Shire of Esperance

LOCAL GOVERNMENT PROPERTY LOCAL LAW 2026

Local Government Act 1995

Shire of Esperance

Local Government Property Local Law 2026

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Local Government Act 1995

Shire of Esperance

LOCAL GOVERNMENT PROPERTY LOCAL LAW 2001

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

PART 1 PRELIMINARY

1.1 Short title

This local law may be cited as the *Shire of Esperance Local Government Property Local Law 2026.*

1.2 Commencement

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

1.3 Application

(1) This local law applies throughout the district and in the sea adjoining the district for a distance of 200 metres seawards from its southern district boundary which is bounded by the shore of the Southern Ocean.

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

(3) Notwithstanding anything to the contrary in this local law, the local government may -

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

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

1.4 Repeal

The Shire of Esperance Local Government Property Local Law published in the Government Gazette on 9 November 2001, as amended, is repealed to the extent that it is in force immediately before the commencement day.

1.5 Definitions

In this local law—

Act means the *Local Government Act 1995*;

aircraft has the meaning given to that term in section 3(1) of the *Civil Aviation Act 1988 (Commonwealth);*

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

authorised person means a person appointed in writing by the CEO under section 9.10(2) of the Act to perform any of the functions of an authorised person under this local law;

boat means a vessel within the meaning of section 3(1) of the *Western Australian Marine Act 1982* and includes a windsurfing board, kiteboard, hydrofoil board and similar watercraft;

building means any building which is local government property and includes a –

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

CEO means the chief executive officer of the local government;

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

Council means the council of the local government;

date of publication means, where local public notice is required under this local law, the date on which that notice is first given in accordance with section 1.7 of the Act;

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 but does not include an informal social gathering merely because invitations are issued or the gathering recurs –

(a) formal organisation and preparation;
(b) its occurrence is generally advertised or notified in writing to particular persons;

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

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

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

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

local government means the Shire of Esperance;

local government property means anything except a thoroughfare –

(a) which belongs to the local government;

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

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

Manager means the person for the time being employed by the local government to control and manage a pool area or other facility which is local government property, and includes an employee acting in that role;

permit means a permit issued under this local law;

permit holder means a person who holds a valid permit;

person does not include the local government;

pool area means the swimming pool in the Bay of Isles Leisure Centre erected on Reserve 29727 Corner of Black and Padbury Streets, Esperance, and includes the concourse surrounds, walls enclosing same and observation room;

prohibited drug has the meaning given to that term in section 3(1) of the *Misuse of Drugs Act 1981*;

refuse site means any site or area which is local government property and is set aside for the receipt, collection, transfer, treatment, recycling or disposal of waste, including associated receptacles and structures and any closed landfill site;

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

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

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

(a) offering them for sale or hire;

(b) inviting offers for their sale or hire;

(c) soliciting orders for them; or

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

vehicle includes –

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

(b) an animal being ridden or driven,

but excludes –

(a) a wheelchair, mobility scooter or other device designed to assist the mobility of a person with disability;

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

(c) a boat.

1.6 Interpretation

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

(2) Nothing in this local law authorises an activity contrary to another written law, a law of the Commonwealth or a condition of a management order applying to the land.

PART 2 DETERMINATIONS IN RESPECT OF LOCAL GOVERNMENT PROPERTY

DIVISION 1 DETERMINATIONS

2.1 Determinations as to use of local government property

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

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

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

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

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

(2) The determinations in Schedule 2 –

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

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

(c) have effect on the commencement day.

2.2 Procedure for making a determination

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

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

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

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

(c) submissions in writing about the proposed determination may be lodged with the local government before a day specified in the notice, being a day not less than 21 days after the date of publication.

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

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

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

(c) not continue with the proposed determination.

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

(a) consider those submissions; and

(b) decide –

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

(ii) not to continue with the proposed determination.

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

(a) of the effect of the amendments; and

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

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

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

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

2.3 Discretion to erect sign

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

2.4 Determination to be complied with

A person shall comply with a determination.

2.5 Register of determinations

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

(2) The register is to be available for public inspection at the local government's offices during normal office hours and on its official website.

2.6 Amendment or revocation of a determination

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

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

(3) If the Council revokes a determination, it is to give local public notice of the revocation. The determination ceases to have effect on the date specified in that notice, which must not be earlier than the date of publication.

DIVISION 2 ACTIVITIES WHICH MAY BE PURSUED OR PROHIBITED UNDER A DETERMINATION

2.7 Activities which may be pursued on specified local government property

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

(a) bring, ride or drive an animal;

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

(c) fly or use a motorised model aircraft, drone or other unmanned aircraft;

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

(e) launch, beach or leave a boat;

(f) take or use a boat, or a particular class of boat;

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

(h) play or practice –

(i) golf or archery;

(ii) pistol or rifle shooting, subject to compliance with the *Firearms Act 2024*; or

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

(i) ride a bicycle, a skateboard, rollerblades, a sandboard or a similar device; and

(j) wear no clothing.

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

(a) the days and times during which the activity may be pursued;

(b) that an activity may be pursued on a class of local government property, specified local government property or all local government property;

(c) that an activity is to be taken to be prohibited on all local government property other than that specified in the determination;

(d) may limit the activity to a class of vehicles, boats, equipment or things, or may extend it to all vehicles, boats, equipment or things;

(e) may specify that the activity can be pursued by a class of persons or all persons; and

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

2.8 Activities which may be prohibited on specified local government property

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

(a) smoking or vaping on any part of local government property;

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

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

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

(e) taking or using a boat, or a particular class of boat;

(f) the playing or practice of -

(i) golf, archery, pistol shooting or rifle shooting; or

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

(g) the playing or practice of any ball game which may cause detriment to the property or any fauna on the property; and

(h) the traversing of sand dunes or land which, in the opinion of the local government, has environmental value warranting protection or presents an unreasonable risk to public safety, either absolutely or except by paths provided for that purpose.

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

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

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

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

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

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

(3) In this clause –

vaping means using an electronic cigarette or other electronic device to inhale an aerosol or vapour, but does not include using a device solely to administer a medicine in accordance with medical advice.

DIVISION 3 TRANSITIONAL

2.9 Signs taken to be determinations

(1) In this clause:

Former local law means the Shire of Esperance Local Government Property Local Law published in the Government Gazette on 9 November 2001, as amended.

(2) A sign lawfully erected on local government property under the former local law, which remains in place on the commencement day, is taken to have effect as a determination under clause 2.1 on and from the commencement day.

(3) Subclause (2) applies only to the extent that the sign relates to a matter that may be the subject of a determination under this Part and is not inconsistent with this local law or a determination made under clause 2.1

(4) The local government is to include each determination arising under subclause (2) in the register kept under clause 2.5.

(5) This clause does not give effect to a sign as a determination for any period before the commencement day.

PART 3 PERMITS

DIVISION 1 PRELIMINARY

3.1 Application of Part

This Part does not apply to a person to the extent that the person's use or occupation of local government property, including the activity concerned, is expressly authorised by a written agreement with the local government.

DIVISION 2 APPLYING FOR A PERMIT

3.2 Application for permit

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

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

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

(b) be signed by the applicant;

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

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

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

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

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

3.3 Decision on application for permit

(1) The local government may –

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

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

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

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

DIVISION 3 CONDITIONS

3.4 Conditions which may be imposed on a permit

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

(a) the payment of a fee;

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

(c) obtaining, and complying with the conditions of, any approval, permit or licence required under another written law for the permitted activity;

(d) the duration and commencement of the permit;

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

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

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

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

(i) 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

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

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

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

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

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

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

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

(f) the duration of the hire;

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

(h) a prohibition on the sale, supply or consumption of liquor unless authorised by the permit and any licence or approval required under the *Liquor Control Act 1988* has been obtained;

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

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

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

3.5 Imposing conditions under a policy

(1) In this clause –

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

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

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

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

(5) A policy referred to in this clause is to be available for public inspection at the local government's offices during normal office hours and on its official website.

3.6 Compliance with and variation of conditions

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

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

DIVISION 4 GENERAL

3.7 Agreement for building

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

3.8 Duration of permit

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

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

(b) cancelled under clause 3.12.

3.9 Renewal of permit

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

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

3.10 Transfer of permit

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

(a) be made in writing;

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

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

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

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

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

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

3.11 Production of permit

A permit holder is to produce the permit, in paper or electronic form, to an authorised person on request or within a reasonable period specified by the authorised person.

3.12 Cancellation of permit

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

(a) condition of the permit; or

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

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

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

(b) is not entitled to a refund of fees paid in respect of the permit unless the local government determines otherwise.

DIVISION 5 WHEN A PERMIT IS REQUIRED

3.13 Activities needing a permit

(1) A person shall not without a permit –

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

(b) advertise anything by any means on local government property, unless the advertising is authorised by a permit to conduct a function or a written agreement for use of the property, and is in accordance with that permit or agreement;

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

(d) teach, coach or train, for profit, any person in a pool area or indoor recreation facility which is local government property, unless the activity is conducted by, for, or with the written authority of, the local government;

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

(f) carry on trading on local government property unless the activity is authorised by a permit, licence or written agreement issued or made by the local government under another written law for that activity and location;

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

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

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

(h) conduct a function on local government property;

(i) charge any person for entry to local government property, unless the charge is for entry to land or a building hired by a voluntary non-profit organisation;

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

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

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

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

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

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

(p) conduct or take part in any gambling game or contest, or bet, or offer to bet, publicly.

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

(3) The local government may exempt specified local government property or a class of local government property from the application of subclause (1)(a).

3.14 Permit required to camp outside a facility

(1) In this clause –

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

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

(3) A person shall not without a permit -

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

(b) erect any tent, camp, hut or similar structure on local government property other than a beach shade or windbreak erected for use during the hours of daylight and which is dismantled during those hours on the same day.

(4) A permit under this clause does not authorise camping contrary to the *Caravan Parks and Camping Grounds Act 1995* or the *Caravan Parks and Camping Grounds Regulations 1997*.

3.15 Permit required for possession and consumption of liquor

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

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

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

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

DIVISION 6 RESPONSIBILITIES OF PERMIT HOLDER

3.16 Responsibilities of permit holder

(1) A holder of a permit shall in respect of local government property to which the permit relates -

(a) ensure that an authorised person has unobstructed access to the local government property for the purpose of inspecting the property or enforcing any provision of this local law;

(b) leave the local government property in a clean and tidy condition after its use;

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

(d) prevent the consumption of liquor on the local government property unless the permit allows it and any licence or approval required under the *Liquor Control Act 1988* has been obtained and its conditions are complied with.

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 behave on local government property in a manner that unreasonably interferes with another person's use or enjoyment of the property or endangers another person's safety.

4.2 Behaviour detrimental to property

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

(2) In subclause (1) –

detrimental to the property includes –

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

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

4.3 Taking or injuring any fauna

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

(2) In this clause –

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

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

(a) any class of animal or individual member;

(b) the eggs or larvae; or

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

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 to an extent that endangers the safety of that person or another person, or unreasonably interferes with another person's use or enjoyment of the property.

4.5 No prohibited drugs

A person shall not take a prohibited drug onto, or consume or use a prohibited drug on, local government property unless permitted to do so under a written law or a law of the Commonwealth.

DIVISION 2 SIGNS

4.6 Signs

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

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

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

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

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

PART 5 MATTERS RELATING TO PARTICULAR LOCAL GOVERNMENT PROPERTY

DIVISION 1 SWIMMING POOL AREAS

5.1 Refusal of admission and directions to leave

(1) A Manager or an authorised person shall refuse admission to, and may direct to leave a pool area, any person who -

(a) in the reasonable opinion of the Manager or authorised person is -

(i) under the age of 10 years and unaccompanied by a responsible person aged 16 years or over;

(ii) suffering from a disease or infection that is communicable in an aquatic environment and presents a risk to other users;

(iii) in an unclean condition, or wearing unclean clothing, that presents a hygiene risk in the pool area; or

(iv) apparently affected by alcohol, drugs, or both, to an extent that presents a risk to the safety of that person or another person; 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 comply with a direction to leave given under subclause (1).

5.2 Consumption of food or drink may be prohibited

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

DIVISION 2 BEACHES

5.3 Powers of surf lifesaving club members and lifeguard personnel

(1) Subject to subclause (2), the CEO may, in writing, appoint members of a surf lifesaving club or personnel of a lifeguard service as authorised persons under section 9.10(2) of the Act to perform all or any of the following functions in relation to a beach -

(a) patrol any beach;

(b) undertake activities reasonably necessary for beach surveillance, lifesaving or emergency response;

(c) erect signs designating bathing areas and signs regulating, prohibiting or restricting specified activities on the whole or any part of the beach or in or on the water adjacent to the beach, and direct persons on the beach or in or on the water to comply with those signs;

(d) temporarily enclose any area with rope, hessian, wire or any other means for the conduct of surf lifesaving club or lifeguard activities; and

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

(2) The CEO shall appoint under subclause (1) only persons who are recommended by the surf lifesaving club or lifeguard service provider as competent to perform the specified functions and whom the CEO is satisfied are competent to do so.

(3) An appointment under subclause (1) may apply generally or be limited to particular functions, places, times, days or months.

5.4 Appointment of other authorised persons

(1) The CEO may, in writing, appoint a person as an authorised person under section 9.10(2) of the Act to perform all or any of the functions referred to in clause 5.3(1) in relation to a beach.

(2) The CEO shall appoint under subclause (1) only a person whom the CEO is satisfied is competent to perform the specified functions.

(3) An appointment under subclause (1) may apply generally or be limited to particular functions, places, times, days or months.

(4) Where appointments under clause 5.3(1) and subclause (1) apply to the same beach at the same time, the CEO shall specify in the instruments of appointment the conditions or limitations applying to the exercise of overlapping functions, including which person's direction is to take priority if directions conflict.

5.5 Persons to comply with signs and directions

(1) A person shall -

(a) not act in contravention of a sign erected under clause 5.3(1)(c);

(b) not enter an area temporarily enclosed under clause 5.3(1)(d), unless the person is a member of the surf lifesaving club or personnel of the lifeguard service conducting the activities, or has permission to enter from an authorised person responsible for the enclosure; and

(c) comply with a direction given under clause 5.3(1)(c) or 5.3(1)(e).

(2) This clause applies whether the relevant function under clause 5.3(1) is performed by a person appointed under clause 5.3(1) or 5.4(1).

DIVISION 3 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 closed to the public by a sign or otherwise, unless that person is authorised to do so by the local government.

DIVISION 4 TOILET BLOCKS AND CHANGE ROOMS

5.7 Use of toilet blocks or change rooms

A person must comply with a sign erected by the local government giving reasonable directions for the use of a toilet block or change room, provided that the directions are consistent with applicable written laws and laws of the Commonwealth.

DIVISION 5 - AERODROME (AIRPORT)

5.8 Application

(1) This Division applies to each airport which is local government property within the district.

(2) Nothing in this Division authorises entry to, or an activity at, an airport contrary to the *Aviation Transport Security Act 2004 (Commonwealth)*, the *Aviation Transport Security Regulations 2005 (Commonwealth)*, the *Civil Aviation Act 1988 (Commonwealth)* or regulations made under that Act.

5.9 Use by aircraft

(1) Subject to applicable laws of the Commonwealth and any lawful operational restriction or closure, the owner of an aircraft may use the airport for the landing, servicing and departure of the aircraft and the embarkation and disembarkation of passengers and freight upon payment of the applicable fee and compliance with this local law.

(2) The local government may close the airport to aircraft movements if it considers the surface of the airport to be unsafe.

5.10 Right of entry to airport

(1) A person must not enter or remain in a part of the airport that the local government has closed to public access, unless authorised by the local government or another written law or law of the Commonwealth.

(2) The local government may designate parts of the airport for particular uses and restrict access by persons, vehicles or aircraft for property management and operational safety purposes, subject to applicable laws of the Commonwealth.

(3) The local government is to indicate a restriction under this clause by signs, markings, notices or barriers.

(4) A person must not contravene a restriction imposed under subclause (2) and indicated under subclause (3), unless authorised to do so by the local government or another written law or law of the Commonwealth.

(5) An approval under this clause does not confer an aviation security clearance or replace an authorisation required under Commonwealth aviation security legislation.

5.11 Access of animals restricted

(1) Subject to clause 1.3(2), a person shall not bring an animal onto an airport unless -

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

(b) the animal is an assistance animal as defined in section 9(2) of the *Disability Discrimination Act 1992* (Commonwealth) and is accompanying a person with a disability in accordance with that Act;

(c) the animal is being air freighted from the airport;

(d) the animal has been air freighted to the airport; or

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

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

(3) If an animal is on an airport in contravention of subclause (2), the owner of the animal at that time also commits an offence against this subclause.

DIVISION 6 REFUSE SITES

5.12 Persons to comply with directions

(1) A person at a refuse site must comply with a reasonable direction relating to the operation or safe use of the site given by an authorised person.

(2) Subclause (1) does not apply to a direction or conduct regulated by Part 4 of the *Shire of Esperance Waste Local Law 2025*, as amended.

DIVISION 7 JETTIES AND BRIDGES

5.13 Application and interpretation

(1) This Division applies to a jetty or bridge that is local government property within the area to which this local law applies.

(2) In this Division, *jetty* includes a pier, wharf or landing place.

5.14 Fishing from a jetty or bridge

(1) A person must not fish from a jetty or bridge so as to obstruct or interfere with the free movement of a boat approaching or leaving the jetty or bridge, or so as to unreasonably interfere with the use of the jetty or bridge by another person.

(2) A person must not hang or spread a fishing net from, on or over any part of a jetty or bridge.

PART 6 FEES FOR ENTRY ON TO LOCAL GOVERNMENT PROPERTY

6.1 No unauthorised entry to function

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

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

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

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

PART 7 OBJECTIONS AND APPEALS

7.1 Application of Division 1, Part 9 of the Act

(1) Division 1 of Part 9 of the Act applies to a decision under this local law to grant, refuse, renew, vary or cancel a permit or consent.

(2) The applicant or holder of the permit or consent is an affected person for the purposes of that Division.

(3) An objection is to be made in the form and manner prescribed by regulation 33 of the Regulations.

PART 8 MISCELLANEOUS

8.1 Authorised person to be obeyed

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

8.2 Persons may be directed to leave local government property

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

8.3 Disposal of lost property

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

8.4 Liability for damage to local government property

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

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

(b) replacing that property.

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

PART 9 ENFORCEMENT

DIVISION 1 NOTICES GIVEN UNDER THIS LOCAL LAW

9.1 Offence to fail to comply with notice

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

9.2 Local government may undertake requirements of notice

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

DIVISION 2 OFFENCES AND PENALTIES

SUBDIVISION 1 GENERAL

9.3 Offences and general penalty

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

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

SUBDIVISION 2 INFRINGEMENT NOTICES AND MODIFIED PENALTIES

9.4 Prescribed offences

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

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

9.5 Form of notices

(1) For the purposes of this local law -

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

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

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

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

DIVISION 3 EVIDENCE IN LEGAL PROCEEDINGS

9.6 Evidence of a determination

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

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

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

SCHEDULE 1 PRESCRIBED OFFENCES

[Clause 9.4]

Clause	Description	Modified Penalty $
2.4	Failure to comply with determination	200
3.6	Failure to comply with conditions of permit	200
3.13(1)	Failure to obtain a permit	200
3.14(3)	Failure to obtain permit to camp outside a facility	200
3.15(1)	Failure to obtain permit for liquor	200
3.16	Failure of permit holder to comply with responsibilities	200
4.1	Behaviour endangering or unreasonably interfering with others	200
4.2(1)	Behaviour detrimental to property	350
4.4	Intoxication causing danger or unreasonable interference	200
4.6(2)	Failure to comply with sign on local government property	200
5.2	Consuming food or drink in prohibited area	150
5.5	Breaching beach signs, enclosure restrictions or directions	250
5.6	Unauthorised entry to fenced or closed local government property	300
5.7	Failure to comply with a lawful sign regulating use of a toilet block or change room	150
5.10(1)	Unauthorised entry to, or remaining in, a closed part of an airport	400
5.10(4)	Failure to comply with an airport access restriction	400
5.11(1)	Unauthorised presence of animal on airport	400
5.11(2)	Animal wandering at large on airport– person in charge	400
5.11(3)	Animal wandering at large on airport– owner	400
5.12(1)	Failure to comply with a reasonable direction at a refuse site	500
5.14(1)	Fishing causing obstruction or interference	200
5.14(2)	Hanging or spreading nets on jetties or bridges	200
6.1(1)	Unauthorised entry to function on local government property	200
9.1	Failure to comply with notice	300

SCHEDULE 2 DETERMINATIONS

The determinations set out in Part 2 of this Schedule are taken to have been made by the local government under clause 2.1 of the local law.

PART 1 PRELIMINARY

1.1 Definitions

(1) In these determinations unless the context otherwise requires –

local law means the *Local Government Property Local Law 2026* made by the local government.

1.2 Interpretation

(1) Unless the context otherwise requires, a term used in these determinations that is not defined in these determinations has the meaning given to it in the local law.

PART 2 ACTIVITIES PROHIBITED ON LOCAL GOVERNMENT PROPERTY

2.1 Playing Golf

A person is prohibited from playing or practising golf or striking a golf ball on local government property except on land which is reserved to the local government for the purpose, or which is set aside under clause 2.7(1) for the purpose.

2.2 Speed of Vehicles

A person shall not drive or allow a vehicle to be driven on land which is local government property in parking areas designated as such by means of appropriate signs or in sporting or recreational reserves, at a speed exceeding 16 kilometres per hour.

2.3 Vehicles on Foreshore

(1) A person shall not without the approval of the local government, drive or ride or bring any vehicle onto or permit any person to drive or ride or bring any vehicle onto that portion of foreshore between Twilight Cove and Bandy Creek Boat Harbour except for the purpose of launching boats in designated areas.

(2) For the purpose of subclause(1), “foreshore” means all the land contiguous to the Shire of Esperance which lies between the low water mark and the high water mark of the Southern Ocean.

Dated _____ day of _____.

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

_____	_____
Ron Chambers	Shane Burge
SHIRE PRESIDENT	**CHIEF EXECUTIVE OFFICER**