### 11.1 Chief Executive Officer

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11.1 Chief Executive Officer

11.1.3 ADOPTION OF CEMETERIES LOCAL LAW 2020 AND ACTIVITIES IN PUBLIC PLACES AND TRADING LOCAL LAW 2020

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SHIRE OF AUGUSTA MARGARET RIVER

CEMETERIES LOCAL LAW 2020

Under the powers conferred by the Cemeteries Act 1986 and the Local Government Act 1995 and under all other powers enabling it, the Council of the Shire of Augusta Margaret River resolved on *** to make this local law.

PART 1—PRELIMINARY

1.1 Citation
This local law may be cited as the Shire of Augusta Margaret River Cemeteries Local Law 2020.

1.2 Commencement
This Local Law shall come into operation 14 days after the date of its commencement in the Government Gazette.

1.3 Application
This local law applies throughout the district.

1.4 Repeal
The Shire of Augusta Margaret River Public Cemeteries Local Law 2010 published in the Government Gazette on 5 March 2010 is repealed.

1.5 Interpretation
In this local law unless the context otherwise requires:

- Act means the Cemeteries Act 1986;
- administrator includes executor and any person who, by law or practice, has the right to apply for administration and any person having the lawful custody of the body of a deceased person;
- 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 person means an employee of the Board authorised by the Board for the purposes of performing any function or exercising any power conferred upon an authorised officer by this local law;
- board means the Shire of Augusta Margaret River;
- burial has the same meaning as is given to it in the Act;
- cemeteries means all cemeteries which the Governor by order has vested under the care, control and management of the Board;
- CEO means the chief executive officer for the time being, of the Board;
- coffin means a coffin or other receptacle used for the transportation of a dead body to the grave site, or a receptacle used for the burial of a dead body in a grave;
**council** means the Council of the Board;

**dead body** means the body of a human being who was born alive and also means the body of a child of not less than 28 weeks’ gestation that was still born;

**funeral** means the burial or cremation of a dead body;

**funeral director** means a person, firm or company holding a current funeral director’s licence;

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

**headstone** means a memorial designed for placement at the head of a grave, commemorating a grave or the placement of ashes;

**holder** in relation to a grant of right of burial includes a person for the time being appearing to the Board to be the holder of that grant;

**memorial** includes headstones, plaques, monumental work, inscription, kerbing, enclosure and any other fixture or thing commemorating a grave or the placement of ashes;

**monumental mason** means a person, firm or company holding a current monumental mason’s licence;

**monumental mason’s licence** means a licence issued by the Board;

**monumental work** when a term is used as an abstract noun shall include the erection, alteration or removal of or other working upon a monument on a grave;

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

**military grave** means a grave eligible for commemoration by the Office of Australian War Graves;

**niche wall** means a structure for the placement of a container of ashes in a compartment secured with a covering memorial plaque;

**right of burial** means the right to use a specified area of a cemetery for burial;

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

**set fee** refers to fees and charges set by a resolution of the Council 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;

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

**vehicle** includes every conveyance and every object capable of being propelled or drawn on wheels, tracks or otherwise, other than a wheelchair or stroller, and includes a bicycle and a skateboard.
PART 2 – ADMINISTRATION

Division 1 – General

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

2.2 Plans and registers
(1) The Board shall establish and maintain –
   (a) a plan of each cemetery showing the location and identifying number of every burial place or grave and the distribution of the land, compartments and sections;
   (b) a register containing the identification numbers of graves and the names and description of the persons buried;
   (c) a register of grants made with respect to each cemetery;
   (d) a register of cremations containing the names and descriptions of any person cremated in each cemetery; and
   (e) a register of persons cremated whose ashes have been buried or disposed in each cemetery.

(2) The plans and registers referred to in sub-clause (1) shall be open for inspection by members of the public during normal office hours of the Board and upon payment of a set fee.

Division 2 – Right of Burial

2.3 Issuing grants
The Board may, upon the written application of a person and upon payment of a set fee issue that person with a grant for a term of twenty five (25) years.

2.4 Right of holder
(1) Subject to this local law, to the prior approval of the Board and to the terms and conditions (if any) imposed by the Board, a grant confers on the holder, during the term of the grant, an exclusive right –
   (a) to bury one or more dead bodies (maximum of two interments into one gravesite) or the ashes of one or more dead bodies in a grave specified in the grant; and
   (b) to carry out monumental works on the gravesite specified in the grant.

(2) The Board, in its absolute discretion, may determine from time to time the number of dead bodies or ashes which may be placed in the grave.

(3) The Board or an authorised officer may request the holder to produce the grant before the exercise of any of the rights referred to in sub-clause (1) and the holder shall forthwith comply with that request.

(4) If the location stipulated in the grant of right of burial is significantly and adversely affected prior to or at the time of burial by unforeseen conditions such as flooding, a high water table, rock, large tree roots or any other significant matter the Board may allocate any other gravesite of the grantee’s choosing that is not already subject to a grant.

2.5 Renewal of grant
(1) Where, at any time during the term of a grant, a holder –
   (a) makes written application; and
   (b) pays a set fee,
the Board may, at its discretion, renew the grant for a further term of twenty five (25) years commencing on the expiry date of the grant.
(2) The set fee for the issue of a new grant pursuant to this clause shall be determined by the Board from time to time.

(3) The Board may request the holder to deliver an existing grant to it prior to issuing a new grant.

(4) The holder shall forthwith upon receiving a request by the Board in accordance with sub-rule (3) deliver the existing grant to the Board.

2.6 Replacement of grant
(1) The Board may –
   (a) upon the written application of a holder; and
   (b) upon the production of evidence to the satisfaction of the Board, issue a new grant to replace a grant which is lost or destroyed.

(2) Notwithstanding sub-clause (1), the Board may prior to issuing a replacement grant, require the holder to make a statutory declaration in a form determined by the Board.

(3) The replacement grant issued by the Board shall be deemed to be the original grant.

2.7 Transfer of grant
A holder who desires to transfer a grant to another person shall make an application to the Board in a form determined by the Board and upon receipt of the application the Board may grant permission in accordance with section 26 of the Act.

2.8 Exercising the rights of holder
If evidence is produced in writing to the satisfaction of the Board that a holder is unavailable or not immediately ascertainable, or has died and has not specifically bequeathed a grant, then the rights conferred upon that holder may be exercised by a holder’s personal representative or a person acting expressly on behalf of a personal representative. If those persons are unavailable or not immediately ascertainable, the Board may approve any other person.

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 on the form determined by the Board from time to time.

(2) An application under sub-clause (1) is to be accompanied by –
   (a) evidence to the satisfaction of the Board that the holder of the grant in respect of the grave in which the body is intended to be buried has consented to or would not object to the burial; or
   (b) an application for a grant.

3.2 Applications to be accompanied by certificates, etc
All applications referred to in clauses 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 3.4, in respect of a 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 on 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.

(b)
(2) Where –
   (a) in the opinion of a funeral director, a 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 (24) hours prior to the time proposed for burial on the application.

3.5 Fixing times for funeral
The time fixed for a funeral is at the discretion of the Board but subject to this local law will be as near as possible to the time requested by the applicant.

3.6 Receipt of application for funeral
Where an application is received by the Board in accordance with clause 3.1 or 3.2, then subject to any other provision of this local law, the Board shall –
   (a) fix a time for a funeral; and
   (b) prepare a grave that is required or reserve a venue for a cremation service as the case may be.

3.7 Times for burials
A person shall not carry out a burial –
   (a) on a gazette public holiday in the State of Western Australia; or
   (b) at any other time other than during the following days and hours –
      (i) Monday to Friday between 10:00am and 3:00pm

Except with the written permission of the Board.

PART 4 - FUNERAL DIRECTORS

4.1 Directing a funeral
A person shall not direct a funeral within a cemetery or otherwise make use of the cemeteries for any purpose connected with directing the funeral unless that person is –
   (a) the funeral director;
   (b) an employee of the funeral director; or
   (c) a holder of a single funeral permit.

4.2 Funeral Director’s Licence
(1) The Board may upon the receipt of an application in writing by a fit person in a form determined by the Board and upon payment of a set fee, issue to an applicant a funeral director’s licence authorising a holder to direct funerals within a cemetery at such times and on such days and subject to such conditions as the Board shall specify and in compliance with the provisions of this Bylaw.

(2) If the application referred to in sub-clause (1) is approved by the Board, the Board shall issue to the applicant a licence in a form determined by the Board.

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

A funeral director’s licence—

(a) shall expire on the 30th day of June in each year or until a licence is determined cancelled pursuant to clause 4.5, whichever shall occur sooner; and

(b) is not transferable.

4.4 **Responsibilities of holder of funeral director’s licence**

A holder of a funeral director’s licence shall be responsible for the compliance by every person purporting to be authorised to direct a funeral within a cemetery pursuant to that licence with—

(a) all the requirements of –

(i) the licence,

(ii) this By-law Local law; and

(iii) the Act; and

(b) the conditions imposed by the Board in respect of that licence.

4.5 **Cancellation of funeral director’s licence**

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

(a) the holder of the licence or any employee of the holder has committed a breach of this By-law Local law, the Act, the Cremation Act 1929 or any of the conditions upon which the licence was issued;

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

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

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

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

(f) the holder of the funeral director’s licence is convicted of an offence against this Act or this By-law Local law; or

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

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

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

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

4.6 **Single funeral permits**

(1) The Board may, upon receipt of an application in writing by a person in a form determined by the Board and upon payment of a set fee issue to an applicant a single funeral permit authorising a holder to direct a funeral of the person named in a permit within a cemetery at such time and subject to such conditions as the Board shall specify upon the issue of that permit or in this local law.

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

(3) The Board may refuse an application for the single funeral permit if, in the opinion of the Board, either a coffin’s specifications or the details of the vehicle transporting the dead body to the gravesite or crematorium, are not structurally sound or are otherwise inadequate or inappropriate, or on any other grounds.
PART 5 – FUNERALS

Division 1 – General

5.1 Requirements for funerals and coffins
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 twenty five 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 person.

5.6 Conduct of funeral by the 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 -
Subject to sub-clause (3) and (4), a person shall not place the ashes of the deceased person in the cemetery.

(b) An authorised person 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 person 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 lodged evidence to the satisfaction of the Board that a holder of the grant in respect of the grave in which the ashes are to be placed has consented to or would not object to the placement and has the written permission of the Board.

5.8 Ashes held by board

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

(a) the ashes of a deceased person have not been claimed; or
(b) no arrangements have been made for the placement of the ashes of the deceased person by a personal representative, then the Board may dispose of the ashes in the cemetery by any of the methods listed in clause 5.7.

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

(3) Notwithstanding sub-clause (2), should the personal representative default in the payment of the fee referred to in sub-clause (2), the Board may dispose of the ashes in the cemetery by any of the methods listed in clause 5.7.

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 person; or
(b) in any circumstances less than 600mm.

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

6.2 Mausoleum, etc

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

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

(3) An application under sub-clause (2) shall be in writing and shall be accompanied by payment of a set fee.
(4) A mausoleum must be –
   (a) constructed of brick, stone, concrete or similar durable material; and
   (b) adequately ventilated and drained; and
   (c) vermin proof; and
   (d) capable of being secured against entry by vandals or other unauthorised persons.

(5) A person shall not place a dead body in a mausoleum except—
   (a) in a closed coffin; and
   (b) in a soundly constructed chamber; and
   (c) in accordance with sub-clause (6).

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

(7) The Board shall ensure that as soon as possible after a dead body is placed in a mausoleum, the front of the chamber is sealed with a slab of impervious material and faced with a substantial slab of stone, slate, or material approved by the Board.

6.3 Re-opening a grave
(1) Subject to sub-clause (2), if for the purpose of a re-opening a grave in a cemetery the Board finds it necessary to remove a monument, edging, titles, plants, grasses, shrubs or other like matter from the grave, then a person ordering a re-opening of that grave shall bear the cost of the removal and any necessary reinstatement.

(2) If a Minister orders the exhumation of a body in accordance with section 58 of the Act, then the Minister may further order how and by whom the costs referred to in sub-clause (1) shall be met.

(3) In this clause, the word 'Minister' has the same meaning as is given to that expression in the Act.

6.4 Disinterring a coffin
(1) Subject to sub-clause (2), a person shall not disinter a coffin in a cemetery for the purposes of reburial within twelve (12) months after the date of its interment.

(2) Sub-clause (1) shall not apply where the coffin is disinterred for the purposes of an exhumation of a dead body and the exhumation is ordered or authorised pursuant to the Act.

6.5 Exhumation
A person shall not disinter a coffin in a cemetery for an exhumation of a dead body unless—
   (a) the exhumation is ordered or authorised pursuant to the Act; or
   (b) a holder of a grant of right of burial has applied in writing to the Board requesting the exhumation and the Board has authorised the exhumation.

6.6 Opening a coffin
(1) A person shall not open a coffin in a cemetery unless—
   (a) the coffin is opened for the purposes of an exhumation of a dead body; or
   (b) that person has produced to the Board an order signed by the Commissioner of Police and the Board has approved the opening of that coffin.

(2) In this clause
   'Commissioner of Police' means a Commissioner of Police for the time being appointed under the Police Act 1892 and includes a person for the time being acting in that capacity in the absence of the Commissioner of Police.
PART 7 - MEMORIALS AND OTHER WORK

Division 1 – General

7.1 Application for monumental work
(1) Upon –
   (a) the written application of a person on a form determined by the Board; and
   (b) payment of a set fee,

the Board may issue to that person a permit to carry out monumental works on a grave specified in an application on the days, at the times and subject to the conditions specified by the Board.

(2) An application referred to in sub-clause (1) shall be accompanied by -
   (a) the plans and specifications of the proposed monument work, including precise details of all words, designs and pictures intended to be inscribed on or attached to the monumental work;
   (b) if the applicant is not a holder of a grant in respect of a grave on which the work is to be carried out, the written consent of the holder or authorised representative.

7.2 Placement of monumental work
Every memorial shall be placed on proper and substantial foundations as determined by the Board.

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

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

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

7.7 Unfinished work
Should any work by masons or others be not completed before 6:00pm 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 Board or an authorised person.

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 Board.
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 person and shall obey such directions as the Board or an authorised person 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.

7.13 Specification of monuments
(1) All monuments in the cemetery shall:
(a) be made of natural stone; and
(b) be placed upon a base of natural stone; and
(c) comply with the following specifications:
(i) the overall height of the monument above the original surface of the grave shall not exceed 1.05m;
(ii) the height of the base of the monument above the original surface of the grave shall not be less than 150mm nor more than 450mm;
(iii) the width of the base of the monument shall not exceed 1.20m; and
(iv) the depth of the base of the monument shall not exceed 300mm; and
(d) have foundations extending to the bottom of the grave unless concrete beam foundations are provided by the Board.

(2) An admiralty bronze memorial plaque may be attached to a monument erected or being erected in the cemetery.

(3) A person shall not display any trade names or marks upon any monument erected within the cemetery.

7.14 Headstones
That part of a headstone above its base shall not extend horizontally beyond that base.

7.15 Requirements of a memorial plaque
(1) All memorial plaques placed in the cemetery shall:
(a) be made of admiralty bronze or any other material approved by the Board; and
(b) adhere to the following dimensions; double niche wall plaque 279mm x 121mm, single niche wall plaque 146mm x 133mm,

(2) All memorial plaques made of admiralty bronze shall:
(a) not exceed 6mm in thickness; and
(b) be placed upon a base mounting approved by the Board.

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

Division 2 - Licensing of Monumental Masons

7.16 Monumental mason’s licence
(1) The Board may upon receipt of an application in Form 12 by any person and upon payment of the
set fee issue to the applicant a monumental mason’s licence.

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

(3) An application made under subclause (1) must be submitted in the form determined by the Board from time to time.

7.17 Expiry date, non-transferability
A monumental mason’s licence:
(a) shall, subject to clause 7.20 be valid from the date specified therein until the 30th day of June next following; and
(b) is not transferable.

7.18 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 7.16 or does so as the employee of a person who holds such a licence; or
(b) is authorised by the Board to do so.

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

7.20 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 a Local court against a decision of the Board under this clause in the manner stated in section 19 (3) 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 person.
8.2 Assistance animals
Clause 8.1 does not apply to a dog or other animal being used as an assistance animal as defined in the Disability Discrimination Act 1992 (Commonwealth).

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 person.

8.8 No benefits or gratuities
A person employed by the Board shall not accept any gratuities or receive any financial benefit from any work undertaken within a cemetery other than the remuneration or benefit paid or given to that person by the Board.

8.9 Entry
A person shall not enter or remain within a cemetery other than during the hours between sunrise and sunset except with the approval of the Board or an authorised person.

8.10 Fireworks or firearms
(1) A person shall not bring or discharge any fireworks within a cemetery.

(2) A person shall not bring or discharge any fireworks within the cemetery except in the case of a military funeral when firearms may be brought into the cemetery and discharged by members of the Defence Force.

(3) In this clause, “Defence Force” has the same meaning as is given to that expression in the Defence Force Act 1903.

8.11 Recording on film or videotape
(1) A person shall not, without the prior approval of the Board, record on film or videotape and any image or sound within a cemetery.

(2) A person shall not record on film or videotape a funeral, headstone or memorial within the cemetery without the prior approval of the next of kin of a deceased person whose funeral, headstone or memorial is being recorded.
8.121 Camping
A person shall not camp in or upon a cemetery.

8.132 Lighting fires
A person shall not light a fire within a cemetery without the prior approval of the Board.

8.143 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 person is inappropriate in the cemetery may in addition to any penalty provided by this local law be ordered directed to leave the cemetery by the Board, the CEO or an authorised person.

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

(4) The prescribed form of the notice withdrawing an infringement notice referred to in section 63(3) of the Act is set out in the Third Schedule.
<table>
<thead>
<tr>
<th>Item No.</th>
<th>Clause</th>
<th>Nature of Offence</th>
<th>Modified Penalty</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>5.4</td>
<td>Excessive speed</td>
<td>$50.00</td>
</tr>
<tr>
<td>2</td>
<td>5.4</td>
<td>Unauthorised use – driving of vehicles</td>
<td>$50.00</td>
</tr>
<tr>
<td>3</td>
<td>7.3</td>
<td>Placing and removal of rubbish and surplus materials</td>
<td>$50.00</td>
</tr>
<tr>
<td>4</td>
<td>7.7</td>
<td>Leaving uncompleted works in an untidy or unsafe condition</td>
<td>$50.00</td>
</tr>
<tr>
<td>5</td>
<td>8.1</td>
<td>Animal at large</td>
<td>$50.00</td>
</tr>
<tr>
<td>6</td>
<td>8.54</td>
<td>Dumping of Rubbish</td>
<td>$50.00</td>
</tr>
<tr>
<td>7</td>
<td>8.65</td>
<td>Unauthorised advertising and/or trading</td>
<td>$50.00</td>
</tr>
<tr>
<td>8</td>
<td>8.76</td>
<td>Disobeying sign or lawful direction</td>
<td>$50.00</td>
</tr>
</tbody>
</table>
Infringement Notice

To:__________________________________________________________

(Name)

___________________________________________________________

(Address)

It is alleged that on (Date)________________________ (Time) ______________________

you committed the offence indicated below by an (x) in breach of clause ............ of the Shire of Augusta Margaret River Cemeteries Local Law 2019.

(Authorised Person)

Offence

Animal at large
Dumping rubbish
Excessive speed in vehicle
Leaving uncompleted works in an untidy or unsafe condition
Non removal of rubbish
Unauthorised advertising or trading
Unauthorised vehicle use
Disobeying sign or lawful direction

Other Offence __________________________

$______________________________________

You may dispose of this matter:

By payment of the penalty as shown within 21 days of the date of this notice (or the date of the giving of this notice if that is a different date) to the Chief Executive Officer of the Shire of Augusta Margaret River at 41 Wallcliffe Road Margaret River between the hours of 9am to 4.00pm Monday to Friday.

If the penalty is not paid within the time specified, then a complaint of the alleged offence may be made and heard and determined by a court.
THIRD SCHEDULE
Schedule 3 - Withdrawal of Infringement Notice
(Cr. 9.2)

Shire of Augusta Margaret River
Cemeteries Local Law 2020

Withdrawal of Infringement Notice

Date _____/_____/____

To (1) ________________________________________________________________

Infringement Notice No __________ dated _____/_____/_____ for the alleged offence of (2)
________________________________________________________________________
________________________________________________________________________

Penalty (3) $__________ is withdrawn.

(Delete whichever does not apply)

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

(1) Insert name and address of alleged offender.
(2) Insert short particulars of offence alleged.
(3) Insert amount of penalty prescribed.

____________________________
(Authorised Person)
LOCAL GOVERNMENT ACT 1995

SHIRE OF AUGUSTA MARGARET RIVER

ACTIVITIES IN THOROUGHFARES AND PUBLIC PLACES AND TRADING LOCAL LAW 2019-2020
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LOCAL GOVERNMENT ACT 1995

SHIRE OF AUGUSTA MARGARET RIVER

ACTIVITIES IN THOROUGHFARES AND PUBLIC PLACES
AND TRADING LOCAL LAW 2019

Under the powers conferred by the Local Government Act 1995 and under all other powers enabling it, the Council of the Shire of Augusta Margaret River resolved on *** to make this local law.

PART 1—PRELIMINARY

1.1 Citation
This local law may be cited as the Shire of Augusta Margaret River Activities in Thoroughfares and Public Places and Trading Local Law 2019.

1.2 Commencement
This local law comes into operation 14 days after the date of its commencement in the Government Gazette.

1.3 Application
This local law applies throughout the district.

1.4 Repeal
This local law repeals the Shire of Augusta-Margaret River Activities in Thoroughfares and Public Places and Trading Local Law 2010 as published in the Government Gazette on 5 March 2010 and as amended in the Government Gazette on 6 September 2011 and 23 December 2013. The following local laws are repealed—

(a) Shire of Augusta-Margaret River Activities in Thoroughfares and Public Places and Trading Local Law 2010 published in the Government Gazette on 5 March 2010;

(b) Shire of Augusta-Margaret River Activities in Thoroughfares and Public Places and Trading Amendment Local Law 2011; and

(c) Shire of Augusta-Margaret River Activities in Thoroughfares and Public Places and Trading Amendment Local Law 2013.

1.5 Definitions
In this local law unless the context otherwise requires—

Act means the Local Government Act 1995;

applicant means a person who applies for a permit;

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) 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 Augusta Margaret River;

local government property means anything except a thoroughfare—
(a) which belongs to the local government;
(b) of which the local government is the management body under the Land Administration Act 1997; or
(c) which is an “otherwise unvested facility” within section 3.53 of the Act;

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

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

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

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 the townsites within the Shire of Augusta Margaret River district which are—
(a) constituted under section 26(2) of the Land Administration Act 1997; or
(b) referred to in clause 37 of Schedule 9.3 of the Act;

vehicle includes—
(a) every conveyance and every object capable of being propelled or drawn on wheels, tracks or otherwise; and
(b) an animal being ridden or driven, but excludes—
(a) a wheelchair or any device designed for use by a physically impaired person on a footpath; and
(b) a pram, a stroller or a similar device.

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

written law has the same meaning given to it by section 5 of Interpretation Act 1984 and includes this local law.

PART 2—ACTIVITIES IN THOROUGHFARES AND PUBLIC PLACES
Division 1—General

2.1 General prohibitions

(1) A person shall not—
(a) without written approval from the Shire plant any plant which exceeds or which may exceed 0.75m in height on a thoroughfare so that the plant is within 10m of an intersection or plant any plant which exceeds 0.50m in height on a thoroughfare so that the plant is within 6m of an intersection;
(b) damage a lawn or a garden or remove any plant or part of a plant from a lawn or a garden unless
(i) the person is the owner or the occupier of the lot abutting that portion of the thoroughfare and the lawn or the garden or the particular plant has not been installed or planted by the local government; or
(ii) the person is acting under the authority of a written law;
(c) plant any plant (except grasses or a similar plant) on a thoroughfare so that it is within 1m 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;
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) prune or fell any tree on or 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 permit issued under the Building Act 2011, if one has been issued in relation to the works; or
   (b) the registered proprietor of the lot, if no building permit has been issued under the Building Act 2011 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 Interpretation

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 the townsite.

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 2m along that part of the verge immediately adjacent to the kerb;

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

2.9 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
unless they have obtained —

(a) a permit issued under this local law where the verge treatment will be in place for less than 12-
months or does not involve any type of construction; or

(b) in any other case, a permission issued under regulation 17 of the Local Government (Uniform
(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.

2.102.9 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.

2.112.10 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

2.122.11 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

2.132.12 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

2.142.13 Interpretation

In this Division, unless the context requires otherwise—

nNumber 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

2.152.14 Assignment of numbers

The local government may assign a nNumber 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

2.18 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 Interpretation
In this Part, unless the context otherwise requires—
advertising sign means a sign used for the purpose of advertisement and includes an "election sign";
direction sign means a sign which indicates the direction of another place, activity or event, but does not include any such sign erected or affixed by the local government or the Commissioner of Main Roads;
election sign means a sign or poster which advertises any aspect of a forthcoming Federal, State or Local Government election;
portable direction sign means a portable free standing direction sign; and
portable sign means a portable free standing advertising sign.

Division 2—Permit

3.2 Advertising signs and portable direction signs
(1) A person shall not, without a permit—
(a) erect or place an advertising sign on a thoroughfare; or
(b) post any bill or paint, place or affix any advertisement on a thoroughfare.

(2) Notwithstanding subclause (1), a permit is not required in respect of a portable direction sign which
neither exceeds 500mm in height nor 0.5m² 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) over any footpath where the resulting vertical clearance between the sign and the footpath
is less than 2.5m;
(b) 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
(c) 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;
(e) the amount of the public liability insurance cover, if any, to be obtained by the applicant; and
(f) any other matters it considers relevant.

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 0.8m in height;
(ii) not exceed 0.6m in width;
(iii) relate only to the business activity described on the permit;
(iv) contain letters not less than 200mm in height;
(v) not be erected in any position other than immediately adjacent to the building or the
business to which the sign relates;
(vi) be removed each day at the close of the business to which it relates and not be erected
again until the business next opens for trading;
(vii) be secured in position in accordance with any requirements of the local government;
(viii) be placed so as not to obstruct or impede the reasonable use of a thoroughfare or
access to a place by any person; and
(ix) be maintained in good condition; and
(b) no more than 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 30m from any intersection;
(b) being free standing and not being affixed to any existing sign, post, power or light pole, or
similar structure;
(c) being placed so as not to obstruct or impede the reasonable use of a thoroughfare, or access
to a place by any person;
(d) being placed so as not to obstruct or impede the vision of a driver of a vehicle entering or
leaving a thoroughfare or crossing;
(e) being maintained in good condition;
(f) not being erected until the election to which it relates has been officially announced;
(g) being removed within 24 hours of the close of polls on voting day;
(h) not being placed within 100m of any works on the thoroughfare;
(i) being securely installed;
(j) not being an illuminated sign;
(k) not incorporating reflective or fluorescent materials; and
(l) not displaying only part of a message which is to be read with other separate signs in order to obtain the whole message.

3.6 Exemption
(1) The local government may exempt the holder of a valid stallholders permit, traders permit, facility permit or other event authorisation issued by the local government, from all or part of the prohibitions in clause 3.2 in relation to an advertisement that directly relates to the goods and services which are the subject of the permit or authorisation.
(2) Signs erected by the local government or an authority empowered to do so under a written law are exempted from the requirement to obtain a permit.

3.7 Impounding advertising signs
Any sign which contravenes clause 3.2 may be removed, impounded or disposed of in accordance with Subdivision 4 of Division 3 of Part 3 of the Act and regulation 29 of the Regulations.

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 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

4.3 Interpretation
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.

4.4 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.

4.5 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.

4.6 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.

4.7 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

5.1 Interpretation
In this Part—
MRWA means Main Roads Western Australia;
specially protected flora has the meaning given to it in section 6(15)(1) of the Wildlife Conservation Act 1950/Biodiversity Conservation Act 2016;
rare threatened flora has the meaning given to it in section 5(1)23F of the Wildlife Conservation Act 1950/Biodiversity Conservation Act 2016; 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 1—Preliminary

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

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

5.5 Signposting of flora roads
The local government may signpost flora roads with the standard MRWA “flora road” sign.

5.6 Driving only on carriageway of flora roads
(1) A person driving or riding a vehicle on a flora road shall only drive or ride the vehicle on the
carriageway.
(2) Subclause (1) does not apply where—
(a) conditions on the thoroughfare do not reasonably permit a vehicle to remain on the
carriageway;
(b) there is no carriageway; or
(c) an exemption from the application of subclause (1) has been obtained from the local
government.

Division 3—Special environmental areas

5.7 Designation of special environmental areas
The local government may designate a thoroughfare, or any part of a thoroughfare, as a special
environmental area which—
(a) has specially protected flora or threatened 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 1m of that
person’s land without first obtaining a permit and any other approvals which may be required under
any written law.

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

Division 6—Fire management

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

5.14 Application for permit
In addition to the requirements of clause 7.1(2), an application for a permit for the purposes of clause
5.13 shall—
(a) include a sketch plan showing the portions of a thoroughfare which are proposed to be
burned; and
(b) advise of the estimated fire intensity and the measures to be taken to protect upper storey
vegetation from the burn.

5.15 When application for permit can be approved
The local government may approve an application for a permit for the purpose of clause 5.13 only if the burning of the particular part of the thoroughfare will—
(a) reduce a fire hazard and alternative means of reducing that hazard, such as slashing or the use of herbicides, are considered by the local government to be not feasible or more detrimental to native flora and fauna than burning; or
(b) in the opinion of the local government, be beneficial for the preservation and conservation of native flora and fauna.

5.16 Prohibitions on burning
Notwithstanding anything to the contrary in this local law, an application for a permit for the purpose of clause 5.13 is not to be approved by the local government—
(a) for burning between 31 August and 1 May of the following year where the intensity of the burn could damage native flora and fauna; or
(b) in any year to any person for any part of a thoroughfare which is on the opposite side of the carriageway to that portion of the thoroughfare for which a permit to burn has been approved in the same year.

Division 7—Firebreaks

5.17 Permit for firebreaks on thoroughfares
A person shall not construct a firebreak on a thoroughfare without first obtaining a permit.

5.18 When application for permit cannot be approved
(1) The local government is not to approve an application for a permit for the purpose of clause 5.17 where the thoroughfare is less than 20m wide.
(2) Subclause (1) does not apply where the firebreak is, in the opinion of the local government, desirable for the protection of roadside vegetation.

Division 8—Commercial wildflower harvesting on thoroughfares

5.19 General prohibition on commercial wildflower harvesting
Subject to clause 5.20, a person shall not commercially harvest native flora on a thoroughfare.

5.20 Permit for revegetation projects
(1) A person shall not collect seed from native flora on a thoroughfare without first obtaining a permit.
(2) The local government may approve an application for a permit under subclause (1) only where—
(a) the seed is required for a revegetation project in any part of the district; and
(b) the thoroughfare, or the relevant part of it, is not a special environmental area.
(3) Unless the local government specifically provides to the contrary on a permit, if the local government approves an application for a permit for the purpose of subclause (1) it is to be taken to be approved subject to the following conditions—
(a) the collection of the seed is to be carried out so as not to endanger the long 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 Interpretation
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, funds are solicited, or information displayed or provided;

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;
(c) the going from place to place, whether or not public places, and—
   (i) offering goods or services for sale or hire; or
   (ii) inviting offers or soliciting orders for the sale or the hire of goods or services;
(d) the setting up of a stall or the conducting of a business at a stall under the authority of a stallholder’s permit;
(e) the selling or the offering for sale of goods and services to, or the soliciting of orders for goods and services from a person who sells those goods or services;
(f) the selling or the offering for sale or hire by a person of goods of her or his own manufacture or services which he or she provides; and
(g) the selling or hiring or the offering for sale or hire of—
   (i) goods by a person who represents a manufacturer of the goods; or
   (ii) services by a person who represents a provider of the services, which are only sold directly to consumers and not through a shop.

Subdivision 2—Permits

6.2 Stallholder’s permit
(1) A person shall not conduct a stall on a public place unless that person is—
(a) the holder of a valid stallholder’s permit; or
(b) an assistant specified in a valid stallholder’s permit.

(2) Every application for a stallholder’s permit shall—
(a) state the full name and address of the applicant;
(b) specify the proposed number of assistants to be engaged by the applicant in conducting the stall, as well as their names and addresses if already engaged;
(c) specify the proposed location of the stall;
(d) specify the period of time for which the permit is sought, together with the proposed days and hours of operation;
(e) specify the proposed goods or services to be sold or hired or offered for sale or hire from the stall; and
(f) be accompanied by an accurate plan and description of the proposed stall.

6.3 Trader’s permit
(1) A person shall not carry on trading unless that person is—
(a) the holder of a valid trader’s permit; or
(b) an assistant specified in a valid trader’s permit.

(2) Every application for a trader’s permit shall—
(a) state the full name and address of the applicant;
(b) specify the proposed number of assistants, if any, to be engaged by the applicant in trading, as well as their names and addresses if already engaged;
(c) specify the location or locations in which the applicant proposes to trade;
(d) specify the period of time for which the permit is sought, together with the proposed days and hours of trading;
(e) specify the proposed goods or services which will be traded; and
(f) be accompanied by an accurate plan and description of any proposed structure or vehicle which may be used by the applicant in trading.

6.4 No permit required to sell newspaper
Notwithstanding any other provision of this local law, a person who sells, or offers for sale, a newspaper 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 number, type, form and construction of any stand, table, structure or vehicle which may be used in conducting a stall or trading;
(b) the days and hours during which a permit holder may conduct a stall or trade;
(c) 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;
(d) the number of persons and the names of persons permitted to conduct a stall or trade;
(e)(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; and
(ii) the use of amplifiers, sound equipment and sound instruments; and
(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 *National Measurement Act 1960* (Cth).

(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; or

- (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 Interpretation
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, draw, paint or perform an art, 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
if more than one area is specified in a permit.

6.12 Duration of permit
A permit is valid for a period determined by the local government 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 Interpretation
In this Division—
Facility means an outdoor eating facility or establishment on any part of a public place, but
does not include such a facility or establishment on private land;
permit holder means the person to whom a permit has been issued for the purpose of clause
6.16; 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 Food Act 2008 and whether the use of the premises is permitted under the local planning scheme;
(c) the Facility will comply with any other local law made by the local government;
(d) users of the Facility will have access to proper and sufficient sanitary and ablutionary conveniences;
(e) the Facility would—
   (i) obstruct the visibility or clear sight lines at an intersection of thoroughfares of any person;
   or
   (ii) impede pedestrian access; and
(f) the tables, chairs and other equipment to be used may obstruct or impede the use of the public place for the purpose for which it was designed.

6.18 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 by the local government;
(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; and
(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).
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 clause 7.2(1)(a).

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

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

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

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

7.5 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 with all necessary changes as required.

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—

(a) condition of the permit; or

(b) 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) under clause 7.8; or
(c) 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

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.
Part 3, Division 3, Subdivision 3 of the Act.

Division 2—Offences and penalties
Subdivision 1—General

10.310.4 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

10.410.5 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.

10.510.6 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.
## PRESCRIBED OFFENCES (Clause 10.5)

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<th>Item No.</th>
<th>Clause</th>
<th>Description</th>
<th>Penalty</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2.1(a)</td>
<td>Plant of 0.75m in height on thoroughfare within 10m of intersection...</td>
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<td>2</td>
<td>2.1(b)</td>
<td>Damaging lawn or garden .................................................................</td>
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<td>2.1(c)</td>
<td>Plant (except grass) on thoroughfare within 2m of carriageway ........</td>
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<td>4</td>
<td>2.1(d)</td>
<td>Placing hazardous substance on footpath ...........................................</td>
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<td>5</td>
<td>2.1(e)</td>
<td>Damaging or interfering with signpost or structure on thoroughfare....</td>
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<td>6</td>
<td>2.1(f)</td>
<td>Playing games so as to impede vehicles or persons on thoroughfare.</td>
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<td>7</td>
<td>2.1(g)</td>
<td>Riding of skateboard or similar device on mall or verandah of shopping centre ..................................................</td>
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<td>8</td>
<td>2.1(h)</td>
<td>Placing or draining offensive fluid on thoroughfare without a permit ..........................</td>
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<td>9</td>
<td>2.1(i)</td>
<td>Damaging or interfering with signpost or structure on thoroughfare.</td>
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<td>10</td>
<td>2.1(j)</td>
<td>Planting in thoroughfare without a permit........................................</td>
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<td>Driving a vehicle on other than the carriageway of a flora road...........</td>
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<td>2.1(l)</td>
<td>Animal on public place or local government property..........................</td>
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<td>13</td>
<td>2.1(m)</td>
<td>Animal on public place with infectious disease.................................</td>
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<td>2.1(n)</td>
<td>Training or racing animal on thoroughfare in built-up area.................</td>
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<td>15</td>
<td>2.1(o)</td>
<td>Damage to or interference with thing on a thoroughfare without a permit</td>
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<tr>
<td>16</td>
<td>2.1(p)</td>
<td>Failure to comply with notice to rectify default ................................</td>
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<tr>
<td>17</td>
<td>2.1(q)</td>
<td>Placing or affixing any advertisement on a thoroughfare without a permit</td>
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<tr>
<td>18</td>
<td>2.1(r)</td>
<td>Installation of verge treatment other than permissible verge treatment</td>
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<tr>
<td>19</td>
<td>2.1(s)</td>
<td>Placing or affixing any advertisement on a thoroughfare without a permit</td>
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<td>2.1(t)</td>
<td>Failure to maintain permissible verge treatment or placement of obstruction on verge ..........................................................</td>
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<tr>
<td>21</td>
<td>2.1(u)</td>
<td>Failure to comply with notice to rectify default ................................</td>
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<tr>
<td>22</td>
<td>2.1(v)</td>
<td>Failure to remove shopping trolley upon being advised of location .......</td>
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<tr>
<td>23</td>
<td>2.1(w)</td>
<td>Failure to comply with notice to remove crossing and reinstate kerb ..........</td>
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<td>24</td>
<td>2.1(x)</td>
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<td>27</td>
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<td>41</td>
<td>5.17</td>
<td>Construction of firebreak on thoroughfare without a permit .......................... 500</td>
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Hi Lauren

This email is in response to your letter dated 21 November 2019 addressed to the Minister for Local Government regarding the Shire’s proposed local law.

The Department’s comments are noted below. Please contact me if you have any queries regarding the comments.

Shire of Augusta Margaret River Cemeteries Local Law 2019

1. Citation year

It is suggested that the title of the local law be changed to Shire of Augusta Margaret River Cemeteries Local Law 2020 to account for the fact the local law will be made and gazetted in 2020. This change should also be reflected throughout the local law.

2. Clause 2.4: Right of grant holder

Clause 2.4(1)(a) states that a grant of right of burial gives the grant holder the right to bury “one or more dead bodies” in a specified grave.

Under the Cemeteries Act, a right of burial only grants the holder the right to be buried in the grave themselves. The grant can only be used to bury another person if grant holder formally transfers their grant to that person in accordance with the Act.

For this reason, it is suggested that paragraph (a) be amended to read:

a. To be buried in a grave specified in the grant;

3. Clause 2.5 – Renewal of grant.

Clause 2.5(1) states that if a person applies for a renewal of a grant of burial, the Board may issue the renewal subject to the Board’s discretion.

Section 25 of the Cemeteries Act provides that if a person applies for a grant renewal in the correct manner and pays the appropriate fee, the renewal must be issued.

For this reason, it is suggested that the Shire amend clause 2.5(1) by changing “may at its discretion renew” to “must renew”.

4. Clause 7.20 – Condition of mason’s licence – “inappropriate or unbecoming”

Clause 7.20(1)(b) provides that a mason’s licence can be cancelled if the mason or their staff behave in a way that is inappropriate or unbecoming.

The Delegated Legislation Committee has objected to this subclause in the past. This is because:

- The phrase “inappropriate or unbecoming” is vague and may be subject to various interpretations; and
- If the Board wishes to impose restrictions on a mason’s activities, it can do this via the conditions of the licence itself.

It is suggested that subclause (1)(b) be deleted. If it is retained, it is likely to result in the Committee requesting an undertaking that it be removed.

5. Clause 7.20 – Cancellation of licence for purported transfer

Clause 7.20(1)(c) provides that a permit can be cancelled if a permit holder attempts to transfer the
permit to another person.

The Delegated Legislation Committee has concluded that subclauses of this kind go beyond the power provided by the Act. As a result, it is suggested that this subclause be deleted.

It should be noted that the Shire’s local law does not allow for the transfer of permits. If a person purports to transfer the permit, the transfer will be invalid and the person will remain the permit holder. Therefore, a purported transfer will not cause any practical consequences to the Board.

6. Clause 7.20 – Cancellation of a monumental mason’s licence

It is suggested that subclause (3) be deleted.

While section 19(2) of the Cemeteries Act provides a right of appeal, this right applies to funeral directors and not monumental masons.

The Delegated Legislation Committee has determined that the Act does not provide any express right of appeal for a mason to appeal a licence cancellation. While the Committee’s previous objections related to a clause which granted a right of appeal to the State Administrative Tribunal, it is likely the Committee will also object to the Shire’s clause which grants a right of appeal to a “local court”.

7. Clause 8.3 – Removal of withered flowers

Clause 8.3 prohibits the removal of any flower or thing from a grave.

This blanket prohibition will prevent a person from removing withered flowers from a grave unless they ask the Board’s permission. The Delegated Legislation Committee is likely to raise this as an issue.

It is suggested that the Shire make the following changes:

- clauses 8.4 to 8.13 be renumbered to 8.5 to 8.14 respectively (along with their references in Schedule 1).
- The Shire insert the following WALGA template clause:

---
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. Clause 8.13 – Removal from cemetery

Clause 8.13 provides that a person who commits an offence may be ordered to leave the cemetery.

For the purposes of clarity, it is suggested that “ordered” be replaced with “directed” so a failure to comply will be an offence under clause 8.6.

Alternatively, it is suggested the Shire add the following subclause:

(2) A person who fails to comply with an order given under this clause commits an offence.

If the Shire prefers the second approach, it should add a suitable modified penalty to Schedule 1.

9. Minor edits

The following minor edits are suggested:

- It is suggested that all instances of “sub-clause” be replaced with “subclause”.
- It is suggested that all instances of “By-law” be replaced with “local law”.
- When a clause splits into paragraphs, this should be indicated with a dash rather than a colon.
- Paragraphs should be formatted in lowercase rather than having capitals at the beginning of each paragraph. The Shire should reformat the clauses throughout the local law accordingly.

Table of contents:

- 7.15: replace “Requirements” with “Requirements of a memorial plaque” so it reflects
7.16: remove the capital from “Licence”. Similar amendments can be made to the items for clause 7.19 and 7.20.

- **Local law title:** insert “Cemeteries Act 1986” in the title above “Local Government Act 1995”.
- Defined terms should be bolded, in italics and without quote marks. It is suggested that the defined terms throughout the local law be amended to reflect this.

- **Clause 1.4:**
  - Italicise the citation title.
  - The citation title has a minor inaccuracy. The word “Public” should be deleted and “Cemetery” should be changed to “Cemeteries”.

- **Clause 1.5:**
  - It is suggested that the definition of Schedule be inserted to assist readers. The template definition is: “Schedule means a Schedule to this local law”.
  - Insert one line space between the defined terms single funeral permit and vault.
  - In the definition of vault, replace the full stop with a semicolon and insert the word “and” after that semicolon.

- **Clause 3.1(2):** In the first line change “(i)” to “(1)”.
- **Clause 4.3(a):** Change “determined pursuant to clause 4.5” to “cancelled pursuant to clause 4.5”.

- **Clause 4.5:** The sentences beginning with “The Board may, by notice” and “Upon the cancellation” should be designated as subclauses “(1)” and “(2)” respectively.

- **Clause 5.6:** Change the paragraph letters to closed brackets rather than single brackets.

- **Clause 5.7(1):** reformate the words “Niche Wall” and “Family Grave” as follows:
  a. niche Wall; and
  b. family grave.

- **Clause 6.2(5)(c):** Change the cross reference to “subclause (6)”.
- **Clause 6.4(1):** replace “sub-rule” with “subclause”.
- **Clause 6.5:** insert one line space after this clause, before clause 6.6.
- **Clause 7.7:** replace “6pm” with “6:00pm” to be consistent with formatting.

- **Clause 7.15(1)(b):** replace “; and” with a full stop.

- **Clause 7.16:** It is uncertain what “Form 12” refers to. Neither the local law nor the Act contain application forms. It is suggested that the Shire delete “in Form 12” and insert an additional subclause stating “(3) An application made under subclause (1) must be submitted in the form determined by the Board from time to time”.

- **Schedules:** In line with best drafting principles, it is suggested that the schedule titles be redrafted in the following manner:

  Schedule 1 – Modified penalties (Cl. 9.2)

  A bracketed reference should also be included in the line below the title. If implemented, the references to “First Schedule”, “Second Schedule” and “Third Schedule” in clause 9.2 and the contents page should also be updated accordingly.

  The Shire should check all references and cross references, particularly if any changes are made as a result of the Department’s comments.

**Minister’s Directions – pursuant to s 3.12(7) of the Local Government Act 1995**

Please note: once the Shire has published a local law in the Government Gazette, the Shire must comply with the requirements of the Minister’s Local Laws Explanatory Memoranda Directions 2010.

The Shire must, within 10 working days of the Gazettal publication date, forward the signed Explanatory Memoranda material to the Committee at the current address:

Committee Clerk
Joint Standing Committee on Delegated Legislation
Legislative Council Committee Office
GPO Box A11
PERTH WA 6837
Email: delleng@parliament.wa.gov.au
Tel: 9222 7404
Fax: 9222 7805
A copy of the Minister’s Directions and Explanatory Memoranda forms can be downloaded from the Department of Local Government, Sport and Cultural Industries website at www.dlgsc.wa.gov.au. Failure to comply with the Directions may render the local law inoperable.

Please note that my comments:

- have been provided to assist the Shire with drafting matters in relation to the local law;
- do not constitute legal advice;
- have been provided in good faith for the Shire’s consideration; and
- should not be taken as an approval of content.

The Shire should ensure that a detailed editorial analysis of the proposed local law has been undertaken and that the content of the local law is in accordance with the Shire policies and objectives.

Kind regards

Carmen Chia
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The Department acknowledges the Aboriginal peoples of Western Australia as the traditional custodians of this land, and we pay our respects to their Elders past and present.
Dear Ms Bidesi

This email is regarding the Shire’s proposed local law. The Department’s comments are provided below.

**Activities in Thoroughfares and Public Places and Trading Local Law 2019**

1. **Clause 2.1 – Plant height maximums**

Clause 2.1(a) provides that a person must not plant any plant which exceeds 0.5 metres within 6 metres of an intersection “without written approval from the Shire”.

In the past, the Joint Standing Committee on Delegated Legislation has objected to clauses of this kind due to the risk that they may allow the creation of sight obstructions near intersections. A plant of half a metre’s height is still high enough to conceal small children and animals from a vehicle driver. Furthermore, the clause allows higher plants to be planted with the Shire’s consent.

The Committee has previously requested that the paragraph be replaced with the following:

---

(a) Plant any plant (except grasses or a similar plant) within 6 metres of an intersection;

---

Further details on this issue can be found in item 4 of the JSCDL 16th report.

2. **Clause 2.6 – Giving legislative effect to policy**

Clause 2.8(2)(c) provides that a verge treatment must contain an acceptable material. Clause 2.6 defines acceptable material to mean any material contained on a list maintained by the local government.

This means that part of the local law will effectively be contained on the Shire’s list. The Delegated Legislation Committee has determined this is inappropriate, since the list can be amended by the Shire at any time without using the process in section 3.12 of the *Local Government Act 1995*.

It is suggested that the issue be dealt with by either of the following options:

- amend clause 2.6 to include a defined list of acceptable materials; or
• create a new schedule for the local law containing a list of acceptable materials, then amend clause 2.6 to refer to that schedule; or

• Define an **acceptable material** to be “any material which will create a hard service or is approved by the local government” and then establish an appropriate approval process.

This will ensure that the local law is self-contained and doesn’t give any direct legislative effect to local government policy.

3. **Clause 5.1 – References to repealed legislation**

Clause 5.1 of the local law contains references to the *Wildlife Conservation Act 1950*. This legislation has been repealed and replaced with the *Biodiversity Conservation Act 2016*. The majority of the new Act has come into force and it is possible that the terms and definitions in clause 5.1 need to be updated to reflect the new legislation.

In a recent thoroughfares local law, the Committee requested the terminology be replaced as follows:

• Change all instances of “protected flora” to “specially protected flora”

• Change all instances of “rare flora” to “threatened flora”

• In clause 5.1, delete the definitions for “protected flora” and “rare flora” and insert the following definitions:

---

*specially protected flora* has the meaning given to it in section 5(1) of the *Biodiversity Conservation Act 2016*;

*threatened flora* has the meaning given to it in section 5(1) of the *Biodiversity Conservation Act 2016*;

---

The Shire may also want to consult the Department of Biodiversity, Conservation and Attractions for further information on this issue.

4. **Clause 6.5 – Double punishment**

Clause 6.5(2)(a) provides that the Shire can reject an application if the applicant has been convicted of any offence under a provision of the local law.

The Delegated Legislation Committee may potentially object to this paragraph on the grounds that it imposes an extra punishment on offenders. It may also lead the applicant to have their application rejected for offences that have no connection with the application.

It is suggested that paragraph (a) be deleted. It should be noted that even if paragraph (a) is gone, the Shire will still have a significant discretion to reject applicants under paragraphs (b) and (d).
5. **Clause 6.8 – Conduct of stallholders and traders**

Clause 6.8(2)(d) provides that a trader must not carry on trade in a public place unless there is adequate parking for vehicles reasonable close to the area of trade.

The Delegated Legislation Committee has previously requested paragraphs of this kind to be deleted. The reasons for this are unknown. However, the most likely reason is:

- It will be difficult for a trader to assess whether “adequate parking” exists or whether this parking is “reasonably close” to the trading area. This makes it difficult for the trader to identify whether they’re at risk of committing an offence or not.

- It is likely that these terms could be given various interpretations by the public or by the courts.

6. **Clause 6.18(1)(e) – Liability for taxes and rates.**

Clause 6.18(1)(e) states that the permit holder for a facility is liable for all rates and taxes levied upon the land occupied by the facility.

The Delegated Legislation Committee has previously objected to this paragraph and it is suggested that the Shire delete it.

The liability for rates and taxes are usually determined by State legislation. It is unnecessary for local laws to mention this issue and doing so may lead to inconsistency.

7. **Clause 4.7 – Reversing onus of proof**

Clause 4.7 provides that in the absence of evidence to the contrary, it will be assumed that a shopping trolley is owned by whichever retailer is marked on that trolley.

As a rule, the plaintiff to a legal action is responsible for proving the elements of that legal action. This rule is presumed to apply except where enacting legislation has expressly stated otherwise.

Since the *Local Government Act 1995* does not expressly allow local laws to reverse the onus of proof, it is debatable whether local laws can do this.

The Delegated Legislation Committee has previously explored this issue in the local laws of other local governments. In those cases, the Committee concluded that it would allow the clause, since the burden on retailers was minor. However, the Committee has concluded that the clause may not be legally valid and its enforceability may be vulnerable to legal challenge. This conclusion is set out in item 4 of the Committee’s 16th Report. The Shire should keep this in mind if it chooses to retain the clause and rely on it in the future.

8. **Clause 8.1 – Review of transfer decisions**

Clause 8.1 provides that decisions regarding the renewal, variation or cancellation of a permit are all reviewable under Part 9 of the Act.
The Department notes that the local law allows permits to be transferred under clause 7.8. The Shire should determine whether transfers should also be mentioned in clause 8.1.

9. **Clause 10.2 - Power of entry into private property**

Clause 10.2 provides that if the Shire issues a notice and the notice isn’t complied with, the Shire can carry out the required action itself.

Most of the notices in the local law refer to thoroughfares and other public land, so entry into private property won’t be an issue. However, some of the notices issued under the local law could conceivably apply to private property, such as a notice issued under clause 9.1 or 9.2.

If the Shire intends for the local law to allow entry into private property, it is important that the local law reflect the limitations of that power. The Shire may wish to add the following template clause:

---

**X.X Power of entry into private property**

This local law is subject to sections 3.25, 3.27 and Schedules 3.1 and 3.2 of the *Local Government Act 1995* and any power of entry exercised by the local government under this local law is subject to Part 3, Division 3, Subdivision 3 of the Act.

---

Alternatively, the Shire may wish to restrict clause 10.2 so it doesn’t apply to any notices except those which relate to public land or local government property.

10. **Minor edits**

The following minor edits are suggested:

- **Local law title:** It is likely that this local law will be made in 2020. The Shire may wish to update all instances of the local law’s title accordingly, including the citation in clause 1.1.

- **Clause 1.4:** This clause can be simplified to the following format:

  ---

  **1.4 Repeal**

  This local law repeals the *Shire of Augusta-Margaret River Activities in Thoroughfares and Public Places and Trading Local Law 2010* as published in the *Government Gazette* on 5 March 2010 and as amended in the *Government Gazette* on 6 September 2011 and 23 December 2013.

  ---

- **Clause 1.5:** In the definition for “vehicle” redesignate the third and fourth paragraphs as “(c)” and “(d)” respectively.

- **Clause 2.14:** The capital letter can be removed from “Number” both in this clause and in clause 2.15.
- **Clause 6.6(1):** Reformat paragraph (m) so it aligns with the other paragraphs.

- **Clause 8.1:** In paragraph (b) after “permit,” move all remaining words to a new line aligned with the word “When”.

- **Schedule 1:**
  - After the Schedule title insert a bracketed reference to clause 10.4.
  - The Shire may wish to add an additional column which assigns an item number to each modified penalty. This will make the Schedule easier to amend in the future.

The Shire should also double check all references and cross references, particularly if any changes are made as a result of the Department’s comments.

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Kind regards  
**Steven Elliott**  
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The Department acknowledges the Aboriginal peoples of Western Australia as the traditional custodians of this land, and we pay our respects to their Elders past and present.