of the Regulations.

(2) A person authorized to issue an infringement notice under clause 7.3 cannot sign or send a notice of withdrawal.

### **7.7 Service**

An infringement notice or a notice of withdrawal may be served on a person personally, or by leaving it at or posting it to her or his address as ascertained from her or him, or as recorded by the local government under the Act, or as ascertained from inquiries made by the local government.

**SCHEDULE 1**  
**DOG ACT 1976**  
Shire of Broomehill-Tambellup  
DOGS LOCAL LAW 2008

**APPLICATION FOR A LICENCE FOR AN APPROVED KENNEL ESTABLISHMENT**

I/we (full name) .....  
of (postal address) .....  
(telephone number) .....  
(facsimile number) .....  
(E-mail address) .....

Apply for a licence for an approved kennel establishment at (address of premises) ...  
.....

For (number and breed of dogs) .....

\* (insert name of person) ..... will be residing at the premises on  
and from (insert date) .....

\* (insert name of person) ..... will be residing (sufficiently close to the  
premises so as to control the dogs and so as to ensure their health and welfare) at  
..... (insert address of residence)  
on and from ..... (insert date).

Attached are -

- (a) a site plan of the premises showing the location of the kennels and yards and all other buildings and structures and fences;
- (b) plans and specifications of the kennel establishment;
- (c) copy of notice of proposed use to appear in newspaper;
- (d) copy of notice of proposed use to be given to adjoining premises;
- (e) written evidence that a person will reside -
  - (i) at the premises; or
  - (ii) sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare; and
- (f) if the person in item (e) is not the applicant, written evidence that the person is a person in charge of the dogs.

I confirm that I have read and agree to comply with the Code of Practice known as  
....., in the keeping of dogs at the proposed kennel establishment.

Signature of applicant .....

Date .....

\* delete where inapplicable.

Note: a licence if issued will have effect for a period of 12 months – section 27.5 of the Dog Act.

---

**OFFICE USE ONLY**

Application fee paid on [insert date].

**SCHEDULE 2**  
**DOG ACT 1976**  
Shire of Broomehill-Tambellup  
**DOGS LOCAL LAW 2008**

**CONDITIONS OF A LICENCE FOR AN APPROVED KENNEL ESTABLISHMENT**

An application for a licence for an approved kennel establishment may be approved subject to the following conditions -

- (a) each kennel, unless it is fully enclosed, must have a yard attached to it;
- (b) each kennel and each yard must be at a distance of not less than -
  - (i) 25 metres from the front boundary of the premises and 5 metres from any other boundary of the premises;
  - (ii) 10 metres from any dwelling; and
  - (iii) 25 metres from any church, school room, hall, factory, dairy or premises where food is manufactured, prepared, packed or stored for human consumption;
- (c) each yard for a kennel must be kept securely fenced with a fence constructed of link mesh or netting or other materials approved by the local government;
- (d) the minimum floor area for each kennel must be calculated at 2.5 times the length of the breed of dog (when it is fully grown), squared, times the number of dogs to be housed in the kennel and the length of the dog is to be determined by measuring from the base of the tail to the front of its shoulder;
- (e) the floor area of the yard attached to any kennel or group of kennels must be at least twice the floor area of the kennel or group of kennels to which it is attached;
- (f) the upper surface of the kennel floor must be –
  - (i) at least 100 millimetres above the surface of the surrounding ground;
  - (ii) smooth so as to facilitate cleaning;
  - (iii) rigid;
  - (iv) durable;
  - (v) slip resistant;
  - (vi) resistant to corrosion;
  - (vii) non-toxic;
  - (viii) impervious;
  - (ix) free from cracks, crevices and other defects; and
  - (x) finished to a surface having a fall of not less than 1 in 100 to a spoon drain which in turn must lead to a suitably sized diameter sewerage pipe which must be properly laid, ventilated and trapped in accordance with the health requirements of the local government;
- (g) all kennel floor washings must pass through the drain in item (f)(x) and must be piped to approved apparatus for the treatment of sewage in accordance with the health requirements of the local government;
- (h) the kennel floor must have a durable upstand rising 75 millimetres above the floor level from the junction of the floor and external and internal walls, or internal walls must be so constructed as to have a minimum clearance of 50 millimetres from the underside of the bottom plate to the floor;

- (i) where a yard is to be floored, the floor must be constructed in the same manner as the floor of any kennel;
- (j) from the floor, the lowest internal height of a kennel must be, whichever is the lesser of -
  - (i) 2 metres; or
  - (ii) 4 times the height of the breed of dog in the kennel, when it is fully grown, measured from the floor to the uppermost tip of its shoulders while in a stationary upright position;
- (k) the walls of each kennel must be constructed of concrete, brick, stone or framing sheeted internally and externally with good quality new zincalume or new pre-finished colour coated steel sheeting or new fibrous cement sheeting or other durable material approved by the local government;
- (l) all external surfaces of each kennel must be kept in good condition;
- (m) the roof of each kennel must be constructed of impervious material;
- (n) all kennels and yards and drinking vessels must be maintained in a clean condition and must be cleaned and disinfected when so ordered by an authorized person;
- (o) all refuse, faeces and food waste must be disposed of daily into the approved apparatus for the treatment of sewage;
- (p) noise, odours, fleas, flies and other vectors of disease must be effectively controlled;
- (q) suitable water must be available at the kennel via a properly supported standpipe and tap; and
- (r) the licensee or the person nominated in the application for a licence, must, in accordance with the application for the licence, continue to reside -
  - (i) at the premises; or
  - (ii) in the opinion of the local government, sufficiently close to the premises so as to control the dogs, and to ensure their health and welfare.

**SCHEDULE 3**  
**DOG ACT 1976**  
 Shire of Broomehill-Tambellup  
 DOGS LOCAL LAWS 2007

**OFFENCES IN RESPECT OF WHICH MODIFIED PENALTY APPLIES**

<b>Offence</b>	<b>Nature of offence</b>	<b>Modified penalty \$</b>	<b>Dangerous Dog Modified Penalty \$</b>
2.4(a)	Attempting to or causing the unauthorized release of a dog from a pound	200	400
2.4(b)	Interfering with any pound or vehicle used for the purpose of catching, holding or conveying dogs	200	
3.1	Failing to provide means for effectively confining a dog	50	200
4.9	Failing to comply with the conditions of a licence	100	200
5.1(2)	Dog in place from which prohibited absolutely	200	400
6.1(2)	Dog excreting in prohibited place	40	

Dated ..... 2008

The Common Seal of the Shire of Broomehill-Tambellup was affixed by authority of a resolution of the Council in the presence of:

, President  
 J TREZONA, Chief Executive Officer

## 9.5 PROPOSED FENCING LOCAL LAW 2008

<b>Program:</b>	<b>Governance</b>	
<b>Attachment:</b>	<b>Proposed Fencing Local Law 2008</b>	
<b>File Ref:</b>	<b>ADM0080</b>	
<b>Author:</b>	<b>JM Trezona</b>	<b>Chief Executive Officer</b>
<b>Date:</b>	<b>22<sup>nd</sup> July 2008</b>	
<b>Disclosure of Interest:</b>	<b>Nil</b>	

**Summary:** The purpose of this report is to allow the Presiding Person to give notice to the meeting of the purpose and effect of the Proposed Fencing Local Law 2008, for the Council to adopt the proposed Local Law and to allow for advertising of the proposed Local Law for public comment.

**Background:** The proposed Fencing Local Law 2008 is based on the model Fencing Local Law developed by WALGA and approved by the Joint Standing Committee on Delegated Legislation. The proposed Local Law incorporates those amendments previously adopted by the Shire of Broomehill in 2000 and the provisions of the Fencing Local Law adopted by the Shire of Tambellup in 1979.

The **Purpose** of this local law is to provide a sufficient fence for purposes of the *Dividing Fences Act 1961* and to state the materials to be used and safety measures to be taken for some types of fencing.

The **Effect** of this local law is to enlarge the compliance requirements of the *Local Government (Miscellaneous Provisions) Act 1960* in the erection and maintenance of fencing.

**Comment:** The former Shire of Broomehill had adopted the Shire of Toodyay Fencing Local Law by reference with amendments. The Shire of Tambellup adopted a Fencing Local Law in 1979. The proposed Fencing Local Law as presented includes those amendments and the provisions of the Tambellup Local Law. In addition the proposed local law incorporates the requirements of the Joint Standing Committee on Delegated Legislation.

There are no conflicts between the Fencing Local Laws adopted by the former Shires.

**Consultation:** The local law is advertised for public comment for a period of forty two days. Any submission received must be considered by Council before making the local law.

**Statutory Environment:**

Regulation 7 of the Local Government Constitutional Regulations 1998, prescribes that although an order has abolished the former Shires of Broomehill and Tambellup and created a new Shire of Broomehill-Tambellup;

- the local laws that applied in the former Shires continue to apply in respect of the former Shire districts;

- the local laws of the former Shires are to be administered and enforced by the new Shire of Broomehill-Tambellup; and
- the local laws of the former Shires may be amended or repealed by the new Shire as if they were local laws of the new Shire.

As it is proposed to adopt new Local Laws, the following processes, as set out in section 3.12 of the Local Government Act 1995, must be observed —

1. At a Council meeting the person presiding is to give notice of the purpose and effect of the proposed local law by ensuring that:-
  - (a) the purpose and effect of the proposed local law is included in the agenda for that meeting; and
  - (b) the minutes of the meeting of the Council include the purpose and effect of the proposed local law.
2. A local government is to -
  - (a) give Statewide public notice stating that -
    - (I) the local government proposes to make a local law, the purpose and effect of which is summarised in the notice;
    - (ii) a copy of the proposed local law may be inspected or obtained at any place specified in the notice; and
    - (iii) submissions about the proposed local Law may be made to a local government before a date to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;
  - (b) as soon as the notice is given, give a copy of the proposed Local Law and a copy of the notice is to be forwarded to the relevant Minister.
  - (c) provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.

After the last day for submissions, the local government is to consider any submissions made and may make the local law as proposed or make a local law that is not significantly different from what was proposed.

The local law is then published in the Government Gazette and a copy sent to the relevant Minister and the State Parliament Joint Standing Committee on Delegated Legislation.

The local law comes into effect fourteen days after publication in the Government Gazette.

**Policy Implications:** Nil

**Financial Implications:** The proposed local law needs to be advertised in a newspaper circulating throughout the State and once made by Council is required to advertised in the Government Gazette.

**Strategic Implications:** This issue is not dealt with in the Plan

**Voting Requirements:**

Simple Majority

**Officer / Council**

**Resolution:**

080806

*“The Commissioner resolved –  
That Council adopt the proposed Fencing Local Law 2008 in the form  
presented and Councils intention to make the proposed Local Law be  
advertised Statewide inviting public submissions.”*

**Reason For Change to  
Recommendation:**



# **LOCAL GOVERNMENT ACT 1995**

## **SHIRE OF BROOMEHILL-TAMBELLUP**

### **FENCING LOCAL LAW 2008**

**LOCAL GOVERNMENT ACT 1995**  
**SHIRE OF BROOMEHILL-TAMBELLUP**  
**FENCING LOCAL LAW 2008**  
**TABLE OF CONTENTS**

**PART 1 - PRELIMINARY**

- 1.1 Citation
- 1.2. Application
- 1.3. Definitions
- 1.4. Repeal
- 1.5. Licence Fees & Charges

**PART 2 - SUFFICIENT FENCES**

- 2.1. Sufficient Fences

**PART 3 - GENERAL**

- 3.1. Fences Within Front Setback Areas
- 3.2. Fences on a Rural Lot
- 3.3. Maintenance of Fences
- 3.4. General Discretion of the Local Government

**PART 4 - FENCING MATERIALS**

- 4.1. Fencing Materials
- 4.2. Barbed Wire and Broken Glass Fences

**PART 5 - ELECTRIFIED AND RAZOR WIRE FENCES**

- 5.1. Requirements for a Licence
- 5.2. Transfer of a Licence
- 5.3. Cancellation of a Licence

**PART 6 - NOTICES OF BREACH**

- 6.1. Notices of Breach

**PART 7 - OFFENCES**

- 7.1 Offences and Penalties
- 7.2. Modified Penalties
- 7.3 Form of Notices

**FIRST SCHEDULE**

**SECOND SCHEDULE**

## THIRD SCHEDULE

### LOCAL GOVERNMENT ACT 1995

#### SHIRE OF BROOMEHILL-TAMBELLUP

### FENCING LOCAL LAW 2008

Under the powers conferred by the *Local Government Act 1995* and by all other powers enabling it the Council of the Shire of Broomehill-Tambellup resolved on .....to make the following local law.

#### PART 1 - PRELIMINARY

##### 1.1 Citation

This local laws may be cited as the *Shire of Broomehill-Tambellup Fencing Local Law 2008*.

##### 1.2 Application

This local law applies throughout the district.

##### 1.3 Definitions

In this local law, unless the context requires otherwise:

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

“**AS**” means an Australian Standard published by the Standards Association of Australia;

“**boundary fence**” has the meaning given to it for the purposes of the Act;

“**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 town 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 in respect of which a licence under Part 5 of this local law has been issued and is current;
- (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;

“**dividing fence**” has the meaning given to it in and for the purposes of the Act;

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

“**fence**” means any structure, including a retaining wall, used or functioning as a barrier, irrespective of where it is located and includes any gate;

“**frontage**” means the boundary line between a lot and the thoroughfare upon which that lot abuts;

“**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 town planning scheme; and
- (b) is or will be the predominant use of the lot;

“**local government**” means the Shire of Broomehill-Tambellup;

“**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 6.1(1);

“**Residential Lot**” means a lot where a residential use -

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

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

“**setback area**” has the meaning given to it for the purposes of the town planning scheme;

“**Special Rural Lot**” means a lot where a special rural use -

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

“**sufficient fence**” means a fence described in clause 2.1; and

“**town planning scheme**” means a town planning scheme of the local government made under the *Planning and Development Act 2005*.

#### **1.4 Repeal**

The following local laws are repealed –

The former *Shire of Broomehill Local laws Relating to Fencing 2000* as published in the *Government Gazette* on 5 September 2000; and

The former *Shire of Tambellup Fencing By-laws* as published in the *Government Gazette* on 9 November 1979.

#### **1.5 Licence Fees & Charges**

All licence fees and charges applicable under this local law shall be as determined by the local government from time to time in accordance with section 6.16 and 6.19 of the *Local Government Act 1995*.

## **PART 2 - 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 unless all owners of land which adjoins the relevant boundary agree to erect a fence which though different does not fail to comply with the requirements of a sufficient fence.

(2) Subject to sub-clauses (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 the First Schedule.
- (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 the Second Schedule;
- (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 the Third Schedule;

(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 the First Schedule;
  - (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 the Second Schedule;
  - (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 the Third Schedule;
  - (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 the First Schedule; 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 the Third Schedule.
- (4) Unless the local government specifies 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 the Second Schedule.
- (5) Notwithstanding any other provisions in this local law, a fence constructed of stone or concrete shall be a sufficient fence only if it is designed by a structural engineer where:
- (a) it is greater than 1800 millimetres in height; or
  - (b) the local government so requires.

## **PART 3 - GENERAL**

### **3.1 Fences Within Front Setback Areas**

- (1) A person shall not, without the written consent of the local government, erect a free-standing fence greater than 1200 millimetres in height, within the front set-back area of a Residential Lot within the district.
- (2) The local government may approve the erection of a fence of a height greater than 1200 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 1500 millimetres along the frontage to a distance of not less than 1500 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 sub-clause (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.

### **3.2 Fences on a Rural Lot**

A person shall not without the written consent of the local government, erect a fence on a Rural Lot, within 7.5 metres of a thoroughfare of a height exceeding 1500 millimetres.

### **3.3 Maintenance of Fences**

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

### **3.4 General Discretion of the Local Government**

(1) Notwithstanding clause 2.1, the local government may consent to the erection or repair of a fence which does not comply with the requirements of this local law.

(2) In determining whether to grant its consent to the erection or repair of any fence, the local government may consider, in addition to any other matter that it is authorized to consider, whether the erection or retention of the fence would have an adverse effect on:

- (a) the safe or convenient use of any land; or
- (b) the safety or convenience of any person.

## **PART 4 - FENCING MATERIALS**

### **4.1 Fencing Materials**

(1) A person shall construct any fence on a Residential Lot, a Commercial Lot or an Industrial Lot from only those materials specified for a sufficient fence in respect of such lot in the First or Second Schedule or some other material approved by 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 for approval painting or treating the pre-used material as directed by the local government.

### **4.2 Barbed Wire and Broken Glass Fences**

(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 or affix to 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 or affix on any fence bounding that Lot any barbed wire or other materials with spiked or jagged projections unless the wire or materials are carried on posts at an angle of 45 degrees, and unless the bottom row of wire or other materials is set back 150 millimetres from the face of the fence and is not nearer than 2000 millimetres 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 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 place or affix 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.

## **PART 5 - ELECTRIFIED AND RAZOR WIRE FENCES**

### **5.1 Requirements for a Licence**

(1) An owner or occupier of a lot, other than a Rural Lot, shall not:

- (a) have and use an electrified fence on that lot without first obtaining a licence under subclause (2); or
- (b) construct a fence wholly or partly of razor wire on that lot without first obtaining a licence under subclause (3).

2) A licence to have and use an electrified fence shall not be issued:

- (a) in respect of a lot which is or which abuts a Residential Lot;
- (b) unless the fence complies with AS/NZS 3016:1994; 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) A licence to have a fence constructed wholly or partly of razor wire shall not be issued:

- (a) if the fence is within 3 metres of the boundary of the lot;

- (b) where any razor wire used in the construction of the fence is less than 2000 millimetres or more than 2400 millimetres above the ground level.
- (4) An application for a licence referred to in subclauses (2) or (3) 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.
- (5) An application for a licence referred to in subclauses (2) or (3) may be:
  - (a) approved by the local government;
  - (b) approved by the local government subject to such conditions as it thinks fit; or
  - (c) refused by the local government.

## **5.2 Transfer of a Licence**

A licence referred to in clause 5.1 shall transfer with the land to any new occupier or owner of the lot.

## **5.3 Cancellation of a Licence**

Subject to Division 1 Part 9 of the *Local Government Act 1995*, the local government may cancel a licence issued under this Part if -

- (a) the fence no longer satisfies the requirements specified in clause 5.1(2) or 5.1(3) as the case may be; or
- (b) the licence holder breaches any condition upon which the licence has been issued.

## **PART 6 - NOTICES OF BREACH**

### **6.1 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 ('notice of breach').
- (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 of the lot is required to remedy the breach within 28 days from the giving of 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, as the case may be, 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 entry onto land will be in accordance with Part 3 Division 3 Subdivision 3 of that Act.

## **PART 7 - OFFENCES**

### **7.1 Offences and Penalties**

- (1) An owner who fails to comply with a notice of breach commits an offence and is liable upon conviction to a maximum penalty of \$5000 and, if the offence is a continuing offence, 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 to a maximum penalty of \$5000 and, if the offence is a continuing offence, a maximum daily penalty of \$500.

## **7.2 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) Unless otherwise specified, the amount of the modified penalty for an offence against any provision of this local law is \$125.

## **7.3 Form of Notices**

For the purposes of this local law –

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



**Clause 6(2)(a)**

**LOCAL GOVERNMENT ACT 1995**  
Shire of Broomehill-Tambellup  
**FENCING LOCAL LAW 2008**

**FIRST SCHEDULE**

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

Each of the following is a “sufficient fence” on a Residential Lot:

- A. A fully enclosed timber fence built to manufacturer's specifications or in accordance with established construction techniques, the height of the fence to be 1800 millimetres except with respect to the front setback area for which there is no minimum height but which is subject to clause 3.1.
- B. A fence constructed of corrugated fibre reinforced pressed cement or steel sheeting erected to manufacturer's specifications or which otherwise 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 600 millimetres;
  - (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 1800 millimetres except with respect to the front set back area for which there is no minimum height but which is subject to clause 3.1.
- C. A fence constructed of brick, stone or concrete, which satisfies the following specifications:
  - (a) footings of minimum 225 millimetres x 150 millimetres concrete 15MPA or 300 millimetres x 175 millimetres brick laid in cement mortar;
  - (b) fences to be offset a minimum of 200 millimetres at maximum 3000 millimetres centres or 225 millimetres x 100 millimetres engaged piers to be provided at maximum 3000 millimetres centres;
  - (c) expansion joints in accordance with the manufacturer's written instructions; and
  - (d) the height of the fence to be 1800 millimetres except with respect to the front set back area for which there is no minimum height but which is subject to clause 3.1.
- D. A composite fence having a minimum overall height of 1800 millimetres except with respect to the front set back area for which there is no minimum height but which is subject to clause 3.1, which satisfies the following specifications for the brick construction:
  - (1) (a) brick piers of minimum 345 millimetres x 345 millimetres at 1800 millimetres centres bonded to a minimum height base wall of 514 millimetres;
  - (b) each pier shall be reinforced with one R10 galvanised starting rod 1500 millimetres high with a 250 millimetres horizontal leg bedded into a 500 millimetres x 200 millimetres concrete footing and set 65 millimetres above the base of the footing. The top of the footing shall be 1 course (85 millimetres) 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 300 millimetres 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 345 millimetres x 345 millimetres x 2700 millimetres centres bonded to the base all; and
- (b) each pier shall be reinforced with two R10 galvanised starting rods as previously specified;

**Clause 6(2)(b)**

**LOCAL GOVERNMENT ACT 1995**  
Shire of Broomehill-Tambellup  
**FENCING LOCAL LAW 2008**

**SECOND SCHEDULE**

**SPECIFICATIONS FOR A SUFFICIENT FENCE ON A COMMERCIAL LOT AND AN INDUSTRIAL LOT**

Each of the following is a “sufficient fence” on a Commercial Lot and an Industrial Lot:

- A. A fence constructed of galvanised or PVC coated rail-less link mesh, chain mesh or steel mesh which satisfies the following specifications:
- (a) corner posts to be minimum 50 millimetres normal bore x 3.5 millimetres and with footings of a 225 millimetres diameter x 900 millimetres;
  - (b) intermediate posts to be minimum 37 millimetres nominal bore x 3.15 millimetres at maximum 3.5m centres and with footings of a 225 millimetres diameter x 600 millimetres;
  - (c) struts to be minimum 30 millimetres nominal bore x 3.15 millimetres fitted at each gate and two at each corner post and with footings 225 millimetres x 600 millimetres;
  - (d) cables to be affixed to the top, centre and bottom of all posts and to consist of two or more 3.15 millimetres wires twisted together or single 4 millimetres wire;
  - (e) rail-less link, chain or steel mesh is to be to a height of 2000 millimetres on top of which are to be three strands of barbed wire carrying the fence to a height of 2400 millimetres in accordance with clause 4.2(3) of this local law; and
  - (f) galvanised link mesh wire to be 2000 millimetres in height and constructed of 50 millimetres mesh 2.5 millimetres 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 3.6 metres and shall be constructed of 25 millimetres tubular framework with one horizontal and one vertical stay constructed of 20 millimetres piping and shall be covered with 50 millimetres x 2.5 millimetres galvanised link mesh strained to framework. Gates shall be fixed with a drop bolt and locking attachment.
- B. A fence of fibre reinforced cement sheet or steel sheeting constructed to the minimum specifications referred to in Item B of the First Schedule.
- C. 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 1800 millimetres but no greater than 2400 millimetres.
- D. Fences of timber, brick, stone or concrete constructed to the minimum specifications referred to in the First Schedule.

**Clause 6(2)(c)**

**LOCAL GOVERNMENT ACT 1995**  
Shire of Broomehill-Tambellup  
**FENCING LOCAL LAW 2008**

**THIRD SCHEDULE**

**SPECIFICATIONS FOR A SUFFICIENT FENCE ON A RURAL LOT**

(1) In the case of a non-electrified fence, a sufficient fence on a Rural Lot is a fence of posts and wire construction, the minimum specifications for which are:

- (a) wire shall be high tensile wire and not less than 2.5 millimetres. A minimum of five 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 –
  - timber impregnated with a termite and fungicidal preservative;
  - standard iron star pickets; or
  - concrete;
- (c) if timber posts are used, posts are to be cut not less than 1800 millimetres long x 50 millimetres diameter at small end if round or 125 millimetres x 60 millimetres if split or sawn. Posts to be placed at not more than 10 metre intervals, set minimum 600 millimetres in the ground and 1200 millimetres above the ground; and
- (d) strainer posts, if timber, shall be not less than 2250 millimetres long and 150 millimetres diameter at the small end (tubular steel to be 50 millimetres in diameter) and shall be cut from indigenous timber or other suitable material. These shall be placed a minimum of 1000 millimetres in the ground and set at all corners, gateways and fence line angles but not exceeding 200 metres apart.

(2) An electrified fence having four wires only is a sufficient fence if constructed generally in accordance with (1).

Dated ..... 2008

The Common Seal of the Shire of Broomehill-Tambellup was affixed by authority of a resolution of the Council in the presence of:

, President  
J TREZONA, Chief Executive Officer

## 9.6 PROPOSED LOCAL GOVERNMENT PROPERTY LOCAL LAW 2008

---

<b>Program:</b>	<b>Governance</b>
<b>Attachment:</b>	<b>Proposed Local Government Property Local Law 2008</b>
<b>File Ref:</b>	<b>ADM0080</b>
<b>Author:</b>	<b>JM Trezona                      Chief Executive Officer</b>
<b>Date:</b>	<b>22<sup>nd</sup> July 2008</b>
<b>Disclosure of Interest:</b>	<b>Nil</b>

---

**Summary:** The purpose of this report is to allow the Presiding Person to give notice to the meeting of the purpose and effect of the Proposed Local Government Property Local Law 2008, for the Council to adopt the proposed Local Law and to allow for advertising of the proposed Local Law for public comment.

**Background:** The proposed Local Government Property Local Law 2008 is based on the model Local Government Property Local Law developed by WALGA and approved by the Joint Standing Committee on Delegated Legislation. The proposed Local Law incorporates those amendments previously adopted by the Shire of Broomehill in 2000 when it adopted the model local law with amendments and in 2001 when it adopted the Shire of Moora Local Law by reference with amendments. The Shire of Tambellup did not have a Property Local Law.

The **Purpose** of this local law is to regulate the care, control and management of all property of the local government except thoroughfares.

The **Effect** of this local law is to control the use of local government property. Some activities are permitted only under a permit or under a determination and some activities are restricted or prohibited. Offences are created for inappropriate behaviour on local government property.

**Comment:** The Local Government Property Local Law gives the local government the legislative power to control activities and the entry of a person onto its properties and manage their behaviour. It allows for prohibition of some activities being undertaken on its properties. Enforcement powers are included in the local law.

The former Shire of Broomehill adopted the model Local Government Property Local Law by reference with amendments in 2000 and the Shire of Moora Local Government Property Local Law by reference with amendments in 2001. The amendments included the deletion of provisions relating to public swimming pools, saleyards and airports. The provisions relating to golf courses remained, but has been deleted from the proposed local law as the provision related to a public golf course operated by the Shire eg. Wembley Golf Complex.

The proposed local law allows Council to prohibit those activities contained in clause 2.8 from being undertaken on its property by determination. The process for adopting a determination by resolution is set out in the local law and is less onerous than amending a local law. This is the only local law in which the Joint Standing Committee on Delegated Legislation has allowed determinations.

**Consultation:** The local law is advertised for public comment for a period of forty two days. Any submission received must be considered by Council before making the local law.

**Statutory Environment:**

Regulation 7 of the Local Government Constitutional Regulations 1998, prescribes that although an order has abolished the former Shires of Broomehill and Tambellup and created a new Shire of Broomehill-Tambellup;

- the local laws that applied in the former Shires continue to apply in respect of the former Shire districts;
- the local laws of the former Shires are to be administered and enforced by the new Shire of Broomehill-Tambellup; and
- the local laws of the former Shires may be amended or repealed by the new Shire as if they were local laws of the new Shire.

As it is proposed to adopt new Local Laws, the following processes, as set out in section 3.12 of the Local Government Act 1995, must be observed

1. At a Council meeting the person presiding is to give notice of the purpose and effect of the proposed local law by ensuring that:-
  - (a) the purpose and effect of the proposed local law is included in the agenda for that meeting; and
  - (b) the minutes of the meeting of the Council include the purpose and effect of the proposed local law.
2. A local government is to -
  - (a) give Statewide public notice stating that -
    - (i) the local government proposes to make a local law, the purpose and effect of which is summarised in the notice;
    - (ii) a copy of the proposed local law may be inspected or obtained at any place specified in the notice; and
    - (iii) submissions about the proposed local Law may be made to a local government before a date to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;
  - (b) as soon as the notice is given, give a copy of the proposed Local Law and a copy of the notice is to be forwarded to the relevant Minister.
  - (c) provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.

After the last day for submissions, the local government is to consider any submissions made and may make the local law as proposed or make a local law that is not significantly different from what was proposed.

The local law is then published in the Government Gazette and a copy sent to the relevant Minister and the State Parliament Joint Standing Committee on Delegated Legislation.

The local law comes into effect fourteen days after publication in the Government Gazette.

**Policy Implications:**

Nil

**Financial Implications:**

The proposed Local Law needs to be advertised in a newspaper circulating throughout the State and once made by Council is required to be advertised in the Government Gazette.

**Strategic Implications:**

This issue is not dealt with in the Plan

**Voting Requirements:**

Simple Majority

**Officer / Council Resolution:**

080807

*“The Commissioner resolved–  
That Council adopt the proposed Local Government Property Local Law 2008 in the form presented and Councils intention to make the proposed Local Law be advertised Statewide inviting public submissions.”*

**Reason For Change to Recommendation:**

# **LOCAL GOVERNMENT ACT 1995**

## **SHIRE OF BROOMEHILL-TAMBELLUP**

### **LOCAL GOVERNMENT PROPERTY LOCAL LAW**



**LOCAL GOVERNMENT ACT 1995**

Shire of Broomehill-Tambellup

**LOCAL GOVERNMENT PROPERTY LOCAL LAW 2008**

**TABLE OF CONTENTS**

*PART 1 - PRELIMINARY*

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

*Division 2 - Signs*

- 4.6 Signs

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

*Division 1 - Fenced or closed property*

- 5.1 No entry to fenced or closed local government property

*Division 2 - Toilet blocks and change rooms*

- 5.2 Only specified gender to use entry of toilet block or change room

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

- 6.1 No unauthorized entry to function

**PART 7 - OBJECTIONS AND APPEALS**

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

**PART 8 - MISCELLANEOUS**

- 8.1 Authorized person to be obeyed
- 8.2 Persons may be directed to leave local government property
- 8.3 Disposal of lost property
- 8.4 Liability for damage to local government property

**PART 9 - ENFORCEMENT**

*Division 1 - Notices given under this local law*

- 9.1 Offence to fail to comply with notice
- 9.2 Local government may undertake requirements of notice

*Division 2 - Offences and penalties*

*Subdivision 1 - General*

- 9.3 Offences and general penalty

*Subdivision 2 - Infringement notices and modified penalties*

- 9.4 Prescribed offences
- 9.5 Form of notices

*Division 3 – Evidence in legal proceedings*

- 9.6 Evidence of a determination

**SCHEDULE 1 - PRESCRIBED OFFENCES**

**SCHEDULE 2 - DETERMINATIONS**

## LOCAL GOVERNMENT ACT 1995

Shire of Broomehill-Tambellup

### LOCAL GOVERNMENT PROPERTY LOCAL LAW 2008

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Broomehill-Tambellup resolved on ..... to make the following local law.

#### PART 1 - PRELIMINARY

##### 1.1 Citation

This local law may be cited as the *Shire of Broomehill-Tambellup Local Government Property Local Law 2008*.

##### 1.2 Application

- (1) This local law applies throughout the district.
- (2) 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.

##### 1.3 Definitions

In this local law unless the context otherwise requires -

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

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

"**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;

"**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 Broomehill-Tambellup;

**"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 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;

**"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.

### 1.3 Interpretation

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.

### 1.4 Repeal

(1) The following former Shire of Broomehill local laws are repealed –

*Local Government Property Local Law* as published in the *Government Gazette* on 5 September 2000; and

*Local Government Property Local Law* as published in the *Government Gazette* on 3 April 2001.

(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 be taken 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***2.1 Determinations as to use of local government property**

- (1) The local government may make a determination in accordance with clause 2.2 –
- (a) setting aside specified local government property for the pursuit of all or any of the activities referred to in clause 2.7;
  - (b) prohibiting a person from pursuing all or any of the activities referred to in clause 2.8 on specified local government property;
  - (c) as to the matters in clauses 2.7(2) and 2.8(2); and
  - (d) as to any matter ancillary or necessary to give effect to a determination.
- (2) The determinations in Schedule 2 –
- (a) are to be taken to have been made in accordance with clause 2.2;
  - (b) may be amended or revoked in accordance with clause 2.6; and
  - (c) have effect on the commencement day.

**2.2 Procedure for making a determination**

- (1) The local government is to give local public notice of its intention to make a determination.
- (2) The local public notice referred to in subclause (1) is to state that –
- (a) the local government intends to make a determination, the purpose and effect of which is summarised in the notice;
  - (b) a copy of the proposed determination may be inspected and obtained from the offices of the local government; and
  - (c) submissions in writing about the proposed determination may be lodged with the local government within 21 days after the date of publication.
- (3) If no submissions are received in accordance with subclause (2)(c), the Council is to decide to –
- (a) give local public notice that the proposed determination has effect as a determination on and from the date of publication;
  - (b) amend the proposed determination, in which case subclause (5) will apply; or
  - (c) not continue with the proposed determination.
- (4) If submissions are received in accordance with subclause (2)(c) the Council is to –
- (a) consider those submissions; and
  - (b) decide –
    - (i) whether or not to amend the proposed determination; or
    - (ii) not to continue with the proposed determination.
- (5) If the Council decides to amend the proposed determination, it is to give local public notice –
- (a) of the effect of the amendments; and
  - (b) that the proposed determination has effect as a determination on and from the date of publication.
- (6) If the Council decides not to amend the proposed determination, it is to give local public notice that the proposed determination has effect as a determination on and from the date of publication.
- (7) A proposed determination is to have effect as a determination on and from the date of publication of the local public notice referred to in subclauses (3), (5) and (6).
- (8) A decision under subclause (3) or (4) is not to be delegated by the Council.

**2.3 Discretion to erect sign**

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

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

A person shall comply with a determination.

#### **2.5 Register of determinations**

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

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

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

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

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

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

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

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

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

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

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

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

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

- (1) A determination may provide that a person is prohibited from pursuing all or any of the following activities on specified local government property -
- (a) smoking on premises;
  - (b) riding a bicycle, a skateboard, rollerblades, a sandboard or a similar device;
  - (c) taking, riding or driving a vehicle on the property or a particular class of vehicle;
  - (d) riding or driving a vehicle of a particular class or any vehicle above a specified speed;
  - (e) the playing or practice of -
    - (i) golf, archery, pistol shooting or rifle shooting; or
    - (ii) a similar activity, specified in the determination, involving the use of a projectile which, in the opinion of the local government may cause injury or damage to a person or property;
  - (f) the playing or practice of any ball game which may cause detriment to the property or any fauna on the property; and
  - (g) the traversing of land which in the opinion of the local government has environmental value warranting such protection, either absolutely or except by paths provided for that purpose.
- (2) A determination may specify the extent to which and the manner in which a person is prohibited from pursuing an activity referred to in subclause (1) and, in particular –
- (a) the days and times during which the activity is prohibited;
  - (b) that an activity is prohibited on a class of local government property, specified local government property or all local government property;
  - (c) that an activity is prohibited in respect of a class of vehicles, boats, equipment or things, or all vehicles, boats, equipment or things;
  - (d) that an activity is prohibited in respect of a class of persons or all persons; and
  - (e) may distinguish between different classes of the activity.
- (3) In this clause –
- "premises" means a building, stadium or similar structure which is local government property, but not an open space such as a park or a playing field.

*Division 3 - Transitional***2.9 Signs taken to be determinations**

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



**PART 3 - PERMITS**  
*Division 1 - Preliminary*

**3.1 Application of Part**

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

*Division 2 - Applying for a permit*

**3.2 Application for permit**

- (1) Where a person is required to obtain a permit under this local law, that person shall apply for the permit in accordance with subclause (2).
- (2) An application for a permit under this local law shall -
  - (a) be in the form determined by the local government;
  - (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).

**3.3 Decision on application for permit**

- (1) The local government may –
  - (a) approve an application for a permit unconditionally or subject to any conditions; or
  - (b) refuse to approve an application for a permit.
- (2) If the local government approves an application for a permit, it is to issue to the applicant, a permit in the form determined by the local government.
- (3) If the local government refuses to approve an application for a permit, it is to give written notice of that refusal to the applicant.

*Division 3 - Conditions*

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

- (1) Without limiting the generality of clause 3.3(1)(a), the local government may approve an application for a permit subject to conditions relating to -
  - (a) the payment of a fee;
  - (b) compliance with a standard or a policy of the local government adopted by the local government;
  - (c) the duration and commencement of the permit;
  - (d) the commencement of the permit being contingent on the happening of an event;
  - (e) the rectification, remedying or restoration of a situation or circumstance reasonably related to the application;
  - (f) the approval of another application for a permit which may be required by the local government under any written law;
  - (g) the area of the district to which the permit applies;
  - (h) where a permit is issued for an activity which will or may cause damage to local government property, the payment of a deposit or bond against such damage; and

- (i) the obtaining of public risk insurance in an amount and on terms reasonably required by the local government.
- (2) Without limiting clause 3.3(1)(a) and subclause (1), the following paragraphs indicate the type and content of the conditions on which a permit to hire local government property may be issued –
- (a) when fees and charges are to be paid;
  - (b) payment of a bond against possible damage or cleaning expenses or both;
  - (c) restrictions on the erection of material or external decorations;
  - (d) rules about the use of furniture, plant and effects;
  - (e) limitations on the number of persons who may attend any function in or on local government property;
  - (f) the duration of the hire;
  - (g) the right of the local government to cancel a booking during the course of an annual or seasonal booking, if the local government sees fit;
  - (h) a prohibition on the sale, supply or consumption of liquor unless a liquor licence is first obtained for that purpose under the *Liquor Control Act 1988*;
  - (i) whether or not the hire is for the exclusive use of the local government property;
  - (j) the obtaining of a policy of insurance in the names of both the local government and the hirer, indemnifying the local government in respect of any injury to any person or any damage to any property which may occur in connection with the hire of the local government property by the hirer; and
  - (k) the provision of an indemnity from the hirer, indemnifying the local government in respect of any injury to any person or any damage to any property which may occur in connection with the hire of the local government property by the hirer.

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

- (1) In this clause –
- "policy" means a policy of the local government adopted by the Council containing conditions subject to which an application for a permit may be approved under clause 3.3(1)(a).
- (2) Under clause 3.3(1)(a) the local government may approve an application subject to conditions by reference to a policy.
- (3) The local government 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.

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

- (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*

### **3.7 Agreement for building**

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.

### **3.8 Duration of permit**

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

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

### **3.9 Renewal of permit**

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

(2) The provisions of this Part shall apply to an application for the renewal of a permit *mutatis mutandis*.

### **3.10 Transfer of permit**

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

- (a) be made in writing;
- (b) be signed by the permit holder and the proposed transferee of the permit;
- (c) provide such information as the local government may require to enable the application to be determined; and
- (d) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.

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

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

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

### **3.11 Production of permit**

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.

### **3.12 Cancellation of permit**

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

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

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

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

### Division 5 - When a permit is required

#### 3.13 Activities needing a permit

- (1) A person shall not without a permit –
- (a) subject to subclause 3, hire local government property;
  - (b) advertise anything by any means on local government property;
  - (c) erect a structure for public amusement or for any performance, whether for gain or otherwise, on local government property;
  - (d) teach, coach or train, for profit, any person in 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).

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

- (1) In this clause –  
"facility" has the same meaning as is given to it in section 5(1) of the *Caravan Parks and Camping Grounds Act 1995*.
- (2) This clause does not apply to a facility operated by the local government.
- (3) 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*.

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

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

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

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

- A holder of a permit shall in respect of local government property to which the permit relates -
- (a) ensure that an 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*

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

- 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.

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

(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.

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

(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.

### *Division 2 - Signs*

#### **4.4 Signs**

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

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

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

- (a) not to be inconsistent with any provision of this local law or any determination; and
- (b) to be for the purpose of giving notice of the effect of a provision of this local law.

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

### *Division 1 - Fenced or closed property*

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

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

*Division 2 - Toilet blocks and change rooms*

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

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.

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

**6.1 No unauthorized entry to function**

(1) A person shall not enter local government property on such days or during such times as the property may be set aside for a function for which a charge for admission is 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 - OBJECTIONS AND APPEALS**

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

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

- (a) grant a person a permit or 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 regulation 33 of the Regulations apply to that decision.

**PART 8 - MISCELLANEOUS**

**8.1 Authorized person to be obeyed**

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.

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

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.

**8.3 Disposal of lost property**

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

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

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

- (a) reinstating the property to the state it was in prior to the occurrence of the damage; or
- (b) replacing that property.

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

## **PART 9 - ENFORCEMENT**

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

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

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

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

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

### *Division 2 - Offences and penalties*

#### *Subdivision 1 - General*

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

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

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

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

#### **9.4 Prescribed offences**

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

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

(3) For the purpose of guidance only, before giving an infringement notice to a person in respect of the commission of a prescribed offence, an 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.

#### **9.5 Form of notices**

(1) For the purposes of this local law -

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

**9.6 Evidence of a determination**

(1) In any legal proceedings, evidence of a determination may be given by tendering the register referred to in clause 2.5 or a certified copy of an extract from the register.

(2) 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.

**LOCAL GOVERNMENT ACT 1995**

Shire of Broomehill-Tambellup

**LOCAL GOVERNMENT PROPERTY LOCAL LAW 2008****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(2)	Failure to comply with sign on local government property	125
5.1	Unauthorized entry to fenced or closed local government property	125
5.2	Gender not specified using entry of toilet block or change room	125
6.1(1)	Unauthorized entry to function on local government property	125
9.1	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***1.1 Definitions*

In these determinations unless the context otherwise requires –

**"local law"** means the *Local Government Property Local Law 2008* made by the local government;

*1.2 Interpretation*

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

Dated \_\_\_\_\_ 2008

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

\_\_\_\_\_, President  
J. TREZONA, Chief Executive Officer

## 9.7 PROPOSED HEALTH LOCAL LAW 2008

---

<b>Program:</b>	<b>Governance</b>
<b>Attachment:</b>	<b>Proposed Health Local Law 2008</b>
<b>File Ref:</b>	<b>ADM0080</b>
<b>Author:</b>	<b>JM Trezona                      Chief Executive Officer</b>
<b>Date:</b>	<b>22<sup>nd</sup> July 2008</b>
<b>Disclosure of Interest:</b>	<b>Nil</b>

---

**Summary:** The purpose of this report is to allow the Presiding Person to give notice to the meeting of the purpose and effect of the Proposed Health Local Law 2008, for the Council to adopt the proposed Local Law and to allow for advertising of the proposed Local Law for public comment.

**Background:** The Proposed Health Local Law 2008 is based on the model Health Local Law developed by the WA Health Department. The proposed Local Law incorporates those amendments previously adopted by the Shire of Broomehill in 2000 when it adopted the model local law with amendments. The Shire of Tambellup adopted the Shire of Plantagenet Health Local Law by reference in April 1999.

The **Purpose** of the local law is to provide a statutory means to effectively control issues that have the ability to adversely impact on the health and well being of the community.

The **Effect** of the local law is that the legislative power will allow the abovementioned issues to be sufficiently controlled so as to provide an acceptable standard for the maintenance of public health in the community.

**Comment:** The proposed Health Local Law incorporates those matters that were included in the Health Local Laws of both the Shires of Broomehill and Tambellup.

Changes have been made as suggested by the Health Department and the following matters have been deleted from the model local law as they do not apply:-

4.1.3 to 4.1.6 Disposal of Sewage, licensing septic pumpout contractors, approving pumpouts and keeping a record of each pumpout. The Department of Environment and Conservation now look after this through the *Environmental Protection (Controlled Waste) Regulations 2004*;

3.51 Morgues – Not applicable

5.7.1 to 5.7.3 Carparks and ventilation – Not applicable

9.3.1 to 9.3.4 Fish Premises – Not applicable

9.4.1 to 9.4.9 Laundries, Dry Cleaners and Dye Works – Not applicable.

**Consultation:** The local law is advertised for public comment for a period of forty two days. Any submission received must be considered by Council before making the local law.

**Statutory**

**Environment:** Regulation 7 of the Local Government Constitutional Regulations 1998, prescribes that although an order has abolished the former Shires of Broomehill and Tambellup and created a new Shire of Broomehill-Tambellup;

- the local laws that applied in the former Shires continue to apply in respect of the former Shire districts;
- the local laws of the former Shires are to be administered and enforced by the new Shire of Broomehill-Tambellup; and
- the local laws of the former Shires may be amended or repealed by the new Shire as if they were local laws of the new Shire.

As it is proposed to adopt new Local Laws, the following processes, as set out in section 3.12 of the Local Government Act 1995, must be observed —

1. At a Council meeting the person presiding is to give notice of the purpose and effect of the proposed local law by ensuring that:-
  - (a) the purpose and effect of the proposed local law is included in the agenda for that meeting; and
  - (b) the minutes of the meeting of the Council include the purpose and effect of the proposed local law.
2. A local government is to -
  - (a) give Statewide public notice stating that -
    - (I) the local government proposes to make a local law, the purpose and effect of which is summarised in the notice;
    - (ii) a copy of the proposed local law may be inspected or obtained at any place specified in the notice; and
    - (iii) submissions about the proposed local Law may be made to a local government before a date to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;
  - (b) as soon as the notice is given, give a copy of the proposed Local Law and a copy of the notice is to be forwarded to the relevant Minister.
  - (c) provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.

After the last day for submissions, the local government is to consider any submissions made and may make the local law as proposed or make a local law that is not significantly different from what was proposed.

The local law is to be approved by the Executive Director of the Health Department before it can be gazetted.

**Policy Implications:** Nil

**Financial**

**Implications:** The proposed local law needs to be advertised in a newspaper circulating throughout the state.

**Strategic**

**Implications:** This issue is not dealt with in the Plan

**Voting Requirements:**

Simple Majority

**Officer / Council**

**Resolution:** 080808

*“The Commissioner resolved –  
That Council adopt the proposed Health Local Law 2008 in the form presented and Councils intention to make the proposed Local Law be advertised Statewide inviting public submissions.”*

**Reason For Change to Recommendation:**

**HEALTH ACT 1911  
LOCAL GOVERNMENT ACT 1995**

**SHIRE OF BROOMEHILL-TAMBELLUP**

**HEALTH LOCAL LAW 2008**

**HEALTH ACT 1911  
LOCAL GOVERNMENT ACT 1995**

SHIRE OF BROOMEHILL-TAMBELLUP

**HEALTH LOCAL LAW 2008**

ARRANGEMENT

**PART 1—PRELIMINARY**

Section

- 1.1 Citation
- 1.2 Definition
- 1.3 Repeal

**PART 2—SANITATION**

*Division 1—Sanitary Conveniences*

- 2.1.1 Interpretation
- 2.1.2 Dwelling House
- 2.1.3 Premises other than a Dwelling House
- 2.1.4 Outdoor Festivals
- 2.1.5 Toilets
- 2.1.6 Temporary Works
- 2.1.7 Maintenance of Sanitary Conveniences and Fittings
- 2.1.8 Ventilation of Toilets
- 2.1.9 Public Sanitary Conveniences
- 2.1.10 Lighting
- 2.1.11 Installation

*Division 2—Bathrooms, Laundries and Kitchens*

- 2.2.1 Bathrooms
- 2.2.2 Laundries
- 2.2.3 Washing or Keeping of Clothes in Kitchens
- 2.2.4 Kitchens

**PART 3—HOUSING AND GENERAL**

*Division 1—Maintenance of Houses*

- 3.1.1 Dwelling House Maintenance
- 3.1.2 Maintenance of Guttering and Downpipes and Disposal of Rainwater

*Division 2—Ventilation of Houses*

- 3.2.1 Exemption for Short Term Hostels and Recreational Campsites
- 3.2.2 Overcrowding
- 3.2.3 Calculated Sufficient Space
- 3.2.4 Ventilation
- 3.2.5 Sub-floor Ventilation



*Division 3—Water Supply*

- 3.3.1 Water Supply
- 3.3.2 Rainwater Tanks
- 3.3.3 Wells
- 3.3.4 Pollution

*Division 4—Secondhand Furniture, Bedding and Clothing*

- 3.4.1 Prohibition of Sale
- 3.4.2 Prohibition of Possession

**PART 4—WASTE FOOD AND REFUSE**

*Division 1—Liquid Refuse*

- 4.1.1 Interpretation
- 4.1.2 Deposit of Liquid Refuse

*Division 2—Disposal of Refuse*

- 4.2.1 Interpretation
- 4.2.2 Receptacles
- 4.2.3 Exemption
- 4.2.4 Use of Receptacles
- 4.2.5 Ownership of Receptacles
- 4.2.6 Damage to Receptacles
- 4.2.7 Use of Other Containers
- 4.2.8 Suitable Enclosure
- 4.2.9 Building Construction
- 4.2.10 Deposit of Refuse
- 4.2.11 Removal from Refuse Disposal Site
- 4.2.12 Removal of Rubbish from Premises or Receptacle
- 4.2.13 Burning Rubbish or Refuse
- 4.2.14 Rubbish Removal Vehicles
- 4.2.15 Method of Removal of Rubbish
- 4.2.16 Rubbish Disposal – Prescribed Area

*Division 3—Transport of Butchers' Waste*

- 4.3.1 Interpretation
- 4.3.2 Restriction of Vehicles
- 4.3.3 Transport of Butchers' Waste

**PART 5—NUISANCES AND GENERAL**

*Division 1—Nuisances*

- 5.1.1 Interpretation
- 5.1.2 Footpaths etc. to be kept clean
- 5.1.3 Escape of Smoke etc.
- 5.1.4 Public vehicles to be kept clean
- 5.1.5 Prohibition against Spitting
- 5.1.6 Transportation, Use and Storage of Offal, Blood or other Offensive Matter
- 5.1.7 Use or Storage of Fertiliser
- 5.1.8 Storage and Dispatch of Artificial Fertiliser
- 5.1.9 Storage of Fertiliser in a House
- 5.1.10 Vehicles Used for Transporting of Animals and Birds

*Division 2—Keeping of Animals and Birds*

- 5.2.1 Interpretation
- 5.2.2 Cleanliness
- 5.2.3 Animal Enclosures
- 5.2.4 Cats
- 5.2.5 Slaughter of Animals
- 5.2.6 Disposal of Dead Animals

*Division 3—Keeping of Large Animals*

- 5.3.1 Interpretation
- 5.3.2 Conditions for keeping of an animal
- 5.3.3 Stables
- 5.3.4 Manure Receptacles

*Division 4—Keeping of Poultry and Pigeons*

- 5.4.1 Interpretation
- 5.4.2 Limitation on Numbers of Poultry and Pigeons
- 5.4.3 Conditions for Keeping Poultry in Limited Numbers
- 5.4.4 Roosters, Geese, Turkeys, Peafowls and Gamebirds
- 5.4.5 Pigeons or Doves
- 5.4.6 Removal of Non-Conforming Structure or Enclosure
- 5.4.7 Restrictions on Pigeons Nesting or Perching

*Division 5—Feedlots*

- 5.5.1 Interpretation
- 5.5.2 Premises to be Approved
- 5.5.3 Site Conditions

*Division 6—Piggeries*

- 5.6.1 Interpretation
- 5.6.2 Premises to be Approved
- 5.6.3 Site Conditions
- 5.6.4 Prevention of Nuisances

**PART 6—PEST CONTROL**

*Division 1—Flies*

- 6.1.1 Interpretation
- 6.1.2 Fly breeding matter not to be left on Premises unless Covered or Treated
- 6.1.3 Measures to be taken by an Occupier
- 6.1.4 Officer may give Notice directing Measures to be Taken
- 6.1.5 Local government may Execute Work and Recover Costs

*Division 2—Mosquitoes*

- 6.2.1 Interpretation
- 6.2.2 Measures to be taken to prevent mosquitoes breeding
- 6.2.3 Local government may Execute work and recover costs

*Division 3—Rodents*

- 6.3.1 Interpretation
- 6.3.2 Measures to be taken to eradicate Rodents
- 6.3.3 Food and Wastes to be kept in rodent proof Receptacles
- 6.3.4 Restrictions on the sale or keeping of Rats
- 6.3.5 Food Premises etc. to be cleaned after use
- 6.3.6 Restrictions on materials affording harbourage for Rodents

*Division 4—Cockroaches*

- 6.4.1 Interpretation
- 6.4.2 Measures to be taken to eradicate Cockroaches

*Division 5—Argentine Ants*

- 6.5.1 Interpretation
- 6.5.2 Measures to be taken to keep premises free from Argentine Ants

*Division 6—European Wasps*

- 6.6.1 Interpretation
- 6.6.2 Measures to be taken to keep premises free from European Wasp Nests

*Division 7—Bee Keeping*

- 6.7.1 Interpretation
- 6.7.2 Restrictions on keeping of Bees in Hives

*Division 8—Arthropod Vectors of Disease*

- 6.8.1 Interpretation
- 6.8.2 Responsibility of the Owner or Occupier

**PART 7—INFECTIOUS DISEASE**

*Division 1—General Provisions*

- 7.1.1 Requirements for an owner or occupier to clean, disinfect and disinfest
- 7.1.2 EHO may disinfect or disinfest premises
- 7.1.3 Insanitary houses, premises and things
- 7.1.4 Medical Officer may authorise disinfecting
- 7.1.5 Persons in contact with an infectious disease sufferer
- 7.1.6 Declaration of infected house or premises
- 7.1.7 Destruction of infected animals
- 7.1.8 Disposal of a body
- 7.1.9 Local government may carry out work and recover costs

*Division 2—Disposal of Used Condoms and Needles*

- 7.2.1 Disposal of used condoms
- 7.2.2 Disposal of used needles

**PART 8—LODGING HOUSES**

*Division 1—Registration*

- 8.1.1 Interpretation
- 8.1.2 Lodging House Not to be Kept Unless Registered
- 8.1.3 Application for Registration
- 8.1.4 Approval of Application
- 8.1.5 Renewal of Registration
- 8.1.6 Notification upon Sale or Transfer

8.1.7 Revocation or Registration

*Division 2—Construction and Use Requirements*

- 8.2.1 General Construction Requirements
- 8.2.2 Kitchen
- 8.2.3 Dining Room
- 8.2.4 Lounge Room
- 8.2.5 Sanitary Conveniences
- 8.2.6 Laundry
- 8.2.7 Fire Prevention and Control
- 8.2.8 Obstruction of Passages and Stairways
- 8.2.9 Fitting of Locks
- 8.2.10 Restriction on use of Rooms for Sleeping
- 8.2.11 Sleeping Accommodation, Short Term Hostels and Recreational Campsites
- 8.2.12 Furnishing etc. of Sleeping Apartments
- 8.2.13 Ventilation
- 8.2.14 Numbers to be Placed on Doors

*Division 3—Management and Care*

- 8.3.1 Keeper or Manager to Reside in the Lodging House
- 8.3.2 Register of Lodgers
- 8.3.3 Keeper Report
- 8.3.4 Certificate in Respect to Sleeping Accommodation
- 8.3.5 Duplicate Keys and Inspection
- 8.3.6 Room Occupancy
- 8.3.7 Maintenance of a Room by a Lodger or Resident
- 8.3.8 Cleaning and Maintenance Requirements
- 8.3.9 Responsibilities of Lodgers and Residents
- 8.3.10 Approval for Storage of Food

**PART 9—OFFENSIVE TRADES**

*Division 1—General*

- 9.1.1 Interpretation
- 9.1.2 Consent to Establish an Offensive Trade
- 9.1.3 False Statement
- 9.1.4 Registration of Premises
- 9.1.5 Certificate of Registration
- 9.1.6 Change of Occupier
- 9.1.7 Alterations to Premises

*Division 2—General Duties of an Occupier*

- 9.2.1 Interpretation
- 9.2.2 Cleanliness
- 9.2.3 Rats and other Vectors of Disease
- 9.2.4 Sanitary Conveniences and Wash Basins
- 9.2.5 Painting of Walls etc.
- 9.2.6 Effluvia, Vapours, Gases or Dust
- 9.2.7 Offensive Material
- 9.2.8 Storage of Materials
- 9.2.9 Specified Offensive Trades
- 9.2.10 Directions

9.2.11 Other Duties of Occupier

**PART 10—OFFENCES AND PENALTIES**

10.1.1 Penalties

**SCHEDULES OF FORMS AND FEES**

Schedule Number	Description
1	Application for Registration of a Lodging House
2	Certificate of Registration of a Lodging House
3	Notice of change of owner of a Lodging House
4	Register of Lodgers
5	List of Lodgers
6	Certificate of Sleeping Accommodation for a Lodging House
7	Application for Consent to Establish an Offensive Trade
8	Application for Registration of Premises for Offensive Trade
9	Certificate of Registration of Premises for Offensive Trade

**HEALTH ACT 1911  
LOCAL GOVERNMENT ACT 1995**

SHIRE OF BROOMEHILL-TAMBELLUP

**HEALTH LOCAL LAW 2008**

Made by the Council of the Shire of Broomehill-Tambellup under section 342 of the *Health Act 1911* in accordance with subdivision 2 of Division 2 of Part 3 of the *Local Government Act 1995*.

**PART 1—PRELIMINARY**

**1.1 Citation**

This local law may be cited as the “*Shire of Broomehill-Tambellup Health Local Law 2008*”.

**1.2 Interpretation**

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

“**Act**” means *Health Act 1911*;

“**adequate supply of water**” means a flow of water of not less than 0.076 litres per second;

“**approved**” means approved by the local government;

“**AS**” means Australian Standard published by the Standards Association of Australia;

“**Building Code**” means the latest edition of the Building Code of Australia published from time to time by, or on behalf of, the Australian Building Codes Board, as amended from time to time, but not including explanatory information published with that Code.

“**Chief Executive Officer**” means the Chief Executive Officer of the Shire of Broomehill-Tambellup and includes an Acting Chief Executive Officer;

“**Council**” means the Council of the Shire of Broomehill-Tambellup;

“**district**” means the district of the Shire of Broomehill-Tambellup and includes any area placed under the jurisdiction of the local government pursuant to Section 22 of the Act;

“**dwelling house**” means a place of residence or house containing at least one sleeping room and includes a room or outbuilding separate from, but ancillary to, the building in which the sleeping room is located;

“**EHO**” means an Environmental Health Officer appointed by the local government under the Act and includes an Acting or Assistant Environmental Health Officer;

“**habitable room**” means a room used for normal domestic activities; and

(a) includes a bedroom, living room, lounge room, music room, television room, kitchen, dining room, sewing room, study, play-room, family room and sun-room; but

(b) excludes a bathroom, laundry, water closet, pantry, walk-in wardrobe, corridor, lobby photographic dark room, clothes-drying room, and other spaces of a specialised nature occupied neither frequently nor for extended periods;

“**hot water**” means water at a temperature of at least 75 degrees Celsius;

“**local government**” means the Shire of Broomehill-Tambellup

“**Medical Officer**” means the Medical Officer appointed by the local government under the Act and includes an Acting Medical Officer so appointed;

“**public place**” includes every place to which the public ordinarily have access, whether by payment of a fee or not;

“**sanitary convenience**” includes urinals, water closets, earth-closets, privies, sinks, baths, wash troughs, apparatus for the treatment of sewage, ash-pits, ash-tubs, or other receptacle for the deposit of ashes, faecal matter, or refuse, and all similar conveniences;

“**sewage**” means any kind of sewage, nightsoil, faecal matter or urine, and any waste composed wholly or in part of liquid;

“**sewer**” includes sewers and drains of every description, except drains to which the word “drain” as defined in the Act applies, also water channels constructed of stone, brick, concrete, or any other material, including the property of the local government;

“**street**” includes any highway, any public bridge, and any road, lane, footway, square, court, alley or passage, whether a thoroughfare or not;

“**toilet**” means a water closet, earth closet, privy or urinal and includes a room or cubicle in which one or more of these is located;

“**water**” means drinking water within the meaning of the Australian Drinking Water Guidelines as published by the National Health and Medical Research Council in 2004 and as amended from time to time; and

“**window**” means a glass panel, roof light, glass brick, glass louvre, glazed sash, glazed door, or other device which transmits natural light directly from outside a building to the room concerned when in the closed position.

(2) Where in this local law, a duty or liability is imposed on an “owner or occupier”, the duty or liability shall be deemed to be imposed jointly and severally on each of the owner or occupier.

(3) Where under this local law an act is required to be done or forbidden to be done in relation to any premises, the owner or occupier of those premises has, unless the contrary intention appears, the duty of causing to be done the act so required to be done, or of preventing from being done the act so forbidden to be done, as the case may be.

### 1.3 Repeal

#### The following local laws are repealed -

The former *Shire of Broomehill Health Local Laws 2000* published in the *Government Gazette* on 5 September 2000; and

The former *Shire of Tambellup Health Local Laws 1998* published in the *Government Gazette* on 27 April 1999.

## PART 2—SANITATION

### Division 1—Sanitary Conveniences

#### 2.1.1 Interpretation

In this Part, unless the context otherwise requires—

“**festival**” includes a fair, function or event;

“**organiser**” means a person—

- (a) to whom approval has been granted by the local government to conduct the festival; or
- (b) responsible for the conduct of the festival;

“**public sanitary convenience**” means a sanitary convenience to which the public ordinarily have access, whether by payment of a fee or not; and

“**temporary sanitary convenience**” means a sanitary convenience, temporarily placed for use by—

- (a) patrons in conjunction with a festival; or
- (b) employees at construction sites or the like.

“**urinal**” may be—

- (i) an individual stall or wall-hung urinal; or
- (ii) each 600mm length of a continuous urinal trough; or
- (iii) a closet pan used in place of a urinal.

#### 2.1.2 Dwelling House

(1) A person shall not use or occupy, or permit to be used or occupied, a dwelling house unless it has at least one toilet.

(2) A room in which a toilet is located shall have adequate lighting.

### 2.1.3 Premises other than a Dwelling House

- (1) The owner of premises other than a dwelling house shall not use or occupy, or permit to be used or occupied, premises other than a dwelling house unless—
- (a) the premises have sanitary conveniences in accordance with the Building Code and this Part;
  - (b) the toilets required by this section are situated within 90m and are easily accessible to the persons for whom they are provided; and
  - (c) the premises have hand wash basins—
    - (i) in accordance with the Building Code;
    - (ii) or the use of persons employed or engaged on the premises;
    - (iii) provided with an adequate supply of water supplied by taps located over each basin;
    - (iv) separate from any trough, sink or basin used in connection with any process carried out on the premises; and
    - (v) situated with or adjacent to the sanitary conveniences and easily accessible to the person for whom they are provided.
- (2) The occupier of premises other than a dwelling house shall ensure that—
- (a) clean toilet paper is available at all times in each cubicle;
  - (b) a sanitary napkin disposal facility is provided in each toilet set aside for the use of females; and
  - (c) each hand wash basin is provided with—
    - (i) an adequate supply of soap or other hand cleaning substances; and
    - (ii) hand drying facilities, situated adjacent to and visible from the hand wash basin.

### 2.1.4 Outdoor Festivals

- (1) The organiser of an outdoor festival at which not more than 20,000 people are expected to attend shall provide sanitary conveniences in accordance with the following scale—
- (a) for the first 250 males—
    - (i) one water closet for each 150;
    - (ii) one urinal stall for each 50; and
    - (iii) one hand wash basin for each 50;
  - (b) for additional males—
    - (i) one water closet for each 200;
    - (ii) one urinal stall for each 100; and
    - (iii) one hand wash basin for each 200;
  - (c) for the first 250 females—
    - (i) one water closet for each 40; and
    - (ii) one wash hand wash basin for each 50;
  - (d) for additional females—
    - (i) one water closet for each 100; and
    - (ii) one wash hand wash basin for each 200.
- (2) Where, under subsection (1), the number of a particular sanitary convenience to be provided is not a whole number, that number shall be rounded up to the next higher whole number.
- (3) The organiser of an outdoor festival at which more than 20,000 people are expected to attend shall provide sanitary conveniences of a number as directed by the local government.

### 2.1.5 Toilets

Toilets on premises other than a dwelling house shall, where more than one toilet is provided on the premises, bear, on the on the entrance to each toilet, a suitable sign indicating for which sex its use is intended.



### **2.1.6 Temporary Works**

A person who undertakes temporary work at any place shall ensure every temporary sanitary convenience is installed and maintained in accordance with the requirements of the *Health (Temporary Sanitary Conveniences) Regulations 1997*.

### **2.1.7 Maintenance of Sanitary Conveniences and Fittings**

- (1) The occupier of premises shall—
  - (a) keep clean, in good condition and repair; and
  - (b) whenever required by an EHO, effectively disinfect and clean, all sanitary conveniences including sanitary fittings in or on the premises.
- (2) The owner of premises shall—
  - (a) keep or cause to be kept in good repair; and
  - (b) maintain an adequate supply of water to,all sanitary conveniences including sanitary fittings in or on the premises.

### **2.1.8 Ventilation of Toilets**

- (1) A toilet in any premises shall be ventilated in accordance with the *Sewerage (Lighting, Ventilation and Construction) Regulations 1971* and the Building Code.

### **2.1.9 Public Sanitary Conveniences**

- (1) A person shall not—
  - (a) foul
  - (b) damage or vandalise; or
  - (c) write on or otherwise deface, a public convenience or sanitary fixtures or fittings or the premises in or on which the sanitary convenience is located.
- (2) A person shall not live or sleep in the premises in which a public sanitary convenience is located or use it for a purpose other than that for which it was intended.

### **2.1.10. Lighting**

The owner and occupier of a premises in which a sanitary convenience or a public sanitary convenience is located shall provide and maintain adequate electric lighting for persons using the convenience.

### **2.1.11 Installation**

Every sanitary convenience shall be installed in accordance with the requirements of the *Metropolitan Water Supply Sewage and Drainage Act 1909 and the Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974* and shall have an adequate supply of water.

*Division 2—Bathroom, Laundries and Kitchens*

### **2.2.1 Bathrooms**

- (1) A person shall not use or occupy, or permit to be used or occupied, a dwelling house without a bathroom that—
  - (a) is adequately lined with an impervious material and has an adequate ceiling;
  - (b) complies with the *Health Act (Laundries and Bathrooms) Regulations*; and
  - (c) is equipped with—
    - (i) a hand wash basin; and
    - (ii) either a shower in a shower recess or a bath.
- (2) All baths, showers, hand wash basins and similar fittings shall be provided with an adequate supply of hot and cold water.

### 2.2.2 Laundries

- (1) A laundry must conform to the provisions of the Building Code.
- (2) Where, in any building, a laundry is situated adjacent to a kitchen or a room where food is stored or consumed, the laundry shall be separated from the kitchen by a wall extending from the floor to the roof or ceiling.
- (3) Where there is an opening between a laundry and a kitchen or other room where food is stored or consumed, the opening shall—
  - (a) not be more than 1220 millimetres wide; and
  - (b) have a door which when closed shall completely fill the opening.

### 2.2.3 Washing or Keeping of Clothes in Kitchens

A person shall not in any kitchen or other place where food is kept—

- (a) wash or permit to be washed any clothing or bedding; or
- (b) keep or permit to be kept any soiled clothing or bedding.

### 2.2.4 Kitchens

- (1) In this section, “a cooking facility” includes a stove, oven, facility or appliance used for or in connection with the cooking of food.
- (2) A person shall not use or occupy, or permit to be used or occupied, a dwelling house without a kitchen equipped with—
  - (a) adequate cooking facilities as determined by an EHO; and
  - (b) a sink which shall—
    - (i) be at least 380 millimetres long, 300 millimetres wide and 150 millimetres deep; and
    - (ii) have an adequate supply of hot and cold water.
- (3) The occupier of a dwelling house shall ensure that the stove, oven and sink are kept clean, in good order and repair and fit for use.
- (4) A cooking facility shall—
  - (a) be installed in accordance with the requirements of Energy Safe; and
  - (b) not be installed or used in any room other than a kitchen.
- (5) Where mechanical extraction is provided in a kitchen, the exhaust air shall be—
  - (a) carried to the outside air as directly as practicable; and
  - (b) boxed throughout.
- (6) Mechanical ventilation shall be maintained in good working order and condition.

## PART 3—HOUSING AND GENERAL

### *Division 1—Maintenance of Houses*

#### 3.1.1 Dwelling House Maintenance

The owner or occupier of a dwelling house shall maintain the dwelling house and any appurtenant buildings in sound condition and fit for use and, in particular, shall—

- (a) maintain all roofs, guttering and downpipes in sound weatherproof condition;
- (b) maintain any footings, foundations and walls, either external or internal, in a sound condition;
- (c) replace any missing, broken, decayed or termite-eaten timber or other deteriorated material in any veranda, roof, walls, steps, handrails, floors or their supports with material of sound quality;
- (d) comply with the directions of an EHO to treat the premises for the purpose of destroying any termites;
- (e) maintain any brick, stone, mortar or cement work in a sound condition;
- (f) maintain, repair or replace any flashings or ant caps, which are missing or defective;
- (g) maintain all ventilators in good order and repair;

- (h) maintain all floors even and level in surface and free from cracks and gaps;
- (i) maintain all ceilings, internal wall finishes, skirtings, architraves and other fixtures and fittings complete and with smooth unbroken surfaces;
- (j) maintain all doors and windows in good working order and weatherproof condition;
- (k) retain all natural lighting free from any obstruction which would reduce the natural lighting, below the ratio of 10% of the floor area;
- (l) maintain all pipes, fittings and fixtures connected with water supply, drainage or sewerage so that they comply in all respects with the provisions of the *Metropolitan Water Supply, Sewerage and Drainage Act 1909* and any other legal requirements to which they are subject; and
- (m) maintain all electric wiring, gas services and fittings to comply in all respects with the requirements of Energy Safe.

### **3.1.2 Maintenance of Guttering and Downpipes and Disposal of Rainwater**

The owner or occupier of a house shall—

- (a) maintain all guttering, downpipes and drains on the premises in a good state of repair, clean and free from obstructions; and
- (b) not permit any rainwater from the premises to discharge onto or over a footpath, street or other property.

#### *Division 2—Ventilation of Houses*

### **3.2.1 Exemption for Short Term Hostels and Recreational Campsites**

This Division shall not apply to short term hostels and recreational campsites referred to in Division 1 of Part 8.

### **3.2.2 Overcrowding**

The owner or occupier of a house shall not permit—

- (a) a room in the house that is not a habitable room to be used for sleeping purposes; or
- (b) a habitable room in the house to be used for sleeping purposes unless—
  - (i) for every person over the age of 10 years using the room there is at least 14 cubic metres of air space per person; and
  - (ii) for every person between the ages of 1 and 10 years there is at least 8 cubic metres of air space per person; or
- (c) any garage or shed to be used for sleeping purposes.

### **3.2.3 Calculated Sufficient Space**

For the purpose of Section 3.2.2, in calculating the space required for each person—

- (a) each room shall be considered separately and sufficient space shall be allowed in each room for the number of persons present in the room at any one time; and
- (b) a deduction shall be made for the space occupied by furniture, fittings and projections of the walls into a room.

### **3.2.4 Ventilation**

- (1) A person shall not use or occupy, or permit to be used or occupied, a house unless the house is properly ventilated.
- (2) For the purpose of subsection (1) a house shall be deemed to be properly ventilated if it complies with the Building Code, including the provision of—
  - (a) natural ventilation; or
  - (b) a mechanical ventilation or air-conditioning system complying with AS1668.2:-2002.
- (3) The owner of a house provided with mechanical ventilation or an air-conditioning system shall ensure that the system is—

- (a) maintained in good working condition and in accordance with AS/NZS 3666.2:2002; and
  - (b) in use at all times the building is occupied if it is a building without approved natural ventilation.
- (4) If, in the opinion of an EHO, a house is not properly ventilated, the local government may by notice require the owner of the house to—
- (a) provide a different, or additional method of ventilation; or
  - (b) cease using the house until it is properly ventilated.
- (5) the owner shall comply with a notice under subsection (4).

### **3.2.5 Sub-Floor Ventilation**

The owner or occupier of a house shall make provision for sub-floor ventilation by ensuring that air bricks and other openings are kept clean of refuse, vegetation, building materials, dirt and the like.

## *Division 3—Water Supply*

### **3.3.1 Water Supply**

- (1) The owner of a house shall ensure that it is connected with a separate and independent water supply from the mains of a licensed water service operator or a water supply to the satisfaction of the local government.
- (2) The water supply shall at all times deliver an adequate supply of drinking water to each tap in the house.
- (3) The water supply to toilets, or for garden use may be from an alternative source, not necessarily drinking water.

### 3.3.2 Rainwater Tanks

The owner or occupier of a house where part of the water supply is drawn from a rainwater tank shall—

- (a) maintain in a clean condition—
  - (i) the roof forming the catchment for the tank; and
  - (ii) the guttering and downpipes appurtenant to the roof;
- (b) ensure that each rainwater tank is fitted with a tight-fitting mosquito proof cover which shall not be removed at any time except for the purpose of cleaning, repairing or maintaining the tank;
- (c) annually clean any tank, which is used to store water for human consumption;
- (d) when directed by an EHO, empty, clean and disinfect any tank upon the premises, used to store water for human consumption.

### 3.3.3 Wells

The owner or occupier of any premises shall not use or permit for human consumption the use of the water from any bore or well unless the bore or well is—

- (a) at least 30 metres from any soak or other possible source of pollution unless otherwise approved by the Executive Director of Public Health; and
- (b) covered with a tight-fitting cover without openings of any sort other than those essential for the insertion of a pump.

### 3.3.4 Pollution

A person shall not deposit on any land, any sewage, offensive matter or any other thing, which may pollute or render unfit for human consumption, water from a well or other underground source.

## *Division 4—Secondhand Furniture, Bedding and Clothing*

### 3.4.1 Prohibition of Sale

A person shall not offer for sale or sell any secondhand furniture, bedding or clothing, which is filthy or infested with vectors of disease.

### 3.4.2 Prohibition of Possession

A dealer in secondhand furniture, bedding or clothing shall not have on any premises used for the operation of the business any secondhand furniture, bedding or clothing which is filthy or infested with vectors of disease.

## **PART 4—WASTE FOOD AND REFUSE**

### *Division 1—Liquid Refuse*

#### 4.1.1 Interpretation

In this division, unless the context otherwise requires—

“**liquid refuse**” includes swimming pool discharges, all washings from windows, vehicles and carpet cleaning, overflow, bleed off, condensate and drainage from air conditioning equipment including evaporative coolers and other liquid used for cooling purposes;

“**liquid waste**” means bathroom, kitchen, scullery and laundry wastes, the contents of septic tanks, all washings from animal and poultry pens and any other domestic or trade wastes that are discharged by means of a drain to a receptacle for drainage; and

#### 4.1.2 Deposit of Liquid Refuse

A person shall not deposit or cause or permit to be deposited liquid refuse or liquid waste—

- (a) on a street;

- (b) in a stormwater disposal system; or
- (c) on any land or place other than a place or depot duly authorised for that purpose.

### Division 2—Disposal of Refuse

#### 4.2.1 Interpretation

In this division, unless the context otherwise requires—

- “**collection day**” means the day of the week on which rubbish and refuse is collected and removed by the local government or its contractor;
- “**collection time**” where used in connection with any premises, means the time of the day on which rubbish and refuse is collected and removed from the premises by the local government or its contractor;
- “**commercial waste**” means refuse and other rubbish generated by or originating from commercial or industrial premises and includes trade refuse;
- “**domestic waste**” means refuse and other rubbish generated by or emanating from residential premises and includes house refuse;
- “**public place**” includes a street, way or place which the public are allowed to use, whether the street, way or place is or is not on private property;
- “**receptacle**” where used in connection with any premises means—
  - (a) a polyethylene cart fitted with wheels, a handle and a lid and having a capacity of at least 120 litres; or
  - (b) a container provided by the local government or its contractor for the deposit, collection and recycling of specific materials; and supplied to the premises by the local government or its contractor;
- “**refuse disposal site**” means a waste treatment facility or depot licensed under Part V of the *Environmental Protection Act 1986* to store, treat, reuse or dispose of rubbish or refuse;
- “**rubbish or refuse**” includes any filth, dirt, ashes, vegetation, garden refuse, waste material, waste food, sludge, offensive matter, cinders, wood or metal shavings and sawdust but does not include liquid waste or liquid refuse;
- “**street**” has the same meaning as in the Act;
- “**street alignment**” means the boundary between the land comprising a street and the land that abuts thereon, but where a new street alignment is prescribed under the *Local Government (Miscellaneous Provisions) Act 1960*, means the new street alignment so prescribed; and
- “**waste**” means commercial or domestic waste or both as the context requires.

#### 4.2.2 Receptacles

An owner or occupier of premises shall—

- (a) ensure the premises are provided with a receptacle for the depositing of rubbish or refuse and maintain the receptacle in a serviceable condition;
- (b) at all times keep the lid of the receptacle closed except when depositing rubbish or refuse or cleaning the receptacle;
- (c) except for a reasonable period before and after collection time, keep the receptacle on the premises and located—
  - (i) behind the street alignment and so as not to be visible from a street or public place; or
  - (ii) in such other position as is approved by the local government;
- (d) on each collection day at or prior to 6.00am place the receptacle out in the street in a position, prescribed by the local government, where it is visible from the carriageway of the street or the right of way, but so that it does not obstruct any thoroughfare, land, footpath, cycleway or other carriageway and positioned with the handle facing away from the kerb line, or placed in such other position as is approved by the local government.

### 4.2.3 Exemption

- (1) An owner or occupier of premises may apply in writing to the local government for an exemption from compliance with the requirements of Section 4.2.2 (c) or (d).
- (2) The local government may grant or refuse, with or without conditions, an application for exemption from compliance under this Section.
- (3) An exemption granted under this Section shall state—
  - (a) the premises to which the exemption applies;
  - (b) the period during which the exemption applies; and
  - (c) any conditions imposed by the local government.
- (4) The local government may rescind the exemption or from time to time vary conditions imposed by it under this Section by giving written notice of the variation to the person to whom the exemption was given.

### 4.2.4 Use of Receptacles

An owner or occupier of premises shall—

- (a) not deposit or permit to be deposited in a receptacle—
  - (i) more than 70 kilograms of rubbish or refuse;
  - (ii) hot or burning ash;
  - (iii) oil, motor spirit or other flammable liquid;
  - (iv) liquid paint, solvent or other liquid;
  - (v) bricks, concrete, building rubble, asbestos, earth or other like substances;
  - (vi) drugs, dressings, bandages, swabs or blood samples unless placed in a sealed impervious and leak-proof container;
  - (vii) hospital, medical, veterinary, laboratory or pathological substances containing blood unless placed in a sealed impervious and leak-proof container;
  - (viii) syringes, needles, surgical hardware, broken glass, sharps or other sharp objects unless placed in a durable, impervious and leak proof container;
  - (ix) cytotoxics, radioactive substances and dangerous chemicals;
  - (x) sewage, manure, nightsoil, faeces or urine;
  - (xi) any object which is greater in length, width or breadth than the corresponding dimension of the receptacle or which will not allow the lid of the receptacle to be tightly closed;
  - (xii) rubbish or refuse which is or is likely to become offensive or a nuisance, or give off an offensive or noxious odour, or to attract flies or cause fly breeding unless it is first wrapped in non-absorbent or impervious material or placed in a sealed impervious container; or
  - (xiii) hazardous products including ammunition and flares;
- (b) at all times keep the receptacle in a clean condition;
- (c) whenever directed to do so by an EHO, thoroughly clean, disinfect, deodorise and apply a residual insecticide to the receptacle;
- (d) take all reasonable steps to prevent—
  - (i) fly breeding and keep the receptacle free of flies, maggots, cockroaches, rodents and other vectors of disease; and
  - (ii) the emission of offensive and noxious odours from the receptacle; and
- (e) ensure that the receptacle does not cause a nuisance to the occupiers of adjoining premises.

### 4.2.5 Ownership of Receptacles

- (1) A receptacle supplied by the local government or its contractor, remains the property of the local government or its contractor, as the case may be;
- (2) The owner or occupier of a premises supplied with a receptacle remains responsible for any rubbish or refuse placed or deposited in the receptacle until such time as it has been removed by

the local government or its contractor.

#### **4.2.6 Damage to Receptacles**

- (1) A person shall not—
  - (a) damage, destroy or interfere with a receptacle; or
  - (b) except as permitted by this local law or as authorised by the local government, remove a receptacle from any premises;
- (2) If the receptacle of a premises is damaged, defective, lost or stolen, the owner or occupier of the premises shall notify the local government within 7 days after the event.

#### **4.2.7 Use of Other Containers**

- (1) In the case of premises consisting of more than 3 dwellings, any premises used for commercial or industrial purposes or food premises, the local government may authorise rubbish or refuse to be deposited in a container other than a receptacle.
- (2) The owner or occupier of premises who is authorised under this Section to deposit rubbish or refuse in a container shall—
  - (a) unless approved by the local government not deposit or permit to be deposited in the container anything specified in Section 4.2.4 (a) (ii) to (xiii);
  - (b) take all reasonable steps to prevent fly breeding in, and the emission of offensive or noxious odours from the container;
  - (c) whenever directed by an EHO to do so, thoroughly clean, disinfect, deodorise and apply a residual insecticide to the container;
  - (d) cause the container to be located on the premises in an enclosure constructed and located as approved by the local government;
  - (e) ensure that the container is not visible from the street but is readily accessible for the purposes of collection; and
  - (f) ensure that the container does not cause a nuisance to an occupier of adjoining premises.
- (3) An owner or occupier shall—
  - (a) ensure that there are a sufficient number of containers provided to contain all rubbish and refuse which accumulates or may accumulate in or from the premises;
  - (b) ensure that each container on the premises—
    - (i) has a close fitting lid;
    - (ii) is constructed of non-absorbent and non-corrosive material; and
    - (iii) is clearly marked, for the use of, and is used only for, the temporary deposit of rubbish or refuse;
  - (c) keep or cause to be kept each container thoroughly clean and in good condition and repair;
  - (d) place any rubbish or refuse in, and only in, a container marked for that purpose;
  - (e) keep the cover on each container except when it is necessary to place something in, or remove something from, it; and
  - (f) ensure that each container is emptied at least weekly or as directed by the EHO.

#### **4.2.8 Suitable Enclosure**

- (1) An owner or occupier of premises—
  - (a) consisting of more than three (3) dwellings; or
  - (b) used for commercial or industrial purposes, or a food premises shall if required by the local government provide a suitable enclosure for the storage and cleaning of receptacles on the premises.
- (2) An owner or occupier of premises required to provide a suitable enclosure under this Section shall keep the enclosure thoroughly clean and disinfected.
- (3) For the purposes of this Section, a “suitable enclosure” means an enclosure—
  - (a) of sufficient size to accommodate all receptacles used on the premises but in any event having a floor area not less than a size approved by the local government;
  - (b) constructed of brick, concrete, corrugated compressed fibre cement sheet or other material



- of suitable thickness approved by the local government;
- (c) having walls not less than 1.8 metres in height and having an access way of not less than 1 metre in width and fitted with a self-closing gate;
- (d) containing a smooth, non-slip and impervious floor—
  - (i) of not less than 75 millimetres in thickness; and
  - (ii) which is evenly graded to an approved liquid refuse disposal system;
- (e) which is easily accessible to allow for the removal of the receptacles;
- (f) provided with a ramp into the enclosure having a gradient no steeper than 1:8 unless otherwise approved by the local government; and
- (g) provided with a tap connected to an adequate supply of water.

#### **4.2.9 Building Construction**

- (1) During all periods of construction on any building site, the builder shall—
  - (a) when requested by an EHO, provide and maintain on such site a rubbish disposal bin, being either—
    - (i) a bin of not less than 4 cubic metres in capacity; or
    - (ii) a receptacle or other container approved by the EHO;
  - (b) keep such site free of rubbish and offensive matter; and
  - (c) maintain the street verge immediately adjacent to such site free of rubbish or offensive matter.
- (2) On completion of construction, the builder shall immediately clear the site and the adjacent street verge of all rubbish, waste materials and offensive matter and all rubbish bins provided by the builder.
- (3) In subsections (1) and (2), “rubbish” includes all discarded stones, brick, lime, timber, iron, tiles, bags, plastics and any broken, used or discarded matter.

#### **4.2.10 Deposit of Refuse**

- (1) A person shall not deposit or cause or permit to be deposited any rubbish or refuse in or on any street or on any land other than a refuse disposal site.
- (2) The driver of a vehicle, upon entering a refuse disposal site, shall present or display a current pass issued by the local government, to the attendant or person in charge of the site and shall not deposit any rubbish or refuse until authorised to do so by that attendant or person in charge.
- (3) A person shall not deposit rubbish or refuse in or on a refuse disposal site except—
  - (a) at such place on the site as may be directed by the person in charge of the site; or
  - (b) if the person in charge is not in attendance at the site, as may be directed by a notice erected on the site.

#### **4.2.11 Removal from Refuse Disposal Site**

- (1) A person shall not remove any rubbish or refuse from a refuse disposal site without the written approval of the local government.
- (2) A person who obtains approval from the local government shall comply with any conditions imposed by the local government and set out in the approval.

#### **4.2.12 Removal of Rubbish from Premises or Receptacle**

- (1) A person shall not remove any rubbish or refuse from premises unless that person is—
  - (a) the owner or occupier of the premises;
  - (b) authorised to do so by the owner or occupier of the premises; or
  - (c) authorised in writing to do so by the local government.
- (2) A person shall not, without the approval of the local government or the owner of a receptacle, remove any rubbish or refuse from the receptacle or other container provided for the use of the general public in a public place.
- (3) Where the local government provides—
  - (a) a collection service for recyclable material, the occupier of premises shall comply with and observe the directions given by the local government in relation to that collection;
  - (b) a collection for bulk material, the occupier of premises shall comply with and observe the directions given by the local government in relation to that collection.
- (4) Where additional collection services are provided upon request by the occupier of premises, fees as prescribed by the local government shall be paid.

#### **4.2.13 Burning Rubbish or Refuse**

- (1) A person shall not—
  - (a) without the approval of the local government; and
  - (b) except in accordance with the terms and conditions to which the approval is subject, set fire to, or cause to be set on fire, any rubbish or refuse either—
    - (i) in any incinerator; or
    - (ii) on the ground.
- (2) Subject to subsection (3), an approval of the local government is issued subject to the following conditions—
  - (a) the material to be burnt—
    - (i) does not include any plastic, rubber, food scraps, green garden cuttings and other material which may become offensive when burnt; and
    - (ii) is of such quantity, or of such a nature, as to be unsuitable for removal by the local government's refuse collection service;
  - (b) there is no other appropriate means of disposal;
  - (c) burning shall not take place—
    - (i) during any period for which an air dispersion alert has been issued by the Bureau of Meteorology; or
    - (ii) where there is no current dispersion alert, outside the hours of 10.00am to 6.00pm;
  - (d) an incinerator must meet the standards specified by the local government; and
  - (e) an incinerator unit used for fire must be located—
    - (i) at least 3 metres from a fence, building or inflammable matter; and
    - (ii) in such a position so as not to create a nuisance or be offensive to other persons.

(3) Subject to the local fire rules, the local government may grant approval to clear by burning fire breaks or vacant blocks of grass, straw, hay, undergrowth, herbage and other similar vegetation.

#### **4.2.14 Rubbish Removal Vehicles**

A vehicle used by the local government or its contractor for the collection and transport of rubbish shall—

- (a) be provided with a compartment in which all rubbish shall be deposited for removal, and of which the interior is constructed from or surfaced with impermeable material; and
- (b) have a cover over the compartment at all times when the vehicle is engaged in the transport of rubbish.

#### **4.2.15 Method of Removal of Rubbish**

A person engaged in the removal of rubbish from premises shall—

- (a) convey all rubbish from the receptacles of the occupier of the premises and deposit the rubbish in the portion of the collection vehicle intended to hold the rubbish; and
- (b) replace the receptacle in the position it was lifted from.

#### **4.2.16 Rubbish Disposal—Prescribed Area**

The whole of the district is the prescribed area within which the provision of Section 112A of the Act shall operate and have effect.

### *Division 3—Transport of Butchers' Waste*

#### **4.3.1 Interpretation**

In this Division, unless the context otherwise requires—

“**butchers' waste**” includes animal skeletons, rib cages from a boning room and the inedible products of an abattoir.

#### **4.3.2 Restriction of Vehicles**

A person shall not use, for the transport of butchers' waste—

- (a) a vehicle or container not approved by the local government; or
- (b) a vehicle used for the transport of food or drugs; or
- (c) anything intended to be used for the packing or handling of food or drugs.

#### **4.3.3 Transport of Butchers' Waste**

(1) A person shall not transport butchers' waste other than in—

(a) a compartment complying with the following specifications—

- (i) all internal surfaces to be constructed of an approved, smooth, impervious material not less than 910 millimetres high;
- (ii) all joints to be sealed and made watertight;
- (iii) the loading doors, if any, to be water-tight and kept closed at all times except when loading;

and

- (iv) the top to be completely covered by a tarpaulin or other impervious material approved by the local government, carried over, and secured to the outside of the walls at least 300 millimetres from the top so as to keep the load out of sight of the public; or

(b) a sealed container fitted with a lid, which can be tightly closed.

- (2) A person shall not transport any butchers' waste in a vehicle unless the vehicle and its fittings, including the compartment or container referred to in this Section, are—
- (a) maintained in good order and condition; and
  - (b) thoroughly cleaned at the conclusion of each day's work.
- (3) A person shall not load, transport, or unload butchers' waste in a manner that is or maybe offensive due to—
- (a) the sight of animal skeletons, bones, offal or waste matter;
  - (b) the odour of putrefaction, offal or waste matter; or
  - (c) the presence of blood and particles of flesh or fat dropping onto the surface of the street pavement or ground.

## **PART 5—NUISANCES AND GENERAL**

### *Division 1—Nuisances*

#### **5.1.1 Interpretation**

In this Division, unless the context otherwise requires—

“**fertiliser**” includes manure.

#### **5.1.2 Footpaths etc. to be kept clean**

An owner or occupier of premises shall maintain any footpath, pavement, area or right of way immediately adjacent to the premises clear of rubbish, matter or things coming from or belonging to the premises.

#### **5.1.3 Escape of Smoke etc.**

(1) Subject to subsection (2), an owner or occupier shall not cause or permit the escape of smoke, dust, sand, fumes, offensive or foul odours, liquid waste or liquid refuse from the premises in such quantity or of such nature as to cause or to be a nuisance.

(2) Subsection (1) does not apply to smoke from the chimney of a private dwelling house.

#### **5.1.4 Public Vehicles to be kept clean**

The owner or person in control of a public vehicle shall—

(a) maintain the vehicle at all times—

(i) in a clean condition; and

(ii) free from vectors of disease; and

(b) whenever directed to do so by an EHO, thoroughly clean and disinfect the vehicle as directed.

#### **5.1.5 Prohibition against Spitting**

A person shall not spit—

(a) on a footpath, street or public place; or

(b) in a train, bus or other public transport.

#### **5.1.6 Transportation, Use and Storage of Offal, Blood or other Offensive Matter**

(1) A person shall not transport or store offal or blood, for the purpose of being used as manure, unless it has been sterilised by steam and properly dried.

(2) No person shall remove any offensive matter unless such offensive matter is carried in sealed containers to prevent the escape of any of the contents thereof, or the emission of any offensive odour there from.

(3) Every person using any sealed containers or vehicle for the removal of offensive matter shall keep such container or vehicle in a thoroughly clean condition and in good repair.

### 5.1.7 Use or Storage of Fertiliser

An owner or occupier of premises shall not use or keep for the purpose of use, as fertiliser any

- (a) pig manure;
- (b) human faeces; or
- (c) urine.

### 5.1.8 Storage and Dispatch of Artificial Fertiliser

An owner or occupier of premises where fertiliser is stored in bulk for sale shall—

- (a) keep all artificial fertiliser in a building—
  - (i) of which all internal surfaces are constructed of durable and non-absorbent materials, finished internally with a smooth surface;
  - (ii) that protects it from the absorption of moisture; and
  - (iii) that is adequately ventilated;
- (b) take adequate measures to prevent the emission of dust or offensive effluvia from the building; and
- (c) ensure that all artificial fertiliser despatched from the premises is handled and loaded in such a manner as to prevent any nuisance arising during transit.

### 5.1.9 Storage of Fertiliser in a House

The owner or occupier of a house where fertiliser or compost is stored or used shall—

- (a) prevent the escape of odours, dust or particles of fertiliser or compost;
- (b) treat the fertiliser or compost in such a manner as to effectively prevent it attracting or being a breeding place for flies or other vectors of disease; and
- (c) store only such amounts of fertiliser or compost—
  - (i) as can be readily used within a reasonable period; or
  - (ii) as may be directed by an EHO.

### 5.1.10 Vehicles Used for Transporting of Animals and Birds

No person having the control or management of any vehicle in which animals or birds are being or have been transported or confined shall allow such vehicle to stand within a townsite until the vehicle has been thoroughly cleaned.

## *Division 2—Keeping of Animals and Birds*

### 5.2.1 Interpretation

In this division, unless the context otherwise requires—

“**animal**” includes cats, dogs, rabbits and ferrets; and

“**bird**” includes galahs, parrots, budgerigars, finches, pigeons and doves.

### 5.2.2 Cleanliness

An owner or occupier of premises, excluding an extensive farming premises, in or on which an animal or bird is kept shall—

- (a) keep the premises free from excrement, filth, food waste and all other matter which is or likely to become offensive or injurious to health or to attract rats or other vectors of disease;
- (b) when so directed by an EHO, clean and disinfect the premises;
- (c) keep the premises, so far as possible, free from flies or other vectors of disease by spraying with a residual insecticide or other effective means; and
- (d) ensure the animal or bird kept is not causing a nuisance or is injurious, offensive or dangerous to health.

### 5.2.3 Animal Enclosures

- (1) A person shall not keep or cause or permit to be kept any animals or birds on premises, which are not effectively drained.
- (2) The owner or occupier of premises, where animals or birds are kept shall, when directed by the local government, pave, grade and drain the floors of all structures and the surface of the ground of all enclosures used for the keeping of animals or birds.

### 5.2.4 Cats

- (1) Subject to subsection (6), a person shall not, without an exemption in writing from the local government, keep more than 2 cats over the ages of 3 months on premises on any land within the district.
- (2) An owner or occupier of premises may apply in writing to the local government for exemption from the requirements of subsection (1).
- (3) The local government shall not grant an exemption under this Section unless it is satisfied that the number of cats to be kept will not be a nuisance or injurious or dangerous to health.
- (4) An exemption granted under this Section shall specify—
  - (a) the owner or occupier to whom the exemption applies;
  - (b) the premises to which the exemption applies; and
  - (c) the maximum number of cats which may be kept on the premises.
- (5) A person who is granted an exemption under subsection (3) may be required by the local government to:
  - (a) provide for each cat kept at or on the premises, a properly constructed shelter with an enclosure complying with the following—
    - (i) each shelter shall have a floor area of not less than 0.5 square metres for each cat over the age of 3 months kept or to be kept therein; and
    - (ii) the area of the enclosure appurtenant to each shelter shall be not less than 3 times the area of the shelter;
  - (b) ensure every shelter and enclosure is situated at a distance of not less than—
    - (i) 2 metres from the boundary of any lot not owned or occupied by the person by whom the cats are kept;
    - (ii) 10 metres from any dwelling, church, schoolroom, hall or premises in which food is manufactured, packed or prepared for human consumption;
  - (c) keep all shelters, enclosures, yards and grounds in which cats are kept in a clean condition and free from vectors of disease at all times and clean, disinfect or otherwise deal with them as directed by an EHO from time to time.
- (6) A person may keep more the 2 cats on premises used for veterinary purposes or as a pet shop.

### 5.2.5 Slaughter of Animals

- (1) Subject to subsection (2), a person shall not slaughter any animal within the district. (2) Subsection (1) does not apply to—
  - (a) euthanasia of animals by veterinarians or other duly authorised persons;
  - (b) slaughter of animals for the purposes of pet meat and game meat operations;
  - (c) slaughter of animals for human consumption in abattoirs approved by the local government; and
  - (d) farming or grazing property occupiers preparing meat for their own consumption.

### 5.2.6 Disposal of Dead Animals

- (1) An owner or operator of a veterinary practice where dead animals are kept for more than 12 hours, shall refrigerate the carcass prior to its removal and disposal, at an approved disposal site.
- (2) An owner or occupier of premises, other than a veterinary practice, on which there is a dead animal shall as soon as possible remove the carcass for its disposal at an approved disposal site.
- (3) An owner, or a person having the care, of any animal that dies or is killed in a public or private

place shall as soon as possible remove the carcass and arrange for its disposal at an approved disposal site.

### *Division 3—Keeping of Large Animals*

#### **5.3.1 Interpretation**

In this Division, unless the context otherwise requires—

“**approved animal**” includes a horse, cow or large animal the subject of an approval by the local government under Section 5.3.2;

“**cow**” includes an ox, calf, or bull;

“**horse**” includes an ass, mule, donkey or pony; and

“**large animal**” includes a pig, sheep, goat, deer or camel.

#### **5.3.2 Conditions for keeping of an animal**

(1) An owner or occupier of premises, within a townsite shall not keep a horse, cow or large animal on those premises without approval of the local government.

(2) An owner or occupier of premises who has an approved animal shall ensure—

(a) the premises has an area of not less than 0.2 hectares for the exclusive use of the approved animal; and

(b) the approved animal does not approach within 30 metres of a dwelling.

#### **5.3.3 Stables**

(1) The owner or occupier of premises within a townsite, who has an approved animal shall provide for its use a stable which shall—

(a) not be situated within 30 metres of a house or other premises;

(b) have a proper separate stall—

(i) for each horse or cow; and

(ii) with walls measuring not less than 3 metres, both horizontally and vertically, unless it has a sand floor provided in accordance with subsection (2);

(iii) with a floor area of not less than 11 square metres, unless it has a sand floor provided in accordance with subsection (2);

(c) have each wall and roof constructed of an approved impervious material;

(d) have a roof that covers the entire floor area of the stall;

(e) have on all sides of the building between the wall and the roof a clear opening of at least 150 millimetres in height;

(f) subject to subsection (2), have a floor, the upper surface of which shall—

(i) be at least 75 millimetres above the surface of the ground;

(ii) be constructed of cement, concrete or other similar impervious materials;

(iii) have a fall of 1 in 100 to a drain, which shall empty, into a trapped gully situated outside the stable and shall discharge in a manner approved by the local government.

(2) A stable constructed with a sand floor may be permitted by the local government, subject to the following—

- (i) the site must be well drained with the highest known water table at least 1.5 metres below the sand floor level, which may be achieved artificially;
  - (ii) a 300mm thick bed of crushed limestone shall be laid under the sand of the stable
  - (iii) sand, whether natural or imported, must be clean, coarse and free from dust;
  - (iv) footings to each stable shall be a minimum of 450mm below ground level;
  - (v) the stable design must allow for the access of small earth moving machinery, such as a skid steer loader, into each individual stall, to maintain the correct floor height;
  - (vi) the minimum floor area of each stall shall be not less than 28 square metres and walls shall not be less than 3 metres vertically or 4 metres horizontally;
  - (vii) the roofed area of each stall shall not be less than 50 percent of the floor area of the stall.
- (3) The owner or occupier of any premises on which a stable is located shall—
- (a) maintain the stable in a clean condition and when so directed by an EHO, clean, wash and disinfect it;
  - (b) keep all parts of the stable so far as possible, free from flies or other vectors of disease by spraying with a residual insecticide or other effective means; and
  - (c) when so ordered by an EHO, spray the stable or such parts as may be directed, with a residual insecticide.

#### **5.3.4 Manure Receptacle**

An owner or occupier of premises on which an approved animal is kept shall—

- (a) provide in a position convenient to the stable a receptacle for manure, which is constructed of smooth, impervious, durable, easily cleanable materials and, provided with a tight-fitting cover, and with no part of the receptacle base being lower than the surface of the adjoining ground;
- (b) keep the lid of the receptacle closed except when manure is being deposited or removed;
- (c) cause the receptacle to be emptied at least once a week and as often as may be necessary to prevent it becoming offensive or a breeding place for flies or other vectors of disease;
- (d) keep the receptacle so far as possible free from flies or other vectors of disease by spraying with a residual insecticide or other effective means; and
- (e) cause all manure produced on the premises to be collected daily and placed in the receptacle.

### *Division 4—Keeping of Poultry and Pigeons*

#### **5.4.1 Interpretation**

In this Division, unless the context otherwise requires—

“**poultry**” includes bantams, ducks and other domestic fowls;

#### **5.4.2 Limitation on Numbers of Poultry and Pigeons**

An owner or occupier of premises within a townsite shall not keep a combined total of more than 12 poultry and pigeons without the approval of the local government, on any one lot of land.



### 5.4.3 Conditions for Keeping Poultry in Limited Numbers

A person who keeps poultry or permits poultry to be kept shall ensure that—

- (a) no poultry is able to approach within 9 metres of a dwelling house, public building or premises where people are employed or where food is stored, prepared, manufactured or sold;
- (b) all poultry is kept in a properly constructed and securely fastened structure or enclosure;
- (c) the structure is in a yard having an otherwise unobstructed area of at least 30 square metres;
- (e) no poultry is able to approach within 9 metres of a street other than a right of way unless, in the case of land at the junction of two or more streets, the local government has approved a lesser distance;
- (f) no poultry is able to approach within 1.2 metres of any side or rear boundary of the premises; and
- (e) all enclosures or cages within which poultry are kept shall be maintained at all times in a clean condition and shall be disinfected or otherwise dealt with in a way as directed by an EHO.

### 5.4.4 Roosters, Geese, Turkeys, Peafowls and Gamebirds

(1) An occupier of premises within a townsite, shall not without the written approval of the local government, keep or permit to be kept on those premises, any one or more of the following fowl—

- (a) a rooster;
- (b) a goose or gander;
- (c) a turkey;
- (d) a peacock or peahen;
- (e) a gamebird (includes emus and ostriches)

(2) The local government may upon written application, grant approval with or without conditions to the owner or occupier of premises to keep any one or more birds as specified in subsection (1) of this section.

(3) A person who has been granted approval under this Section to keep a bird may keep the bird on the premises only while he is the occupier thereof.

(4) The local government may revoke an approval granted under this Section if it is of the opinion that the keeping of the birds specified in the approval is causing a nuisance or is injurious, offensive or dangerous to health.

### 5.4.5 Pigeons or Doves

A person who keeps, or permits to be kept, pigeons or doves shall ensure that—

- (a) none is able to approach within 9 metres of a dwelling, public building or premises where people are employed or where food is stored, prepared, manufactured or sold; and
- (b) except where registered homing pigeons are freed for exercise, the pigeons or doves are kept in a properly constructed pigeon loft or dove cote that—
  - (i) is in a yard having an otherwise unobstructed area of at least 30 square metres; and
  - (ii) does not allow them to approach within 1.2 metres of any side or rear boundary of the premises; and
- (ii) is maintained in such a manner so as not to create a nuisance by the emission of dust, effluvia or odours.

**5.4.6 Removal of Non-Conforming Structure or Enclosure**

(1) If a structure or enclosure is used for the keeping of poultry or pigeons or doves contrary to the provision of Section 5.4.3 and 5.4.5, the local government may direct the owner or occupier to remove it.

(2) An owner or occupier shall comply with a direction from the local government under this Section.

**5.4.7 Restrictions on Pigeon Nesting or Perching**

(1) The local government may order an owner or occupier of a house in or on which pigeons which are, or are in the habit of, nesting or perching to take adequate steps to prevent them continuing to do so.

(2) An owner or occupier shall comply with the local government order under this Section.

*Division 5—Feedlots*

**5.5.1 Interpretation**

For the purpose of this division—

“**feedlot**” means a confined area with watering and feeding facilities where animals or birds are held and fed for the purpose of weight gain;

“**animal**” includes sheep, lambs, goats, deer, cattle and buffalo;

“**birds**” includes roosters, hens, geese, turkeys, ducks, poultry, emus and ostriches.

**5.5.2 Premises to be approved**

(1) No premises shall be used as a feedlot unless approved by the local government;

(2) Subject to subsection (3), no premises shall be approved as a feedlot by the local government unless every portion of such feedlot complies with the minimum separation distances listed in Table 1; and

(3) Sites unable to satisfy the separation requirements may be approved at the discretion of the local government, if the local government is satisfied that approving the feedlot will not give rise to a health nuisance.

**Table 1. Required Buffer Distances for Feedlots**

Buffer	
Townsite boundaries .....	5 000m Isolated rural dwellings, dairies and industries ....
Public roads and recreation areas .....	1 000m
rural property boundaries .....	100m Neighbouring
Major water course and water impoundments .....	50m
soaks used for drinking, stock or irrigation .....	300m Bores, wells or
Minor water courses .....	300m
	100m

**5.5.3 Site Conditions**

(1) The owner or occupier of the approved feedlot shall ensure the premises—

(a) is sited on gently sloping land, no greater than 1:20 but not less than 1:100;

(b) is sited on soils composed of sandy loam soils with sufficient infiltration to avoid surface ponding and run-off;

(c) has a minimum groundwater clearance of 3 metres;

(d) drainage diverts all uncontaminated stormwater from the general waste stream;

(e) has solid and liquid waste disposal arrangements that are not offensive or injurious to health.

- (2) The owner or occupier of the approved feedlot shall take effective measures to prevent the discharge of dust, which may involve—
- (a) reducing the stocking rate immediately to a level that does not cause the discharge of dust; or
  - (b) stabilisation of the soil surface to a level that does not cause the discharge of dust; or
  - (c) provision of adequate windbreaks to effectively prevent the discharge of dust.

*Division 6—Piggeries*

**5.6.1 Interpretation**

For the purpose of this division—

“**intensive piggery**” means pigs are housed, fed and watered in breeding and growing pens in sheds;

“**piggery**” in relation to premises shall include any portion of premises to which the pigs have access.

**5.6.2 Premises to be Approved**

- (1) No premises shall be used as a piggery unless approved by the local government;
- (2) Subject to subsection (3), no premises shall be approved as a piggery by the local government unless every portion of such piggery complies with the minimum separation distances listed in Table 2; or if it is an intensive piggery, the minimum separation distances listed in Table 3; and
- (3) Sites unable to satisfy the separation requirements may be approved at the discretion of the local government, if the local government is satisfied that approving the piggery will not give rise to a health nuisance.

**Table 2.** Required Buffer Distances for Piggeries

Buffer	
Townsite boundaries .....	5 000m Isolated
rural dwellings, dairies and industries .....	1 000m Public roads
and recreation areas .....	100m Neighbouring
rural property boundaries .....	50m Major
water course and water impoundments .....	300m Bores, wells
or soaks used for drinking, stock or irrigation .....	300m
Minor water courses .....	100m

**5.6.3 Site Conditions**

The owner or occupier of premises shall take effective measures to prevent the discharge of dust, which may involve—

- (a) reducing the stocking rate immediately to a level that does not cause the discharge of dust; or
- (b) stabilisation of the soil surface to a level that does not cause the discharge of dust; or
- (c) provision of adequate windbreaks to effectively prevent the discharge of dust.

### 5.6.4 Prevention of Nuisances

In order to prevent dust, offensive fumes and effluent becoming a nuisance to the health of the inhabitants of the district, an intensive piggery shall comply with the minimum separation distances listed in Table 3.

**Table 3.** Required Buffer Distances for Intensive Piggeries

*Table 3*  
**Required Buffer Distances for Intensive Piggeries**

	Townsite boundaries	Isolated rural dwellings, dairies, industries	Public roads, recreation areas	Neighbouring rural property boundaries	Surface water supply catchments	Water courses/ rural water impoundments	Bores/wells Soaks rinking water supply	Stock Irrigation Supply
Piggeries and facilities catering for more than 5000 pigs	5000m	300m	200m	50m	Not permitted	300m	300m	100m
500—5000 pigs	3500m	300m	150m	50m	Not permitted	300m	300m	100m
50—499 pigs	2000m	300m	100m	50m	Not permitted	300m	300m	100m
Less than 50 pigs	500m	300m	50m	50m	Not permitted	200m	300m	100m
Land used to dispose of raw or partly treated wastes	1000m	300m	100m	300m	Not permitted	300m	300m	300m
Land used to dispose of effectively treated wastes	200m	50m	20m	20m	Not permitted	100m	100m	100m

## PART 6—PEST CONTROL

### *Division 1—Flies*

#### 6.1.1 Interpretation

In this Division, unless the context otherwise requires—

“**flies**” means any of the two-winged insects constituting the order Diptera commonly known as flies.

#### 6.1.2 Fly breeding matter not to be left on Premises unless Covered or Treated

An owner or occupier of premises shall not place, throw or leave, or permit or cause to be placed, thrown or left, in, on or about the premises any matter or thing which is liable to attract or be a breeding place for flies, unless that matter or thing is covered, protected, treated or dealt with in such a manner as to effectively prevent it from attracting or being a breeding place for flies.

### 6.1.3 Measures to be taken by an Occupier

An owner or occupier of premises shall ensure that—

- (a) rubbish receptacles are kept clean and tightly sealed at all times except when refuse is being deposited or emptied;
- (b) food scraps and uneaten pet food are wrapped tightly and deposited in a rubbish receptacle without delay;
- (c) lawn clippings used on gardens as mulch are raked out thinly;
- (d) fertilisers are dug well into the soil;
- (e) compost heaps are kept well covered;
- (f) barbecues are kept clean and free from food scraps;
- (g) anything that is buried and may attract or be a breeding place for flies is covered with at least 100 millimetres of soil; and
- (h) excrement from pets is collected and properly disposed of without delay.

### 6.1.4 Officer may give Notice directing Measures to be Taken

Where in the opinion of an EHO, flies are prevalent or are breeding on any premises, the EHO may give to the owner or occupier of the premises notice in writing directing him or her to take, within the time specified in the notice, such measures as in the opinion of the EHO are necessary to—

- (a) control the prevalence;
- (b) effect the eradication; or
- (c) effectively prevent the breeding;

of flies.

### 6.1.5 Local government may Execute Work and Recover Costs

(1) Where—

- (a) a person is required under this Division or directed by a notice given under section 6.1.4, to execute any work; and
- (b) that person fails or neglects to comply with the requirement, the local government may execute the work and may recover from that person the cost of executing the work, in addition to any penalty for which that person may be liable under this local law.

(2) The costs and expenses incurred by the local government in the execution of a power under subsection (1) may be recovered in a court of competent jurisdiction from the person referred to in subsection (1).

(3) The local government is not liable to pay compensation or damages of any kind to the person referred to in subsection (1) in relation to any action taken by the local government under this section, other than compensation or damages for loss or damage suffered because the local government acted negligently or in breach of duty.

## *Division 2—Mosquitoes*

### 6.2.1 Interpretation

In this Division, unless the context otherwise requires—

“**mosquitoes**” means any of the two-winged insects constituting the family Diptera Culicidae commonly known as mosquitoes.

### 6.2.2 Measures to be taken to prevent mosquitoes breeding

(1) An owner or occupier of premises shall ensure that the premises are kept free from possible mosquito breeding sites and shall—

- (a) follow any direction of an EHO for the purpose of—
  - (i) controlling the prevalence of mosquitoes;

- (ii) eradication; or
- (iii) effectively preventing the breeding of mosquitoes.
- (b) assist the EHO to locate any possible mosquito breeding sites that may be present in, or about the premises.
- (2) An owner or occupier of premises where water is kept in a horse trough, poultry drinking vessel or other receptacle shall—
  - (a) frequently change the water; and
  - (b) keep the water clean and free from vegetable matter and slime.
- (3) An owner or occupier of premises where a septic tank is installed shall ensure the fixture is in sound condition at all times, and mesh having openings no larger than 1.2mm covers any educt vent to the system.
- (4) An owner or occupier of land shall cause all drains and channels in or on the land to be kept in good order and free from obstruction.

### **6.2.3 Local government may Execute and Recover Costs**

- (1) Where—
  - (a) a person is required under this division or directed by a notice given under Section 6.2.2. to execute any work; and
  - (b) that person fails or neglects to comply with the requirement,
 the local government may execute the work and recover from that person the cost of executing the work, in addition to any penalty for which that person may be liable.
- (2) The costs and expenses incurred by the local government in the execution of a power under Section (1) may be recovered in a court of competent jurisdiction from that person.
- (3) The local government is not liable to pay compensation or damages of any kind to the person referred to in subsection (1) in relation to any action taken by the local government under this section, other than compensation or damages for loss or damage suffered because the local government acted negligently or in breach of duty.

## *Division 3—Rodents*

### **6.3.1 Interpretation**

In this Division, unless the context otherwise requires—

“**rodents**” means those animals belonging to the order Rodentia and includes rats, mice and rabbits but does not include animals (other than rats) kept as pets in an enclosure designed for the purpose of keeping as pets animals of that kind.

### **6.3.2 Measures to be taken to eradicate Rodents**

- (1) An owner or occupier of premises shall at all times take effective measures to eradicate any rodents in or on the premises.
- (2) An EHO may direct, orally or in writing, an owner or occupier of premises to take whatever action, in the opinion of the EHO, is necessary or desirable to prevent or deter the presence of rodents in or on the premises.
- (3) An owner or occupier shall within the time specified comply with any direction given by an EHO under this Section.

### **6.3.3 Food and Wastes to be kept in rodent proof Receptacles**

A person must not store, or allow to be stored, on any premises, any food, refuse or other waste matter unless it is contained in a rodent proof receptacle or compartment.

### **6.3.4 Restrictions on the Sale or Keeping of Rats**

- (1) Subject to subsection (2) an owner or occupier of premises shall not, on or from those premises
- (a) keep or permit to be kept a rat; or
  - (b) sell or offer for sale or permit to be sold or offered for sale a rat.
- (2) Subsection (1) shall not prevent the keeping of rats for the purpose of scientific or medical research on premises owned or occupied by—
- (a) a university or school;
  - (b) a person approved by the local government; or
  - (c) a public hospital or a private hospital within the meaning of those expressions in the *Hospitals and Health Services Act 1927*.
- (3) A person or body specified in subsection (2), which keeps rats, shall—
- (a) at all times ensure that all live rats are kept in the effective control of a person or in locked cages; and
  - (b) if a rat escapes, forthwith comply with the requirements of Section 6.3.2 and ensure that all reasonable steps are taken to destroy or recapture the rat.

### **6.3.5 Food Premises etc. to be cleaned after Use**

An owner or occupier of a food premises, theatre or place of entertainment, whether indoor or outdoor, shall cause the premises to be cleaned immediately after the last occasion on which the premises has been used on that day or, if the use extends after midnight, then immediately after that use.

### **6.3.6 Restrictions on materials affording harbourage for Rodents**

- (1) An owner or occupier of premises shall cause—
- (a) any part of the premise; or
  - (b) any material, sewer, pipe or other thing in or on the premises,
- that might afford access or harbourage to rodents to be altered, repaired, protected, removed or otherwise dealt with so as to prevent it being used as access for, or harbourage of, rodents.
- (2) An EHO may direct, orally or in writing, an owner or occupier of premises to take whatever action that, in the opinion of the EHO, is necessary or desirable to prevent or deter the presence of rodents in or on the premises.
- (3) An owner or occupier shall within the time specified comply with any direction given by an EHO under this Section.

## *Division 4 —Cockroaches*

### **6.4.1 Interpretation**

In this Division, unless the context otherwise requires—

“**cockroach**” means any of the various orthopterous insects commonly known as cockroaches.

### **6.4.2 Measures to be taken to eradicate Cockroaches**

- (1) An owner or occupier of premises shall take effective measures to eradicate any cockroaches in or on the premises.
- (2) An EHO may direct, orally or in writing, an owner or occupier of premises to take whatever action that, in the opinion of the EHO, is necessary or desirable to prevent or deter the presence of cockroaches in or on the premises.
- (3) An owner or occupier shall within the time specified comply with any direction given by an EHO under this Section.

*Division 5—Argentine Ants*

**6.5.1 Interpretation**

In this Division, unless the context otherwise requires—

“**Argentine Ant**” means an ant belonging to the species *Irdomyrmex humilis*.

**6.5.2 Measures to be taken to keep premises free from Argentine Ants**

An owner or occupier of premises shall ensure that the premises are kept free from Argentine Ant colonies and shall—

- (a) take all steps to locate any nests, if Argentine Ants are noticed in, on or about the premises;
- (b) properly treat all nests of Argentine Ants with an approved residual based insecticide; and
- (c) whenever required by an EHO—
  - (i) treat any area or infestation with an insecticide referred to in paragraph (b); and
  - (ii) remove any objects, including timber, firewood, compost or pot plants in accordance with a direction from the EHO.

*Division 6—European Wasps*

**6.6.1 Interpretation**

In this Division, unless the context otherwise requires—

“**European Wasp**” means a wasp *Vespula germanica*.

**6.6.2 Measures to be taken to keep premises free from European Wasp Nests**

An owner or occupier of premises shall ensure that the premises are kept free from European Wasp nests and shall—

- (a) follow any direction of an EHO for the purpose of destroying the wasps and their nest; and
- (b) assist an EHO to trace any nest that may be present in, on or about the premises.

*Division 7—Bee keeping*

**6.7.1 Interpretation**

In this Division, unless the context otherwise requires—

“**bees**” means an insect belonging to any of the various hymenopterous insects of the super family Apoidea and commonly known as a bee.

**6.7.2 Restrictions on keeping of Bees in Hives**

- (1) A person shall not keep or permit the keeping of bees anywhere within the district unless approval to do so has been given by the local government.
- (2) If, in the opinion of an EHO, the approved beehives are causing a nuisance, the local government may direct any bees or approved beehives to be removed.
- (3) A person shall comply with a direction within the time specified.



## Division 8—Arthropod Vectors of Disease

### 6.8.1 Interpretation

In this Division, unless the context otherwise requires—

“**Arthropod vectors of disease**” includes—

- (a) fleas (*Siphonaptera*);
- (b) bedbugs (*Cimex lectularius*); (c) crab lice (*Phthirus pubis*);
- (d) body lice (*Pediculus humanus var. corporis*); and
- (e) head lice (*Pediculus humanus var. capitis*).

### 6.8.2 Responsibility of the Owner or Occupier

The owner or occupier of premises shall—

- (a) keep the premises and any person residing in or on the premises, free from any arthropod vectors of disease; and
- (b) comply with the direction of an EHO to treat the premises, or anything on the premises, for the purpose of destroying any arthropod vectors of disease.

## PART 7—INFECTIOUS DISEASES

### Division 1—General Provisions

#### 7.1.1 Requirements for an owner or occupier to clean, disinfect and disinfest

(1) The local government or an EHO may, by notice in writing, direct an owner or occupier of premises, within the time and in the manner specified in the notice, to clean, disinfect and disinfest—

- (a) the premises; or
- (b) such things in or on the premises as are specified in the notice, or both, to the satisfaction of an EHO.

(2) An owner or occupier shall comply with a notice given under subsection (1).

#### 7.1.2 EHO may disinfect or disinfest premises

(1) Where the local government or the Medical Officer is satisfied that any case of infectious disease has occurred on any premises, the local government or the Medical Officer may direct an EHO, other local government officer or other person to disinfect and disinfest the premises or any part of the premises and anything in or on the premises.

(2) An owner or occupier of premises shall permit, and provide access to enable, an EHO, other local government officer or other person to carry out the direction given under subsection (1).

(3) The local government may recover, in a court of competent jurisdiction, the cost of carrying out the work under this Section from the owner or occupier of the premises in or on which the work was carried out.

(4) The local government is not liable to pay compensation or damages of any kind to the person referred to in subsection (1) in relation to any action taken by the local government under this section, other than compensation or damages for loss or damage suffered because the local government acted negligently or in breach of duty.

#### 7.1.3 Insanitary houses, premises and things

(1) An owner or occupier of any house or premises shall maintain the house or premises free from any insanitary condition or thing.

(2) Where an EHO considers that a house is insanitary, the officer may, by notice in writing, direct an owner of the house, within the time and in the manner specified in the notice, to amend the house.

(3) Where an EHO considers that—

- (a) a house or premises is not being maintained in a sanitary condition; or
  - (b) any thing is insanitary,
- the officer may, by notice in writing, direct, as the case may be—
- (i) the owner or occupier of the house or premises to amend any insanitary condition; or
  - (ii) the owner or occupier of the thing to destroy or amend it, within the time and in the manner specified in the notice.
- (4) A person to whom a notice has been given under subsections (2) or (3) shall comply with the terms of the notice.

#### **7.1.4 Medical Officer may authorise disinfecting**

- (1) Where the Medical Officer believes that a person is or may be infected by an infectious disease, the Officer may direct the person to have his or her body, clothing and effects disinfected at a place and in a manner directed by the Medical Officer.
- (2) A person shall comply with any direction of the Medical Officer under this Section.

#### **7.1.5 Persons in contact with an infectious disease sufferer**

- If a person in any house is, or is suspected of, suffering from an infectious disease, any occupant of the house or any person who enters or leaves the house—
- (a) shall obey such instructions or directions as the local government or the Medical Officer may issue;
  - (b) may be removed, at the direction of the local government or the Medical Officer to isolation in an appropriate place to prevent or minimise the risk of the infection spreading and if so removed, shall remain in that place until the Medical Officer otherwise directs.

#### **7.1.6 Declaration of infected house or premises**

- (1) To prevent or check the spread of infectious disease, the local government or the Medical Officer may from time to time declare any house or premises to be infected.
- (2) A person shall not enter or leave any house or premises declared to be infected without the written consent of the Medical Officer or an EHO.

#### **7.1.7 Destruction of infected animals**

- (1) The EHO, upon being satisfied that an animal is or may be infected or is liable to be infected or to convey infection may, by notice in writing, direct that the animal be examined by a registered veterinary officer and that all steps be taken to enable the condition to be controlled or eradicated or the animal destroyed and disposed of—
- (a) in the manner and within the time specified in the notice; and
  - (b) by the person in whose possession, or upon whose premises, the animal is located.
- (2) A person who has in his or her possession or upon premises occupied by him or her, an animal that is the subject of a notice under subsection (1) shall comply with the terms of the notice.

#### **7.1.8 Disposal of a body**

- (1) An occupier of premises in or on which is located the body of a person who has died of any infectious disease shall, subject to subsection (2), cause the body to be buried or disposed of in such manner, within such time and with such precautions as may be directed by the Medical Officer.
- (2) A body shall not be removed from premises where death occurred except to a morgue.

#### **7.1.9 Local government may carry out work and recover costs**

- (1) Where—
- (a) a person is required under this Division or by a notice given under this Division, to carry out any work; and
  - (b) that person fails or neglects to comply with the requirement,

that person commits an offence and the local government may carry out the work or arrange for the work to be carried out by another.

(2) The costs and expenses incurred by the local government in the execution of a power under this Section may be recovered in a court of competent jurisdiction from the person referred to in subsection (1)(a).

(3) The local government is not liable to pay compensation or damages of any kind to the person referred to in subsection (1) in relation to any action taken by the local government under this section, other than compensation or damages for loss or damage suffered because the local government acted negligently or in breach of duty.

### *Division 2—Disposal of used Condoms and Needles*

#### **7.2.1 Disposal of used condoms**

(1) An occupier of premises on or from which used condoms are produced shall ensure that the condoms are—

- (a) placed in a sealed impervious container and disposed of in a sanitary manner; or
- (b) disposed of in such a manner as may be directed by the local government.

(2) A person shall not dispose of a used condom in a public place except in accordance with subsection (1).

#### **7.2.2 Disposal of used needles**

A person shall not dispose of a used hypodermic syringe or needle in a public place unless it is placed in an impenetrable, leak-proof container and deposited in a refuse receptacle.

## **PART 8—LODGING HOUSES**

### *Division 1—Registration*

#### **8.1.1 Interpretation**

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

“**bed**” means a single sleeping berth only. A double bed provided for the use of couples, shall have the same floor space requirements as two single beds;

“**bunk**” means a sleeping berth comprising one of two arranged vertically;

“**dormitory**” means a building or room utilised for sleeping purposes at a short term hostel or recreational campsite;

“**Food Standards Code**” means the Australian New Zealand Food Standards Code as defined in the Commonwealth *Food Standards Australia New Zealand Act 1991*;

“**keeper**” means a person whose name appears on the register of keepers, in respect of a lodging house, as the keeper of that lodging house;

“**lodger**” means a person who obtains, for hire or reward, board or lodging in a lodging house;

“**lodging house**” includes a recreational campsite, a serviced apartment and a short-term hostel.

“**manager**” means a person duly appointed by the keeper in accordance with this Division to reside in, and have the care and management of, a lodging house;

“**recreational campsite**” means a lodging-house—

(a) situated on a campsite principally used for —

- (i) recreational, sporting, religious, ethnic or educational pursuits; or
- (ii) conferences or conventions.

and

(b) where the period of occupancy of any lodger is not more than 14 consecutive days; and includes youth camps, youth education camps, church camps and riding schools;

“**register of lodgers**” means the register kept in accordance with Section 157 of the Act and

this Part;

“**resident**” means a person, other than a lodger, who resides in a lodging house;

“**serviced apartment**” means a lodging house in which each sleeping apartment, or group of sleeping apartments in common occupancy, is provided with its own sanitary conveniences and may have its own cooking facilities;

“**short term hostel**” means a lodging house where the period of occupancy of any lodger is not more than 14 consecutive days and shall include youth hostels and backpacker hostels; and

“**vector of disease**” means an arthropod or rodent that transmits, by biological or mechanical means, an infectious agent from a source or reservoir to a person, and includes fleas, bedbugs, crab lice, body lice and head lice.

(2) Where in this Part an act is required to be done or forbidden to be done in relation to any lodging house, the keeper of the lodging house has, unless the contrary intention appears, the duty of causing to be done the act so required to be done, or of preventing from being done the act so forbidden to be done, as the case may be.

### 8.1.2 Lodging House Not to be Kept Unless Registered

A person shall not keep or cause, suffer or permit to be kept a lodging house unless—

- (a) the lodging house is constructed in accordance with the requirements of this Part;
- (b) the lodging house is registered by the local government under Section 8.1.4;
- (c) the name of the person keeping or proposing to keep the lodging house is entered in the register of keepers; and
- (d) either—
  - (i) the keeper; or
  - (ii) a manager who, with the written approval of an EHO, has been appointed by the keeper to have the care and management of the lodging house; resides or intends to reside continuously in the lodging house whenever there is one or more lodgers in the lodging house.

### 8.1.3 Application for Registration

An application for registration of a lodging house shall be—

- (a) in the form prescribed in Schedule 1;
- (b) duly completed and signed by the proposed keeper; and
- (c) accompanied by—
  - (i) the fee as fixed from time to time by the local government under Section 344C of the Act; and
  - (ii) detailed plans and specification of the lodging house.

#### **8.1.4 Approval of Application**

The local government may approve, with or without conditions, an application under Section 8.1.3 by issuing to the applicant a certificate in the form prescribed in Schedule 2.

#### **8.1.5 Renewal of Registration**

A person who keeps a lodging house, which is registered under this Part, shall—

- (a) during the month of June in each year apply to the local government for the renewal of the registration of the lodging house; and
- (b) pay the fee as fixed from time to time by the local government under Section 344C of the Act at the time of making each application for renewal.

#### **8.1.6 Notification upon Sale or Transfer**

If the owner of a lodging house sells or transfers or agrees to sell or transfer the lodging house to another person, he or she shall, within 14 days of the date of sale, transfer or agreement, give to the local government written notice in the form prescribed in Schedule 3 of the full name, address and occupation of the person to whom the lodging house has been, or is to be sold or transferred.

#### **8.1.7 Revocation of Registration**

(1) Subject to subsection (3), the local government may, at any time, revoke the registration of a lodging house for any reason, which, in the opinion of the local government, justifies the revocation.

(2) Without limiting the generality of subsection (1), the local government may revoke a registration upon any one or more of the following grounds—

- (a) that the lodging house has not, to the satisfaction of the local government, been kept free from vectors of disease or in a clean, wholesome and sanitary condition;
- (b) that the keeper has—
  - (i) been convicted of an offence against this local law in respect of the lodging house;
  - (ii) not complied with a requirement of this Part; or
  - (iii) not complied with a condition of registration;
- (c) that the local government, having regard to a report from the Police Service, is satisfied that the keeper or manager is not a fit and proper person; and
- (d) that, by reason of alterations or additions or neglect to repair and renovate, the condition of the lodging house is such as to render it, in the opinion of an EHO, unfit to remain registered;

(3) Before revoking the registration of a lodging house under this section, the local government shall give notice to the keeper requiring him or her, within a time specified in the notice, to show cause why the registration should not be revoked.

(4) Whenever the local government revokes the registration of a lodging house, it shall give the keeper notice of the revocation and the registration shall be revoked as from the date on which the notice is served on the keeper.

### *Division 2—Construction and Use Requirements*

#### **8.2.1 General Construction Requirements**

The general construction requirements of a lodging house shall comply with the Building Code and the Act.

### 8.2.2 Kitchen

A keeper of a lodging house shall provide in that lodging house a kitchen which—

- (a) has adequate—
  - (i) food storage facilities and cupboards to prevent contamination of food, or cooking or eating utensils, by dirt, dust, flies or other vectors of disease of any kind; and
  - (ii) refrigerator space for storage of perishable goods;
- (b) may be required by the local government to comply with any of the requirements of Standard 3.2.3 of the Food Standards Code.

### 8.2.3 Dining Room

The keeper of a lodging house shall provide in that lodging house a dining room—

- (a) located in close proximity to, or combined with, the kitchen;
- (b) the floor area of which shall be 0.5 square metres per person or not less than 10 square metres whichever is the greater; and
- (c) which shall be—
  - (i) adequately furnished to accommodate, at any one time, half of the number of lodgers; and
  - (ii) provided with a suitable floor covering.

### 8.2.4 Lounge Room

The keeper of a lodging house shall provide in that lodging house a lounge room—

- (a) with a floor area of—
  - (i) where the lounge is not combined with the dining room - not less than 0.6 square metres per person; or
  - (ii) where the lounge room is combined with a dining room - not less than 1.2 square metres per person, but in either case having a minimum of 13 square metres; and
- (b) which shall be—
  - (i) adequately furnished to accommodate, at any one time, half of the number of lodgers; and
  - (ii) provided with a suitable floor covering.

### 8.2.5 Sanitary Conveniences

(1) A keeper shall maintain in good working order and condition and in convenient positions on the premises—

- (a) toilets; and
- (b) bathrooms, each fitted with a shower, bath and wash basin, in accordance with the requirements of the Building Code.

(2) A bathroom or toilet, which is used as a private bathroom or toilet to the exclusion of other lodgers or residents, shall not be counted for the purposes of subsection (1).

(3) Each bath, shower and hand wash basin shall be provided with an adequate supply of hot and cold water.

(4) The walls of each shower and bath shall be of an impervious material to a minimum height of 1.8 metres above the floor level.

(5) Each toilet and bathroom shall—

- (a) be situated, separated and screened as to ensure privacy;
- (b) be apportioned to each sex;
- (c) have a distinct sign displayed in a prominent position denoting the sex for which the toilet or bathroom is provided; and
- (d) be provided with adequate electric lighting.

(6) Paragraphs (b) and (c) of subsection (5) do not apply to a serviced apartment.

### 8.2.6 Laundry

- (1) A keeper shall—
- (a) subject to subsection (2) —
    - (i) in the case of a recreational campsite, provide on the premises a laundry consisting of at least one 45 litre stainless steel trough; and
    - (ii) in any other case, provide on the premises a laundry unit for each 15 lodgers;
  - (b) at all times maintain each laundry in a proper sanitary condition and in good repair;
  - (c) provide an adequate supply of hot and cold water to each wash trough, sink and washing machine; and
  - (d) ensure that the floor area of each laundry is properly surfaced with an even fall to a floor waste.
- (2) An EHO may approve the provision of a reduced number of laundry units if suitable equipment of a commercial type is installed.
- (3) In this section —
- “laundry unit”** means a group of facilities consisting of —
- (a) a washing machine with a capacity of not less than 4 kilograms of dry clothing;
  - (b) one wash trough of not less than 36 litres capacity, connected to both hot and cold water; and
  - (c) either an electric drying cabinet or not less than 30 metres of clothes line, and for which a hot water system is provided that —
  - (d) is capable of delivering 136 litres of water per hour at a temperature of at least 75°C for each washing machine provided with the communal facilities; and
  - (e) has a delivery rate of not less than 18 litres per minute to each washing machine.

### 8.2.7 Fire Prevention and Control

- (1) A keeper shall—
- (a) in each passage of the lodging house provide an emergency light—
    - (i) in such a position and of such a pattern, as shall be approved by an EHO; and
    - (ii) which shall be kept separate from the general lighting system and kept illuminated during the hours of darkness;
  - (b) provide an approved fire blanket positioned within 2 metres of the cooking area in each kitchen;
  - (c) ensure that each exit sign and fire-fighting appliance is clearly visible, accessible and maintained in good working order at all times;
  - (d) ensure all fire fighting equipment and fire detection and alarm systems are adequately maintained at all times in such a condition as will enable their proper performance.
- (2) A keeper shall ensure that all buildings comprising the lodging house are fitted with fire protection equipment as required by the Building Code.

### 8.2.8 Obstruction of Passages and Stairways

A keeper shall not cause, suffer or permit furniture, fittings or other things to be placed either temporarily or permanently in or on—

- (a) a stairway, stair landing, fire-escape, window or common passageway; or
  - (b) part of the lodging house in common use or intended or adapted for common use,
- in such a manner as to form an obstruction to the free passage of lodgers, residents or persons in or occupying the lodging house.

### 8.2.9 Fitting of Locks

A person shall not fit, or cause or permit to be fitted, to an exit door a lock or other device which prevents the door being opened from within a lodging house.

### 8.2.10 Restriction on use of Rooms for Sleeping

- (1) Subject to subsection (3) and Section 8.3.10, a keeper shall not use or permit to be used as a sleeping apartment a room in a lodging house—
- (a) which contains food;
  - (b) which contains or is fitted with a cooking appliance or kitchen sink;
  - (c) which is used as a kitchen, scullery, store room, dining room, general sitting room, lounge room or for the preparation or storage of food;
  - (d) which is not reasonably accessible without passing through a sleeping or other room in the private occupation of another person;
  - (e) which, except in the case of a short term hostel or a recreational campsite, contains less than 5.5 square metres of clear space for each lodger occupying the room;
  - (f) which is naturally illuminated by windows having a ratio of less than 0.1 square metre of unobstructed glass to every 1.0 square metre of floor area;
  - (g) which is ventilated at a ratio of less than 0.5 square metre of unobstructed ventilating area to every 10 square metres of floor area;
  - (h) in which the lighting or ventilation referred to in paragraphs (f) and (g) is obstructed or is not in good and efficient order;
  - (i) which is not free from internal dampness;
  - (j) of which any part of the floor is below the level of the adjoining ground; or
  - (k) the floor of which is not fitted with an approved carpet or vinyl floor covering or other floor treatment approved by an EHO.
- (2) For the purpose of this Section, two children under the age of 10 years shall be counted as one lodger.
- (3) Paragraphs (a), (b) and (c) of subsection (1) shall not apply to a serviced apartment.

### 8.2.11 Sleeping Accommodation, Short Term Hostels and Recreational Campsites

- (1) A keeper of a short term hostel or recreational campsite shall provide clear floor space of not less than—
- (a) 4 square metres per person in each dormitory utilising beds;
  - (b) 2.5 square metres per person in dormitories utilising bunks.
- (2) The calculation of floor space in subsection (1) shall exclude the area occupied by any large items of furniture, such as wardrobes, but may include the area occupied by beds.
- (3) The minimum height of any ceiling in a short term hostel or recreational campsite shall be 2.4 metres in any dormitory utilising beds, and 2.7 metres in any dormitory utilising bunks.
- (4) The minimum floor area requirements in subsection (1) will only apply if there is ventilation, separation distances, fire egress and other safety requirements in accordance with the Building Code.
- (5) The keeper of any short term hostel or recreational campsite shall provide—
- (a) fixed outlet ventilation at a ratio of 0.15 square metres to each 10 square metres of floor area of the dormitories, and shall ensure that dormitories are provided with direct ventilation to the open air from a point within 230 millimetres of the ceiling level through a fixed open window or vents, carried as direct to the open air as practicable;
  - (b) mechanical ventilation in lieu of fixed ventilation, subject to the local government's approval.
- (6) The keeper of any short term hostel or recreational campsite shall provide—
- (a) beds with a minimum size of—
    - (i) in short term hostels—800 millimetres x 1.9 metres; and
    - (ii) in recreational campsites—750 millimetres x 1.85 metres.
  - (b) storage space for personal effects, including backpacks, so that cleaning operations are not hindered and access spaces are not obstructed.
- (7) The keeper of any short term hostel or recreational campsite shall—
- (a) maintain at all times a minimum distance of 750 millimetres between beds, and a minimum distance of 900 millimetres between bunks;



- (b) ensure that, where bed or bunk heads are placed against the wall on either side of a dormitory, there is a passageway of at least 1.35 metres between each row of beds and a passageway of at least 2 metres between each row of bunks and shall ensure that the passageway is kept clear of obstruction at all times; and
  - (c) ensure all doors, windows and ventilators are kept free of obstruction.
- (8) The keeper of any short term hostel or recreational campsite shall ensure that—
- (a) materials used in dormitory areas comply with AS 1530.2 and AS 1530.3 as follows—

Drapes, curtains, blinds and bed covers	- a maximum Flammability Index of 6;
Upholstery & bedding	- a maximum Spread of Flame Index of 6 - a maximum Smoke Developed Index of 5
Floor coverings	- a maximum Spread of Flame Index of 7 - a maximum Smoke Developed Index of 5

Fire retardant coatings used to make a material comply with these indices must be—

- (i) certified by the manufacturer as approved for use with the fabric to achieve the required indices; and
  - (ii) certified by the manufacturer to retain its fire retardative effect after a minimum of 5 commercial dry cleaning or laundering operations carried out in accordance with AS 2001.5.4-1987, Procedure 7A, using ECE reference detergent; and
  - (iii) certified by the applicator as having been carried out in accordance with the manufacturer's specification;
- (b) emergency lighting is provided in accordance with the Building Code;
  - (c) a lodger or other person does not smoke in any dormitory, kitchen, dining room or other enclosed public place, within a short term hostel or recreational campsite;
  - (d) all mattresses in a short term hostel or recreational campsite are fitted with a mattress protector.

### 8.2.12 Furnishing etc. of Sleeping Apartments

- (1) The keeper shall—
- (a) furnish each sleeping apartment with a sufficient number of beds and sufficient bedding of good quality;
  - (b) ensure that each bed—
    - (i) has a bed head, mattress and pillow; and
    - (ii) is provided with a pillow case, mattress cover, two sheets, two blankets or equivalent; and
  - (c) furnish each bedroom so that there are adequate storage facilities for belongings within the room.
- (2) The keeper shall not cause, suffer or permit any tiered beds or bunks to be used in a sleeping apartment other than in a lodging house used exclusively as a short term hostel or recreational campsite.
- (3) The sheets and blankets required to be provided by subsection (1)(b)(ii), shall be deemed to have been provided by the keeper, where the keeper offers them for hire to the lodgers. In such circumstances, each lodger must either provide his own clean sheets or hire them from the keeper.
- (4) In a short term hostel or recreational campsite, the storage facilities required by subsection (1)(c) may be located in a separate secure storage room or locker room.

### **8.2.13 Ventilation**

- (1) If, in the opinion of an EHO, a kitchen, bathroom, toilet, laundry or habitable room is not adequately or properly ventilated, he or she may direct the keeper to provide a different or additional method of ventilation.
- (2) The keeper shall comply with any direction given under subsection (1) within such time as directed.

### **8.2.14 Numbers to be Placed on Doors**

- (1) A keeper shall, place or cause to be placed on the outside of the doors of all rooms available to lodgers in the lodging house, serial numbers so that—
  - (a) the number “1” is placed on the outside of the door of the room nearest to the front or main entry door of the lodging house; and
  - (b) the numbers continue in sequence throughout each floor (if there is more than one) of the lodging house.
- (2) The numbers to be placed on the doors under subsection (1) shall be—
  - (a) not less than 40 millimetres in height;
  - (b) 1.5 metres from the floor; and
  - (c) permanently fixed either by being painted on the doors or by other legible means.

## *Division 3—Management and Care*

### **8.3.1 Keeper or Manager to Reside in the Lodging House**

Whenever there is one or more lodgers in a lodging house, a keeper or manager shall—

- (a) reside continuously in the lodging house; and
- (b) not be absent from the lodging house unless he or she arranges for a reputable person to have the care and management of the lodging house.

### **8.3.2 Register of Lodgers**

- (1) A keeper shall keep a register of lodgers in the form prescribed in Schedule 4.
- (2) The Register of lodgers shall be—
  - (a) kept in the lodging house; and
  - (b) open to inspection at any time on demand by any member of the Police Service or by an EHO.

### **8.3.3 Keeper Report**

A keeper shall, whenever required by the local government, report to the local government in the form prescribed in Schedule 5, the name of each lodger who lodged in the lodging house during the preceding day or night.

### **8.3.4 Certificate in Respect of Sleeping Accommodation**

- (1) An EHO may issue to a keeper a certificate, in respect of each room, which shall be in the form prescribed in Schedule 6.
- (2) The certificate issued under subsection (1) shall specify the maximum number of persons who shall be permitted to occupy each room as a sleeping apartment at any one time.
- (3) When required by an EHO, a keeper shall exhibit the certificate issued under this section in a conspicuous place.
- (4) A person shall not cause, suffer or permit a greater number of persons than is specified on a certificate issued under this Section to occupy the room to which it refers.

### 8.3.5 Duplicate Keys and Inspection

Each keeper and manager of a lodging house shall—

- (a) retain possession of a duplicate key to the door of each room; and
- (b) when required by an EHO, open the door of any room for the purpose of inspection by the Officer.

### 8.3.6 Room Occupancy

(1) A keeper shall not—

- (a) cause, suffer or permit more than the maximum number of persons permitted by the Certificate of Registration of the lodging house to be lodged at any one time in the lodging house;
- (b) cause, suffer or permit to be placed or kept in any sleeping apartments—
  - (i) a larger number of beds; or
  - (ii) a larger quantity of bedding,

than is required to accommodate and provide for the maximum number of persons permitted to occupy the sleeping apartment at any one time; and

- (c) use or cause, suffer or permit to be used for sleeping purposes a room that—
  - (i) has not been certified for that purpose; and
  - (ii) the local government or Medical Officer has forbidden to be used as a sleeping apartment.

(2) For the purpose of this Section, two children under 10 years of age shall be counted as one lodger.

### 8.3.7 Maintenance of a Room by a Lodger or Resident

(1) A keeper may permit, or contract with, a lodger or resident to service, clean or maintain the room or rooms occupied by the lodger or resident.

(2) Where permission is given or a contract entered into under subsection (1), the keeper shall—

- (a) inspect each room the subject of the permission or agreement at least once a week; and
- (b) ensure that each room is being maintained in a clean and sanitary condition.

(3) A lodger or resident who contracts with a keeper to service, clean or maintain a room occupied by him or her, shall maintain the room in a clean and sanitary condition.

### 8.3.8 Cleaning and Maintenance Requirements

(1) In this Section—

“**bed linen**” includes sheets, pillowcases, mattress protectors and mattress covers.

(2) A keeper of a lodging house shall—

- (a) maintain in a clean, sound and undamaged condition—
  - (i) the floor, walls, ceilings, woodwork and painted surfaces;
  - (ii) the floor coverings and window treatments; and
  - (iii) the toilet seats;
- (b) maintain in a clean condition and in good working order—
  - (i) all fixtures and fittings; and
  - (ii) windows, doors and furniture;
- (c) ensure that the internal walls of each bathroom and toilet have a smooth impervious washable surface;
- (d) whenever there are one or more lodgers in a lodging house, ensure that the laundry floor is cleaned daily;
- (e) ensure that—
  - (i) all bed linen, towels, and house linen in use is washed at least once a week;
  - (ii) within a reasonable time of a bed having been vacated by a lodger or resident, the bed

- linen is removed and washed;
- (iii) a person does not occupy a bed, which has been used by another person unless the bed has been provided with clean bed linen;
- (iv) all beds, bedheads, blankets, rugs, covers, bed linen, towels and house linen are kept clean, in good repair and free from vectors of disease;
- (v) when any vectors of disease are found in a bed, furniture, room or sleeping apartment, immediate effective action is taken to eradicate the vectors of disease; and
- (vi) a room, which is not free from vectors of disease, is not used as a sleeping apartment;
- (f) when so directed by an EHO, ensure that—
  - (i) a room, together with its contents, and any other part of the lodging house, is cleaned and disinfected; and
  - (ii) a bed or other article of furniture is removed from the lodging house and properly disposed of;
- (g) ensure that the yard is kept clean at all times;
- (h) provide all bedrooms, passages, common areas, toilets, bathrooms and laundries with adequate lighting; and
- (i) comply with any direction, whether orally or in writing, given by an EHO.

### 8.3.9 Responsibilities of Lodgers and Residents

A lodger or resident shall not—

- (a) use any room available to lodgers—
  - (i) as a shop, store or factory; or
  - (ii) for manufacturing or trading services;
- (b) keep or store in or on the lodging house any goods or materials which are inflammable or offensive;
- (c) use a bath or hand wash basin other than for ablutionary purposes;
- (d) use a bathroom facility or fixture for laundry purposes;
- (e) use a sink installed in a kitchen or scullery for any purpose other than the washing and cleaning of cooking and eating utensils, other kitchenware and culinary purposes;
- (f) deposit rubbish or waste food other than into a proper rubbish receptacle;
- (g) in a kitchen or other place where food is kept—
  - (i) wash or permit the washing of clothing or bedding; or
  - (ii) keep or permit to be kept any soiled clothing or bedding;
- (h) subject to Section 8.3.10—
  - (i) keep, store, prepare or cook food in any sleeping apartment; or
  - (ii) unless sick or invalid and unable to leave a sleeping apartment for that reason, use a sleeping apartment for dining purposes;
- (i) place or keep, in any part of a lodging house, any luggage, clothing, bedding or furniture, that is infested with vectors of disease;
- (j) store or keep items other than personal effects—
  - (i) in any kitchen, living or sleeping apartment so as to prevent the cleaning of the floors, walls, fittings or fixtures; or
  - (ii) in a sleeping apartment so as to decrease the air space to less than the minimum required by this Part;
- (k) obstruct or prevent the keeper or manager from inspecting or examining the room or rooms occupied by the lodger or resident; and
- (l) fix any fastener or change any lock to a door or room without the written approval of the keeper.

### 8.3.10 Approval for storage of food

(1) An EHO may—

- (a) upon written application from a keeper, approve the storage of food within a refrigerator or

- sealed container in a sleeping apartment; and
- (b) withdraw the approval if a nuisance or vector of disease infestation is found to exist in the lodging house.
- (2) The keeper of a serviced apartment may permit the storage and consumption of food within that apartment if suitable storage and dining facilities are provided.

## **PART 9—OFFENSIVE TRADES**

### *Division 1—General*

#### **9.1.1 Interpretation**

In this Part, unless the context otherwise requires—

“**occupier**” in relation to premises includes the person registered as the occupier of the premises specified in the Certificate of Registration;

“**offensive trade**” means any trade as defined by Section 186 of the Act.

“**premises**” includes houses.

#### **9.1.2 Consent to Establish an Offensive Trade**

A person seeking the consent of the local government under Section 187 of the Act to establish an offensive trade shall make application in the form prescribed in Schedule 7 and in accordance with the local government’s Town Planning Scheme.

#### **9.1.3 False Statement**

A person who makes a false statement in an application under Section 9.1.2 shall be guilty of an offence.

#### **9.1.4 Registration of Premises**

An application for the registration of premises pursuant to Section 191 of the Act shall be—

(a) in the form prescribed in Schedule 8;

(b) accompanied by the fee prescribed in the Health (*Offensive Trade Fees*) Regulations 1976; and

(c) lodged with the Chief Executive Officer.

#### **9.1.5 Certificate of Registration**

Upon the registration of premises for the carrying on of an offensive trade, the local government shall issue to the applicant a certificate in the form prescribed in Schedule 9.

### **9.1.6 Change of Occupier**

Where there is a change of occupier of the premises registered pursuant to this Division, the new occupier shall forthwith notify the Chief Executive Officer in writing of such change.

### **9.1.7 Alterations to Premises**

While any premises remain registered under this Division, a person shall not, without the written permission of the local government, make or permit any change or alteration whatever to the premises.

## *Division 2—General Duties of an Occupier*

### **9.2.1 Interpretation**

In this Division, unless the context otherwise requires—

“**occupier**” means the occupier, or where there is more than one occupier, each of the occupiers of the premises in or upon which an offensive trade is carried on; and

“**the premises**” means those premises in or upon which an offensive trade is carried on.

### **9.2.2 Cleanliness**

The occupier shall—

- (a) keep or cause to be kept in a clean and sanitary condition and in a state of good repair the floors, walls and ceilings and all other portions of the premises;
- (b) keep or cause to be kept in a clean and sanitary condition and in a state of good repair all fittings, fixtures, appliances, machinery, implements, shelves, counters, tables, benches, bins, cabinets, sinks, drain boards, drains, grease traps, tubs, vessels and other things used on or in connection with the premises;
- (c) keep the premises free from any unwholesome or offensive odour arising from the premises;
- (d) maintain in a clean and tidy condition all yards, footpaths, passage ways, paved areas, stores or outbuildings used in connection with the premises; and
- (e) clean daily and at all times keep and maintain all sanitary conveniences and all sanitary fittings and grease traps on the premises in a clean and sanitary condition.

### **9.2.3 Rats and Other Vectors of Disease**

The occupier shall—

- (a) ensure that the premises are kept free from rodents, cockroaches, flies and other vectors of disease; and
- (b) provide in and on the premises all effective means and methods for the eradication and prevention of rodents, cockroaches, flies and other vectors of disease.

### **9.2.4 Sanitary Conveniences and Hand Wash Basins**

The occupier shall provide on the premises in an approved position sufficient sanitary conveniences and hand wash basins, each with an adequate supply of hot and cold water for use by employees and by all other persons lawfully upon the premises.

### 9.2.5 Painting of Walls etc.

The occupier shall cause the internal surface of every wall, the underside of every ceiling or roof and all fittings as may be directed in and on the premises to be cleaned and painted when instructed by an EHO.

### 9.2.6 Effluvia, Vapours, Gases or Dust

The occupier shall provide, use and maintain in a state of good repair and working order, appliances and preventive measures capable of effectively destroying or of rendering harmless all offensive effluvia, vapours, dust or gases arising in any process of his business or from any material, residue or other substance which may be kept or stored upon the premises.

### 9.2.7 Offensive Material

The occupier shall—

- (a) provide on the premises impervious receptacles of sufficient capacity to receive all offensive material and trade refuse produced upon the premises in any one-day;
- (b) keep airtight covers on the receptacles, except when it is necessary to place something in or remove something from them;
- (c) cause all offensive material and trade refuse to be placed immediately in the receptacles;
- (d) cause the contents of the receptacles to be removed from the premises at least once in every working day or at such other intervals as may be approved or directed by an EHO; and
- (e) cause all receptacles after being emptied to be cleaned immediately with an efficient disinfectant.

### 9.2.8 Storage of Materials

The occupier shall cause all material on the premises to be stored so as not to be offensive or injurious to health whether by smell or otherwise and so as to prevent the creation of a nuisance.

### 9.2.9 Specified Offensive Trade

- (1) For the purposes of this Section, “specified offensive trade” means any trade as defined by Section 186 of the Act.
- (2) Where premises are used for or in relation to a specified offensive trade, the occupier shall—
  - (a) cause the floor of the premises to—
    - (i) be properly paved and drained with impervious material;
    - (ii) have a smooth surface; and
    - (iii) have a fall to a bucket trap or spoon drain in such a way that all liquids falling on the floor shall be conducted by the trap or drain to a drain inlet situated inside the building where the floor is situated;
  - (b) cause the angles formed by the walls with any other wall, and by the wall with the floor, to be coved to a radius of not less than 25 millimetres; and
  - (c) cause all liquid refuse to be—
    - (i) cooled to a temperature not exceeding 26 degrees Celsius and be in accordance with the *Metropolitan Water Supply, Sewerage and Drainage Board By-Laws 1981* before being discharged into any drain outlet from any part of the premises; and
    - (ii) directed through such screening or purifying treatment as an EHO may from time to time direct.

### 9.2.10 Directions

- (1) An EHO may give to the occupier directions to prevent or diminish the offensiveness of a trade or to safeguard the public health.
- (2) The occupier shall comply with any directions given under this Section.

**9.2.11 Other Duties of Occupier**

In addition to the requirements of this Division, the occupier shall comply with all other requirements of this Part that apply to the particular offensive trade or trades conducted on the premises.

**PART 10—OFFENCES AND PENALTIES**  
*Division 1—General*

**10.1.1 Penalties**

- (1) A person who contravenes a provision of this local law commits an offence.
- (2) A person who commits an offence under subsection (1) is liable to—
  - (a) a penalty which is not more than \$1,000 and not less than—
    - (i) in the case of a first such offence, \$100;
    - (ii) in the case of a second such offence, \$200; and
    - (iii) in the case of a third and subsequent such offence, \$500; and
  - (b) if the offence is a continuing offence, a daily penalty that is not more than \$100 and not less than \$50 for each day during which, the offence continues.

**Schedule 1**

Shire of Broomehill-Tambellup  
HEALTH ACT 1911

**APPLICATION FOR REGISTRATION OF A LODGING HOUSE**

To: Chief Executive Officer  
Shire of Broomehill-Tambellup

I/We,.....  
(Full name of Applicant/s)

of .....  
(Residential address of Applicant/s)

apply for the registration of premises situated (or to be situated) at  
.....

as a lodging house to be classified as-

- lodging house;
- a recreational campsite;
- a short term hostel; or
- serviced apartments,

*(Specify which is to apply)*

and for my name to be entered in the Register as a keeper of the lodging house.

**DESCRIPTION OF LODGING HOUSE**

Number of storeys.....



<b>Rooms for private use</b>	<b>Number</b>	<b>Area</b>
Laundries/toilets/bathrooms	.....	.....
Bedrooms	.....	.....
Dining rooms	.....	.....
Kitchens	.....	.....
Sitting rooms	.....	.....
Other (specify)	.....	.....

<b>Rooms for lodgers</b>	<b>Number</b>	<b>Area</b>
Bedrooms	.....	.....
Dining rooms	.....	.....
Kitchens	.....	.....
Sitting rooms	.....	.....
Other (specify)	.....	.....

**Sanitary conveniences for female lodgers**

Toilets	.....
Baths	.....
Showers	.....
Hand wash basins	.....

**Sanitary conveniences for male lodgers**

Toilets	.....
Urinals	.....
Baths	.....
Showers	.....
Hand wash basins	.....

**Laundry facilities**

Wash troughs	.....
Washing machines.	.....
Drying cabinets or clothes lines.	.....

**Additional details**

- (a) Lodger's meals will be provided by the manager/keeper/lodgers.
- (b) The keeper will/will not reside continuously on the premises.
- (c) Name and occupation of the proposed manager if the keeper resides elsewhere:-  
.....

(d) There will be.....family members residing on the premises with the keeper/manager.

Application fee of \$..... is attached.

..... (Signature of applicant/s)

..... (Date)

**Schedule 2**  
Shire of Broomehill-Tambellup  
HEALTH ACT 1911

**CERTIFICATE OF REGISTRATION OF A LODGING HOUSE**

This is to certify that the premises situated at

..... are registered as a lodging house and classified as—

- a lodging house;
- a short term hostel
- recreational campsite, or
- serviced apartments.

until 30 June ....., on the following conditions—

1. That....., whose name is entered on the register of keepers of the Shire of Broomehill-Tambellup, continues to be the keeper of the lodging house;
2. That ....., appointed by the keeper to be the manager of the lodging house, continues to be the manager of the lodging house;
3. That the certificate of registration is not cancelled or revoked;
4. That the maximum number of rooms to be used as sleeping apartments for lodgers is .....; and
5. That the maximum number of lodgers on the premises shall not exceed .....

This certificate of registration is issued subject to the Health Act and the Shire of Broomehill-Tambellup Health Local Law and is not transferable.

Dated .....

Fee Received: \$ .....

.....

Environmental Health Officer

**Schedule 3**  
Shire of Broomehill-Tambellup  
HEALTH ACT 1911

**NOTICE OF CHANGE OF OWNER OF A LODGING HOUSE**

To: Chief Executive Officer  
Shire of Broomehill-Tambellup

I/We,.....  
(Full name of applicant/s)

of .....  
(Residential address of Applicant/s)

am/are the new owners of premises situated at

.....  
which are registered in the name of

.....  
for the carrying on of the lodging house business.

.....  
(Signature of applicant/s)

.....  
(Date)

**Schedule 4**  
Shire of Broomehill-Tambellup  
HEALTH ACT 1911  
**REGISTER OF LODGERS**

Location of Lodging House

.....  
.....

Date of Arrival	Name	Previous address	Signature	Room Number	Date of Departure
.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....

**Schedule 5**  
Shire of Broomehill-Tambellup  
HEALTH ACT 1911  
**LIST OF LODGERS**

To: Chief Executive Officer  
Shire of Broomehill-Tambellup

The following is the name of every person who resided in the lodging house at  
.....  
on the ..... day of .....

(Signed)

.....  
(Keeper)

Date: .....

**Schedule 6**  
 Shire of Broomehill-Tambellup  
 HEALTH ACT 1911  
**CERTIFICATE OF SLEEPING ACCOMMODATION FOR A LODGING HOUSE**

To:

.....

(Name of Keeper)

of

.....

(Address of Keeper)

For the registered lodging house situated at: .....

.....

The rooms listed below are not to be occupied by more than the number of lodgers or residents indicated below.

ROOM NUMBER:	MAXIMUM OCCUPANCY
--------------	-------------------

.....

.....

.....

.....

.....

.....

Date: .....

.....

Environmental Health Officer

**Schedule 7**  
 Shire of Broomehill-Tambellup  
 HEALTH ACT 1911  
**APPLICATION FOR CONSENT TO ESTABLISH AN OFFENSIVE TRADE**

To: Chief Executive Officer  
 Shire of Broomehill-Tambellup

I/We,

.....  
 (Full Name of Applicant/s)  
 of

.....  
 .(Residential Address of Applicant/s)

apply for consent to establish an offensive trade being

.....  
 (Description of Offensive Trade)  
 in or upon

.....  
 (Location of the House or Premises)

Notice of my/our intention to make this application was advertised  
 in.....  
 (Name of Newspaper)  
 on

.....  
 (Date of Advertisement)

Plans and specifications of the buildings proposed to be used or erected in  
 connection with the proposed offensive trade are attached.

.....  
 (Signature of Applicant/s)

.....  
 (Date)

**Schedule 8**

Shire of Broomehill-Tambellup

HEALTH ACT 1911

**APPLICATION FOR REGISTRATION OF PREMISES FOR OFFENSIVE TRADE**

To: Chief Executive Officer  
Shire of Broomehill-Tambellup

I/We,.....  
(Full Name of Applicant/s)

of .....  
.....  
(Residential Address of Applicant/s)

apply for registration, for the year ended .....  
of

.....  
.....  
(Location of Premises)

being premises in or upon which there is (or is to be) carried on an offensive trade,  
namely

.....  
.....  
(Description of Offensive Trade)  
under the business name of

.....

The prescribed registration fee \$ ..... is attached.

.....  
(Signature of Applicant/s)

.....  
(Date)



**Schedule 9**

Shire of Broomehill-Tambellup

HEALTH ACT 1911

**CERTIFICATE OF REGISTRATION OF PREMISES FOR OFFENSIVE TRADE**

This is to certify that the premises situated at .....

.....

..  
of which ..... is the occupier;  
are registered for the carrying on of the trade of

.....

.....

.....

Trade Name

.....

This registration expires on

.....

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

.....  
Environmental Health Officer  
Shire of Broomehill-Tambellup

\_\_\_\_\_

Passed at a meeting of the Council of the Shire of Broomehill-Tambellup held on the  
.....day of .....2008

The Common Seal of the Shire of Broomehill-Tambellup was hereunto affixed in the  
presence of—

..... Shire President.  
.....J TREZONA, Chief Executive Officer.

On the .....day of ..... 2008.

\_\_\_\_\_

Consented to—

.....

EXECUTIVE DIRECTOR PUBLIC HEALTH.

Dated this.....day of .....2008.

**9.8 PROPOSED PEST PLANT LOCAL LAW 2008**


---

<b>Program:</b>	<b>Governance</b>
<b>Attachment:</b>	<b>Proposed Pest Plant Local Law 2008</b>
<b>File Ref:</b>	<b>ADM0080</b>
<b>Author:</b>	<b>JM Trezona</b> <b>Chief Executive Officer</b>
<b>Date:</b>	<b>22<sup>nd</sup> July 2008</b>
<b>Disclosure of Interest:</b>	<b>Nil</b>

---

**Summary:** The purpose of this report is to allow the Presiding Person to give notice to the meeting of the purpose and effect of the Proposed Pest Plant Local Law 2008, for the Council to adopt the proposed Local Law and to allow for advertising of the proposed Local Law for public comment.

**Background:** The Proposed Pest Plant Local Law 2008 is based on the Pest Plant Local Laws adopted by the former Shires. The Shire of Broomehill adopted its Pest Plant Local Law in 2000. The Shire of Tambellup adopted its Pest Plant Local Law in 1984 and amended it in 1986. Both local laws prescribed Caltrop and Afghan Thistle as pest plants and these are prescribed in the proposed Local Law.

The **Purpose** of this local law is to provide a process for requiring landowners to control and eradicate the prescribed pest plants, Caltrop and Afghan Thistle on their properties.

The **Effect** of this local law is to control the spread of prescribed pest plants.

**Comment:** The Proposed Pest Plant Local Law gives the local government the legislative power to serve a notice on owners of private land requiring them to destroy, eradicate or otherwise control the pest plants Caltrop and Afghan Thistle on their properties. Failure to comply with a notice allows the local government to take action to destroy, eradicate or otherwise control the pest plants.

The Proposed Pest Plant Local Law is not in conflict with the Pest Plant Local Laws of the former Shires.

**Consultation:** The local law is advertised for public comment for a period of forty two days. Any submission received must be considered by Council before making the local law.

**Statutory Environment:** Regulation 7 of the *Local Government (Constitutional) Regulations 1998*, prescribes that although an order has abolished the former Shires of Broomehill and Tambellup and created a new Shire of Broomehill-Tambellup;

- the local laws that applied in the former Shires continue to apply in respect of the former Shire districts;

- the local laws of the former Shires are to be administered and enforced by the new Shire of Broomehill-Tambellup; and
- the local laws of the former Shires may be amended or repealed by the new Shire as if they were local laws of the new Shire.

Although the Pest Plant Local Law is made under powers of S110 of the *Agriculture and Related Resources Protection Act 1976* that Act requires the process to be used is that prescribed in the *Local Government Act 1995*.

As it is proposed to adopt a new Local Law, the following processes, as set out in section 3.12 of the *Local Government Act 1995*, must be observed —

1. At a Council meeting the person presiding is to give notice of the purpose and effect of the proposed local law by ensuring that:-
  - (a) the purpose and effect of the proposed local law is included in the agenda for that meeting; and
  - (b) the minutes of the meeting of the Council include the purpose and effect of the proposed local law.
2. A local government is to -
  - (a) give Statewide public notice stating that -
    - (i) the local government proposes to make a local law, the purpose and effect of which is summarised in the notice;
    - (ii) a copy of the proposed local law may be inspected or obtained at any place specified in the notice; and
    - (iii) submissions about the proposed local Law may be made to a local government before a date to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;
  - (b) as soon as the notice is given, give a copy of the proposed Local Law and a copy of the notice is to be forwarded to the relevant Minister.
  - (c) provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.

After the last day for submissions, the local government is to consider any submissions made and may make the local law as proposed or make a local law that is not significantly different from what was proposed.

The local law is then published in the *Government Gazette* and a copy sent to the relevant Minister and the State Parliament Joint Standing Committee on Delegated Legislation.

The local law comes into effect fourteen days after publication in the *Government Gazette*.

**Policy Implications:**

The proposed local law needs to be advertised in a newspaper circulating throughout the State and once made by Council is required to be advertised in the *Government Gazette*.

**Financial**

**Implications:** This issue has no financial implications for Council

**Strategic**

**Implications:** This issue is not dealt with in the Plan

**Voting Requirements:**

Simple Majority

**Officer / Council**

**Resolution:** *080809*

*“The Commissioner resolved -  
That Council adopt the Proposed Pest Plant Local Law 2008 in the  
form presented and Council’s intention to make the proposed Local  
Law be advertised Statewide inviting public submissions.*

**Reason For Change to  
Recommendation:**

**AGRICULTURE AND RELATED RESOURCES  
PROTECTION ACT 1976  
LOCAL GOVERNMENT ACT 1995**

**SHIRE OF BROOMEHILL-TAMBELLUP**

**PEST PLANT LOCAL LAW 2008**

**AGRICULTURE AND RELATED RESOURCES PROTECTION ACT 1976  
LOCAL GOVERNMENT ACT 1995**

Shire of Broomehill-Tambellup

**PEST PLANT LOCAL LAW 2008**

Under the powers conferred by the *Agriculture and Related Resources Protection Act 1976* and the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Broomehill-Tambellup resolved on ..... to make the following local law.

**1. Citation**

This local law may be cited as the *Shire of Broomehill-Tambellup Pest Plant Local Law 2008*.

**2. Application**

This local law applies throughout the district.

**3. Definition**

In this local law, unless the contrary intention appears—

“**district**” means the district of the Shire of Broomehill-Tambellup;

“**local government**” means the Shire of Broomehill-Tambellup;

“**pest plants**” means a plant described as a pest plant by clause 5.

**4. Repeal**

(1) The former *Shire of Broomehill Pest Plant Local Laws* published in the *Government Gazette* on 5 September 2000 is repealed.

(2) The former *Shire of Tambellup By-laws Relating to Pest Plants* published in the *Government Gazette* on 9 March 1984 and as amended and published in the *Government Gazette* on 15 August 1986 is repealed.

**5. Pest Plants**

Every plant described in the First Schedule is a pest plant.

**6. Serving of a Notice**

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

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

**7. Failure to comply with a Notice**

Where a person fails to comply with a notice under clause 6 served upon him, the local government may—

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

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

**First Schedule**  
**AGRICULTURE AND RELATED RESOURCES PROTECTION ACT 1976**  
Shire of Broomehill-Tambellup Pest Plant Local Law 2008

**PEST PLANTS**

<i>Common Name</i>	<i>Scientific Name</i>
Caltrop	Tribulus Terrestris
Afghan Thistle	Solanum Hystrix or Solanum Hoplopetalum

**Second Schedule**  
**AGRICULTURE AND RELATED RESOURCES PROTECTION ACT 1976**  
Shire of Broomehill-Tambellup Pest Plant Local Law 2008

**PEST PLANT NOTICE**

No. ....

To .....  
(Full name)  
of .....  
(Address)

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

.....  
.....

(here specify whether required to destroy, eradicate or otherwise control)  
the pest plant—

.....  
(Common Name) (Scientific Name)

on .....  
(here specify the land)  
of which you are the .....  
(owner or occupier)

This notice may be complied with by .....

.....  
(here specify manner of achieving destruction, eradication or control)

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

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

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

Date of service of notice .....

.....  
Signature of person authorised by the Shire of Broomehill-Tambellup.



Dated.....2008.

The common seal of the Shire of Broomehill-Tambellup was affixed by authority of a resolution of the Council in the presence of—

, President.  
J.M TREZONA, Chief Executive Office.

**9.9 PROPOSED STANDING ORDERS LOCAL LAW 2008**


---

<b>Program:</b>	<b>Governance</b>
<b>Attachment:</b>	<b>Proposed Standing Orders Local Law 2008</b>
<b>File Ref:</b>	<b>ADM0080</b>
<b>Author:</b>	<b>JM Trezona                      Chief Executive Officer</b>
<b>Date:</b>	<b>23<sup>rd</sup> July 2008</b>
<b>Disclosure of Interest:</b>	<b>Nil</b>

---

**Summary:** The purpose of this report is to allow the Presiding Person to give notice to the meeting of the purpose and effect of the Proposed Standing Orders Local Law 2008, for the Council to adopt the proposed Local Law and to allow for advertising of the proposed Local Law for public comment.

**Background:** The Proposed Standing Orders Local Law 2008 is based on the Standing Orders Local Law adopted by the Shire of Tambellup on 1999. The Shire of Tambellup adopted the Model Standing Orders Local Law with amendments by reference. The Shire of Broomehill adopted its Standing Orders in 2000 by adopting the Model by reference.

The **Purpose** of the local law is to provide for the orderly conduct of meetings of the council and committees, the manner of making an effective petition to the local government and for the safe custody and use of the common seal.

The **Effect** of the local law is that all council and committee meetings, the manner of making a petition to the local government and the use of the common seal, are to be governed by the standing orders unless otherwise provided in the Act or regulations.

**Comment:** The Proposed Standing Orders Local Law gives the person presiding at Council and Committee meetings the authority to apply the rules and the standards of conduct prescribed in the local law. The Standing Orders also provide guidance for newly elected members on the conduct of meetings and behaviour standards.

Conduct of members is now also subject to the *Local Government (Rules of Conduct) Regulations 2007*. This Regulation provides for new disciplinary measures that do not include prosecution.

The Proposed Standing Orders Local Law does not prescribe the order of business for the agenda where the Shire of Broomehill Standing Orders do. Non prescription allows the Council to change its order of business without need to amend the local law.

The Department of Local Government advises that it is presently reviewing the Model Standing Orders Local Law to produce a new version in January next year.

**Consultation:** The local law is advertised for public comment for a period of forty two days. Any submission received must be considered by Council before making the local law.

**Statutory Environment:** Regulation 7 of the Local Government Constitutional Regulations 1998, prescribes that although an order has abolished the former Shires of Broomehill and Tambellup and created a new Shire of Broomehill-Tambellup;

- the local laws that applied in the former Shires continue to apply in respect of the former Shire districts;
- the local laws of the former Shires are to be administered and enforced by the new Shire of Broomehill-Tambellup; and
- the local laws of the former Shires may be amended or repealed by the new Shire as if they were local laws of the new Shire.

As it is proposed to adopt new Local Laws, the following processes, as set out in section 3.12 of the *Local Government Act 1995*, must be observed

1. At a Council meeting the person presiding is to give notice of the purpose and effect of the proposed local law by ensuring that:-
  - (a) the purpose and effect of the proposed local law is included in the agenda for that meeting; and
  - (b) the minutes of the meeting of the Council include the purpose and effect of the proposed local law.
2. A local government is to -
  - (a) give Statewide public notice stating that -
    - (i) the local government proposes to make a local law, the purpose and effect of which is summarised in the notice;
    - (ii) a copy of the proposed local law may be inspected or obtained at any place specified in the notice; and
    - (iii) submissions about the proposed local Law may be made to a local government before a date to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;
  - (b) as soon as the notice is given, give a copy of the proposed Local Law and a copy of the notice is to be forwarded to the relevant Minister.
  - (c) provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.

After the last day for submissions, the local government is to consider any submissions made and may make the local law as proposed or make a local law that is not significantly different from what was proposed.

The local law is then published in the Government Gazette and a copy sent to the relevant Minister and the State Parliament Joint Standing Committee on Delegated Legislation.

The local law comes into effect fourteen days after publication in the Government Gazette.

**Policy Implications:** Nil

**Financial**

**Implications:** The proposed local law needs to be advertised in a newspaper circulating throughout the State and once made by Council is required to be advertised in the Government Gazette.

**Strategic**

**Implications:** This issue is not dealt with in the Plan

**Voting**

**Requirements:** Simple Majority

**Officer / Council**

**Resolution:** 080810

*“The Commissioner resolved –  
That Council adopt the Proposed Standing Orders Local Law 2008 in the form presented and Councils intention to make the proposed Local Law be advertised Statewide inviting public submissions.”*

**Reason For Change  
to Recommendation:**

# **LOCAL GOVERNMENT ACT 1995**

## **SHIRE OF BROOMEHILL-TAMBELLUP**

### **STANDING ORDERS LOCAL LAW 2008**

**LOCAL GOVERNMENT ACT 1995**  
**SHIRE OF BROOMEHILL-TAMBELLUP**  
**STANDING ORDERS LOCAL LAW 2008**

**ARRANGEMENT**

**PART 1 - PRELIMINARY**

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

**PART 2 - CALLING MEETINGS**

- 2.1 Calling Committee Meetings
- 2.2 Notice of Special Council Meetings

**PART 3 - BUSINESS OF THE MEETING**

- 3.1 Business to be Specified on Notice Paper
- 3.2 Order of Business
- 3.3 Petitions
- 3.4 Confirmation of Minutes
- 3.5 Announcements by the Person Presiding Without Discussion
- 3.6 Matters for which Meeting May be Closed
- 3.7 Motions of which Previous Notice has been Given
- 3.8 Questions by Members of which Due Notice has been given.
- 3.9 Urgent Business Approved By the Person Presiding or by Decision
- 3.10 Deputations

**PART 4 - PUBLIC ACCESS TO AGENDA MATERIAL**

- 4.1 Inspection Entitlement
- 4.2 Confidentiality of Information Withheld

**PART 5 - DISCLOSURE OF FINANCIAL INTERESTS**

- 5.1 Separation of Committee Recommendations
- 5.2 Member with an Interest may ask to be Present
- 5.3 Member with an Interest may ask Permission to Participate
- 5.4 Disclosures by Employees

**PART 6 - QUORUM**

- 6.1 Quorum to be Present
- 6.2 Loss of Quorum During a Meeting

## **PART 7 - KEEPING OF MINUTES**

- 7.1 Content of Minutes
- 7.2 Preservation of Minutes

## **PART 8 - CONDUCT OF PERSONS AT COUNCIL AND COMMITTEE MEETINGS**

- 8.1 Official Titles to be Used
- 8.2 Members to Occupy Own Seats
- 8.3 Leaving Meetings
- 8.4 Adverse Reflection
- 8.5 Recording of Proceedings
- 8.6 Prevention of Disturbance
- 8.7 Distinguished Visitors

## **PART 9 - CONDUCT OF MEMBERS DURING DEBATE**

- 9.1 Members to Rise
- 9.2 Priority
- 9.3 The Person Presiding to Take Part in Debates
- 9.4 Relevance
- 9.5 Limitation of Number of Speeches
- 9.6 Limitation of Duration of Speeches
- 9.7 Members Not to Speak After Conclusion of Debate
- 9.8 Members Not to Interrupt
- 9.9 Re-Opening Discussion on Decisions

## **PART 10 - PROCEDURES FOR DEBATE OF MOTIONS**

- 10.1 Motions To be Stated
- 10.2 Motions to be Supported
- 10.3 Unopposed Business
- 10.4 Only One Substantive Motion Considered
- 10.5 Breaking Down of Complex Questions
- 10.6 Order of Call in Debate
- 10.7 Limit of Debate
- 10.8 Member May Require Questions to be Read
- 10.9 Consent of Seconder Required to Accept Alteration of Wording
- 10.10 Order of Amendments
- 10.11 Amendments Must Not Negate Original Motion
- 10.12 Mover of Motion Not to Speak on Amendment
- 10.13 Substantive Motion
- 10.14 Withdrawal of Motion and Amendments
- 10.15 Limitation of Withdrawal
- 10.16 Personal Explanation
- 10.17 Personal Explanation - When Heard
- 10.18 Ruling on Questions of Personal Explanation
- 10.19 Right of Reply
- 10.20 Right of Reply Provisions

## **PART 11 - PROCEDURAL MOTIONS**

- 11.1 Permissible Procedural Motions
- 11.2 No Debate on Procedural Motions
- 11.3 Procedural Motions - Closing Debate - Who May Move
- 11.4 Procedural Motions - Right of Reply on Substantive Motion

## **PART 12 - EFFECT OF PROCEDURAL MOTIONS**

- 12.1 Council (or Committee) to Proceed to the Next Business - Effect of Motion
- 12.2 Question to be Adjourned - Effect of Motion
- 12.3 Council (or Committee) to Now Adjourn - Effect of Motion
- 12.4 Question to be Put - Effect of Motion
- 12.5 Member to be No Longer Heard - Effect of Motion
- 12.6 Ruling of the Person Presiding Disagreed With - Effect of Motion
- 12.7 Council (or Committee) to Meet Behind Closed Doors - Effect of Motion

## **PART 13 - MAKING DECISIONS**

- 13.1 Question - When Put
- 13.2 Question - Method of Putting

## **PART 14 - IMPLEMENTING DECISIONS**

- 14.1 Implementation of a Decision

## **PART 15 - PRESERVING ORDER**

- 15.1 The Person Presiding to Preserve Order
- 15.2 Demand for Withdrawal
- 15.3 Points of Order - When to Raise - Procedure
- 15.4 Points of Order - When Valid
- 15.5 Points Of Order - Ruling
- 15.6 Points of Order - Ruling Conclusive, Unless Dissent Motion is Moved
- 15.7 Points of Order Take Precedence
- 15.8 Precedence of Person Presiding
- 15.9 Right of the Person Presiding to Adjourn Without Explanation to Regain Order

## **PART 16 - ADJOURNMENT OF MEETING**

- 16.1 Meeting May be Adjourned
- 16.2 Limit to Moving Adjournment
- 16.3 Unopposed Business - Motion for Adjournment
- 16.4 Withdrawal of Motion for Adjournment
- 16.5 Time To Which Adjourned

## **PART 17 - COMMITTEES OF THE COUNCIL**

- 17.1 Establishment and Appointment of Committees
- 17.2 Appointment of Deputy Committee Members
- 17.3 Presentation of Committee Reports



- 17.4 Reports of Committees - Questions
- 17.5 Permissible Motions on Recommendation From Committee

**PART 18 - ADMINISTRATIVE MATTERS**

- 18.1 Suspension of Standing Orders
- 18.2 Cases not Provided for in Standing Orders

**PART 19 - COMMON SEAL**

- 19.1 The Council's Common Seal

## LOCAL GOVERNMENT ACT 1995

### SHIRE OF BROOMEHILL-TAMBELLUP

## STANDING ORDERS LOCAL LAW 2008

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

### PART 1 - PRELIMINARY

#### 1.1 Citation

(1) This local law may be cited as the *Shire of Broomehill-Tambellup Standing Orders Local Law 2008*.

(2) In the clauses to follow, this local law is referred to as “the Standing Orders”.

#### 1.2 Application

All meetings of the Council or a committee and other matters as prescribed are to be conducted in accordance with the Act, the Regulations and these Standing Orders, except that the following Standing Orders do not apply to the meeting of a committee -

- (a) Clause 8.2, in regard to seating;
- (b) Clause 9.5, limitation on the number of speeches.

#### 1.3 Definitions

(1) In these Standing Orders unless the context otherwise requires:

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

“**CEO**” means the Chief Executive Officer or Acting Chief Executive Officer for the time being of the Shire of Broomehill-Tambellup ;

“**committee**” means a committee of the Council;

“**Council**” means the Council of the Shire of Broomehill-Tambellup;

“**local government**” means the Shire of Broomehill-Tambellup;

“**member**” means a councillor on the Council as well as the councillors who hold the office of President and Deputy President;

“**person presiding**” means the person presiding at a meeting of the council or a meeting of the electors whether it be the President, Deputy President, a councillor chosen by the Council at a Council meeting or a councillor or elector chosen by the electors at an electors meeting;

“**presiding member**” means the presiding member of a committee or the deputy presiding member, or a member of the committee when performing a function of the presiding member in accordance with the Act;

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

“**simple majority**” is 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 herein the terms and expressions used in the Standing Orders are to have the meaning given to them in the Act and Regulations.

#### 1.4 Repeal

The following local laws are repealed -

The former *Shire of Broomehill Standing Orders Local Law* as published in the *Government Gazette* on 5 September 2000; and  
The former *Shire of Tambellup Standing Orders Local Law 1998* as published in the *Government Gazette* on 5 March 1999.

## **PART 2 - CALLING MEETINGS**

### **2.1 Calling Committee Meetings**

A meeting of a committee is to be held -

- (a) if called for in a verbal or written request to the CEO by the presiding member of the committee, setting out the date and purpose of the proposed meeting;
- (b) if called for by at least 1/3 of the members of the committee in a notice to the CEO, setting out the date and purpose of the proposed meeting; or
- (c) if so decided by the committee.

### **2.2 Notice of Special Council Meetings**

- (1) Subject to subclause (2), the CEO is to convene a special meeting of the Council by giving each Council member at least 72 hours' notice of the date, time, place and purpose of the meeting.
- (2) Where there is a need to meet urgently, in the opinion of the President, the CEO may give a lesser period of notice of a special meeting than mentioned in subclause (1).

## **PART 3 - BUSINESS OF THE MEETING**

### **3.1 Business to be Specified on Notice Paper**

- (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 person presiding or a decision of 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) No business is to be transacted at a committee meeting other than that specified in the agenda or given in the notice as the purpose of the meeting, without the approval of the presiding member or a decision of the committee.
- (4) No business is to be transacted at an adjourned meeting of the Council or a committee other than that -
  - (a) specified in the notice of the meeting which had been adjourned; and
  - (b) which remains unresolved;except in the case of an adjournment to the next ordinary meeting of the Council or the committee, when the business unresolved at the adjourned meeting is to have precedence at that ordinary meeting.

### **3.2 Order of Business**

- (1) The order of business at any ordinary meeting of the Council shall be as decided by the President and the CEO unless the Council resolves what the order of business shall be.
- (2) Unless otherwise decided by the members present, the order of business at any special meeting of the Council or at a committee meeting is to be the order in which that business stands in the agenda of the meeting.

- (3) Notwithstanding subclauses (1) and (2) in the order of business for any meeting of the Council or a committee, the provisions of the Act and Regulations relating to the time at which public question time is to be held are to be observed.

### 3.3 Petitions

A petition, in order to be effective, 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 names, addresses and signatures of the electors making the request, and the date each elector signed;
- (e) contain a summary of the reasons for the request;
- (f) state the name of the person upon whom, and an address at which, notice to the petitioners can be given;
- (g) be in the form prescribed by the Act and *Local Government (Constitution) Regulations 1996* if it is -
  - (i) a proposal to change the method of filling the office of President;
  - (ii) a proposal to create a new district or the boundaries of the local government;
  - (iii) a request for a poll on a recommended amalgamation;
  - (iv) a submission about changes to wards, the name of a district or ward or the number of councillors for a district or ward.

### 3.4 Confirmation of Minutes

- (1) When minutes of a meeting are submitted to an ordinary meeting of the Council or committee for confirmation, if a member is dissatisfied with the accuracy of the minutes, then he or she is to -
  - (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.
- (2) Discussion of any minutes, other than discussion as to their accuracy as a record of the proceedings, is not permitted.

### 3.5 Announcements by the Person Presiding Without Discussion

- (1) At any meeting of the Council or a committee the person presiding may announce or raise any matter of interest or relevance to the business of the Council or committee, or propose a change to the order of business.
- (2) Any member may move that a change in order of business proposed by the person presiding not be accepted and if carried by a majority of members present, the proposed change in order is not to take place.

### 3.6 Matters for which Meeting May be Closed

For the convenience of members of the public, the Council or committee may identify by decision, early in the meeting, any matter on the agenda of the meeting to be discussed behind closed doors, and that matter is to be deferred for consideration as the last item of the meeting.

### 3.7 Motions of which Previous Notice has been Given

- (1) Unless the Act, Regulations or these Standing Orders 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.
- (2) A notice of motion under subclause (1) is to be given at least seven (7) clear working days before the meeting at which the motion is moved.
- (3) A notice of motion is to relate to the good government of persons in the district.
- (4) The CEO -

- (a) with the concurrence of the President, may exclude from the notice paper any notice of motion deemed to be out of order; or
  - (b) may on his or her own initiative make such amendments to the form but not the substance thereof as will bring the notice of motion into due form; and
  - (c) may under his or her name provide relevant and material facts and circumstances pertaining to the notice of motion on such matters as policy, budget and law.
- (5) No notice of motion is to be out of order because the policy involved is considered to be objectionable.
- (6) A motion of which notice has been given is to lapse unless -
- (a) the member who gave notice thereof, or some other member authorised by him or her 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.
- (7) If a notice of motion is given and lapses in the circumstances referred to in subclause (6)(a), notice of motion in the same terms or the same effect is not to be given again for at least 3 months from the date of such lapse.

### **3.8 Questions by Members of which Due Notice has been given.**

- (1) A question on notice is to be given by a member in writing to the CEO at least seven (7) clear working days before the meeting at which it is raised.
- (2) If the question referred to in subclause (1) is in order, the answer is, so far as is practicable, to be included in written form in the agenda of the meeting, or otherwise tabled at that meeting.
- (3) Every question and answer is to be submitted as briefly and concisely as possible and no discussion is to be allowed thereon, unless with the consent of the person presiding.

### **3.9 Urgent Business Approved By the Person Presiding or by Decision**

In cases of extreme urgency or other special circumstance, matters may, with the consent of the person presiding, or by decision of the members present, be raised without notice and decided by the meeting.

### **3.10 Deputations**

- (1) A deputation wishing to be received by the Council or a committee is to apply in writing to the CEO who is to forward the written request to the President, or the Presiding Member as the case may be.
- (2) The President if the request is to attend a Council meeting, or the Presiding Member of the committee, if the request is to attend a meeting of a committee, may either approve the request, in which event the CEO is to invite the deputation to attend a meeting of the Council or committee as the case may be, or may instruct the CEO to refer the request to the Council or committee to decide by simple majority whether or not to receive the deputation.
- (3) A deputation invited to attend a Council or committee meeting -
  - (a) is not to exceed five persons, only two of whom may address the Council or committee, although others may respond to specific questions from the members; and
  - (b) is not to address the Council or committee for a period exceeding 15 minutes without the agreement of the Council or the committee as the case requires.

- (4) Any matter which is the subject of a deputation to the Council or a committee is not to be decided by the Council or that committee until the deputation has completed its presentation.

## **PART 4 - PUBLIC ACCESS TO AGENDA MATERIAL**

### **4.1 Inspection Entitlement**

Members of the public have access to agenda material in the terms set out in Regulation 14 of the Regulations.

### **4.2 Confidentiality of Information Withheld**

- (1) Information withheld by the CEO from members of the public under Regulation 14.2, of the Regulations, is to be -
  - (a) identified in the agenda of a Council or committee meeting under the item "Matters for which meeting may be closed"; and
  - (b) marked "confidential" in the agenda.
- (2) A member of the Council or a committee or an employee of the local government in receipt of confidential information is not to disclose such information to any person other than a member of the Council or the committee or an employee of the local government to the extent necessary for the purpose of carrying out his or her duties.

## **PART 5 - DISCLOSURE OF FINANCIAL INTERESTS**

### **5.1 Separation of Committee Recommendations**

Where a member of the Council has disclosed an interest in a matter, at a committee meeting, and the matter is contained in the recommendations of the committee to an ordinary meeting of Council or to another committee meeting that will be attended by the member, the recommendation concerned is to be separated on the agenda of that ordinary meeting or other committee meeting, from other recommendations of the committee, to enable the member concerned to declare the interest and leave the room prior to consideration of that matter only.

### **5.2 Member with an Interest may ask to be Present**

- (1) Where a member has disclosed the nature of his or her interest in a matter, immediately before the matter is considered by the meeting, he or she may, without disclosing the extent of the interest, request that he or she be allowed to be present during any discussion or decision making procedure related to the matter.
- (2) If such a request is made, the member is to leave the room while the request is considered. If the request is allowed by the members, the member may return to the meeting and be present during the discussion or decision making procedure related to that matter, but is not permitted to participate in any way.

### **5.3 Member with an Interest may ask Permission to Participate**

- (1) A member who discloses both the nature and extent of an interest, may request permission to take part in the consideration or discussion of the matter, or to vote on the matter.
- (2) If such a request is made, the member is to leave the room while the request is considered. If it is decided at a meeting that a member who has disclosed both the nature and extent of an interest in a matter, be permitted to participate in the

consideration and discussion of the matter or to vote on the matter, or both, then the member may return to participate to the extent permitted.

#### **5.4 Disclosures by Employees**

- (1) If an employee within the meaning of section 5.70 of the Act, presents a written report to a meeting, on a matter in which the employee has an interest, the nature of the interest is to be disclosed at the commencement of the report.
- (2) If such an employee makes a verbal report to a meeting on a matter in which the employee has an interest, the employee is to preface his or her advice to the meeting by verbally disclosing the nature of the interest.

### **PART 6 - QUORUM**

#### **6.1 Quorum to be Present**

The Council or a committee is not to transact business at a meeting unless a quorum is present.

#### **6.2 Loss of Quorum During a Meeting**

- (1) If at any time during the course of a meeting of the Council or a committee a quorum is not present -
  - (a) in relation to a particular matter because of a member or members leaving the meeting after disclosing a financial interest, the matter is adjourned until either -
    - (i) a quorum is present to decide the matter; or
    - (ii) the Minister allows a disclosing member or members to preside at the meeting or to participate in discussions or the decision making procedures relating to the matter under section 5.69 of the Act; or
  - (b) because of a member or members leaving the meeting for reasons other than disclosure of a financial interest, the person presiding is to suspend the proceedings of the meeting for a period of five minutes, and if a quorum is not present at the end of that time, the meeting is deemed to have been adjourned and the person presiding is to reschedule it to some future time or date having regard to the period of notice which needs to be given under the Act, Regulations, or the Standing Orders when calling a meeting of that type.
- (2) Where debate on a motion is interrupted by an adjournment under subclause (1)(b) -
  - (a) the debate is to be resumed at the next meeting at the point where it was so interrupted; and
  - (b) in the case of a Council meeting
    - (i) the names of members who have spoken on the matter prior to the adjournment are to be recorded in the minutes; and
    - (ii) the provisions of clause 9.5 apply when the debate is resumed.

### **PART 7 - KEEPING OF MINUTES**

#### **7.1 Content of Minutes**

In addition to the matters contained in Regulation 11 of the Regulations, the content of minutes of a meeting of the Council or a committee is to include, where an application for approval is declined or the authorisation of a licence, permit, or certificate is otherwise withheld or cancelled, the reasons for the decision.



## **7.2 Preservation of Minutes**

Minutes including the agenda of each Council and committee meeting are to be kept as a permanent record of the activities of the local government in accordance with the requirements of the *State Records Act 2000*.

## **PART 8 - CONDUCT OF PERSONS AT COUNCIL AND COMMITTEE MEETINGS**

### **8.1 Official Titles to be Used**

Members of the Council are to speak of each other in the Council or committee by their respective titles of President or councillor. Members of the Council, in speaking of or addressing employees, are to designate them by their respective official titles.

### **8.2 Members to Occupy Own Seats**

At the first meeting held after each ordinary elections day, the President is to allot a position at the Council table to each councillor and the councillor is to occupy that position when present at meetings of the Council until such time as there is a call by a majority of councillors for a re-allotment of positions.

### **8.3 Leaving Meetings**

During the course of a meeting of the Council or a committee no member is to enter or leave the meeting without first advising the person presiding, in order to facilitate the recording in the minutes of the time of entry or departure.

### **8.4 Adverse Reflection**

- (1) No member of the Council or a committee is to reflect adversely upon a decision of the Council or committee except on a motion that the decision be revoked or changed.
- (2) No member of the Council or a committee is to use offensive or objectionable expressions in reference to any member, employee of the local government, or any other person.

### **8.5 Recording of Proceedings**

- (1) No person is to use any electronic, visual or vocal recording device or instrument to record the proceedings of the Council or a committee without the written permission of the Council.
- (2) Subclause (1) does not apply if the record is taken by or at the direction of the CEO, with the permission of the Council or committee.

### **8.6 Prevention of Disturbance**

- (1) Any member of the public addressing the Council or a committee is to extend due courtesy and respect to the Council or committee and the processes under which they operate and must take direction from the person presiding whenever called upon to do so.  
Penalty \$1,000
- (2) No person observing a meeting, is to 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.  
Penalty \$1,000

### **8.7 Distinguished Visitors**

If a distinguished visitor is present at a meeting of the Council or a committee, the person presiding may invite such person to sit beside the person presiding or at the Council table.

## **PART 9 - CONDUCT OF MEMBERS DURING DEBATE**

### **9.1 Members wishing to Speak**

Every member of the Council wishing to speak is to indicate by show of hands or other method agreed upon by the Council. When invited by the person presiding to speak, members shall address the Council through the person presiding.

### **9.2 Priority**

In the event of two or more members of the Council or a committee wishing to speak at the same time, the person presiding is to decide which member is entitled to be heard first. The decision is not open to discussion or dissent.

### **9.3 The Person Presiding to Take Part in Debates**

Unless otherwise prohibited by the Act, and subject to compliance with procedures for the debate of motions contained in these Standing Orders, the person presiding may take part in a discussion of any matter before the Council or committee as the case may be.

### **9.4 Relevance**

Every member of the Council or a committee is to restrict his or her remarks to the motion or amendment under discussion, or to a personal explanation or point of order.

### **9.5 Limitation of Number of Speeches**

No member of the Council is to address the Council more than once on any motion or amendment before the Council except the mover of a substantive motion, in reply, or to a point of order, or in explanation.

### **9.6 Limitation of Duration of Speeches**

All addresses are to be limited to a maximum of five minutes. Extension of time is permissible only with the agreement of a simple majority of members present.

### **9.7 Members Not to Speak After Conclusion of Debate**

No member of the Council or a committee is to speak to any question after it has been put by the person presiding.

### **9.8 Members Not to Interrupt**

No member of the Council or a committee is to interrupt another member of the Council or committee whilst 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 10.16; or
- (d) to move a motion under clause 11(1)(e).

### **9.9 Re-Opening Discussion on Decisions**

No member of the Council or a committee is to re-open discussion on any decision of the Council or committee, except for the purpose of moving that the decision be revoked or changed.

## **PART 10 - PROCEDURES FOR DEBATE OF MOTIONS**

### **10.1 Motions To be Stated**

Any member of the Council or a committee who moves a substantive motion or amendment to a substantive motion is to state the substance of the motion before speaking to it.

### **10.2 Motions to be Supported**

No motion or amendment to a substantive motion is open to debate until it has been seconded, or, in the case of a motion to revoke or change the decision made at a Council or a committee meeting, unless the motion has the support required under Regulation 10 of the Regulations.

### **10.3 Unopposed Business**

- (1) Upon a motion being moved and seconded, the person presiding may ask the meeting if any member opposes it.
- (2) If no member signifies opposition to the motion the person presiding may declare the motion in subclause (1) carried without debate and without taking a vote on it.
- (3) A motion carried under subclause (2) is to be recorded in the minutes as a unanimous decision of the Council or committee.
- (4) If a member signifies opposition to a motion the motion is to be dealt with according to this Part.
- (5) This clause does not apply to any motion or decision to revoke or change a decision which has been made at a Council or committee meeting.

### **10.4 Only One Substantive Motion Considered**

When a substantive motion is under debate at any meeting of the Council or a committee, no further substantive motion is to be accepted.

### **10.5 Breaking Down of Complex Questions**

The person presiding may order a complex question to be broken down and put in the form of several motions, which are to be put in sequence.

### **10.6 Order of Call in Debate**

The person presiding 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 in view, if any;
- (h) Mover takes right of reply which closes debate.

### **10.7 Limit of Debate**

The person presiding may offer the right of reply and put the motion to the vote if he or she believes sufficient discussion has taken place even though all members may not have spoken.

### **10.8 Member May Require Questions to be Read**

Any 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 whilst speaking.

### **10.9 Consent of Secunder Required to Accept Alteration of Wording**

The mover of a substantive motion may not alter the wording of the motion without the consent of the seconder.

### **10.10 Order of Amendments**

Any number of amendments may be proposed to a 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 or lost.

### **10.11 Amendments Must Not Negate Original Motion**

No amendment to a motion can be moved which negates the original motion or the intent of the original motion.

### **10.12 Mover of Motion Not to Speak on Amendment**

On an amendment being moved, any member may speak to the amendment, provided that if the person who moved the substantive motion does choose to speak to the amendment, the right of reply is forfeited by that person.

### **10.13 Substantive Motion**

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.

### **10.14 Withdrawal of Motion and Amendments**

Council or a committee may, without debate, grant leave to withdraw a motion or amendment upon request of the mover of the motion or amendment and with the approval of the seconder provided that there is no voice expressed to the contrary view by any member, in which case discussion on the motion or amendment is to continue.

### **10.15 Limitation of Withdrawal**

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 Personal Explanation**

No member is to speak at any meeting of the Council or a committee, except upon the matter before the Council or committee, unless it is to make a personal explanation. Any member of the Council or committee who is permitted to speak under these circumstances is to confine the observations to a succinct statement relating to a specific part of the former speech which may have been misunderstood. When a member of the Council or committee provides an explanation, no reference is to be made to matters unnecessary for that purpose.

### **10.17 Personal Explanation - When Heard**

A member of the Council or a committee wishing to make a personal explanation of matters referred to by any member of the Council or committee then speaking, is entitled to be heard immediately, if the member of the Council or committee then speaking consents at the time, but if the member of the Council or committee who is speaking declines to give way, the explanation is to be offered at the conclusion of that speech.

### **10.18 Ruling on Questions of Personal Explanation**

The ruling of the person presiding on the admissibility of a personal explanation is final unless a motion of dissent with the ruling is moved before any other business proceeds.

### **10.19 Right of Reply**

- (1) The mover of a substantive motion has the right of reply. After the mover of the substantive motion has commenced the reply, no other member is to speak on the question.
- (2) The right of reply is to be confined to rebutting arguments raised by previous speakers and no new matter is to be introduced.

### **10.20 Right of Reply Provisions**

The right of reply is governed by the following provisions:

- (a) if no amendment is moved to the substantive motion, the mover may reply at the conclusion of the discussion on the motion;
- (b) if an amendment is moved to the substantive motion the mover of the substantive motion is to take the right of reply at the conclusion of the vote on any amendments;
- (c) the mover of any amendment does not have a right of reply;
- (d) once the right of reply has been taken, there can be no further discussion, nor any other amendment and the original motion or the original motion as amended is immediately put to the vote.

## **PART 11 - PROCEDURAL MOTIONS**

### **11.1 Permissible Procedural Motions**

In addition to proposing a properly worded amendment to a substantive motion, it is permissible for a member to move the following procedural motions:

- (a) that the Council (or committee) proceed to the next business;
- (b) that the question be adjourned;
- (c) that the Council (or committee) now adjourn;
- (d) that the question be now put;
- (e) that the member be no longer heard;
- (f) that the ruling of the person presiding be disagreed with;
- (g) that the Council (or committee) meet behind closed doors, if the meeting or part of the meeting to which the motion relates is a matter in respect of which the meeting may be closed to members of the public under section 5.23 of the Act.

### **11.2 No Debate on Procedural Motions**

- (1) The mover of a motion stated in each of paragraphs (a), (b), (c), (f) and (g) of clause 11.1 may speak to the motion for not more than two 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 stated in each of paragraphs (d) and (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 Procedural Motions - Closing Debate - Who May Move**

No person who has moved, seconded, or spoken for or against the substantive motion, or any amendment 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.

## **PART 12 - EFFECT OF PROCEDURAL MOTIONS**

### **12.1 Council (or Committee) to Proceed to the Next Business - Effect of Motion**

The motion “that the Council (or committee) proceed to the next business”, if carried, causes the debate to cease immediately and for the Council (or committee) to move to the next business of the meeting. No decision will be made on the substantive motion being discussed, nor is there any requirement for the matter to be again raised for consideration.

### **12.2 Question to be Adjourned - Effect of Motion**

- (1) The motion “that the question be adjourned”, if carried, causes all debate on the substantive motion or amendment to cease but to continue at a time stated in the motion.
- (2) If the motion is carried at a meeting of the Council -
  - (a) the names of members who have spoken on the matter are to be recorded in the minutes; and
  - (b) the provisions of clause 9.5 apply when the debate is resumed.

### **12.3 Council (or Committee) to Now Adjourn - Effect of Motion**

- (1) The motion “that the Council (or committee) now adjourn”, if carried, causes the meeting to stand adjourned until it is re-opened at which time the meeting continues from the point at which it was adjourned, unless the person presiding or a simple majority of members upon vote, determine otherwise.
- (2) Where debate on a motion is interrupted by an adjournment under subclause (1) -
  - (a) the debate is to be resumed at the next meeting at the point where it was so interrupted; and
  - (b) in the case of a Council meeting
    - (i) the names of members who have spoken on the matter prior to the adjournment are to be recorded in the minutes; and
    - (ii) the provisions of clause 9.5 apply when the debate is resumed.

### **12.4 Question to be Put - Effect of Motion**

- (1) The motion “that the question be now put”, if carried during discussion of a substantive motion without amendment, causes the person presiding to offer the right of reply and then immediately put the matter under consideration without further debate.
- (2) This motion, if carried during discussion of an amendment, causes the person presiding to put the amendment to the vote without further debate.
- (3) This motion, if lost, causes debate to continue.

**12.5 Member to be No Longer Heard - Effect of Motion**

The motion “that the member be no longer heard”, if carried, causes the person presiding to not allow the speaker against whom the motion has been moved to speak to the current substantive motion or any amendment relating to it, except to exercise the right of reply if the person is the mover of the substantive motion.

**12.6 Ruling of the Person Presiding Disagreed With - Effect of Motion**

The motion “that the ruling of the person presiding be disagreed with”, if carried, causes the ruling of the person presiding about which this motion was moved, to have no effect and for the meeting to proceed accordingly.

**12.7 Council (or Committee) to Meet Behind Closed Doors - Effect of Motion**

- (1) Subject to any deferral under clause 3.7 or other decision of the Council or committee, this motion, if carried, causes the general public and any officer or employee the Council or committee determines, to leave the room.
- (2) While a decision made under this clause is in force the operation of clause 9.5 limiting the number of speeches a member of the Council may make, is suspended unless the Council decides otherwise.
- (3) Upon the public again being admitted to the meeting the person presiding, unless the Council or committee decides otherwise, is to cause the motions passed by the Council or committee whilst it was proceeding behind closed doors to be read out including the vote of a member or members to be recorded in the minutes under section 5.21 of the Act.
- (4) A person who is a Council member, a committee member, or an employee is not to publish, or make public any of the discussion taking place on a matter discussed behind closed doors, but this prohibition does not extend to the actual decision made as a result of such discussion and other information properly recorded in the minutes.

**PART 13 - MAKING DECISIONS****13.1 Question - When Put**

When the debate upon any question is concluded and the right of reply has been exercised the person presiding shall immediately put the question to the Council or the committee, and, if so desired by any member of the Council or committee, shall again state it.

**13.2 Question - Method of Putting**

If a decision of the Council or a committee is unclear or in doubt, the person presiding shall put the motion or amendment as often as necessary to determine the decision from a show of hands or other method agreed upon so that no voter's vote is secret, before declaring the decision.

***Part 14 - Implementing Decisions*****14.1 Implementation of a Decision**

- (1) If a notice of motion to revoke or change a decision of the Council or a committee that complies with Regulation 10 of the Regulations is received by the CEO before any action has been taken to implement that decision, then no steps are to be taken to implement or give effect to that decision until such time as the motion of revocation or change has been dealt with.

- (2) Implementation of a decision is only to be withheld under sub-clause (1) if the effect of the change proposed in a notice of motion would be that the decision would be revoked or would become substantially different.
- (3) The Council or a committee shall not vote on a motion to revoke or change a decision of the Council or committee whether the motion of revocation or change is moved with or without notice, if at the time the motion is moved or notice is given:-
  - (a) action has been taken to implement the decision; or
  - (b) where the decision concerns the issue of an approval or the authorisation of a licence, permit or certificate, and where that approval or authorisation of a licence, permit or certificate has been put into effect by the Council in writing to the applicant or the applicant's agent by an employee of the local government authorised to do so;  
without having considered a statement of impact prepared by or at the direction of the CEO of the legal and financial consequences of the proposed revocation or change.

## ***Part 15 - Preserving Order***

### **15.1 The Person Presiding to Preserve Order**

The person presiding is to preserve order, and may call any member or other person in attendance to order, whenever, in his or her opinion, there is cause for so doing.

### **15.2 Demand for Withdrawal**

A member at a meeting of the Council or a committee may be required by the person presiding, or by a decision of the Council or committee, to apologise and unreservedly withdraw any expression which is considered to reflect offensively on another member or an employee, and if the member declines or neglects to do so, the person presiding may refuse to hear the member further upon the matter then under discussion and call upon the next speaker.

### **15.3 Points of Order - When to Raise - Procedure**

Upon a matter of order arising during the progress of a debate, any member may raise a point of order including interrupting the speaker. Any member who is speaking when a point of order is raised, is to immediately stop speaking while the person presiding listens to the point of order.

### **15.4 Points of Order - When Valid**

The following are to be recognised as valid points of order:

- (a) that the discussion is of a matter not before the Council or committee;
- (b) that offensive or insulting language is being used;
- (c) drawing attention to the violation of any written law, or policy of the local government, provided that the member making the point of order states the written law or policy believed to be breached.

### **15.5 Points Of Order - Ruling**

The person presiding is to give a decision on any point of order which is raised by either upholding or rejecting the point of order.



**15.6 Points of Order - Ruling Conclusive, Unless Dissent Motion is Moved**

The ruling of the person presiding upon any question of order is final, unless a majority of the members support a motion of dissent with the ruling.

**15.7 Points of Order Take Precedence**

Notwithstanding anything contained in these Standing Orders to the contrary, all points of order take precedence over any other discussion and until decided, suspend the consideration and decision of every other matter.

**15.8 Precedence of Person Presiding**

- (1) When the person presiding indicates a wish to speak during the progress of a debate, any member of the Council or committee then speaking, or offering to speak, is to immediately cease speaking and every member of the Council or committee present shall preserve strict silence so that the person presiding may be heard without interruption.
- (2) Subclause (1) is not to be used by the person presiding to exercise the right provided in clause 9.3, but to preserve order.

**15.9 Right of the Person Presiding to Adjourn Without Explanation to Regain Order**

- (1) If a meeting ceases to operate in an orderly manner, the person presiding may use discretion to adjourn the meeting for a period of up to fifteen minutes without explanation, for the purpose of regaining order. Upon resumption, debate is to continue at the point at which the meeting was adjourned. If, at any one meeting, the person presiding has cause to further adjourn the meeting, such adjournment may be to a later time on the same day or to any other day.
- (2) Where debate of a motion is interrupted by an adjournment under sub-clause (1), in the case of a Council meeting -
  - (a) the names of members who have spoken in the matter prior to the adjournment are to be recorded; and
  - (b) the provisions of clause 9.5 apply when the debate is resumed.

**PART 16 - ADJOURNMENT OF MEETING****16.1 Meeting May be Adjourned**

The Council or a committee may decide to adjourn any meeting to a later time on the same day, or to any other day.

**16.2 Limit to Moving Adjournment**

No member is to move or second more than one motion of adjournment during the same sitting of the Council or committee.

**16.3 Unopposed Business - Motion for Adjournment**

On a motion for the adjournment of the Council or committee, the person presiding, before putting the motion, may seek leave of the Council or committee to proceed to the transaction of unopposed business.

**16.4 Withdrawal of Motion for Adjournment**

A motion or an amendment relating to the adjournment of the Council or a committee may be withdrawn by the mover, with the consent of the seconder, except that if any member objects to the withdrawal, debate of the motion is to continue.

### **16.5 Time To Which Adjourned**

The time to which a meeting is adjourned for want of a quorum, by the person presiding to regain order, or by decision of the Council, may be to a specified hour on a particular day or to a time which coincides with the conclusion of another meeting or event on a particular day.

## **PART 17 - COMMITTEES OF THE COUNCIL**

### **17.1 Establishment and Appointment of Committees**

A committee is not to be established except on a motion setting out the proposed functions of the committee and either -

- (a) the names of the Council members, employees and other persons to be appointed to the committee; or
- (b) the number of Council members, employees and other persons to be appointed to the committee and a provision that they be appointed by a separate motion.

### **17.2 Appointment of Deputy Committee Members**

- (1) The Council may appoint one or more persons to be the deputy or deputies, as the case may be, to act on behalf of a member of a committee whenever that member is unable to be present at a meeting thereof and where two or more deputies are so appointed they are to have seniority in the order determined by the Council.
- (2) Where a member of a committee does not attend a meeting thereof a deputy of that member, selected according to seniority, is entitled to attend that meeting in place of the member and act for the member, and while so acting has all the powers of that member.

### **17.3 Presentation of Committee Reports**

When the report or recommendations of a committee are placed before the Council, the adoption of recommendations of the committee is to be moved by -

- (a) the Presiding Member of the Committee if the Presiding Member is a Council member and is in attendance; or
- (b) a Council member who is a member of the committee, if the Presiding Member of the Committee is not a Council member, or is absent; or
- (c) otherwise, by a Council member who is not a member of the committee.

### **17.4 Reports of Committees - Questions**

When a recommendation of any committee is submitted for adoption by the Council, any member of the Council may direct questions directly relating to the recommendation through the person presiding to the Presiding Member or to any member of the committee in attendance.

### **17.5 Permissible Motions on Recommendation From Committee**

A recommendation made by or contained in the minutes of a committee may be adopted by the Council without amendment or modification, failing which, it may be -

- (a) rejected by the Council and replaced by an alternative decision; or
- (b) amended or modified and adopted with such amendment or modification; or

- (c) referred back to the committee for further consideration.

## **PART 18 - ADMINISTRATIVE MATTERS**

### **18.1 Suspension of Standing Orders**

- (1) The Council or a committee may decide, by simple majority vote, to suspend temporarily one or more of the Standing Orders.
- (2) The mover of a motion to suspend temporarily any one or more of the Standing Orders is to state the clause or clauses to be suspended, and the purpose of the suspension.

### **18.2 Cases not Provided for in Standing Orders**

The person presiding is to decide questions of order, procedure, debate, or otherwise in cases where these Standing Orders and the Act and Regulations are silent. The decision of the person presiding in these cases is final, except where a motion is moved and carried under clause 11.1(f).

## **PART 19 - COMMON SEAL**

### **19.1 The Council's Common Seal**

- (1) The CEO is to have charge of the common seal of the local government, and is responsible for the safe custody and proper use of it.
- (2) The common seal of the local government may only be used on the authority of the Council given either generally or specifically and every document to which the seal is affixed must be signed by the President and the CEO or a senior employee authorised by him or her.
- (3) The common seal of the local government is to be affixed to any local law which is made by the local government.
- (4) Any person who uses the common seal of the local government or a replica thereof without authority commits an offence.  
Penalty \$1,000

Dated ..... 2008

The Common Seal of the Shire of Broomehill-Tambellup was affixed by authority of a resolution of the Council in the presence of:

, President  
J TREZONA, Chief Executive Officer

## 9.10 PROPOSED ACTIVITIES ON THOROUGHFARES AND PUBLIC PLACES AND TRADING LOCAL LAW 2008

---

<b>Program:</b>	<b>Governance</b>	
<b>Attachment:</b>	<b>Proposed Activities in Thoroughfares and Public Places and Trading Local Laws 2008</b>	
<b>File Ref:</b>	<b>ADM0080</b>	
<b>Author:</b>	<b>JM Trezona</b>	<b>Chief Executive Officer</b>
<b>Date:</b>	<b>23<sup>rd</sup> July 2008</b>	
<b>Disclosure of Interest:</b>	<b>Nil</b>	

---

**Summary:** The purpose of this report is to allow the Presiding Person to give notice to the meeting of the purpose and effect of the Proposed Activities in Thoroughfares and Public Places and Trading Local Law 2008, for the Council to adopt the proposed Local Law and to allow for advertising of the proposed Local Law for public comment.

**Background:** The Proposed Activities in Thoroughfares and Public Places and Trading Local Law 2008 is based on the model Local Law developed by WALGA and approved by the Joint Standing Committee on Delegated Legislation. The matters addressed in the proposed local law address a number of activities that take place on thoroughfares and public places that are not addressed in other local laws and that a local government may wish to have control over.

The **Purpose** of the local law is to consolidate matters relating to activities on thoroughfares and public places and allow the local government to control trading in thoroughfares.

The **Effect** of the local law is that some activities are prohibited, some activities are permitted only under permit in thoroughfares and public places. Also, the local law enables a local government to require house numbering and the erection of fences in certain circumstances.

**Comment:** Neither of the former Shires had adopted a Activities in Thoroughfares and Public Places and Trading Local Law. The local laws allows the local government to have control over activities that occur on its thoroughfares and public places to ensure that the general public are not inconvenienced by uncontrolled activities. The local law allows control over;-

- Verge treatments;
- Driving on closed thoroughfares;
- Erection of advertising Signs;
- Obstructing animals and vehicles; and
- Stallholders, traders and outdoor eating facilities.

The local law allows the local government to designate flora roads and special environmental areas and control activities in those areas. It also allows street numbers and the issuing of permits for some activities on thoroughfares and for enforcement of the local law.

The provision in the traffic by-laws adopted by Tambellup in 1945 relating to a prohibition on parking within 8 metres of the Tambellup

Soldier's Memorial have been included in clause 4.2 for consideration. A definition of "parking" has been included for clarification.

**Consultation:**

The local law is advertised for public comment for a period of forty two days. Any submission received must be considered by Council before making the local law.

**Statutory Environment:**

Regulation 7 of the *Local Government (Constitutional) Regulations 1998*, prescribes that although an order has abolished the former Shires of Broomehill and Tambellup and created a new Shire of Broomehill-Tambellup;

- the local laws that applied in the former Shires continue to apply in respect of the former Shire districts;
- the local laws of the former Shires are to be administered and enforced by the new Shire of Broomehill-Tambellup; and
- the local laws of the former Shires may be amended or repealed by the new Shire as if they were local laws of the new Shire.

As it is proposed to adopt a new Local Law, the following processes, as set out in section 3.12 of the *Local Government Act 1995*, must be observed —

1. At a Council meeting the person presiding is to give notice of the purpose and effect of the proposed local law by ensuring that:-
  - (a) the purpose and effect of the proposed local law is included in the agenda for that meeting; and
  - (b) the minutes of the meeting of the Council include the purpose and effect of the proposed local law.
2. A local government is to -
  - (a) give Statewide public notice stating that -
    - (i) the local government proposes to make a local law, the purpose and effect of which is summarised in the notice;
    - (ii) a copy of the proposed local law may be inspected or obtained at any place specified in the notice; and
    - (iii) submissions about the proposed local Law may be made to a local government before a date to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;
  - (b) as soon as the notice is given, give a copy of the proposed Local Law and a copy of the notice is to be forwarded to the relevant Minister.
  - (c) provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.

After the last day for submissions, the local government is to consider any submissions made and may make the local law as proposed or make a local law that is not significantly different from what was proposed.

The local law is then published in the Government Gazette and a copy

sent to the relevant Minister and the State Parliament Joint Standing Committee on Delegated Legislation.

The local law comes into effect fourteen days after publication in the Government Gazette.

**Policy Implications:**

Nil

**Financial**

**Implications:**

The proposed local law needs to be advertised in a newspaper circulating throughout the State and once made by Council is required to be advertised in the Government Gazette.

**Strategic**

**Implications:**

This issue is not dealt with in the Plan

**Voting Requirements:**

Simple Majority

**Officer / Council**

**Resolution:**

**080811**

***“The Commissioner resolved –  
That Council adopt the Proposed Activities in Thoroughfares and Public Places and Trading Local Law 2008 in the form presented and Councils intention to make the proposed Local Law be advertised Statewide inviting public submissions.”***

**Reason For Change to Recommendation:**

# **LOCAL GOVERNMENT ACT 1995**

## **SHIRE OF BROOMEHILL-TAMBELLUP**

### **ACTIVITIES ON THOROUGHFARES AND PUBLIC PLACES AND TRADING LOCAL LAW 2008**

## LOCAL GOVERNMENT ACT 1995

Shire of Broomehill-Tambellup

### ACTIVITIES ON THOROUGHFARES AND PUBLIC PLACES AND TRADING LOCAL LAW 2008

#### TABLE OF CONTENTS

##### PART 1 – PRELIMINARY

- 1.1 Citation
- 1.2 Definitions
- 1.3 Application

##### PART 2 – ACTIVITIES ON THOROUGHFARES AND PUBLIC PLACES

###### *Division 1 – General*

- 2.1 General prohibitions
- 2.2 Activities allowed with a permit – general
- 2.3 No possession and consumption of liquor on thoroughfare

###### *Division 2 – Vehicle crossing*

###### Subdivision 1 – Temporary crossings

- 2.4 Permit required

###### Subdivision 2 - Redundant vehicle crossings

- 2.5 Removal of redundant crossing

###### *Division 3 – Verge treatments*

###### Subdivision 1 – Preliminary

- 2.6 Definition
- 2.7 Application

###### Subdivision 2 – Permissible verge treatments

- 2.8 Permissible verge treatments
- 2.9 Only permissible verge treatments to be installed
- 2.10 Obligation of owner or occupier
- 2.11 Notice to owner or occupier

###### Subdivision 3 – Existing verge treatments

- 2.12 Transitional provision

###### Subdivision 4 – Public Works

- 2.13 Power to carry out public works on verge



*Division 4 – Property numbers*  
*Subdivision 1 – Preliminary*

2.14 Definition

*Subdivision 2 – Assignment and marking of numbers*

2.15 Assignment of numbers

*Division 5 – Fencing*

2.16 Public Place – Item 4(1) of Division 1, Schedule 3.1 of the Act

*Division 6 – Signs erected by the local government*

2.17 Signs

2.18 Transitional

*Division 7 – Driving on a closed thoroughfare*

2.19 No driving on closed thoroughfare

**PART 3 – ADVERTISING SIGNS ON THOROUGHFARES**

*Division 1 – Preliminary*

3.1 Definition

*Division 2 – Permit*

3.2 Advertising signs and portable direction signs

3.3 Matters to be considered in determining application for permit

*Division 3 – Conditions on permit*

3.4 Conditions on portable sign

3.5 Conditions on election sign

**PART 4 – OBSTRUCTING ANIMALS, VEHICLES OR SHOPPING TROLLEYS**

*Division 1 – Animals and vehicles*

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

4.2 Prohibition on parking a vehicle near the Tambellup Soldier's Memorial

4.3 Prohibitions relating to animals

*Division 2 – Shopping Trolleys*

4.4 Definition

4.5 Shopping trolley to be marked

4.6 Person not to leave trolley in public place

4.7 Retailer to remove abandoned trolley

4.8 Retailer taken to own trolley

## **PART 5 – ROADSIDE CONSERVATION**

### *Division 1 – Preliminary*

- 5.1 Definition
- 5.2 Application

### *Division 2 – Flora roads*

- 5.3 Declaration of flora road
- 5.4 Construction works on flora road
- 5.5 Signposting of flora roads
- 5.6 Driving only on carriageway of flora roads

### *Division 3 – Special environmental areas*

- 5.7 Designation of special environmental areas
- 5.8 Marking of special environmental areas

### *Division 4 – Planting in thoroughfares*

- 5.9 Permit to plant
- 5.10 Relevant considerations in determining application

### *Division 5 – Clearance of vegetation*

- 5.11 Permit to clear
- 5.12 Application for permit

### *Division 6 – Fire management*

- 5.13 Permit to burn thoroughfare
- 5.14 Application for permit
- 5.15 When application for permit can be approved
- 5.16 Prohibitions on burning

### *Division 7 – Firebreaks*

- 5.17 Permit for firebreaks on thoroughfares
- 5.18 When application for permit cannot be approved

### *Division 8 – Commercial wildflower harvesting on thoroughfares*

- 5.19 General prohibition on commercial wildflower harvesting
- 5.20 Permit for revegetation projects

## **PART 6 – TRADING IN THOROUGHFARES AND PUBLIC PLACES**

### *Division 1 – Stallholders and traders*

#### Subdivision 1 – Preliminary

6.1 Definition

#### Subdivision 2 – Permits

6.2 Stallholder's permit

6.3 Trader's permit

6.4 No permit required to sell newspaper

6.5 Relevant considerations in determining application for permit

6.6 Conditions of permit

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

#### Subdivision 3 – Conduct of stallholders and traders

6.8 Conduct of stallholders and traders

### *Division 2 – Street entertainers*

#### Subdivision 1 – Preliminary

6.9 Definition

#### Subdivision 2 – Permits

6.10 Permit required to perform

6.11 Variation of permitted area and permitted time

6.12 Duration of permit

6.13 Cancellation of permit

6.14 Obligation of permit holder

#### *Division 3 – Outdoor eating facilities on public places*

6.15 Definition

6.16 Permit required to conduct Facility

6.17 Matters to be considered in determining application

6.18 Obligation of permit holder

6.19 Removal of Facility unlawfully conducted

6.20 Use of Facility by public

6.21 Temporary removal of Facility may be requested

## **Part 7 – Permits**

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

7.1 Application for permit

7.2 Decision on application for permit

### *Division 2 – Conditions*

7.3 Conditions which may be imposed on a permit

7.4 Imposing conditions under a policy

7.5 Compliance with and variation to conditions

*Division 3 – General*

- 7.6 Duration of permit
- 7.7 Renewal of permit
- 7.8 Transfer of permit
- 7.9 Production of permit
- 7.10 Cancellation of permit

**PART 8 – OBJECTIONS AND APPEALS**

- 8.1 Application of Part 9 Division 1 of the Act

**PART 9 – MISCELLANEOUS NOTICES**

- 9.1 Notice to redirect or repair sprinkler
- 9.2 Hazardous plants
- 9.3 Notice to repair damage to thoroughfare
- 9.4 Notice to remove thing unlawfully placed on thoroughfare

**PART 10 – ENFORCEMENT**

*Division 1 – Notices given under this local law*

- 10.1 Offence to fail to comply with notice
- 10.2 Local government may undertake requirements of notice

*Division 2 – Offences and penalties*

Subdivision 1 – General

- 10.3 Offences

Subdivision 2 – Infringement notices and modified penalties

- 10.4 Prescribed offences
- 10.5 Forms

**SCHEDULE 1 – PRESCRIBED OFFENCES**

## LOCAL GOVERNMENT ACT 1995

### *Shire of Broomehill-Tambellup*

## ACTIVITIES ON THOROUGHFARES AND PUBLIC PLACES AND TRADING LOCAL LAW 2008

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Broomehill-Tambellup resolved on ..... to make the following local law.

### PART 1 – PRELIMINARY

#### 1.1 Citation

This local law may be cited as the *Shire of Broomehill-Tambellup Activities on Thoroughfares and Public Places and Trading Local Law 2008*.

#### 1.2 Definitions

In this local law unless the context otherwise requires –

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

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

“**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;

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

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

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

“**CEO**” means the chief executive officer of the local government;

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

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

“**crossing**” means a crossing giving access from a public thoroughfare to –

(a) private land; or

(b) a private thoroughfare serving private land;

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

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

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

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

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

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

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

“**local government**” means the Shire of Broomehill-Tambellup;

“**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;
- “**lot**” has the meaning given to it in the *Planning and Development Act 2005*;
- “**owner**” or “**occupier**” in relation to land does not include the local government;
- “**park**” means to permit a vehicle, whether attended or not, to remain stationary, except for the purpose of —
- (a) avoiding conflict with other traffic;
  - (b) complying with the provisions of any law; or
  - (c) taking up or setting down persons or goods  
(*maximum of 2 minutes*);
- “**permissible verge treatment**” means any one of the 4 treatments described in clause 2.8(2), and includes any reticulation pipes and sprinklers;
- “**permit**” means a permit issued under this local law;
- “**permit holder**” means a person who holds a valid permit;
- “**person**” does not include the local government;
- “**premises**” for the purpose of the definition of “public place” in both this clause and clause 6.1, means a building or similar structure, but does not include a carpark or a similar place;
- “**public place**” includes any thoroughfare or place which the public are allowed to use, whether or not the thoroughfare or place is on private property, but does not include —
- (a) premises on private property from which trading is lawfully conducted under a written law; and
  - (b) local government property;
- “**Regulations**” means the *Local Government (Functions and General)*
- Regulations*  
1996;
- “**sign**” includes a notice, flag, mark, structure or device on which may be shown words, numbers, expressions or symbols;
- “**thoroughfare**” has the meaning given to it in the Act, but does not include a private thoroughfare which is not under the management control of the local government;
- “**town planning scheme**” means a town planning scheme of the local government made under the *Planning and Development Act 2005*;
- “**townsite**” means all townsites within the district which are —
- (a) constituted under section 26(2) of the *Land Administration Act 1997*;
  - (b) referred to in clause 37 of Schedule 9.3 of the Act; or
- “**vehicle**” includes —
- (a) every conveyance and every object capable of being propelled or drawn on wheels, tracks or otherwise; and
  - (b) an animal being ridden or driven,
- but excludes —
- (a) a wheel-chair or any device designed for use by a physically impaired person on a footpath; and
  - (b) a pram, a stroller or a similar device; and
- “**verge**” means that part of a thoroughfare between the carriageway and the land which abuts the thoroughfare, but does not include any footpath.

### 1.3 Application

This local law applies throughout the district.

**PART 2 – ACTIVITIES IN THOROUGHFARES AND PUBLIC PLACES***Division 1 - General***2.1 General prohibitions**

A person shall not –

- (a) plant any plant on a thoroughfare –
  - (i) except grass or a similar plant within 6 metres of an intersection; and
  - (ii) which exceeds or which may exceed 75 millimetres in height so that the plant is within 6 metres to 10 metres of an intersection;
- (b) damage a lawn or a garden or remove any plant or part of a plant from a lawn or a garden unless –
  - (i) the person is the owner or the occupier of the lot abutting that portion of the thoroughfare and the lawn or the garden or the particular plant has not been installed or planted by the local government; or
  - (ii) the person is acting under the authority of a written law;
- (c) plant any plant (except grass or a similar plant) on a thoroughfare so that it is within 2 metres of a carriageway;
- (d) place on any footpath any fruit, fruit skins or other substance or fluid (whether vegetable or otherwise, but not water) which may create a hazard for any person using the footpath;
- (e) unless at the direction of the local government, damage, remove or interfere with any signpost, direction plate, guidepost, notice, shelter, shed, fence or any structure erected on a thoroughfare by the local government or a person acting under the authority of a written law;
- (f) play or participate in any game or sport so as to cause danger to any person or thing or impede the movement of vehicles or persons on a thoroughfare; or
- (g) within a mall, arcade or verandah of a shopping centre, ride any bicycle, skateboard, rollerblades or similar device.

**2.2 Activities allowed with a permit – general**

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

- (a) dig or otherwise create a trench through or under a kerb or footpath;
- (b) subject to Division 3 of this Part, throw, place or deposit any thing on a verge except for removal by the local government under a bulk rubbish collection, and then only in accordance with the terms and conditions and during the period of time advertised in connection with that collection by the local government;
- (c) cause any obstruction to a vehicle or a person using a thoroughfare as a thoroughfare;
- (d) cause any obstruction to a water channel or a water course in a thoroughfare;
- (e) throw, place or drain offensive, noxious or dangerous fluid onto a thoroughfare;
- (f) damage a thoroughfare;
- (g) light any fire or burn any thing on a thoroughfare other than in a stove or fireplace provided for that purpose or under a permit issued under clause 5.13;
- (h) fell any tree onto a thoroughfare;
- (i) unless installing, or in order to maintain, a permissible verge treatment –
  - (i) lay pipes under or provide taps on any verge; or
  - (ii) place or install any thing on any part of a thoroughfare, and without limiting the generality of the foregoing, any gravel, stone, flagstone,

- cement, concrete slabs, blocks, bricks, pebbles, plastic sheeting, kerbing, wood chips, bark or sawdust;
- (j) provide, erect, install or use in or on any building, structure or land abutting on a thoroughfare any hoist or other thing for use over the thoroughfare;
  - (k) on a public place use anything or do anything so as to create a nuisance;
  - (l) place or cause to be placed on a thoroughfare a bulk rubbish container; or
  - (m) interfere with the soil of, or anything in a thoroughfare or take anything from a thoroughfare.
- (2) The local government may exempt a person from compliance with subclause (1) on the application of that person.

### **2.3 No possession and consumption of liquor on thoroughfare**

- (1) A person shall not consume any liquor or have in her or his possession or under her or his control any liquor on a thoroughfare unless –
- (a) that is permitted under the *Liquor Control Act 1988* or under another written law; or
  - (b) the person is doing so in accordance with a permit.
- (2) Subclause (1) does not apply where the liquor is in a sealed container.

#### *Division 2 - Vehicle crossing* Subdivision 1 - Temporary crossings

### **2.4 Permit required**

- (1) Where it is likely that works on a lot will involve vehicles leaving a thoroughfare and entering the lot, the person responsible for the works shall obtain a permit for the construction of a temporary crossing to protect the existing carriageway, kerb, drains and footpath, where –
- (a) a crossing does not exist; or
  - (b) a crossing does exist, but the nature of the vehicles and their loads is such that they are likely to cause damage to the crossing.
- (2) The “person responsible for the works” in subclause (1) is to be taken to be –
- (a) the builder named on the building licence issued under the *Local Government (Miscellaneous Provisions) Act 1960*, if one has been issued in relation to the works; or
  - (b) the registered proprietor of the lot, if no building licence has been issued under the *Local Government (Miscellaneous Provisions) Act 1960* in relation to the works.
- (3) If the local government approves an application for a permit for the purpose of subclause (1), the permit is taken to be issued on the condition that until such time as the temporary crossing is removed, the permit holder shall keep the temporary crossing in good repair and in such a condition so as not to create any danger or obstruction to persons using the thoroughfare.

#### *Subdivision 2 - Redundant vehicle crossings*

### **2.5 Removal of redundant crossing**

- (1) Where works on a lot will result in a crossing no longer giving access to a lot, the crossing is to be removed and the kerb, drain, footpath, verge and any other part of the thoroughfare affected by the removal are to be reinstated to the satisfaction of the local government.
- (2) The local government may give written notice to the owner or occupier of a lot requiring her or him to –



- (a) remove any part of or all of a crossing which does not give access to the lot; and
  - (b) reinstate the kerb, drain, footpath, verge and any other part of the thoroughfare, which may be affected by the removal,
- within the period of time stated in the notice, and the owner or occupier of the lot shall comply with that notice.

*Division 3 - Verge treatments*  
*Subdivision 1 - Preliminary*

## **2.6 Definition**

In this Division, unless the context otherwise requires –

“**acceptable material**” means any material which will create a hard surface, and which appears on a list of acceptable materials maintained by the local government.

## **2.7 Application**

This Division only applies to townsites.

*Subdivision 2 - Permissible verge treatments*

## **2.8 Permissible verge treatments**

- (1) An owner or occupier of land which abuts on a verge may on that part of the verge directly in front of her or his land install a permissible verge treatment.
- (2) The permissible verge treatments are –
  - (a) the planting and maintenance of a lawn;
  - (b) the planting and maintenance of a garden provided that –
    - (i) clear sight visibility is maintained at all times for a person using the abutting thoroughfare in the vicinity of an intersection or bend in the thoroughfare or using a driveway on land adjacent to the thoroughfare for access to or from the thoroughfare; and
    - (ii) where there is no footpath, a pedestrian has safe and clear access of a minimum width of 2 metres along that part of the verge immediately adjacent to the kerb;
  - (c) the installation of an acceptable material; or
  - (d) the installation over no more than one third of the area of the verge (excluding any vehicle crossing) of an acceptable material in accordance with paragraph (c), and the planting and maintenance of either a lawn or a garden on the balance of the verge in accordance with paragraph (a) or (b).

## **2.9 Only permissible verge treatments to be installed**

- (1) A person shall not install or maintain a verge treatment which is not a permissible verge treatment.
- (2) The owner and occupier of the lot abutting a verge treatment referred to in subclause (1) are each to be taken to have installed and maintained that verge treatment for the purposes of this clause and clause 2.10.

## **2.10 Obligations of owner or occupier**

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

- (a) keep the permissible verge treatment in a good and tidy condition and ensure, where the verge treatment is a garden or lawn, that a footpath on the verge and a carriageway adjoining the verge is not obstructed by the verge treatment;
- (b) not place any obstruction on or around the verge treatment; and
- (c) not disturb a footpath on the verge.

## **2.11 Notice to owner or occupier**

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

### *Subdivision 3 - Existing verge treatments*

## **2.12 Transitional provision**

(1) In this clause –

“**former provisions**” means the local law of the local government which permitted certain types of verge treatments, whether with or without the consent of the local government, and which was repealed by this local law.

(2) A verge treatment which –

- (a) was installed prior to the commencement day; and
- (b) on the commencement day is a type of verge treatment which was permitted under and complied with the former provisions,

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

### *Subdivision 4 - Public works*

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

Where the local government or an authority empowered to do so under a written law disturbs a verge, the local government or the authority –

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

### *Division 4 - Property numbers*

#### *Subdivision 1 - Preliminary*

## **2.14 Definition**

In this Division, unless the context requires otherwise –

“**Number**” means a number of a lot with or without an alphabetical suffix indicating the address of the lot by reference to a thoroughfare.

*Subdivision 2 - Assignment and marking of numbers***2.15 Assignment of numbers**

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

*Division 5 - Fencing***2.16 Public place – Item 4(1) of Division 1, Schedule 3.1 of Act**

The following places are specified as a public place for the purpose of item 4(1) of Division 1 of Schedule 3.1 of the Act –

- (a) a public place, as that term is defined in clause 1.2; and
- (b) local government property.

*Division 6 - Signs erected by the local government***2.17 Signs**

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

**2.18 Transitional**

Where a sign erected on a public place has been erected under a local law of the local government repealed by this local law, then on and from the commencement day, it is to be taken to be a sign erected under clause 2.17 if –

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

*Division 7 - Driving on a closed thoroughfare***2.19 No driving on closed thoroughfare**

- (1) A person shall not drive or take a vehicle on a closed thoroughfare unless –
  - (a) that is in accordance with any limits or exceptions specified in the order made under section 3.50 of the Act; or
  - (b) the person has first obtained a permit.
- (2) In this clause –  
“**closed thoroughfare**” means a thoroughfare wholly or partially closed under section 3.50 or 3.50A of the Act.

## **PART 3 – ADVERTISING SIGNS ON THOROUGHFARES**

### *Division 1 - Preliminary*

#### **3.1 Definition**

In this Part, unless the context otherwise requires –

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

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

“**election sign**” means a sign or poster which advertises any aspect of a forthcoming Federal, State or Local Government election; and

“**portable direction sign**” means a portable free standing direction sign; and

“**portable sign**” means a portable free standing advertising sign.

### *Division 2 - Permit*

#### **3.2 Advertising signs and portable direction signs**

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

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

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

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

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

(a) on a footpath;

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

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

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

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

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

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

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

(b) the dimensions of the sign;

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

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

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

### *Division 3 – Conditions on permit*

#### **3.4 Conditions on portable sign**

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

- (a) the portable sign shall –
  - (i) not exceed 1 metre in height;
  - (ii) not exceed an area of 1 square metre on any side;
  - (iii) relate only to the business activity described on the permit;
  - (iv) contain letters not less than 200 millimetres in height;
  - (v) not be erected in any position other than immediately adjacent to the building or the business to which the sign relates;
  - (vi) be removed each day at the close of the business to which it relates and not be erected again until the business next opens for trading;
  - (vii) be secured in position in accordance with any requirements of the local government;
  - (viii) be placed so as not to obstruct or impede the reasonable use of a thoroughfare or access to a place by any person; and
  - (ix) be maintained in good condition; and
- (b) no more than one portable sign shall be erected in relation to the one building or business.

#### **3.5 Conditions on election sign**

If the local government approves an application for a permit for the erection or placement of an election sign on a thoroughfare, the application is to be taken to be approved subject to the sign –

- (a) being erected at least 30 metres from any intersection;
- (b) being free standing and not being affixed to any existing sign, post, power or light pole, or similar structure;
- (c) being placed so as not to obstruct or impede the reasonable use of a thoroughfare, or access to a place by any person;
- (d) being placed so as not to obstruct or impede the vision of a driver of a vehicle entering or leaving a thoroughfare or crossing;
- (e) being maintained in good condition;
- (f) not being erected until the election to which it relates has been officially announced;
- (g) being removed within 24 hours of the close of polls on voting day;
- (h) not being placed within 100 metres of any works on the thoroughfare;
- (i) being securely installed;
- (j) not being an illuminated sign;
- (k) not incorporating reflective or fluorescent materials; and
- (l) not displaying only part of a message which is to be read with other separate signs in order to obtain the whole message.

## **PART 4 – OBSTRUCTING ANIMALS, VEHICLES OR SHOPPING TROLLEYS**

### *Division 1 - Animals and vehicles*

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

- (1) A person shall not leave an animal or a vehicle, or any part of a vehicle, in a public place or on local government property so that it obstructs the use of any part of that public place or local government property, unless that person has first obtained a permit or is authorized to do so under a written law.
- (2) A person will not contravene subclause (1) where the animal is secured or tethered for a period not exceeding 1 hour.
- (3) A person will not contravene subclause (1) where the vehicle is left for a period not exceeding 24 hours.

#### **4.2 Prohibition on parking a vehicle near the Tambellup Soldiers' Memorial**

A person shall not park a vehicle on any portion of Norrish Street Tambellup so that any portion of the vehicle is within 8 metres of the Tambellup Soldiers' Memorial.

#### **4.3 Prohibitions relating to animals**

- (1) In subclause (2), "owner" in relation to an animal includes –
  - (a) an owner of it;
  - (b) a person in possession of it;
  - (c) a person who has control of it; and
  - (d) a person who ordinarily occupies the premises where the animal is permitted to stay.
- (2) An owner of an animal shall not –
  - (a) allow the animal to enter or remain for any time on any thoroughfare except for the use of the thoroughfare as a thoroughfare and unless it is led, ridden or driven;
  - (b) allow an animal which has a contagious or infectious disease to be led, ridden or driven in a public place; or
  - (c) train or race the animal on a thoroughfare.
- (3) An owner of a horse shall not lead, ride or drive a horse on a thoroughfare in a built-up area, unless that person does so under a permit or under the authority of a written law.

### *Division 2 - Shopping trolleys*

#### **4.4 Definition**

In this Division –

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

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

#### **4.5 Shopping trolley to be marked**

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

#### **4.6 Person not to leave trolley in public place**

A person shall not leave a shopping trolley in a public place other than in an area set aside for the storage of shopping trolleys.

#### **4.7 Retailer to remove abandoned trolley**

- (1) If a shopping trolley is found in a public place, other than in an area set aside for the storage of shopping trolleys, the local government may advise (verbally or in writing) a retailer whose name is marked on the trolley of the location of the shopping trolley.
- (2) A retailer shall remove a shopping trolley within 24 hours of being so advised under subclause (1), unless the retailer –
  - (a) requests the local government to collect and deliver the shopping trolley to the retailer; and
  - (b) pays any fee for that collection and delivery (imposed and determined under and in accordance with sections 6.16 to 6.19 of the Act) within the period specified by the local government.

#### **4.8 Retailer taken to own trolley**

In the absence of any proof to the contrary, a shopping trolley is to be taken to belong to a retailer whose name is marked on the trolley.

### **PART 5 - ROADSIDE CONSERVATION**

#### *Division 1 - Preliminary*

#### **5.1 Definition**

In this Part –

“**MRWA**” means Main Roads Western Australia;

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

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

“**Roadside Conservation Committee**” means the Roadside Conservation Committee established under the Land Resource Policy Council within the Office of Premier and Cabinet but now located in the Department of Environment and Conservation; and

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

#### **5.2 Application**

This Part does not apply to the townsite.

#### *Division 2 - Flora roads*

#### **5.3 Declaration of flora road**

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

#### **5.4 Construction works on flora roads**

Construction and maintenance work carried out by the local government on a flora road is to be in accordance with the “Handbook of Environmental Practice for Road Construction and Road Maintenance Works” (April 2005) prepared by the Roadside Conservation Committee.

#### **5.5 Signposting of flora roads**

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

#### **5.6 Driving only on carriageway of flora roads**

- (1) A person driving or riding a vehicle on a flora road shall only drive or ride the vehicle on the carriageway.
- (2) Subclause (1) does not apply where –
  - (a) conditions on the thoroughfare do not reasonably permit a vehicle to remain on the carriageway;
  - (b) there is no carriageway; or
  - (c) an exemption from the application of subclause (1) has been obtained from the local government.

### *Division 3 - Special environmental areas*

#### **5.7 Designation of special environmental areas**

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

- (a) has protected flora or rare flora; or
- (b) in the opinion of the local government, has environmental, aesthetic or cultural significance.

#### **5.8 Marking of special environmental areas**

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

### *Division 4 – Planting in thoroughfares*

#### **5.9 Permit to plant**

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

#### **5.10 Relevant considerations in determining application**

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

- (a) existing vegetation within that part of the thoroughfare in which the planting is to take place; and
- (b) the diversity of species and the prevalence of the species which are to be planted or sown.

### *Division 5 - Clearance of vegetation*

#### **5.11 Permit to clear**

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

#### **5.12 Application for permit**

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



## *Division 6 - Fire management*

### **5.13 Permit to burn thoroughfare**

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

### **5.14 Application for permit**

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

- (a) include a sketch plan showing the portions of a thoroughfare which are proposed to be burned; and
- (b) advise of the estimated fire intensity and the measures to be taken to protect upper storey vegetation from the burn.

### **5.15 When application for permit can be approved**

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

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

### **5.16 Prohibitions on burning**

Notwithstanding anything to the contrary in this local law, an application for a permit for the purpose of clause 5.13 is not to be approved by the local government –

- (a) for burning between 31 August and 1 May of the following year where the intensity of the burn could damage native flora and fauna; or
- (b) in any year to any person for any part of a thoroughfare which is on the opposite side of the carriageway to that portion of the thoroughfare for which a permit to burn has been approved in the same year.

## *Division 7 - Firebreaks*

### **5.17 Permit for firebreaks on thoroughfares**

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

### **5.18 When application for permit cannot be approved**

- (1) The local government is not to approve an application for a permit for the purpose of clause 5.17 where the thoroughfare is less than 20 metres wide.
- (2) Subclause (1) does not apply where the firebreak is, in the opinion of the local government, desirable for the protection of roadside vegetation.

## *Division 8 – Commercial wildflower harvesting on thoroughfares*

### **5.19 General prohibition on commercial wildflower harvesting**

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

## 5.20 Permit for revegetation projects

- (1) A person shall not collect seed from native flora on a thoroughfare without first obtaining a permit.
- (2) The local government may approve an application for a permit under subclause (1) only where-
  - (a) the seed is required for a revegetation project in any part of the district; and
  - (b) the thoroughfare, or the relevant part of it, is not a special environmental area.
- (3) Unless the local government specifically provides to the contrary on a permit, if the local government approves an application for a permit for the purpose of subclause (1) it is to be taken to be approved subject to the following conditions –
  - (a) the collection of the seed is to be carried out so as not to endanger the long time survival of the native flora on the thoroughfare; and
  - (b) any licence or approval which may be required under any other written law is to be obtained by the applicant.

## PART 6 - TRADING IN THOROUGHFARES AND PUBLIC PLACES

### *Division 1 - Stallholders and traders*

#### Subdivision 1 - Preliminary

### 6.1 Definition

In this Division, unless the context otherwise requires –

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

“**public place**” includes –

- (a) any thoroughfare or place which the public are allowed to use whether or not the thoroughfare or place is on private property; and
  - (b) local government property,
- but does not include premises on private property from which trading is lawfully conducted under a written law.

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

“**stallholder**” means a person in charge of a stall;

“**stallholder’s permit**” means a permit issued to a stallholder;

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

“**trader’s permit**” means a permit issued to a trader; and

“**trading**” includes –

- (a) the selling or hiring of, the offering for sale or hire of or the soliciting of orders for goods or services in a public place;
- (b) displaying goods in any public place for the purpose of –
  - (i) offering them for sale or hire;
  - (ii) inviting offers for their sale or hire;
  - (iii) soliciting orders for them; or
  - (iv) carrying out any other transaction in relation to them; and
- (c) the going from place to place, whether or not public places, and –
  - (i) offering goods or services for sale or hire; or
  - (a) (ii) inviting offers or soliciting orders for the sale or the hire of goods or services,

but does not include –

- (d) the delivery of pre-ordered goods or services to the purchaser of those goods or services or to the person nominated by the purchaser of those

- goods or services whether or not payment for those goods or services is accepted on delivery; or  
the taking of further orders for goods or services from the purchaser of those pre-ordered goods or services or from the person nominated by the purchaser of those pre-ordered goods or services when those orders are taken at the same time as a previous order is being delivered, whether or not payment is made for those goods or services at the time of taking the order;
- (e) the setting up of a stall or the conducting of a business at a stall under the authority of a stallholder's permit;
  - (f) the selling or the offering for sale of goods and services to, or the soliciting of orders for goods and services from a person who sells those goods or services;
  - (g) the selling or the offering for sale or hire by a person of goods of her or his own manufacture or services which he or she provides; and
  - (h) the selling or hiring or the offering for sale or hire of –
    - (i) goods by a person who represents a manufacturer of the goods; or
    - (ii) services by a person who represents a provider of the services, which are only sold directly to consumers and not through a shop.

#### Subdivision 2 - Permits

### 6.2 Stallholder's permit

- (1) A person shall not conduct a stall on a public place unless that person is –
  - (a) the holder of a valid stallholder's permit; or
  - (b) an assistant specified in a valid stallholder's permit.
- (2) Every application for a stallholder's permit shall –
  - (a) state the full name and address of the applicant;
  - (b) specify the proposed number of assistants to be engaged by the applicant in conducting the stall, as well as their names and addresses if already engaged;
  - (c) specify the proposed location of the stall;
  - (d) specify the period of time for which the permit is sought, together with the proposed days and hours of operation;
  - (e) specify the proposed goods or services to be sold or hired or offered for sale or hire from the stall; and
  - (f) be accompanied by an accurate plan and description of the proposed stall.

### 6.3 Trader's permit

- (1) A person shall not carry on trading unless that person is –
  - (a) the holder of a valid trader's permit; or
  - (b) an assistant specified in a valid trader's permit.
- (2) Every application for a trader's permit shall –
  - (a) state the full name and address of the applicant;
  - (b) specify the proposed number of assistants, if any, to be engaged by the applicant in trading, as well as their names and addresses if already engaged;
  - (c) specify the location or locations in which the applicant proposes to trade;
  - (d) specify the period of time for which the permit is sought, together with the proposed days and hours of trading;
  - (e) specify the proposed goods or services which will be traded; and
  - (f) be accompanied by an accurate plan and description of any proposed structure or vehicle which may be used by the applicant in trading.

- (3) The conditions subject to which the local government may approve an application for a trader's permit include that the permit holder is permitted to remain at a particular location for as long as there is a customer making a purchase, but if there is no customer making a purchase the permit holder must move on from that location within a reasonable time of the last purchase having been made.

#### **6.4 No permit required to sell newspaper**

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

#### **6.5 Relevant considerations in determining application for permit**

- (1) In determining an application for a permit for the purposes of this Division, the local government is to have regard to –

- (a) any relevant policies of the local government;
- (b) the desirability of the proposed activity;
- (c) the location of the proposed activity;
- (d) the principles set out in the Competition Principles Agreement; and
- (e) such other matters as the local government may consider to be relevant in the circumstances of the case.

- (2) The local government may refuse to approve an application for a permit under this Division on any one or more of the following grounds –

- (a) that the applicant has committed a breach of any provision of this local law or of any written law relevant to the activity in respect of which the permit is sought;
- (b) that the applicant is not a desirable or suitable person to hold a permit;
- (c) that –
  - (i) the applicant is an undischarged bankrupt or is in liquidation;
  - (ii) the applicant has entered into any composition or arrangement with creditors; or
  - (iii) a manager, an administrator, a trustee, a receiver, or a receiver and manager has been appointed in relation to any part of the applicant's undertakings or property; or
- (d) such other grounds as the local government may consider to be relevant in the circumstances of the case.

#### **6.6 Conditions of permit**

- (1) If the local government approves an application for a permit under this Division subject to conditions, those conditions may include –

- (a) the place, the part of the district, or the thoroughfare to which the permit applies;
- (b) the days and hours during which a permit holder may conduct a stall or trade;
- (c) the number, type, form and construction, as the case may be, of any stand, table, structure or vehicle which may be used in conducting a stall or in trading;
- (d) the goods or services in respect of which a permit holder may conduct a stall or trade;
- (e) the number of persons and the names of persons permitted to conduct a stall or trade;
- (f) the requirement for personal attendance at the stall or the place of trading by the permit holder and the nomination of assistants, nominees or substitutes for the permit holder;

- (g) whether and under what terms the permit is transferable;
  - (h) any prohibitions or restrictions concerning the –
    - (i) causing or making of any noise or disturbance which is likely to be a nuisance to persons in the vicinity of the permit holder;
    - (ii) the use of amplifiers, sound equipment and sound instruments;
    - (iii) the use of signs; and
    - (iv) the use of any lighting apparatus or device;
  - (i) the manner in which the permit holder's name and other details of a valid permit are to be displayed;
  - (j) the care, maintenance and cleansing of the stall or any structure used for trading and the place of the stall or any structure;
  - (k) the vacating of the place of a stall or trading when the stall is not being conducted or trading is not being carried on;
  - (l) the acquisition by the stallholder or trader of public risk insurance;
  - (m) the period for which the permit is valid; and
  - (n) the designation of any place or places where trading is wholly or from time to time prohibited by the local government.
- (2) Where a permit holder by reason of illness, accident or other sufficient cause is unable to comply with this local law, the local government may at the request of that permit holder authorize another person to be a nominee of the permit holder for a specified period, and this local law and the conditions of the permit shall apply to the nominee as if he or she was the permit holder.

## 6.7 Exemptions from requirement to pay fee or to obtain a permit

- (1) In this clause –
- “**charitable organisation**” means an institution, association, club, society or body whether incorporated or not, the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature and from which any member does not receive any pecuniary profit except where the member is an employee or the profit is an honorarium; and
- “**commercial participant**” means any person who is involved in operating a stall or in conducting any trading activity for personal gain or profit.
- (2) The local government may waive any fee required to be paid by an applicant for a stallholder's permit or a trader's permit on making an application for or on the issue of a permit, or may return any such fee which has been paid, if the stall is conducted or the trading is carried on–
- (a) on a portion of a public place adjoining the normal place of business of the applicant; or
  - (b) by a charitable organisation that does not sublet space to, or involve commercial participants in the conduct of a stall or trading, and any assistants that may be specified in the permit are members of that charitable organisation.
- (3) The local government may exempt a person or a class of persons, whether or not in relation to a specified public place, from the requirements of this Division.

## Subdivision 3 - Conduct of stallholders and traders

**6.8 Conduct of stallholders and traders**

- (1) A stallholder while conducting a stall or a trader while trading shall –
- (a) display her or his permit to do so in a conspicuous place on the stall, vehicle or temporary structure or if there is no stall, vehicle or temporary structure, carry the permit with her or him while conducting a stall or trading;
  - (b) not display a permit unless it is a valid permit; and
  - (c) when selling goods by weight, carry and use for that purpose, scales tested and certified in accordance with the provisions of the *Trade Measurement Administration Act 2006*.
- (2) A stallholder or trader shall not –
- (a) deposit or store any box or basket containing goods on any part of a thoroughfare so as to obstruct the movement of pedestrians or vehicles;
  - (b) act in an offensive manner;
  - (c) use or cause to be used any apparatus or device including any flap or shelf, whereby the dimensions of a stall, vehicle or structure are increased beyond those specified in the permit; or
  - (d) in the case of a trader, carry on trading from a public place, unless there is adequate parking for customers' vehicles reasonably close to the place of trading.

*Division 2 - Street entertainers*

## Subdivision 1 - Preliminary

**6.9 Definition**

In this Division, unless the context otherwise requires –

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

“**permit**” means a permit issued for the purpose of clause 6.10;

“**permitted area**” means the area or areas, specified in a permit, in which the permit holder may perform; and

“**permitted time**” means the time or times, specified in a permit, during which the permit holder may perform.

## Subdivision 2 - Permits

**6.10 Permit required to perform**

A person shall not perform in a public place without a permit.

**6.11 Variation of permitted area and permitted time**

(1) The local government may by notice in writing to a permit holder vary –

- (a) the permitted area;
- (b) the permitted time; or
- (c) both the permitted area and the permitted time,

shown on a permit.

(2) The local government may direct a permit holder to move from one permitted area to another permitted area, if more than one area is specified in a permit.

### 6.12 Duration of permit

A permit is valid for a period of 3 months after the date on which it is issued unless it is sooner cancelled under this local law.

### 6.13 Cancellation of permit

The CEO may cancel a permit if in her or his opinion the volume of sound caused by the permit holder in connection with the performance adversely affects the enjoyment, convenience or comfort of other persons in a public place, or if, in her or his opinion, or in the opinion of an authorized person, the performance otherwise constitutes a nuisance.

### 6.14 Obligations of permit holder

A permit holder shall not in a public place –

- (a) perform wearing dirty, torn or ragged clothing;
- (b) act in an offensive manner; or
- (c) place, install, erect, play or use any musical instrument or any device which emits music, including a loud speaker or an amplifier -
  - (i) other than in the permitted area; and
  - (ii) unless the musical instrument or device is specified in the permit.

#### *Division 3 - Outdoor eating Facilities on public places*

### 6.15 Definition

In this Division -

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

**"permit holder"** means the person to whom a permit has been issued for the purpose of clause 6.16; and

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

### 6.16 Permit required to conduct Facility

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

### 6.17 Matters to be considered in determining application

In determining an application for a permit for the purpose of clause 6.16, the local government may consider in addition to any other matter it considers relevant, whether or not-

- (a) the Facility is conducted in conjunction with and as an extension of food premises which abut on the Facility, and whether the applicant is the person conducting such food premises;
- (b) any abutting food premises are registered in accordance with the *Health Act 1911* and whether the use of the premises is permitted under the town planning scheme;
- (c) the Facility will comply with any local law made under section 172 of the *Health Act 1911*;
- (d) users of the Facility will have access to proper and sufficient sanitary and ablutionary conveniences;
- (e) the Facility would -
  - (i) obstruct the visibility or clear sight lines at an intersection of thoroughfares of any person; or
  - (ii) impede pedestrian access; and

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

### **6.18 Obligations of permit holder**

- (1) The permit holder for a Facility shall –
  - (a) ensure that the Facility is conducted at all times in accordance with the provisions of this local law and any local law made under section 172 of the *Health Act 1911*;
  - (b) ensure that the eating area is kept in a clean and tidy condition at all times;
  - (c) maintain the chairs, tables and other structures in the eating area in a good, clean and serviceable condition at all times;
  - (d) be solely responsible for all and any costs associated with the removal, alteration, repair, reinstatement or reconstruction of any part of the public place arising from the conduct of the Facility; and
  - (e) be solely responsible for all rates and taxes levied upon the land occupied by the Facility.
- (2) Whenever, in the opinion of the local government, any work is required to be carried out to a Facility, the local government may give a notice to the permit holder for the Facility to carry out that work within the time limited by the notice.
- (3) In subclause (2), “work” includes the removal, alteration, repair, reinstatement or reconstruction of any part of a public place arising from or in connection with the setting up or conduct of a Facility.

### **6.19 Removal of Facility unlawfully conducted**

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

### **6.20 Use of Facility by public**

- (1) A person shall not occupy a chair or otherwise use the equipment in a Facility the subject of a permit unless the person uses them for the purpose of consuming food or drinks provided by the Facility.
- (2) A person shall leave a Facility when requested to do so by the permit holder.

### **6.21 Temporary removal of Facility may be requested**

- (1) The permit holder for a Facility is to temporarily remove the Facility when requested to do so on reasonable grounds by an authorized person or a member of the Police Service or an emergency service.
- (2) The permit holder may replace the Facility removed under subclause (1) as soon as the person who directed her or him to remove it allows it to be replaced.

## **PART 7 - PERMITS**

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

#### **7.1 Application for permit**

- (1) Where a person is required to obtain a permit under this local law, that person shall apply for the permit in accordance with subclause (2).
- (2) An application for a permit under this local law shall –
  - (a) be in the form determined by the local government;
  - (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).

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

- (1) The local government may –
  - (a) approve an application for a permit unconditionally or subject to any conditions; or
  - (b) refuse to approve an application for a permit.
- (2) If the local government approves an application for a permit, it is to issue to the applicant a permit in the form determined by the local government.
- (3) If the local government refuses to approve an application for a permit, it is to give written notice of that refusal to the applicant.
- (4) Where a clause of this local law refers to conditions which may be imposed on a permit or which are to be taken to be imposed on a permit, the clause does not limit the power of the local government to impose other conditions on the permit under subclause (1)(a).
- (5) Where a clause of this local law refers to the grounds on which an application for a permit may be or is to be refused, the clause does not limit the power of the local government to refuse the application for a permit on other grounds under subclause (1)(b).

### *Division 2 - Conditions*

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

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

- (a) the payment of a fee;
- (b) the duration and commencement of the permit;
- (c) the commencement of the permit being contingent on the happening of an event;
- (d) the rectification, remedying or restoration of a situation or circumstance reasonably related to the application;
- (e) the approval of another application for a permit which may be required by the local government under any written law;
- (f) the area of the district to which the permit applies;
- (g) where a permit is issued for an activity which will or may cause damage to a public place, the payment of a deposit or bond against such damage;
- (h) the obtaining of public risk insurance in an amount and on terms reasonably required by the local government; and
- (i) the provision of an indemnity from the permit holder indemnifying the local government in respect of any injury to any person or any damage to any property which may occur in connection with the use of the public place by the permit holder.

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

- (1) In this clause –  
    **"policy"** means a policy of the local government adopted by the Council containing conditions subject to which an application for a permit may be approved under paragraph 7.2(1)(a).
- (2) Under paragraph 7.2(1)(a) the local government may approve an application subject to conditions by reference to a policy.
- (3) The local government is to give a copy of the policy, or the part of the policy which is relevant to the application for a permit, with the form of permit referred to in subclause 7.2(2).
- (4) An application for a permit is to be taken not to have been approved subject to the conditions contained in a policy until the local government gives the permit holder a copy of the policy or the part of the policy which is relevant to the application.
- (5) Sections 5.94 and 5.95 of the Act shall apply to a policy and for that purpose a policy is to be taken to be information within section 5.94(u)(i) of the Act.

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

- (1) Where an application for a permit has been approved subject to conditions, or where a permit is to be taken to be subject to conditions under this local law, the permit holder shall comply with each of those conditions.
- (2) The local government may vary the conditions of a permit, and the permit holder shall comply with those conditions as varied.

### *Division 3 - General*

#### **7.6 Duration of permit**

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

- (a) otherwise stated in this local law or in the permit; or
- (b) cancelled under clause 7.10.

#### **7.7 Renewal of permit**

- (1) A permit holder may apply to the local government in writing prior to expiry of a permit for the renewal of the permit.
- (2) The provisions of –
  - (a) this Part; and
  - (b) any other provision of this local law relevant to the permit which is to be renewed,shall apply to an application for the renewal of a permit *mutatis mutandis*.

#### **7.8 Transfer of permit**

- (1) An application for the transfer of a valid permit is to –
  - (a) be made in writing;
  - (b) be signed by the permit holder and the proposed transferee of the permit;
  - (c) provide such information as the local government may require to enable the application to be determined; and
  - (d) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.
- (2) The local government may approve an application for the transfer of a permit, refuse to approve it or approve it subject to any conditions.

- (3) Where the local government approves an application for the transfer of a permit, the transfer may be effected by –
- (a) an endorsement on the permit signed by the CEO; or
  - (b) issuing to the transferee a permit in the form determined by the local government.
- (4) Where the local government approves an application for the transfer of a permit, it is not required to refund any part of any fee paid by the former permit holder.

### **7.9 Production of permit**

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.

### **7.10 Cancellation of permit**

- (1) Subject to clause 8.1, a permit may be cancelled by the local government if the permit holder has not complied with a -
- (i) condition of the permit; or
  - (ii) provision of any written law which may relate to the activity regulated by the permit.
- (2) On the cancellation of a permit the permit holder –
- (a) shall return the permit as soon as practicable to the local government; and
  - (b) is to be taken to have forfeited any fees paid in respect of the permit.

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

### **8.1 Application of Part 9 Division 1 of Act**

When the local government makes a decision -

- (a) under clause 7.2(1); or
  - (b) as to whether it will renew, vary, or cancel a permit,
- the provisions of Division 1 of Part 9 of the Act and regulation 33 of the Regulations apply to that decision.

## **PART 9 - MISCELLANEOUS NOTICES**

### **9.1 Notice to redirect or repair sprinkler**

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

### **9.2 Hazardous plants**

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

### **9.3 Notice to repair damage to thoroughfare**

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

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

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

## **PART 10 - ENFORCEMENT**

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

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

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

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

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

### *Division 2 - Offences and penalties*

#### *Subdivision 1 - General*

#### **10.3 Offences**

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

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

#### **10.4 Prescribed offences**

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

## 10.5 Forms

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

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

## SCHEDULE 1

### PRESCRIBED OFFENCES

CLAUSE	DESCRIPTION	MODIFIED PENALTY \$
2.1(a)	Plant of 0.75m in height on thoroughfare within 10m of intersection	125
2.1(b)	Damaging lawn or garden	125
2.1(c)	Plant (except grass) on thoroughfare within 2m of carriageway	125
2.1(d)	Placing hazardous substance on footpath	125
2.1(e)	Damaging or interfering with signpost or structure on thoroughfare	350
2.1(f)	Playing games so as to impede vehicles or persons on thoroughfare	125
2.1(g)	Riding of skateboard or similar device on mall or verandah of shopping centre	125
2.2(1)(a)	Digging a trench through a kerb or footpath without a permit	125
2.2(1)(b)	Throwing or placing anything on a verge without a permit	125
2.2(1)(c)	Causing obstruction to vehicle or person on thoroughfare without a permit	125
2.2(1)(d)	Causing obstruction to water channel on thoroughfare without a permit	250
2.2(1)(e)	Placing or draining offensive fluid on thoroughfare without a permit	250
2.2(1)(g)	Lighting a fire on a thoroughfare without a permit	350
2.2(1)(h)	Felling tree onto thoroughfare without a permit	125
2.2(1)(i)	Installing pipes or stone on thoroughfare without a permit	125
2.2(1)(j)	Installing a hoist or other thing on a structure or land for use over a thoroughfare without a permit	350
2.2(1)(k)	Creating a nuisance on a thoroughfare without a permit	125
2.2(1)(l)	Placing a bulk rubbish container on a thoroughfare without a permit	125
2.2(1)(m)	Interfering with anything on a thoroughfare without a permit	125
2.3(1)	Consumption or possession of liquor on thoroughfare	125
2.4(1)	Failure to obtain permit for temporary crossing	250
2.5(2)	Failure to comply with notice to remove crossing and reinstate kerb	350
2.9(1)	Installation of verge treatment other than permissible verge	250

	treatment	
2.10	Failure to maintain permissible verge treatment or placement of obstruction on verge	125
2.11	Failure to comply with notice to rectify default	125
2.17(2)	Failure to comply with sign on public place	125
2.19(1)	Driving or taking a vehicle on a closed thoroughfare	350
3.2(1)	Placing advertising sign or affixing any advertisement on a thoroughfare without a permit	125
3.2(3)	Erecting or placing of advertising sign in a prohibited area	125
4.1(1)	Animal or vehicle obstructing a public place or local government property	125
4.2	Parking a vehicle alongside Tambellup Soldiers' Memorial	125
4.3(2)(a)	Animal on thoroughfare when not led, ridden or driven	125
4.3(2)(b)	Animal on public place with infectious disease	125
4.3(2)(c)	Training or racing animal on thoroughfare in built-up area	125
4.3(3)	Horse led, ridden or driven on thoroughfare in built-up area	125
4.6	Person leaving shopping trolley in public place other than trolley bay	125
4.7(2)	Failure to remove shopping trolley upon being advised of location	125
5.6(1)	Driving a vehicle on other than the carriageway of a flora road	250
5.9	Planting in thoroughfare without a permit	250
5.11	Failure to obtain permit to clear a thoroughfare	600
5.13	Burning of thoroughfare without a permit	600
5.17	Construction of firebreak on thoroughfare without a permit	600
5.19	Commercial harvesting of native flora on thoroughfare	600
5.20(1)	Collecting seed from native flora on thoroughfare without a permit	350
6.2(1)	Conducting of stall in public place without a permit	350
6.3(1)	Trading without a permit	350
6.8(1)(a)	Failure of stallholder or trader to display or carry permit	125
6.8(1)(b)	Stallholder or trader not displaying valid permit	125
6.8(1)(c)	Stallholder or trader not carrying certified scales when selling goods by weight	125
6.8(2)	Stallholder or trader engaged in prohibited conduct	125
6.10	Performing in a public place without a permit	125
6.11(2)	Failure of performer to move onto another area when directed	125
6.14	Failure of performer to comply with obligations	125
6.16	Establishment or conduct of outdoor eating Facility without a permit	350
6.18	Failure of permit holder of outdoor eating Facility to comply with obligations	125
6.20(1)	Use of equipment of outdoor eating Facility without purchase of food or drink from Facility	60
6.20(2)	Failure to leave outdoor eating Facility when requested to do so by permit holder	60
7.5	Failure to comply with a condition of a permit	125
7.9	Failure to produce permit on request of authorized person	125
10.1	Failure to comply with notice given under local law	125



**9.11 REPEAL LOCAL LAW 2008**


---

<b>Program:</b>	<b>Governance</b>
<b>Attachment:</b>	<b>Repeal Local Law 2008</b>
<b>File Ref:</b>	<b>ADM0080</b>
<b>Author:</b>	<b>JM Trezona                      Chief Executive Officer</b>
<b>Date:</b>	<b>23<sup>rd</sup> July 2008</b>
<b>Disclosure of Interest:</b>	<b>Nil</b>

---

**Summary:** The purpose of this report is to allow the Presiding Person to give notice to the meeting of the purpose and effect of the Proposed Repeal Local Law 2008, for the Council to adopt the proposed Local Law and to allow for advertising of the proposed Local Law for public comment.

**Background:** The Proposed Repeal Local Law 2008 repeals those obsolete local laws that are not repealed by a corresponding proposed local law 2008.

The **Purpose** of this local law is to repeal those obsolete local laws that no longer have relevance.

The **Effect** of this local laws is to ensure that no irrelevant local laws are in force within the Shire of Broomehill-Tambellup.

**Comment:** The Proposed Repeal Local Law repeals the following local law –

*Shire of Broomehill Draft (Removal and Disposal of Obstructing Animals or Vehicles) No 7 Model By-law as published in the Government Gazette on 14<sup>th</sup> September 1973.*

This by-law provides that a person shall be deemed to be obstructing a public place if they secure an animal for longer than eight hours or park a vehicle for longer than twenty four hours. The by-law also provides the head of power for impounding the animal or vehicle.

Provisions contained in the Proposed Activities on Thoroughfares and Public Places and Trading Local Law 2008 that has been recommended to Council for adoption deem that person to be obstructing a public place if the animal is secured for longer that one hour or a vehicle for longer than twenty four hours. The Local Government Act provides the head of power for impounding.

*Shire of Tambellup Management and use of the Road Board Hall By-law as published in the Government Gazette on 19<sup>th</sup> February 1926.*

Provisions for the Management and use of Halls are contained in the Proposed Local Government Property Local Law 2008.

*Shire of Tambellup Traffic By-law as published in the Government Gazette on 28<sup>th</sup> December 1945.*



This by-law restricted parking within twenty four feet of the Soldiers Memorial or Road Board Hall and restricted speed in the Tambellup Townsite to 25 mph.

Provisions in rel;

*Draft (Removal and Disposal of Obstructing Animals or Vehicles) No 7 as published in the Government Gazette on 23<sup>rd</sup> December 1971.*

This by-law provides that a person shall be deemed to be obstructing a public place if they secure an animal for longer than eight hours or park a vehicle for longer than twenty four hours. The by-law also provides the head of power for impounding the animal or vehicle.

Provisions contained in the Proposed Activities on Thoroughfares and Public Places and Trading Local Law 2008 that has been recommended to Council for adoption deem the person to be obstructing a public place if the animal is secured for longer than one hour or a vehicle for longer than twenty four hours. The Local Government Act provides the head of power for impounding.

*By-laws Relating to Noxious Weeds as published in the Government Gazette on 13<sup>th</sup> April 1972.*

This by-law that a person shall not transport in a vehicle any grain in bulk or open sacks unless the vehicle is so fitted as to prevent spillage from the vehicle.

There is no local law being presented to Council with similar provisions.

**Consultation:**

The local law is advertised for public comment for a period of forty two days. Any submissions received must be considered by Council before making the local law.

**Statutory Environment:**

Regulation 7 of the Local Government Constitutional Regulations 1998, prescribes that although an order has abolished the former Shires of Broomehill and Tambellup and created a new Shire of Broomehill-Tambellup;

- the local laws that applied in the former Shires continue to apply in respect of the former Shire districts;
- the local laws of the former Shires are to be administered and enforced by the new Shire of Broomehill-Tambellup; and
- the local laws of the former Shires may be amended or repealed by the new Shire as if they were local laws of the new Shire.

As it is proposed to adopt new Local Laws, the following processes, as set out in section 3.12 of the *Local Government Act 1995*, must be observed —

1. At a Council meeting the person presiding is to give notice of the purpose and effect of the proposed local law by ensuring that:-
  - (a) the purpose and effect of the proposed local law is included in the agenda for that meeting; and
  - (b) the minutes of the meeting of the Council include the purpose and effect of the proposed local law.
2. A local government is to -
  - (a) give Statewide public notice stating that -
    - (i) the local government proposes to make a local law, the purpose and effect of which is summarised in the notice;
    - (ii) a copy of the proposed local law may be inspected or obtained at any place specified in the notice; and
    - (iii) submissions about the proposed local Law may be made to a local government before a date to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;
  - (b) as soon as the notice is given, give a copy of the proposed Local Law and a copy of the notice is to be forwarded to the relevant Minister.
  - (c) provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.

After the last day for submissions, the local government is to consider any submissions made and may make the local law as proposed or make a local law that is not significantly different from what was proposed.

The local law is then published in the Government Gazette and a copy sent to the relevant Minister and the State Parliament Joint Standing Committee on Delegated Legislation.

The local law comes into effect 14 days after publication in the Government Gazette.

**Policy Implications:**

**Financial Implications:**

The proposed local law needs to be advertised in a newspaper circulating throughout the State and once made by Council is required to be advertised in the Government Gazette.

**Strategic Implications:**

This issue is not dealt with in the Plan

**Voting Requirements:**

Simple Majority

**Officer / Council**

**Resolution:** 080812

*“The Commissioner resolved –  
That Council adopt the Proposed Repeal Local Law 2008 in the  
form presented and Councils intention to make the proposed Local  
Law be advertised Statewide inviting public submissions.”*

**Reason For Change  
to Recommendation:**

# **LOCAL GOVERNMENT ACT 1995**

## **SHIRE OF BROOMEHILL-TAMBELLUP**

### **REPEAL LOCAL LAW 2008**

**LOCAL GOVERNMENT ACT 1995****SHIRE OF BROOMEHILL-TAMBELLUP****REPEAL LOCAL LAW 2008**

Under the powers conferred by the *Local Government Act 1995* and by all other powers enabling it, the Council of the Shire of Broomehill-Tambellup resolved on to repeal old and obsolete by-laws and local laws of the former districts of the Shire of Broomehill and Shire of Tambellup as follows.

**1 Citation**

This local law may be cited as the *Shire of Broomehill-Tambellup Repeal Local Law 2008*.

**2 Operation**

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

**3 Repeal**

3.1 The local laws of the former district of the Shire of Broomehill as listed below are hereby repealed —

- Draft (Removal and Disposal of Obstructing Animals or Vehicles) No 7 as published in the *Government Gazette* on 14 September 1973; and

The local laws of the former district of the Shire of Tambellup as listed below are hereby repealed —

- Management and use of the Road Board Hall as published in the *Government Gazette* on 19 February 1926;
- Traffic as published in the *Government Gazette* on 28 December 1945;
- Draft (Removal and Disposal of Obstructing Animals or Vehicles) No 7 as published in the *Government Gazette* on 23 December 1971; and
- By-laws Relating to Noxious Weeds as published in the *Government Gazette* on 13 April 1972.

Dated:

The Common Seal of the Shire of Broomehill-Tambellup was hereunto affixed by the authority of a resolution of the Council in the presence of —

, Shire President.  
J. TREZONA, Chief Executive Officer.

## 9.12 TAMBELLUP TENNIS CLUB – RENEWAL OF RESTRICTED LIQUOR LICENSE

---

<b>Program:</b>	<b>Recreation and Culture</b>	
<b>Attachment:</b>	<b>Nil</b>	
<b>File Ref:</b>	<b>ADM0029</b>	
<b>Author:</b>	<b>JM Trezona</b>	<b>Chief Executive Officer</b>
<b>Date:</b>	<b>23<sup>rd</sup> July 2008</b>	
<b>Disclosure of Interest:</b>	<b>Nil</b>	

---

**Summary:** The Tambellup Tennis Club is again seeking Council approval to renew their club restricted license.

**Background:** The Tennis Club has written seeking Council permission to renew its club restricted license for the 2008-2009 tennis season. The club are seeking approval for the following hours as per last year:

Wednesday	7.00pm to 10.30pm
Thursday	7.00pm to 10.30pm
Saturday	4.00pm to midnight

An inspector from the Department of Racing, Gaming and Liquor visited the sporting pavilion in 2007 and inspected the area where the Tennis Club holds the Club Restricted License. A change was made within the area of the club to come into alliance with the existing license.

**Comment:** Council gave approval to the Tennis Club for the above hours at the August 2007 Ordinary meeting of Council.

The proposal to undertake renovations to the sporting pavilion are unlikely to eventuate in the 2008-2009 financial year.

**Consultation:** Nil

**Statutory Environment:** Nil

**Policy Implications:** Nil

**Financial Implications:** This issue has no financial implications for Council

**Strategic Implications:** This issue is not dealt with in the Plan

**Voting Requirements:** Simple Majority

**Officer / Council**

**Resolution:** *080813*

*“The Commissioner resolved –  
That Council does grant approval to the Tambellup Tennis Club to  
renew its club restricted license for the period of 01 October 2008 to  
30 April 2009.”*

**Reason For Change  
to Recommendation:**

### 9.13 REQUEST FOR DONATION – LORD MAYOR’S DISTRESS RELIEF FUND

---

<b>Program:</b>	<b>Governance</b>	
<b>Attachment:</b>	<b>Nil</b>	
<b>File Ref:</b>	<b>ADM0061</b>	
<b>Author:</b>	<b>JM Trezona</b>	<b>Chief Executive Officer</b>
<b>Date:</b>	<b>5<sup>th</sup> August 2008</b>	
<b>Disclosure of Interest:</b>	<b>Nil</b>	

---

**Summary:** The Lord Mayor, Lisa Scaffidi of the City of Perth has written requesting Council support for the Lord Mayor’s Distress Relief Fund.

**Background:** The Lord Mayor’s Distress Relief Fund offers financial support to all Western Australian’s who experience personal hardship and distress arising from natural disasters which occur in this state.

The Fund which is a registered charitable body was established in 1961 and since 1996 has disbursed over \$3.3 million to Western Australians in distress. All associated costs and administration of the Fund are donated by the City of Perth. The Fund has invested reserve funds and the Lord Mayor is asking for a donation from Council towards the ongoing growth of the fund.

For Council discussion and comment.

**Comment:**

**Consultation:** Nil

**Statutory Environment:** Nil

**Policy Implications:** Nil

**Financial Implications:** Council would need to make provision in the 2008-2009 budget.

**Strategic Implications:** This issue is not dealt with in the Plan

**Voting Requirements:** Simple Majority

**Officer Resolution:** *“The Commissioner resolves – That Council does/does not make a donation to the Lord Mayor’s Distress Relief Fund.”*



**Council Resolution:**     **080814**

*“The Commissioner resolved –  
That Council does not make a donation to the Lord Mayor’s Distress  
Relief Appeal.”*

**Reason For Change  
to Recommendation:**

---

**9.14 REQUEST FOR DONATION – STUDENT LEADERSHIP GROUP 2008 – KATANNING SENIOR HIGH SCHOOL**


---

**Program:** Governance  
**Attachment:** Nil  
**File Ref:** ADM0061  
**Author:** JM Trezona Chief Executive Officer  
**Date:** 6<sup>th</sup> August 2008  
**Disclosure of Interest:** Nil

---

**Summary:** The Katanning Senior High School Student Leadership Group 2008 is seeking financial support for the 2008 Spirit Week event.

**Background:** Spirit Week at the Katanning Senior High School was originally a week of school designed to lift school spirit among students and provide them with activities. Over the years Spirit Week has diminished to become Spirit Day. The Student Leadership Group's aim is to bring back the full week of activities and to achieve this, has booked a Perth based organisation and their equipment at a cost of \$900 and are seeking financial support from surrounding shires.

For Council discussion and comment.

**Comment:**

**Consultation:** Nil

**Statutory Environment:** Nil

**Policy Implications:** Nil

**Financial Implications:** Council would need to make provision in the 2008-2009 budget.

**Strategic Implications:** This issue is not dealt with in the Plan

**Voting Requirements:** Simple Majority

**Officer Resolution:** *"The Commissioner resolves – That Council does / does not make a donation to the Katanning Senior High School Student Leadership Group for the 2008 Spirit Week event."*

**Council Resolution:** 080815

*"The Commissioner resolved – That Council does make a donation of \$100, to be debited to account 1083010 to the Katanning Senior High School Student Leadership Group for the 2008 Spirit Week event."*

**Reason For Change  
to Recommendation:**

**9.15 CHANGE OF LOCALITY BOUNDARY**


---

<b>Program:</b>	<b>Community Amenities</b>	
<b>Attachment:</b>	<b>Copy of Map showing revised boundary</b>	
<b>File Ref:</b>	<b>ADM0282</b>	
<b>Author:</b>	<b>JM Trezona</b>	<b>Chief Executive Officer</b>
<b>Date:</b>	<b>12 August 2008</b>	
<b>Disclosure of Interest:</b>	<b>Nil</b>	

---

**Summary:** Council to consider a proposal for an alternative boundary for the western side of the Wansbrough locality.

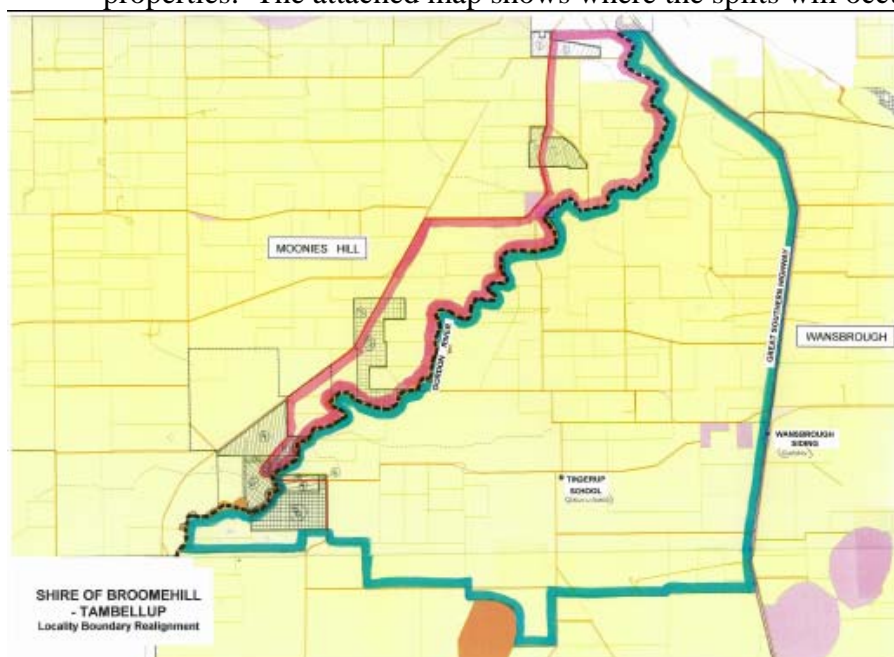
**Background:** The former Shire of Tambellup had agreed to a proposed amendment to include a portion of the Moonies Hill locality in the locality of Wansbrough. The part of the locality that was subject to the change was the area of land immediately south of the Tambellup townsite and bounded by Great Southern Highway, Paul Valley Road, Johnson Road, Newton Road and the boundary of the Cranbrook Shire.

Council, after consulting with the community agreed with the proposal for change and forwarded the request to the Geographic Names Committee for its consideration.

The Geographic Names Committee have replied to Council and asked that it considers making the western boundary of the Wansbrough locality be the centre line of the Gordon River.

The reason for the proposal is twofold

1. A statement in one of the submissions from the residents said that “properties west of the Gordon River were always part of Moonies Hill”
2. If the boundary follows Paul Valley Road and Johnson Roads it will split 8 properties. The attached map shows where the splits will occur.



**Comment:** The Geographic Names Committee has requested that Council consider the proposal and seek comment from the affected residents.

There does not appear to be any reason why the boundary cannot be the centre line of the Gordon River.

**Consultation:** Nil

**Statutory Environment:** Nil

**Policy Implications:** Nil

**Financial Implications:** This issue has no financial implications for Council

**Strategic Implications:** This issue is not dealt with in the Plan

**Voting Requirements:** Simple Majority

**Officer / Council Resolution:** 080816

*“The Commissioner resolved -*

- *“That Council seeks comments from the residents to be affected by the proposal to make the centre line of the Gordon River the western boundary of the Wansbrough locality.*
- *That Council endorses the proposal and advises the Geographic Names Committee that it has no objection to the amendment to the western boundary subject to agreement from the affected residents.”*

**Reason For Change to Recommendation:**

**9.16 SEED COLLECTION FROM SHIRE RESERVES**


---

<b>Program:</b>	<b>Other Economic Services</b>	
<b>Attachment:</b>	<b>Nil</b>	
<b>File Ref:</b>	<b>ADM0235</b>	
<b>Author:</b>	<b>JM Trezona</b>	<b>Chief Executive Officer</b>
<b>Date:</b>	<b>12 August 2008</b>	
<b>Disclosure of Interest:</b>	<b>Nil</b>	

---

**Summary:** A request to Council for permission to collect native seeds from road reserves and reserves under the care and control of the Shire of Broomehill-Tambellup.

**Background:** Landcare Services a division of Landcare Holdings Pty Ltd have written to Council seeking permission to collect native seeds from road reserves and reserve under the care and control of Council. The primary species that they wish to acquire is *acacia acuminata* (Jam Wattle). *Acacia acuminata* is required as a host species in Sandalwood plantations. The species is located in relative abundance throughout the Shire.

The request also includes a request to collect other species however the exact species are not specified.

**Comment:** In determining whether permission is granted Council should consider and include the following conditions.

- That the provisions of the Wildlife Conservation Act and Regulation and any notices in force under this Act and Regulations are complied with.
- That an appropriate licence issued by the Department of Environment and Conservation is obtained prior to collection of seed.
- The authorisation be granted for the collection of *acacia acuminata* (Jam Wattle).
- Council may wish to consider the application for the collection of other seeds to include a condition that requires a report on the species and quantities collected
- The authorisation be granted for a twelve month period.

**Consultation:** Nil

**Statutory Environment:** Nil

**Policy Implications:** Nil

**Financial Implications:** Council has a set fee of \$55.00 for commercial seed collection

**Strategic**

**Implications:** This issue is not dealt with in the Plan

**Voting**

**Requirements:** Simple Majority

**Officer / Council**

**Resolution:** 080817

*“The Commissioner resolved -*

*“That permission be granted to Landcare Services to collect seed of acacia acuminata and other native plants from road reserves and reserves under the care and control of the Shire of Broomehill-Tambellup subject to the following conditions.*

- *That the provisions of the Wildlife Conservation Act and Regulation and any notices in force under this Act and Regulations are complied with.*
- *That an appropriate licence issued by the Department of Environment and Conservation is obtained prior to collection of seed.*
- *That a report on the species and quantity of all collected seed be sent to the Council at the expiry of the authorisation.*
- *The authorisation be granted for a twelve month period.”*

**Reason For Change  
to Recommendation:**

**9.17 PLANNING APPROVAL LOT 374 CEMETERY RD**

**Program:** Other Economic Services  
**Attachment:** Block Plan  
**File Ref:** ADM0259  
**Author:** Darryle Baxter Building Surveyor  
**Date:** 11 August 2008  
**Disclosure of Interest:** Nil

**Summary:** A & D Dorogi are applying to Council for Planning Approval to construct a 72m<sup>2</sup> Shed at Lot 374 Cemetery Road, Broomehill Village.

**Background:** Mr & Mrs Dorogi have supplied engineered drawings for a Highline shed and a block plan.



**Comment:** Highline Sheds will be the builder for this project.

**Consultation:** Highline Sheds have supplied all the required documentation for this project.

**Statutory Environment:** Shire of Broomehill Town Planning Scheme No 1. The Shire of Broomehill Town Planning Scheme No 1 requires that Council gives planning permission for any development to proceed in the Rural Residential section of the townsite.

**Policy Implications:** Nil

**Financial Implications:** Planning Application fees will be paid by the proponent.

**Strategic Implications:** This issue is not dealt with in the Plan

**Voting Requirements:** Simple Majority



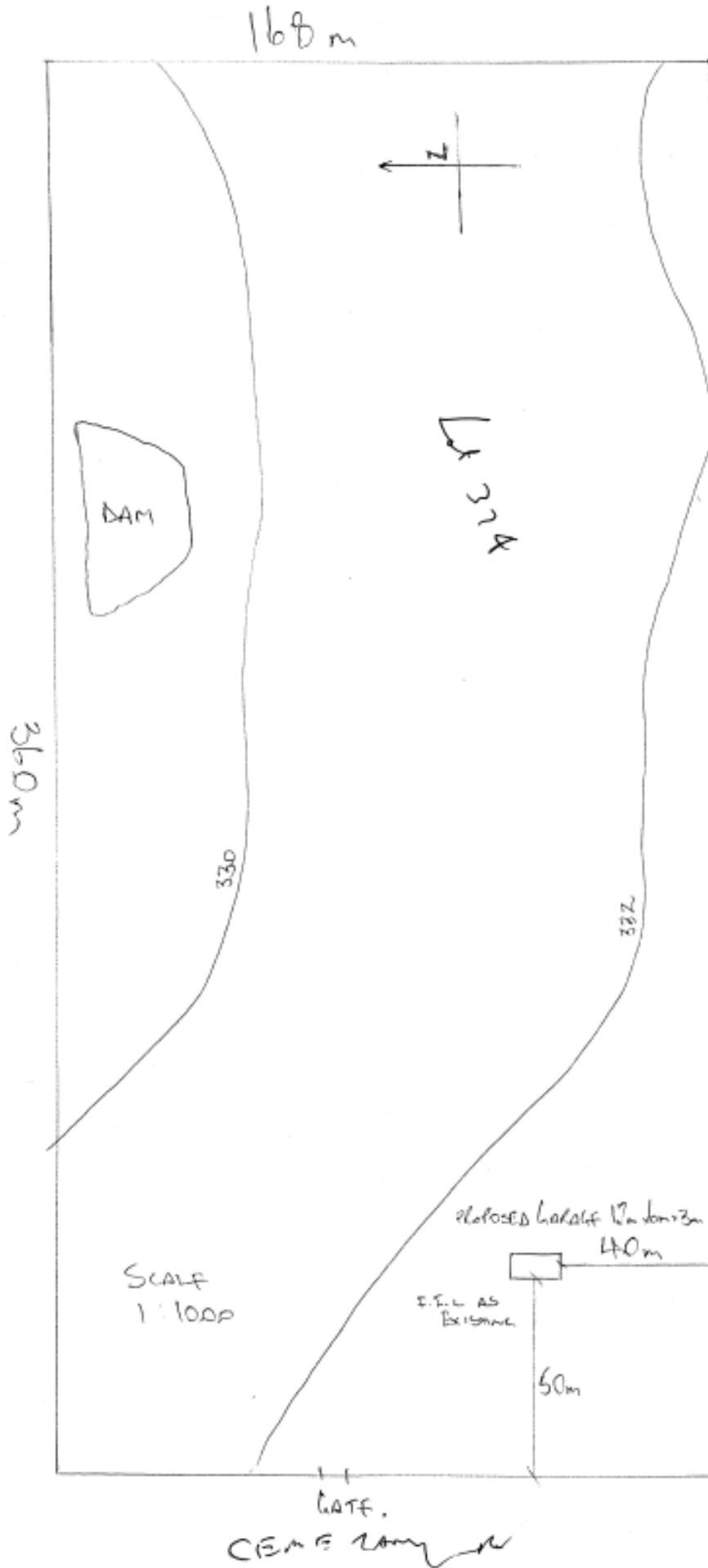
**Officer / Council**

**Resolution:** 080818

*“The Commissioner resolved -*

- 1. That in keeping with the requirements of the Broomehill Town Planning Scheme No1 for land zoned Rural Residential Planning Approval be granted to Mr & Mrs A & D Dorogi to construct the 72m<sup>2</sup> shed on Lot 374 Cemetery Road Broomehill Village.*
- 2. That Highline Sheds construct this Shed in keeping with the approved plans that will be issued for this project once this application has been approved.”*

**Reason For Change  
to Recommendation:**

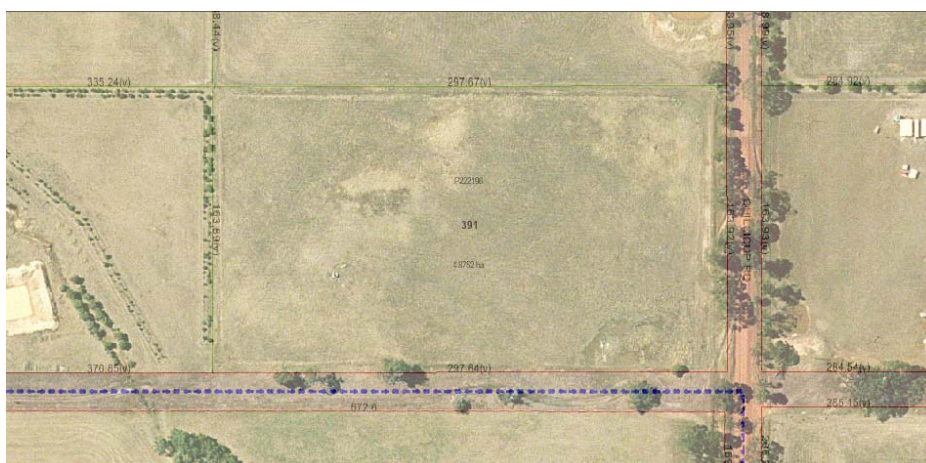


Q83855  
ALEX. DANICE  
DOKOL I  
LOT 374  
CEMENTERY RD  
BLOOMHILL

**9.18 PLANNING APPROVAL LOT 391 CHILLICUP RD**

**Program:** Other Economic Services  
**Attachment:** Map showing location of Lot 391 Chillicup Rd  
**Block Plan**  
**File Ref:** ADM0259  
**Author:** Darryle Baxter Building Surveyor  
**Date:** 11 August 2008  
**Disclosure of Interest:** Nil

**Summary:** M L Keyte is applying to Council for approval to construct a 60m<sup>2</sup> shed at Lot 391 Chillicup Road, Broomehill Village.



**Background:** Mr Keyte has completed a planning application form, paid the required fee, and supplied a block plan and plans for this shed. The plans show that the shed is to be lined indicating that its use may be for more than a garage.

**Comment:** Mr Keyte is the builder for this project. Council will need to ensure Mr Keyte understands that the approval is for a shed/storage facility and not for habitation. Additional approvals, including an energy rating, are required if the purpose of the shed is changed.

**Consultation:** Mr Keyte has supplied all the relevant documentation for this project.

**Statutory Environment:** Shire of Broomehill Town Planning Scheme No 1. The Shire of Broomehill Town Planning Scheme No 1 requires that Council gives planning permission for any development to proceed in the Rural Residential section of the townsite.

**Policy Implications:** Nil

**Financial Implications:** The appropriate fees have been paid by the proponent.

**Strategic**

**Implications:** This issue is not dealt with in the Plan

**Voting Requirements:**

Simple Majority

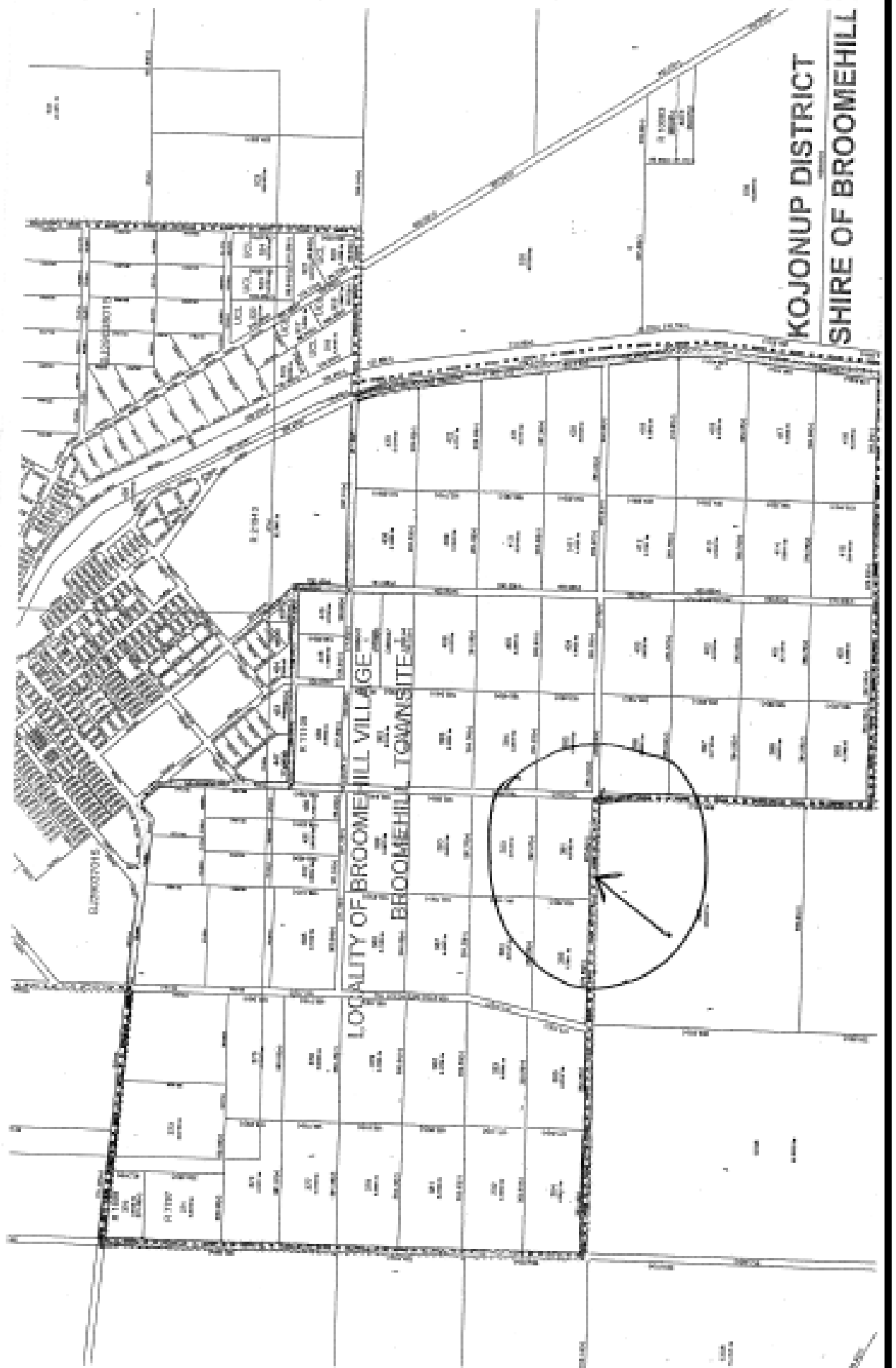
**Officer / Council**

**Resolution:** 080819

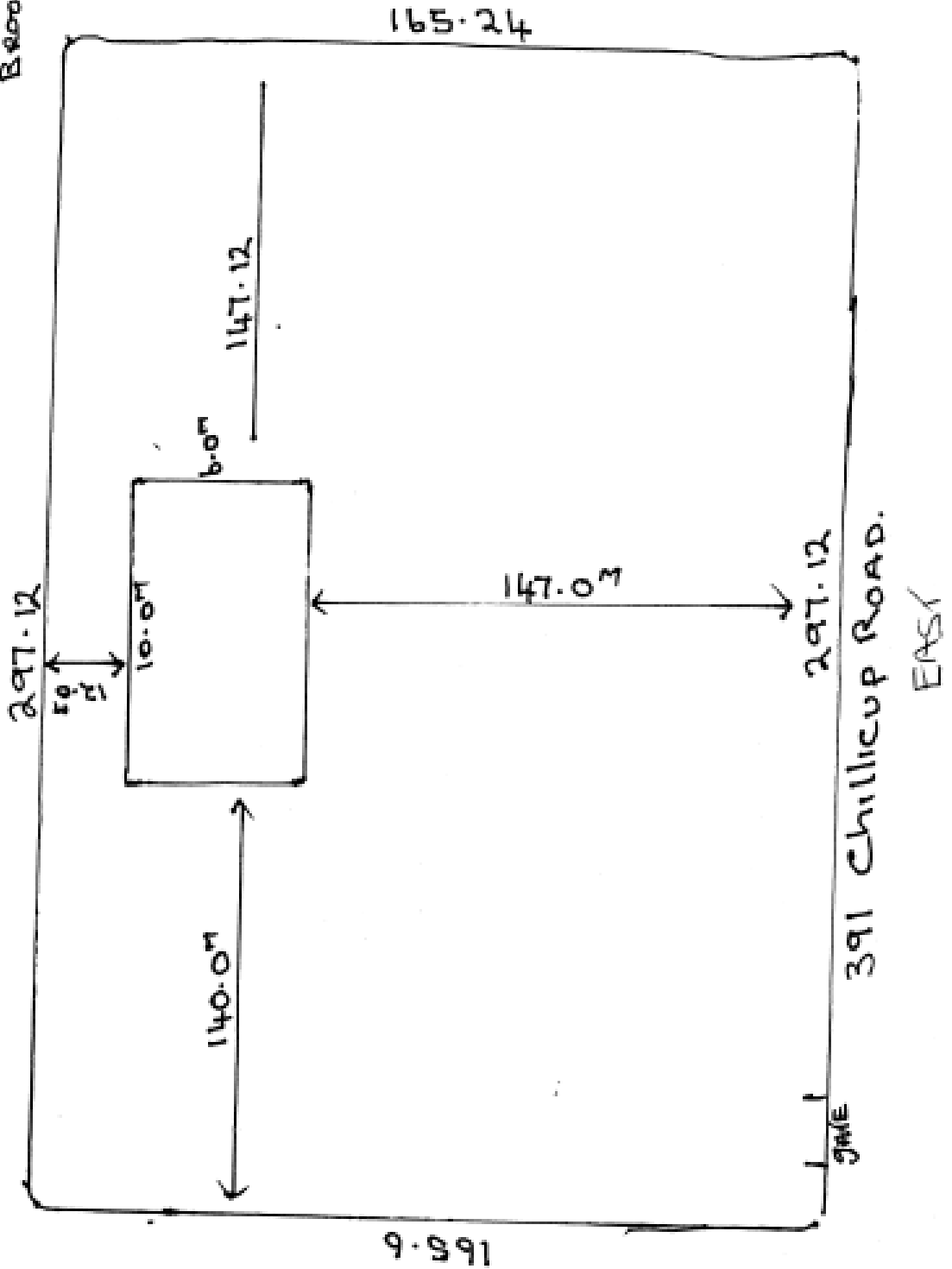
*“The Commissioner resolved -*

- 1. That in keeping with the requirements of the Broomehill Town Planning Scheme No1 for land zoned Rural Residential, Planning Approval be granted to M L Keyte to construct the 60m<sup>2</sup> shed on Lot 391 Chillicup Road Broomehill Village.*
- 2. That Mr Keyte constructs the shed/storage facility in keeping with the drawings that will be approved for this project once the planning approval has been granted*
- 3. That Mr Keyte be advised that changes in the use of the shed/storage facility will require further Council approval.”*

**Reason For Change to Recommendation:**



SITE PLAN: M KEY  
391 Chillcup  
Broomehill



**9.19 PROPOSED 80 METRE WIND MONITORING TOWER**


---

<b>Program:</b>	<b>Planning</b>
<b>Attachment:</b>	<b>Location plan and elevation</b>
<b>File Ref:</b>	<b>ADM0259</b>
<b>Author:</b>	<b>Gray &amp; Lewis Landuse Planners</b>
<b>Date:</b>	<b>14 August 2008</b>
<b>Disclosure of Interest:</b>	<b>Gray &amp; Lewis receive planning fees for advice to the Shire therefore declare a Financial Interest – Section 5.65 of <i>Local Government Act 1995</i></b>

---

**Summary:** An application has been lodged for an 80 metre wind monitoring tower by the Moonies Hill Energy Group.

There is no specific landuse classification / definition under the Shire of Tambellup Town Planning Scheme No 2 ('the Scheme') for a wind tower, therefore it is recommended that it be processed as a 'use not listed'.

This report recommends that the application be advertised for public comment.

**Background:** The subject lot (locality 5614 Kojonup) is zoned 'Farming' under the Shires Scheme.

**Comment:** **Scheme provisions**

Council has 3 options when dealing with a 'Use Not Listed' under the Scheme in accordance with Clause 3.3.2 as follows;

- '(a) determine that the use is consistent with the objectives of the particular zone and is therefore permitted;*
- (b) determine that the use may be consistent with the objectives of the particular zone and thereafter follow the advertising procedures of Clause 8.3 in considering an application for planning approval; or*
- (c) determine that the use is not consistent with the objectives of a particular zone and is therefore not permitted. '*

Under the Scheme the objectives for the farming zone include '*..to ensure the continuation of broad hectare farming as the principle land use in the District..*' and '*..to consider non rural uses where they can be shown to be of benefit to the district..*'.

Whilst there is unlikely to be any real benefit to the district as a result of the tower itself, the proposed development will be unlikely to undermine the main objective of the Farming zone as farming can continue on the property.

It is recommended that Council pursue option (b) and determine that the use may be consistent with the objectives of the particular zone and thereafter follow the advertising procedures of Clause 8.3 in considering an application for planning approval.

### **WAPC Planning Bulletin 67 – Guidelines for Wind farm Development**

The Western Australian Planning Commission (WAPC) developed Planning Bulletin 67 to provide local government, other relevant approval authorities and wind farm developers with a guide to the planning framework for the balanced assessment of land-based wind farm developments, throughout the state.

It is important to note that Council can only consider the application before it which is for the wind monitoring tower, and not for a wind farm.

Under Planning Bulletin 67 it requires proponents examining sites for potential wind farms to monitor wind speed for a minimum of 12 months. The proposed monitoring tower is therefore part of initial site investigation; however Council has an opportunity to advise the applicant of any concerns / issues at this early juncture in anticipation that there may be a subsequent application for a wind farm if monitoring shows favourable results.

### **Visual Impact / amenity**

One of the main considerations with any structure of this size is visual impact. The applicant has provided a site plan on an aerial photograph however it is not to scale and the setbacks to adjacent boundaries are not clearly shown.

To ensure surrounding landowners can make informed comments, it is recommended that the applicant be requested to provide a scaled site plan that clearly identifies the setback of the proposed wind monitoring tower to adjacent boundaries and residences on adjacent lots.

In the absence of site photographs or a photo montage, it is difficult for Gray & Lewis to provide informed comments on visual impact, however advertising will allow an opportunity to gain comment from adjacent landowners.

In the event that any objections are received during advertising, it is also recommended that the applicant be provided with an opportunity to comment on the main issues raised to assist Council in its final determination.



**Consultation:** Under Clause 8.3 of the Scheme advertising is to be for a minimum of 21 days and may be in the one or more of the following forms;

- (1) Letters to surrounding owners and occupiers and/ or
- (2) Advertisement in a local newspaper and/or
- (3) An advertising sign or signs to be erected on site.

In this case it is recommended that the development be referred to surrounding owners/occupiers for specific comment, and be advertised concurrently in a local paper.

**Statutory**

**Environment:** Shire of Tambellup Town Planning Scheme No 2

**Policy Implications:** Nil

**Financial**

**Implications:** Advertising costs.

**Strategic**

**Implications:** This issue is not dealt with in the Plan

**Voting**

**Requirements:** Simple Majority

**Officer / Council**

**Resolution:** 080820

*“That the Commissioner resolved -*

*1. Determine that a ‘Wind monitoring tower’ is a ‘use not listed’ under the Shires Scheme and that the use may be consistent with the objectives of the particular (Farming) zone and thereafter follow the advertising procedures of Clause 8.3 in considering an application for planning approval.*

*2. Advise the applicant that prior to conducting public advertising additional information is requested as follows;*

*(i) An accurate scaled site plan that clearly shows the setback of the proposed wind monitoring tower to adjacent boundaries and residences on adjacent lots. This will allow surrounding landowners to make informed comments to the Shire.*

*3. On receipt of a more detailed site plan, advertise the development for a minimum of 21 days by writing to surrounding occupiers and landowners, and concurrently advertising the proposal in the local paper.*

*4. On receipt of any objections request the applicant to provide written comment/ responses to concerns prior the application being referred back to Council for final determination.”*

**Reason For Change  
to Recommendation:**





**9.20 KEEPING OF POULTRY & PIGEONS 14 LEATHLY STREET**

---

<b>Program:</b>	<b>HEALTH</b>
<b>Attachment:</b>	<b>Letter – Kaye Harris</b>
<b>File Ref:</b>	
<b>Author:</b>	<b>Peter Bentley     Manager Administrative &amp; Customer Services</b>
<b>Date:</b>	<b>11 August 2008</b>
<b>Disclosure of Interest:</b>	<b>Nil</b>

---

**Summary:** That the Council grants permission for Ms Kaye Harris to keep more than the prescribed number of poultry and pigeons at 14 Leathley Street Broomehill.

**Background:** Kaye Harris of 14 Leathley Street Broomehill has written to the Council seeking permission to keep poultry and pigeons exceeding the number of animals allowable without council approval under the Shire of Broomehill Health Local Laws.

Ms Harris breeds the animals for show purposes and in accordance with show regulations each class of bird is caged separately. Several bantams and two roosters and several ducks form part of a collection of about one hundred birds primarily made up of show birds such as feather foot chickens and pigeons.

Ms Harris made the application subsequent to the information article produced in the Broomehill News and was unaware of the restrictions on the keeping of the birds prior to the articles publication.

**Comment:** Surrounding neighbours have never complained of the keeping of the birds by Ms Harris, and the birds are kept in properly constructed outdoor enclosures and runs or coops that comply with section 5.4.3 to 5.4.5 of the Shire of Broomehill Health Local Laws. The enclosures meet or exceed the required distances prescribed in the Health Local Laws and meet with the requirements for ease of cleaning.

The animals are kept in humane conditions, are well fed and watered and don't seem to pose a great noise problem given that the surrounding residents have a significant buffer between the location of the birds and the residences and informal discussions with a number of the neighbours revealed no issues at this time.

Ms Harris has kept these animals for many years without incident. Ms Harris lives on the eastern side of the townsite near the CBH facility.

**Consultation:**

**Statutory  
Environment:**

Shire Of Broomehill Health Local Law:

***Division 4—Keeping of Poultry and Pigeons*****5.4.1 Interpretation**

*In this Division, unless the context otherwise requires—  
“poultry” includes bantams, ducks and other domestic fowls;*

**5.4.2 Limitation on Numbers of Poultry and Pigeons**

*An owner or occupier of premises within a townsite shall not keep a combined total of more than 12 poultry and pigeons without the approval of Council, on any one lot of land.*

**5.4.3 Conditions for Keeping Poultry in Limited Numbers**

*A person who keeps poultry or permits poultry to be kept shall ensure that—*

- (a) no poultry is able to approach within 9 metres of a dwelling house, public building or premises where people are employed or where food is stored, prepared, manufactured or sold;*
- (b) all poultry is kept in a properly constructed and securely fastened structure or enclosure;*
- (c) the structure is in a yard having an otherwise unobstructed area of at least 30 square metres;*
- (d) no poultry is able to approach within 9 metres of a street other than a right of way unless, in the case of land at the junction of two or more streets, Council has approved a lesser distance;*
- (e) no poultry is able to approach within 1.2 metres of any side or rear boundary of the premises;*

*and*

- (f) all enclosures or cages within which poultry are kept shall be maintained at all times in a clean condition and shall be disinfected or otherwise dealt with in a way as directed by an Environmental Health Officer.*

**5.4.4 Roosters, Geese, Turkeys, Peafowls and Gamebirds**

- (1) An occupier of premises within a townsite, shall not without the written approval of the Council, keep or permit to be kept on those premises, any one or more of the following fowl—*

- (a) *a rooster;*
  - (b) *a goose or gander;*
  - (c) *a turkey;*
  - (d) *a peacock or peahen;*
  - (e) *a gamebird (includes emus and ostriches)*
- (2) *The Council may upon written application, grant approval with or without conditions to the owner or occupier of premises to keep any one or more birds as specified in subsection (1) of this section.*
- (3) *A person who has been granted approval under this Section to keep a bird may keep the bird on the premises only while he is the occupier thereof.*
- (4) *The Council may revoke an approval granted under this Section if it is of the opinion that the keeping of the birds specified in the approval is causing a nuisance or is injurious, offensive or dangerous to health.*

#### **5.4.5 Pigeons or Doves**

*A person who keeps, or permits to be kept, pigeons or doves shall ensure that—*

- (a) *none is able to approach within 9 metres of a dwelling, public building or premises where people are employed or where food is stored, prepared, manufactured or sold; and*
- (b) *except where registered homing pigeons are freed for exercise, the pigeons or doves are kept in a properly constructed pigeon loft or dove cote that—*
  - (i) *is in a yard having an otherwise unobstructed area of at least 30 square metres; and*
  - (ii) *does not allow them to approach within 1.2 metres of any side or rear boundary of the premises; and*
  - (iii) *is maintained in such a manner so as not to create a nuisance by the emission of dust, effluvia or odours.*

#### **5.4.6 Removal of Non-Conforming Structure or Enclosure**

- (1) *If a structure or enclosure is used for the keeping of poultry or pigeons or doves contrary to the provision of Section 5.4.3 and 5.4.5, the Council may direct the owner or occupier to remove it.*
- (2) *An owner or occupier shall comply with a direction from the Council under this Section.*

**5.4.7 Restrictions on Pigeon Nesting or Perching**

- (1) *The Council may order an owner or occupier of a house in or on which pigeons which are, or are in the habit of, nesting or perching to take adequate steps to prevent them continuing to do so.*
- (2) *An owner or occupier shall comply with the Council order under this Section.*

**Policy Implications:** N/A

**Financial Implications:** N/A

**Strategic Implications:** N/A

**Voting Requirements:** Simple Majority

**Officer / Council Resolution:** 080821

*“That the Commissioner resolved -*

*That permission is granted to Ms Kaye Harris of 14 Leathley Street Broomehill to keep poultry and pigeons and two roosters at her residence at the current numbers. Further, the Council reserves the right to revoke the approval if in its opinion the animals are causing a nuisance or a injurious, offensive or dangerous to health.”*

**Committee Recommendation:**

**Council Resolution:**

**Reason for Change:**



Kaye Harris  
14 Leathley Street,  
Broomehill Village.  
W.A. 6318  
11.02.2008

Broomehill Shire Council  
Great Southern Highway,  
Broomehill Village.  
W.A. 6318

<b>SHIRE OF BROOMEHILL RECEIVED</b>	
11 FEB 2008	
Ref:	_____
File:	71-1-1
Disposal:	_____
Action By:	CEO
Agenda Ref:	_____
Meeting Date:	_____

To the Councillors,

Re:- The Keeping of Poultry and Pigeons. per the Broomehill News,

I am requesting permission to keep the amount of poultry that I have, as I breed them for showing.

To keep their line pure, each class has to be kept by themselves, in separate accomodation, as to avoid cross breeding, which is not allowed, for showing, at the Agricultural Shows.

The same rules apply for pigeons and water fowl.

I have spoken to my neighbours, Shona and Andy Webster, and Michelle Hopkirk, to ensure that they aren't having a problem with any excess noise, coming from my property. They assure me that they don't.

The birds have their own cage and enclosed run, so they aren't running loose, and are confined to their own areas.

Hope this meets with your approval, and that permission will be granted.

Yours Truly,

  
Kaye Harris.

**10.1 PLANT REPORT AUGUST 2008**


---

**Program:** Transport  
**Attachment:** Nil  
**File Ref:**  
**Author:** EJ Farmer Works Supervisor  
**Date:**  
**Disclosure of Interest:** Nil

---

Reg No.	Description	Kms/Hrs	Yr of Manufact	Yr of Purchase	Changeover	Comments
BH000	Ford Fairmont		2007	2007		
BH00	Ford Ranger Dual Cab	882	2008	2008	2 yrs / 40,000km	OK
BH001	ISUZU 6 Wheel Tipper	20106	2007	2007	7 yrs / 151,000km	OK
BH002	ISUZU 6 Wheel Tipper	new	2008	2008	7 yrs / 151,000km	
BH003	Mitsubishi Canter Crew Cab	81505	2004	2004	5 yrs / 100,000km	Needs tyres
BH004	JD 670B Grader	8545	1996	1996	10 yrs / 10,000 hrs	OK
BH005	Bomag Multi-Tyred Roller	3265	2002	2002	10 yrs	OK
BH006	Volvo 710	2884	2004	2004	10 yrs / 10,000 hrs	OK
BH007	John Deere Ride on Mower		2003	2003	5 yrs / 5,000 hrs	OK
BH008	VOLVO L70D Loader		2001	2001	7 yrs / 7000 hrs	Fitting tree saw
BH009	Holden Rodeo	30005	2004	2004	5 yrs / 100,000kms	OK
BH010	6x4 Fuel Trailer		1981	1981		
BH012	Isuzu Fire Truck		1995	2004	14 yrs	
BH013	John Deere 315SG Backhoe		2003	2003	10 yrs / 10,000 hrs	OK
BH813	Multi Tyre Roller		1960	1980		

0TA	Ford XR6		2008	2008	15,000km	
TA052	Toyota Hilux 4x4	23089	2007	2007	2yrs	OK
TA001	Ford Ranger Dual Cab	1402	2008	2008	40,000km	OK
ITA	Toyota Hilux	6227	2008	2008	40,000km	OK
TA1880	Isuzu Gigamax Truck	New	2008	2008	5 yrs	
TA092	Isuzu Gigamax Truck	22617	2007	2007	5 yrs	OK
TA1855	Mitsubishi Rubbish Truck			2000	4 yrs	
TA386	Mitsubishi Fuso Truck	21747	2007	2007	4 yrs	OK
TA18	12H Grader	1956	2006	2006	8 yrs	OK
TA1835	12H Grader	2654	2002	2003	8 yrs	Needs service
TA281	930G Loader	838	2007	2007	8 yrs	OK
TA392	Tractor Mower	4932			4 yrs	OK
TA1221	John Deere Tractor	7769		1987	15 yrs	OK
TA2180	Evertrans Trailer		2000	2000	8 yrs	New bearings and brake pads
TA017	JCB 3CX-E Backhoe	653		2004	10 yrs	OK – new mirrors fitted
TA219	Multipac Multi-tyred Roller	7156		2004	10 yrs	New batteries and alternator fitted
TA1196	Large Roller				Retain	
TA2015	Vibrating Roller			1977		
	Slasher					
XTR579	Road Broom				Retain	
	Mobile Fuel Tanker				Retain	
IAZJ510	Bomag Vibrating Roller	9309		2001		OK
TA005	John Deere Tractor	1002	2008	2008		OK

---

**10.2 WORKS REPORT AUGUST 2008**

---

<b>Program:</b>	<b>Transport:</b>	
<b>Attachment:</b>	<b>Nil</b>	
<b>File Ref:</b>	<b>PPL 1</b>	
<b>Author:</b>	<b>E J Farmer</b>	<b>Works Supervisor</b>
<b>Date:</b>	<b>12 August 2008</b>	
<b>Disclosure of Interest:</b>	<b>Nil</b>	

---

**Works Report****Winter Grading**

The following roads have been graded through July and August:

Toobrunup Rd, Stirling Access Rd, South Pallinup Rd, Anderson Rd, Peringillup East Rd, Warrenup Rd, Nookanellup Rd, Brassey Rd, Etna Rd, North Nookanellup Rd, Nymbup Rd, Binniup Rd, Collins Rd.

**Pootenup Rd**

Clearing works have commenced on the next section of Pootenup Rd in preparation for gravel resheeting and sealing.

**Parks & Gardens**

Activities during late July and August have included mowing of town blocks and spraying weeds in both Broomehill and Tambellup townsites, oval maintenance in Tambellup, footpath maintenance in Broomehill and Tambellup, and cleaning and maintenance of the Holland Park drain.

**Maintenance Report**

- The bunding around the fuel tank at the Shire depot has been completed.
- Boundary markers between Broomehill and Tambellup have been removed, and bus stop signs have been installed on Nardlah Rd, Jam Creek Rd and Wray Rd.
- Guideposts have been replaced on Bessen Rd and Nymbup Rd.
- Following periods of high winds trees were removed from Peringillup East Rd, Hassell Rd, Jam Creek Rd, Pallinup Rd, Eureka Rd and Punchmirup Rd.
- Work has been carried out on headwalls on McGuire Rd and Spencer Rd.

**RECEIVED**

---

**10.3 ENVIRONMENTAL HEALTH OFFICERS REPORT FOR JULY 2008**


---

**Program:** Health  
**Attachment:** Report for July 2008  
**File Ref:** ADM0270  
**Author:** EB Crockenberg Environmental Health Officer  
**Date:** 8<sup>th</sup> August 2008  
**Disclosure of Interest:** Nil

---

**Summary:** Report of the Environmental Health Officers Report for July 2008.

**Background:**

**Comment:** It is recommended that Council read these reports for their information.

**Consultation:** Nil

**Statutory Environment:** Nil

**Policy Implications:** Nil

**Financial Implications:** This issue has no financial implications for Council

**Strategic Implications:** This issue is not dealt with in the Plan

**Voting Requirements:** Simple Majority

**Officer / Council Resolution:** *Council discussed the Officers Report*

**Reason For Change to Recommendation:**

## Shire of Broomehill-Tambellup Environmental Health Officers July 2008 Monthly Report

<b>TO:</b>	Joanne Trezona -CEO	<b>DATE:</b>	08 August 2008
<b>FROM:</b>	Eva Crockenberg – EHO	<b>NO. OF PAGES:</b>	1

Date	Time	Issues
Thursday 3 <sup>rd</sup> July		<p><u>Tambellup</u> Rung to confirm no issue at Tambellup and had planned to go straight to Broomehill. I had attended a Communicating in Difficult Situations training at Gnowangerup on Wednesday. Gnowangerup staff levels were short on Thursday and as there were no urgent issue in Tambellup I stayed in Gnowangerup.</p> <p><u>Broomehill</u> Drop into Broomehill on way to Perth as no urgent issues.</p>
Wednesday 16July		<p><u>Tambellup</u> Spoke to the new tenants for the Gina café and cabs. They are currently operating an alfresco eating area on Norrish Street. Informed the new tenants that they are required to get Council approval before they install tables and chairs on the footpath. They would be required to prove that they have public liability insurance for at least 10 million dollars and should not be using the footpath until Council gives their approval.</p> <p><u>Broomehill</u> There has been a delay with the amalgamation of the three Lots associated with the Imperial Hotel, due to ownership changes and postponement of the settlement dates. The amalgamation needs to be approved by the Western Australian Planning Commission before the septic plans can be approved by the Health Department. I'm sure Council is aware that a septic system can only be located within the boundaries on one Lot. I do believe we are moving forward here and that the new owners are aware legal action will be the next step the Council takes if new septic system has not been <u>installed</u> within 90 days from 1<sup>st</sup> August. I will make sure a new septic application form is provided to the new owners with the original application and plans on the 7<sup>th</sup> August so the application can be processed as soon as Council are aware amalgamation has been approved.</p>
Thursday 7 <sup>th</sup> August		My last day as your EHO. I have enjoyed the time spent in Broomehill and Tambellup.

---

**10.4 BUILDING SURVEYOUR REPORT FOR JULY 2008**

---

**Program:** Economic Services  
**Attachment:** Activity Statement and BSR Report  
**File Ref:** ADM0076  
**Author:** D Baxter Building Surveyor  
**Date:** 8<sup>th</sup> August 2008  
**Disclosure of Interest:** Nil

---

**Summary:** Attached are the Activity Statement and the BSR Report for the month of July 2008 that have been sent to all relevant authorities that are required by legislation.

**Background:** These reports advise of the building approvals and the activity of the Building Surveyor for the month of July 2008.

**Comment:**

**Consultation:** Nil

**Statutory Environment:** Nil

**Policy Implications:** Nil

**Financial Implications:** This issue has no financial implications for Council

**Strategic Implications:** This issue is not dealt with in the Plan

**Voting Requirements:** Simple Majority

**Officer / Council Resolution:** *Council discussed the Officers Report*

**Reason For Change to Recommendation:**

**SHIRE OF BROOMEHILL-TAMBELLUP  
BUILDING SURVEYOR SERVICE**

Date	Duties Carried Out	Month		Hrs	Kms
		From	To		
1-7-08	Talked to Cameron Bolton concerning Lot 111 Tambellup West Road as to the development of this location for person who wants to retire and do some light work there. Have researched this issue and contacted the Planner, Gray and Lewis	15.30	16.30	1.00	
3-7-08	Shire Visit. Check on project in Broomehill on the way through as to compliance with the approved plan. Once in Tambellup, check on the paper work and condense files and organize the working box. Start to process an application for an extension to the House at lot 414 McGuire Road Broomehill. Pick up new plan in Wagin on the way home for the Householder family for a rural development in the Tambellup area.	7.00	17.00	9.50	384
4-7-08	Research and then issue a building license to Great Southern Shed for Lot 73 Pindellup Road, TAMBELLUP WA 6320. Check up on another project using landgate to get the correct location.	9.45	11.30	1.75	
8-7-08	Do research and answer an email inquiry concerning CBH receival points	13.45	14.00	0.25	
16-7-08	Shire Visit. Drop in at the Broomehill office and pick up a building application, continue on the Tambellup and inspect several projects on the way. Process and issue a building license to Mr. Liva of 5 Lavarock Road, Broomehill for him to construct a Free Standing Car Port at the side of his dwelling. Check on several projects on the way back to Narrogin	7-00	17-00	9-50	387
29-7-08	Send off email to Mr Daly concerning his proposed patio for lot 44 (40) Taylor Street. The information that was presented on the proposal was not adequate and so I have requested more information	9.45	10.15	0.50	
31-7-08	Prepare BSR Statement, Activity Statement and Report for Council on Activities for the Month of July 2008. Send off information to the regulatory authorities as required by legislation and send reports to Council.	9.00	10.00	1.00	
<b>TOTALS FOR THE MONTH OF JULY 2008</b>				23.5	771

Shire of	Broomehill-Tambellup	Hrs	24	\$60.00	\$1,410.00	Kms	771	\$0.80	\$616.80	\$2,026.80	GST	\$202.68	\$2,229.48	Totals
----------	----------------------	-----	----	---------	------------	-----	-----	--------	----------	------------	-----	----------	------------	--------



**SHIRE OF BROOMEHILL-TAMBELLUP**  
**YEARLY RETURN OF BUILDING PERMITS 7 08.09**

Approval Date	Lic No	Name & Address of Owner	Name & Address of Contractor. If owner-builder please indicate	Builders Phone Number	RB or O/B No	Situation of Building Lot or Street No & Town or Suburb	Name of HII insurer if applicable	HII Policy No	ASS. No	Type of Work	Class	Type of Building	Materials of External Walls	Roof Covering	Main Material of Floor	No of Dwellings	Floor Area Sq.m	Cost \$ Excluding Land
3-7-08	15	CR 1 PTY LTD (JIM HOUSEHOLDER) 114 OGDEN STREET COLLIE WA 6225	GREAT SOUTHERN SHED 60 TUDHOE STREET WAGIN WA 6315	9861 2800	N/A	LOT 73 PINELLUP ROAD TAMBELLUP WA 6520	N/A	N/A	A 558	NEW	7B	FARM SHED	Z/A	Z/A	N/A	N/A	112	18,700
16-7-08	2	JOHN LIVA 5 LAVAROCK STREET BROOMEHILL WA 6318	O/B	9824 1368	N/A	LOT 530 (G) LAVAROCK STREET BROOMEHILL WA 6318	N/A	N/A	A 741	NEW	10A	CARPORT	N/A	Z/A	CONC.	N/A	16.5	3,300
	3																	
	4																	
																		22,000

I certify that to the best of my knowledge and belief, the particulars given in this return are a true and complete record of proposed building operations known to this local authority.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
 (Authorised Officer)

---

**10.5 CONTRACT ENVIRONMENTAL HEALTH OFFICER**

---

**Program:** Health  
**Attachment:** Memo – A Mortimer  
**File Ref:** ADM0270  
**Author:** JM Trezona Chief Executive Officer  
**Date:** 14 August 2008  
**Disclosure of Interest:** Nil

---

**Summary:** The services of a contract Environmental Health Officer have been secured.

**Background:** Mr Allan Mortimer commenced his duties this week with a visit to the Shire to familiarise himself with the number of premises requiring inspection, and to introduce himself to staff. His initial report is attached.

**Comment:** For information only

**Consultation:** Nil

**Statutory Environment:** Nil

**Policy Implications:** Nil

**Financial Implications:** This issue has no financial implications for Council

**Strategic Implications:** This issue is not dealt with in the Plan

**Voting Requirements:** Simple Majority

**Officer Resolution:** *No recommendation required – for information only.*

**Reason For Change to Recommendation:**

# Memo

**To:** Chief Executive Officer, Shire of Broomehill – Tambellup  
**From:** Allan Mortimer, Contract Environmental Health Officer  
**Date:** 13<sup>th</sup> August 2008

---

I visited the Shire of Broomehill – Tambellup on 13<sup>th</sup> August 2008.

This initial visit was to familiarise myself with the number and nature of premises which would require inspections under the relevant Health legislation, and also to introduce myself to members of staff.

Now that the information relating to the premises has been collated, I will be able to more accurately calculate the time necessary to undertake the various inspections. The calculation will be based on the Department of Health's recommended inspection schedule, a copy of which is attached.

Allan Mortimer  
Contract Environmental Health Officer

**10.6 AMALGAMATION PROJECT REPORT – RON BACK**

---

<b>Program:</b>	<b>Governance</b>	
<b>Attachment:</b>	<b>Project Report</b>	
<b>File Ref:</b>		
<b>Author:</b>	<b>Ron Back</b>	<b>Consultant – Amalgamation of the Shires of Broomehill and Tambellup</b>
<b>Date:</b>	<b>15 August 2008</b>	
<b>Disclosure of Interest:</b>	<b>Nil</b>	

---

**Summary:** Attached is a progress report on the amalgamation for the Shire of Broomehill-Tambellup.

**Background:**

**Comment:**

**Consultation:** Nil

**Statutory Environment:** Nil

**Policy Implications:** Nil

**Financial Implications:** This issue has no financial implications for Council

**Strategic Implications:** This issue is not dealt with in the Plan

**Voting Requirements:** Simple Majority

**Officer / Council Resolution:** *For Council information*

**Reason For Change to Recommendation:**

Date 15/08/2008

# PROJECT REPORT

## **Council**

The draft annual budget has been prepared and is to be considered at the Council Meeting 21 August 2008.

## **Preparation of Strategic Plan**

Process in place to allow new Council to develop strategic plan in early 2009.

## **Revision of Policy Manual**

Following a review of the existing policies the revised policies will be presented to the September 2008 meeting.

## **Revision of Delegations to the CEO**

Initial delegations have been resolved by the Commissioner and a full listing will be prepared for the consideration of the new Council following the October 2008 elections.

## **Revision/amalgamation of Local Laws**

Eight draft Local Laws are to be submitted to the Commissioner at the August 2008 Ordinary Meeting. This will be the first of a number of processes that will include community consultation.

## **Town Planning Scheme**

The review of the Planning Schemes will be undertaken in 2009.

## **Local Government Elections - October**

Election will take place on 18 October 2008. The State Electoral Commission will undertake the electoral processes. A briefing for potential candidates is proposed for 20 August 2008.

## **Community satisfaction survey**

Benchmark survey planned for late 2008.

## **IT, Communications**

The merger of all systems is progressing according to the timetable. The process has required substantial time applied by office staff to complete.

New computer hardware and software has been installed and apart from a few minor problems all systems are operational. Office systems are now operating MicroSoft Office 2007.

## **New communications/phone system.**

The new telephone system has been ordered. Delays have been experienced with the allocation of a range of numbers that will allow indial facilities. Delays have been experienced in the allocation of a range of numbers that will allow the indial facility. We have been advised that these numbers will not be available until 26 August 2008.

## **Public Signage, Stationery & Seal**

The Shire is awaiting the new telephone number however the new email domain has been allocated and is operational.

Details of public signs have been recorded. Arrangements have been made for minor alterations to existing signs where appropriate. New designs are being prepared for major signs throughout the Shire.

Arrangements have been made to meet with Ray Ford on-site on 22 August 2008.

## **Legal Opinion**

Anne Lake has advised that all employment agreements will not require attention in transferring the operations from two Shires to one. She will be in attendance on the 27 August 2008 to address proposed changes to operations for the works crew.

**Staff training – additional skills**

With the implementation of new computer software training will be organised for staff training in Office 2007. It is proposed to provide the training onsite.

**Review and upgrade of records management**

Kim Boulton has completed the task of establishing the record keeping system and is current preparing a records management plan for the new Shire.

**Records storage**

Specifications for the storage facilities at Broomehill have been prepared. Quotes for shelving are being sought.

**Website amalgamation**

Temporary modifications have been made to the Broomehill site to allow access to information pertaining to the new Shire of Broomehill-Tambellup. Access to prior information from both the former Shires is accessible from the existing site.

System specification are being developed and quotations are being sought from a number of providers for the preparation of a new website.

**Office Redesign**

Minor alterations are to be made to the partitioning at the Tambellup Office.

**Office furniture/relocation expenses**

Some minor equipment has been acquired.

**RECEIVED**

**12. DATE OF NEXT MEETING**

Thursday 18<sup>th</sup> September 2008

**13. CLOSURE**

There being no further business, the Commissioner thanked visitors and staff for their attendance and declared the meeting closed at 4.26pm