

**Local Government Act 1995**

**CITY OF GOSNELLS  
LOCAL GOVERNMENT PROPERTY  
LOCAL LAW 2009**

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## **Local Government Act 1995**

### **CITY OF GOSNELLS LOCAL GOVERNMENT PROPERTY LOCAL LAW 2009**

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the City of Gosnells resolved on 10 February 2009 to make the following local law.

#### **PART 1 - PRELIMINARY**

##### **1.1 Citation**

This local law may be cited as the City of Gosnells Local Government Property Local Law 2009.

##### **1.2 Purpose and Effect**

- (1) The purpose of this local law is to provide for the regulation, control and management of activities and facilities on all local government property, with the exception of thoroughfares, within the district.
- (2) The effect of this local law is to establish the requirements with which any person using or being on all local government property within the district, must comply.

##### **1.3 Interpretation**

In this local law unless the context otherwise requires:

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

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

**"application"** means the completed form lodged by an applicant as required by this local law;

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

**"article"** in respect of lost property, includes money;

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

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

**"building"** means any building which is local government property and includes a:

- (a) hall or room;
- (b) corridor, stairway or annexe of any hall or room, and includes all plumbing, electrical installations, fixtures, fittings, furniture and other contents, owned or under the care, control and management of the local government; and
- (c) jetty;

**"camera device"** means an apparatus for taking photographs or moving pictures, and includes a mobile phone when used for this purpose;

**"CEO"** means the chief executive officer of the local government;

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

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

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

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

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

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

- (a) formal organisation and preparation;
  - (b) its occurrence is generally advertised or notified in writing to particular persons;
  - (c) organisation by or on behalf of a club;
  - (d) payment of a fee to attend it; and
  - (e) systematic recurrence in relation to the day, time and places;
- "indecent exposure"** means the revealing to view of those parts of the body, especially the genitals, which by law and convention should be covered by clothing under the given circumstances.

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

**"local government"** means the City of Gosnells;

**"local government property"** means anything except a thoroughfare:

- (a) which belongs to the local government;
- (b) of which the local government is the management body under the *Land Administration Act 1997*; or
- (c) which is an 'otherwise unvested facility' within section 3.53 of the Act;

**"local public notice"** has the meaning prescribed in the Act;

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

**"permit"** means a permit issued under this local law;

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

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

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

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

**"toilet block"** means a toilet block, with or without change room facilities which is local government property;

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

- (a) offering them for sale or hire;
- (b) inviting offers for their sale or hire;
- (c) soliciting orders for them; or
- (d) carrying out any other transaction in relation to them; and

**"vehicle"** includes:

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

(b) an animal being ridden or driven;

but excludes:

(c) a wheel-chair or any device designed for use, by a physically impaired person;

(d) a pram, a stroller or a similar device; and

(e) a boat.

*[Clause 1.3 amended by No. 74 & 89 of 2011]*

#### **1.4 Application**

(1) This local law applies throughout the district.

(2) Notwithstanding anything to the contrary in this local law, the local government or an authorised person may:

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

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

#### **1.5 Repeal**

(1) The following local law is repealed:

City of Gosnells Local Government Property Local Law 2000 published in the Government Gazette on 9 August 2000.

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

### *Division 1 - Determinations*

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

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

(2) Council may make a determination in accordance with clause 2.2:

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

- (b) prohibiting a person from pursuing all or any of the activities referred to in clause 2.8 on specified local government property and to the extent and in the manner specified in that clause;
- (c) as to the matters in clauses 2.7(2) and 2.8(2); and
- (d) as to any matter ancillary or necessary to give effect to a determination.

*[Clause 2.1 amended by No. 27 of 2020]*

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

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



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

*[Clause 2.2 amended by No. 74 & 89 of 2011]*

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

An authorised person may cause a sign to be erected on local government property to give notice of the effect of a determination which applies to that property.

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

A person shall comply with a determination.

### **2.5 Register of determinations**

- (1) The local government is to keep a register of determinations made under clause 2.1, and of any amendments to or revocations of determinations made under clause 2.6.
- (2) Sections 5.94 and 5.95 of the Act are to apply to the register referred to in subclause (1) and for that purpose the register is to be taken to be information within section 5.94(u)(i) of the Act.

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

- (1) Council may amend or revoke a determination.
- (2) The provisions of clause 2.2 are to apply to an amendment of a determination as if the amendment were a proposed determination.
- (3) If Council revokes a determination it is to give local public notice of the revocation and the determination is to cease to have effect on the date of publication.

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

**2.7 Activities which may be pursued on local government property on conditions**

- (1) A determination may provide that specified local government property is set aside as an area on which a person may:
- (a) bring, ride or drive an animal;
  - (b) take, ride or drive a vehicle, or a particular class of vehicle;
  - (d) use a children's playground provided that the person is under an age specified in the determination, but the determination is not to apply to a person having the charge of a person under the specified age;
  - (i) ride a bicycle, skateboard, rollerblades, sandboard or a similar device; and

*[Clause 2.7(1) amended by No. 27 of 2020]*

- (2) A determination may specify the extent to which and the manner in which an activity referred to in subclause (1) may be pursued and in particular:
- (a) the days and times during which the activity may be pursued;
  - (b) that an activity may be pursued on a class of local government property, specified local government property or all local government property;
  - (c) that an activity is to be taken to be prohibited on all local government property other than that specified in the determination;
  - (d) may limit the activity to a class of vehicles, boats, equipment or things, or may extend it to all vehicles, boats, equipment or things;
  - (e) may specify that the activity can be pursued by a class of persons or all persons; and
  - (f) may distinguish between different classes of the activity.

**2.8 Activities which are prohibited on specified local government property**

- (2) A determination may provide that a person is prohibited from pursuing all or any of the following activities on specified local government property:
- (b) bring, ride or drive an animal;

- (c) taking, riding or driving a vehicle on the property or a particular class of vehicle;
- (d) riding or driving a vehicle of a particular class or any vehicle above a specified speed;
- (h) riding a bicycle, skateboard, rollerblades, a sandboard or similar device; and
- (j) the traversing of land which is local government property and which in the opinion of Council has environmental value warranting such protection, either absolutely or except by paths provided for that purpose.

*[Clause 2.8 amended by No. 74 & 89 of 2011]*

*[Clause 2.8(1) deleted and 2.8(2) amended by No. 27 of 2020]*

- (3) A determination may specify the extent to which and the manner in which a person is prohibited from pursuing an activity referred to in subclause (1) and, in particular:
  - (a) the days and times during which the activity is prohibited;
  - (b) that an activity is prohibited on a class of local government property, specified local government property or all local government property;
  - (c) that an activity is prohibited in respect of a class of vehicles, boats, equipment or things, or all vehicles, boats, equipment or things;
  - (d) that an activity is prohibited in respect of a class of persons or all persons; and
  - (e) may distinguish between different classes of the activity.

## **2.8A Outright prohibition of specific activities on any local government property**

The following activities are prohibited from being pursued on any local government property owned or controlled by the local government -

- (a) a person shall not smoke within 10m of a children's playground owned by the local government or under the care and control of the local government;
- (b) a person shall not use, launch or fly a motorised aeroplane, glider or rocket that is propelled by mechanical, hydraulic, combustion or pyrotechnic means on or from any local government property except where a sign erected on the local government property sets aside an area designated for all or any such uses;

- (c) a person shall not use a boat or any particular class of boat on or in any reserve containing a water body owned or vested in the local government;
- (d) a person shall not deposit or leave on any local government property any rubbish, refuse, clothing, paper, glass, timber, stone, bricks, sand, gravel, scrap metal or liquid waste, other than in a receptacle provided for the purpose or on local government property where a sign permits this activity;
- (e) a person shall not play at or practice golf on any local government property except on local government property specifically set aside for that purpose;
- (f) a person shall not aim, shoot or throw an arrow or similar projectile on any local government property except where a permit specifies a particular local government property;
- (g) a person shall not have in their possession any gun or rifle or means of discharging any projectile that may cause injury or damage to a person or property on any local government property except where a permit specifies a particular local government property;
- (h) a person shall not play or practice any ball game which may cause detriment to the property or any fauna or flora on any reserve owned or vested in the local government. In this clause 'fauna' and 'flora' means the same as that in clause 4.3(2) of this local law;
- (i) a person shall not swim, dive, wade or fish in any reserve containing a water body owned or vested in the local government except where the local government has authorised swimming, diving, wading or fishing;
- (j) a person shall not feed fauna so as to cause harm or be detrimental to the health of the fauna on any local government property. In this clause 'fauna' and 'flora' means the same as that in clause 4.3(2) of this local law;
- (k) a person shall not release into any waterway upon or passing through a reserve under the control of the local government, any fish, animal or plant; and
- (l) a person shall not fly a drone or remotely piloted aircraft on or over land that is local government property unless in accordance with Civil Aviation Safety Authority (CASA) Regulations.

*[Clause 2.8A inserted by No. 27 of 2020]*

### *Division 3 - Transitional*

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

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

## **PART 3 - PERMITS**

### *Division 1 - Preliminary*

#### **3.1 Application of Part**

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

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

#### **3.2 Application for permit**

- (1) Where a person is required to obtain a permit under this local law, that person shall apply for the permit in accordance with subclause (2).
- (2) An application for a permit under this local law shall:
  - (a) be in the form determined by the CEO;
  - (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 or an authorised person may require an applicant to provide additional information reasonably related to an application before determining an application for a permit.
- (4) The local government or an authorised person may require an applicant to give local public notice of the application for a permit.
- (5) The local government or an authorised person may refuse to consider an application for a permit which is not in accordance with subclause (2).

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

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

#### *Division 3 - Conditions*

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

- (1) Without limiting the generality of subclause 3.3(1)(a), the local government or an authorised person may approve an application for a permit subject to conditions relating to:
  - (a) the payment of a fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act;
  - (b) compliance with a standard or a policy of the local government adopted by the local government;
  - (c) the duration and commencement of the permit;
  - (d) the commencement of the permit being contingent on the happening of an event;
  - (e) the rectification, remedying or restoration of a situation or circumstance reasonably related to the application;
  - (f) the approval of another application for a permit which may be required by the local government under any written law;
  - (g) the area of the district to which the permit applies;
  - (h) where a permit is issued for an activity which will or may cause damage to local government property, the payment of a deposit or bond against such damage; and
  - (i) the obtaining of public risk insurance in an amount and on terms reasonably required by the local government.

- (2) Without limiting clause 3.3(1)(a) and subclause (1), the following paragraphs indicate the type and content of the conditions on which a permit to hire local government property may be issued:
- (a) when fees and charges are to be paid;
  - (b) the purpose for which the local government property may be used;
  - (c) payment of a bond against possible damage or cleaning expenses or both;
  - (d) restrictions on the erection of material or external decorations;
  - (e) rules about the use of furniture, plant and effects;
  - (f) limitations on the number of persons who may attend any function in or on local government property;
  - (g) the duration of the hire;
  - (h) the right of the local government or an authorised person to cancel a booking during the course of an annual or seasonal booking, if the local government or an authorised person sees fit;
  - (i) a prohibition on the sale, supply or consumption of liquor unless a liquor licence is first obtained for that purpose under the *Liquor Control Act 1988*;
  - (j) the prohibition on the conduct of gaming unless a gaming approval has been obtained under the *Gaming and Wagering Commission Act 1987*;
  - (k) whether or not the hire is for the exclusive use of the local government property;
  - (l) the amplification of, or any noise complies at all times with the *Environmental Protection (Noise) Regulations 1997*;
  - (m) The Hirer of Local Government Property will be required to obtain a Public Liability policy from an insurer licensed to do business in Australia which provides a limit of liability of \$10 million during the entire period of Hire. The Hirer is to provide a Certificate of Currency as evidence of this insurance; and
  - (n) the provision of an indemnity from the hirer, indemnifying the local government in respect of any injury to any person or any damage to any property which may occur in connection with the hire of the local government property by the hirer.

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

(1) In this clause:

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

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

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

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

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

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

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

(2) An authorised person may vary the conditions of a permit, and the permit holder shall comply with those conditions as varied.

#### *Division 4 - General*

### **3.7 Agreement for building**

(1) In this clause:

**"other structure"** means anything built or constructed and includes:

- (a) fixed seating;
- (b) a grandstand or stadium;
- (c) fencing;
- (d) a scoreboard and the like; and
- (e) hoardings.

(2) Where a person applies for a permit to erect a building or other structure on local government property, the local government may enter into an agreement



with the permit holder in respect of the ownership of the materials in the building or other structure.

### **3.8 Duration of permit**

Subject to clause 3.12, a permit remains valid until:

- (a) the expiration date and time detailed in the permit is reached;
- (b) the activity or function for which the permit was issued is changed to the extent that it is no longer consistent with the original purpose or intent for which the permit was given;
- (c) the approval is cancelled by the local government or an authorised person; or
- (d) the public liability and indemnity insurance required as a condition of a permit lapses, is cancelled or is no longer current.

### **3.9 Renewal of permit**

- (1) A permit holder may apply to the local government in writing prior to expiry of a permit for the renewal of the permit.
- (2) The provisions of this Part shall apply to an application for the renewal of a permit *mutatis mutandis*.

### **3.10 Transfer of permit**

- (1) An application for the transfer of a valid permit is to:
  - (a) be made in writing;
  - (b) be signed by the permit holder and the proposed transferee of the permit;
  - (c) provide such information as the local government may require to enable the application to be determined; and
  - (d) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.
- (2) The local government or an authorised person may approve an application for the transfer of a permit, refuse to approve it or approve it subject to any conditions.
- (3) Where the local government or an authorised person approves an application for the transfer of a permit, the transfer may be given effect by an endorsement on the permit signed by the CEO or an authorised person.

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

### **3.11 Production of permit**

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

### **3.12 Cancellation of permit**

- (1) Subject to clause 7.1 a permit may be cancelled by the local government or an authorised person if the permit holder:
- (a) has not complied with a condition of the permit; or
  - (b) has not complied with a determination or a provision of any written law which may relate to the activity regulated by the permit.
- (2) On the cancellation of a permit the permit holder:
- (a) shall return the permit as soon as practicable to the CEO; and
  - (b) is to be taken to have forfeited any fees paid in respect of the permit.

*[Clause 3.12 amended by No. 74 & 89 of 2011]*

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

### **3.13 Activities needing permit**

- (1) A person shall not without a permit:
- (a) subject to subclause (3), hire local government property;
  - (b) conduct functions or controlled events;
  - (c) advertise anything by any means on local government property;
  - (d) erect a structure for public amusement or for any performance, whether for gain or otherwise, on local government property;
  - (e) teach, coach instruct or train, for profit, any person in a pool area or an indoor recreation facility which is local government property;
  - (f) plant any plant or sow any seeds on local government property;

- (g) carry on any trading on local government property unless the trading is conducted:
  - (i) with the consent of a person who holds a permit to conduct a function, and where the trading is carried on under and in accordance with the permit; or
  - (ii) by a person who has a licence or permit to carry on trading on local government property under any written law;
- (h) unless an employee of the local government in the course of her or his duties or on an area set aside for that purpose:
  - (i) drive or ride or take or permit to be driven, ridden or taken any vehicle on to local government property; or
  - (ii) park or stand or permit to be parked or stood any vehicle on local government property;
- (j) charge any person for entry to local government property, unless the charge is for entry to land or a building hired by a voluntary non-profit organisation;
- (k) light a fire on local government property except in a facility provided for that purpose;
- (l) light or set alight any fireworks or conduct a fireworks display on local government property;
- (m) land or take off in a balloon, parachute, hang glide, abseil, base jump, rock climb, enter caves, from or on to local government property;
- (n) erect a building or other structure on local government property;
- (o) make any excavation on or erect or remove any fence on local government property;
- (p) operate any broadcasting or public address system or noise amplification apparatus on local government property;
- (q) erect or install any structure above or below the ground for the purpose of supplying any water, power, sewer, communication, television or similar service in or on local government property;
- (r) depasture any horse, sheep, cattle, goat, camel, ass or mule on local government property;

- (s) train, for profit or reward, any animal on local government property; or
- (t) carry out any activity in a determination that requires a permit to specify a particular local government property.

*[Clause 3.13(1) amended by No. 27 of 2020]*

- (2) The CEO may exempt a person from compliance with subclause (1) on the application of that person.
- (3) Council may exempt specified local government property or a class of local government property from the application of subclause (1)(a).
- (4) Clauses 3.13(1) (b), (d), (g), (h), (i) and (p) shall not apply to an employee of the local government undertaking activities in the course of his or her duties.

*[Clause 3.14 deleted by No. 27 of 2020]*

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

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

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

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

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

- (a) take reasonable steps to maintain law and order by all in attendance at any function for which the local government property has been hired;
- (b) ensure that an authorised person has unobstructed access to the local government property for the purpose of inspecting the property or enforcing any provision of this local law;
- (c) prevent overcrowding;
- (d) leave the local government property in a clean and tidy condition after its use;

- (e) report any damage, loss or defacement of the local government property to the local government;
- (f) prevent the consumption of any liquor on the local government property unless a licence has been obtained under the *Liquor Control Act 1988* for that purpose; and
- (g) ensure compliance with conditions upon which the permit was issued.

*[Clause 3.16 amended by No. 74 & 89 of 2011]*

## **PART 4 - BEHAVIOUR ON ALL LOCAL GOVERNMENT PROPERTY**

### *Division 1 - Behaviour on and interference with local government property*

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

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

- (a) is likely to interrupt, disturb or interfere with the enjoyment of a person in or on the property;
- (b) interrupts, disturbs or interferes with the enjoyment of a person in or on the property; or
- (c) interrupts, disturbs or interferes with the work of a local government employee or a contractor engaged by the local government working in or on the property.

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

(1) In this section:

**“detrimental to the property”** includes:

- (a) removing any fixtures, fittings, chattels or things from the local government property provided for the safety, enjoyment or use of any person; and
  - (b) destroying, defacing, damaging or interfering with in any way, any fixtures, fittings, chattels or things on the local government property, provided for the safety, enjoyment or use of any person.
- (2) A person shall not behave in or on local government property in a way which is or might be detrimental to the property.
- (3) Subclauses (1) and (2) do not apply to:

- (a) an authorised person or local government appointed contractor carrying out their normal duties; or
- (b) a person using lifesaving or fire fighting equipment, and acting in an emergency or where permitted or directed to do so by an authorised person.

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

(1) A person shall not, cause harm, take, injure or kill or attempt to take, injure or kill any fauna or remove or damage, or attempt to remove or damage all or a part of any indigenous or cultivated flora which is on or above any local government property, unless that person is authorised under a written law or by an authorised person to do so.

(2) In this clause:

**“animal”** means any living thing that is not a human being or plant;

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

- (a) any class of animal or individual member;
- (b) the eggs or larvae; or
- (c) the carcass, skin, plumage or fur; and

**“flora”** means all vascular plants.

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

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

*[Clause 4.5 deleted by No. 27 of 2020]*

#### **4.6 Appropriate behaviour and adequate clothing**

(1) A person over the age of 6 years shall not on or in any local government property:

- (a) appear in public unless properly dressed in clothing which covers the body to prevent indecent exposure;
- (b) loiter outside or in any portion of a toilet block or change room facility;

- (c) without the consent of the occupier, enter or attempt to enter any toilet or other compartment which is already occupied; and
- (d) enter or attempt to enter any toilet block or change room facility set aside for persons of the opposite gender.

*[Clause 4.6 amended by No. 74 & 89 of 2011]*

*[Clause 4.6(1) amended and 4.6(2) deleted by No. 27 of 2020]*

### *Division 2 - Signs*

#### **4.7 Signs**

- (1) A local government may erect a sign on local government property specifying the conditions of use which apply to that property.
- (2) A person shall comply with a sign erected under subclause (1).
- (3) A condition of use specified on a sign erected under subclause (1) is:
  - (a) not to be inconsistent with any provision of this local law or any determination; and
  - (b) to be for the purpose of giving notice of the effect of a provision of this local law.

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

### *Division 1 - Aquatic Centre*

#### **5.1 Directions of Manager to be observed**

Every person, coach and spectator at an aquatic centre shall at all times observe any reasonable direction by the Manager or an authorised person.

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

- (1) A Manager or an authorised person shall refuse admission to, may direct to leave or shall remove or cause to be removed from a pool and or gymnasium area any person who:
  - (a) in her or his opinion is:
    - (i) under the age of 10 years and is not accompanied and actively supervised by a responsible person over the age of 18 years;

- (ii) over the age of 18 years and accompanied by more than 4 children under the age of 10 years;
    - (iii) apparently suffering from any contagious, infectious or cutaneous disease or complaint, or is in an unclean condition; or
    - (iv) under, or apparently under the influence of liquor or a prohibited drug;
    - (v) not wearing appropriate bathing and or workout attire or footwear so as to meet safety requirements when in or around any pool and or gymnasium area or using any fitness equipment; or
  - (b) is to be refused admission under and in accordance with a decision of the local government for breaching any clause of this local law.
- (2) A person shall on being requested by the Manager or authorised person to leave an aquatic centre, quietly and peaceably, do so immediately.
- (3) The Manager or authorised person may temporarily suspend admission to, or remove from an aquatic centre or any part thereof, all or any person or persons, if in their opinion, such action is necessary or desirable.
- (4) At the discretion of the Manager or authorised person, an aquatic centre or any part thereof, may at any time be set aside for the use of certain persons or for a function to the exclusion of others.

### **5.3 Responsibilities for conduct at a function**

A Person, club, organisation or association conducting a function at an aquatic centre shall take reasonable steps to:

- (a) prevent overcrowding;
- (b) ensure that no damage is done to the buildings or fencing or any other portion of an aquatic centre; and
- (c) ensure that these local laws are observed by all competitors, officials and spectators attending the function.

*[Clause 5.3 amended by No. 74 & 89 of 2011]*

### **5.4 Responsibilities of aquatic centre users**

A person while in an aquatic centre shall not:

- (a) consume food or drink in any specific area where consumption is prohibited by a sign;



- (b) climb up or upon any roof, fence, wall or partition of an aquatic centre; or
- (c) whilst suffering from a contagious, infectious or cutaneous disease or whilst in an unclean condition, enter or use or attempt to enter or use any component of an aquatic centre.

### **5.5 No use of camera devices in change rooms**

No person shall operate a camera device in any portion of a change room at an aquatic centre to record or transmit an image.

*[Clause 5.5 amended by No. 74 & 89 of 2011]*

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

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

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

## **PART 6 - FEES FOR AND USE OF LOCAL GOVERNMENT PROPERTY**

### **6.1 No unauthorised entry**

A person, other than an authorised person or contractor appointed by the local government carrying out their normal duties, shall not:

- (a) enter or leave any local government property other than by the public entrance or exit ways, except in an emergency; and
- (b) enter or remain on local government property except on those days and during those times when access is available to the public.

### **6.2 Payment of applicable fees**

Where a fee or charge applies to the entry to or participation in any activity on or in any local government property, a person shall not enter that property without first paying the applicable fee or charge, unless that person has been exempted by the local government from paying that fee or charge.

### **6.3 No refund of fees**

A person will not be entitled to a refund of any fees paid for:

- (a) entry into or participation in any activity on or in any local government property;
- (b) where a booking for the use of local government property is cancelled by the hirer;

provided that in special circumstances the local government may authorise repayment of a part or all of the amount paid.

## **PART 7 - OBJECTIONS AND APPEALS**

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

When the local government or an authorised person makes a decision as to whether it will:

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

the provisions of Division 1 of Part 9 of the Act and regulation 33 of the Regulations apply to that decision.

## **PART 8 - MISCELLANEOUS**

### **8.1 Authorised person to be obeyed**

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

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

An authorised person may direct any person on local government property to:

- (a) stop doing anything which that person is in the process of doing, which is contrary to this local law or any other local law applying in the district;
- (b) leave that property; and
- (c) assist the authorised person or another person in the case of an emergency.

### **8.3 Disposal of lost property**

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

*[Clause 8.3 amended by No. 74 & 89 of 2011]*

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

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

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

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

### **8.5 False or misleading statement**

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

*[Clause 8.5 deleted and Clause 8.6 renumbered by No. 74 & 89 of 2011]*

## **PART 9 - ENFORCEMENT**

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

#### **9.1 Issue of notice**

Where the local government or an authorised person requires works to be done to rectify a breach of any condition of permit, or to maintain public safety, the local government or an authorised person may give notice in writing to the permit holder:

- (a) advising details of the breach of the local law or works required; and
- (b) requiring the permit holder to remedy the breach or do the works required within the time specified in the notice.

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

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

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

Where a person fails to comply with a notice referred to in clause 9.2, the local government or an authorised person may do the thing specified in the notice and recover from the person to whom the notice was given, as a debt, the costs incurred in so doing.

#### *Division 2 - Offences and penalties*

##### **Subdivision 1 - General**

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

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

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

#### **9.5 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 authorised person should be satisfied that:
  - (a) commission of the prescribed offence is a relatively minor matter; and
  - (b) only straightforward issues of law and fact are involved in determining whether the prescribed offence was committed, and the facts in issue are readily ascertainable.

#### **9.6 Form of notices**

- (1) For the purposes of this local law:
  - (a) where a vehicle is involved in the commission of an offence, the form of the notice referred to in section 9.13 of the Act is that of Form 1 in Schedule 1 of the Regulations;

- (b) the form of the infringement notice given under section 9.16 of the Act is that of Form 2 in Schedule 1 of the Regulations; and
  - (c) the form of the notice referred to in section 9.20 of the Act is that of Form 3 in Schedule 1 of the Regulations.
- (2) Where an infringement notice is given under section 9.16 of the Act in respect of an alleged offence against clause 2.4, the notice is to contain a description of the alleged offence.

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

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

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

## SCHEDULE 1

### PRESCRIBED OFFENCES

ITEM	CLAUSE	DESCRIPTION	MODIFIED PENALTY \$
1	2.4	Failure to comply with determination.	150
2	2.8A	Carried out a prohibited activity on local government property.	150
3	3.6	Failure to comply with conditions of permit.	100
4	3.13(1)	Failure to obtain a permit.	100
5	3.15(1)	Failure to obtain permit for liquor.	100
6	3.16	Failure of permit holder to comply with responsibilities.	100
7	4.1	Behaviour which interrupts, disturbs or interferes with enjoyment of other persons or interrupts, disturbs or interferes with a local government employee or a contractor engaged by the local government working in or on the property.	150
8	4.2(1)	Behaviour causing relatively minor detriment to property.	150
9	4.3	Kill, injure, take or interfere with any fauna or flora.	200
10	4.4	Be under the influence of liquor or prohibited drug.	100
11	4.6(1)(c)	Without consent of occupier, enter or attempt to enter a toilet or other compartment already occupied.	150
12	4.6(1)(d)	Enter toilet block or change room facility of opposite gender.	150
13	4.7(2)	Failure to comply with sign on local government property.	100
14	5.2(2)	Fail to leave pool premises quietly and peaceably when requested to do so.	100
15	5.3	Failure to meet responsibilities for conduct at a function.	100
16	5.4	Failure to meet responsibilities of aquatic centre users.	100
17	5.5	Record or transmit an image in any portion of a change room at an aquatic centre.	200
18	5.6	Unauthorised entry to fenced or closed local government property.	100
19	6.1(a)	Enter or leave any local government property or building other than by the public entrance or exit ways.	100
20	6.1(b)	Enter or remain on any local government property or building except during those times when access is available to the public.	100
21	6.2	Enter local government property or building without first paying the applicable fee or charge.	100
22	8.1	Failure to comply with any lawful direction of an authorised person.	100
23	9.2	Failure to comply with notice.	300

*[Schedule 1 amended by No. 74 & 89 of 2011]*

*[Schedule 1 amended by No. 27 of 2020]*

*[Schedule 2 deleted by No. 27 of 2020]*

\_\_\_\_\_

Dated 13 February 2009

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

\_\_\_\_\_  
I COWIE  
Chief Executive Officer

\_\_\_\_\_  
O SEARLE JP  
Mayor