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**SHIRE OF DONNYBROOK-
BALINGUP**

LOCAL LAWS

**ANIMALS, ENVIRONMENT
AND NUISANCE LOCAL
LAW 2017**

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LOCAL GOVERNMENT ACT 1995**SHIRE OF DONNYBROOK-BALINGUP****ANIMALS, ENVIRONMENT AND NUISANCE
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LOCAL GOVERNMENT ACT 1995

SHIRE OF DONNYBROOK-BALINGUP

ANIMALS, ENVIRONMENT AND NUISANCE
LOCAL LAW 2017

Under the powers conferred by the *Health (Miscellaneous Provisions) Act 1911*, the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Donnybrook-Balingup resolved on 26 April 2017 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Donnybrook-Balingup Animals, Environment and Nuisance Local Law 2017*.

1.2 Commencement

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

1.3 Application

This local law applies throughout the district.

1.4 Repeal

The following local laws are repealed or amended—

- (a) The *Shire of Donnybrook-Balingup Miscellaneous Provisions Local Law*, published in the *Government Gazette* on 17 October 2000 is repealed;
- (b) The *Shire of Donnybrook-Balingup Removal of Refuse, Rubbish and Disused Materials Local Law 2001*, published in the *Government Gazette* on 7 September 2001 is repealed; and
- (c) The *Shire of Donnybrook-Balingup Health Local Laws 1999*, published in the *Government Gazette* on 14 March 2000 are amended as follows—
 1. Part 5, Division 1, clause 5.1.3 is repealed;
 2. Part 5, Division 1, clause 5.1.10 is repealed;
 3. Part 5, Division 2 is repealed;
 4. Part 5, Division 3 is repealed;
 5. Part 5, Division 4 is repealed;
 6. Part 5, Division 5 is repealed;
 7. Part 5, Division 6 is repealed; and
 8. Part 6, Division 7 is repealed.

1.5 Interpretation

(1) In this local law, unless the context specifies otherwise—

Act means the *Local Government Act 1995*;

authorised person means a person appointed 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;

backwash water means pool water that has been pumped backwards through a pool filters media;

builder means the holder of a building permit issued in respect of building works on a building site or a person in control of a building site;

building permit means a permit granted under section 20 of the *Building Act 2011*;

building site means any lot for which a building permit is current;

Commercial wrecking means the activity of wrecking vehicles or machinery for the purpose of conducting a business by offering vehicles, machinery or parts thereof for purchase, trade, sale or gain;

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

development site includes any lot or lots for which there is currently a development or subdivision approval in place, and upon which construction work, earthworks, clearing of scrub, trees or overgrowth or any other site works are taking or have taken place pursuant to or in relation to that approval;

district means the district of the local government;

dust means any visible granular or particulate material which has become airborne or has the potential to become airborne and includes organic and non-organic matter and sand, but does not include smoke;

land includes any building or structure on the land;

liquid waste means waste from any process or activity that is in liquid form and includes paint, fuel, grease, fat, oil, degreaser solvent, detergent, chemical, animal waste, food waste, effluent and all discharges of liquid to land, air or water that are not otherwise authorised by a written law but does not include uncontaminated stormwater;

livestock includes cattle, sheep, pigs, goats and horses;

livestock vehicle means a vehicle that contains livestock or previously has been used for the carriage of livestock;

local government means the Shire of Donnybrook-Balingup;

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

nuisance means—

- (a) an activity or condition which is harmful or annoying and which gives rise to legal liability in the tort of public or private nuisance at law;
- (b) an unreasonable interference with the use and enjoyment by a person of his or her ownership or occupation of land; or
- (c) interference which causes material damage to land or other property on the land affected by the interference;

occupier means any person who is in control of any land or part of any land or authorised by the owner, lessee, licensee or any other person empowered to exercise control in relation to land to perform any work in relation to any land and includes a builder or contractor;

owner where used in relation to land, has the meaning given by the *Local Government Act 1995*;

permit means a permit issued under this local law;

pigeon includes homing pigeons and other domesticated breeds of the species *Columba livia*, but does not include native pigeons or doves whether or not the keeping of such birds is subject to the approval of the Department of Environment Regulation;

refuse means any waste material including bricks, lime, cement, concrete, rubble, stones, iron, timber, tiles, bags, plastics, ashes, vegetation, timber, wood or metal shavings, sawdust, and waste food, and includes any broken, used, derelict or discarded matter;

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

sand means granules or particles of rock, earth, clay, loam, silt and any other granular, particulate or like material, including dust and gravel;

Schedule means a schedule to this local law;

stormwater means any naturally occurring water that results from rainfall on or around a site, or water flowing onto the site;

thoroughfare means any highway or thoroughfare which the public are entitled to use, including the verge and other things including bridges and culverts appurtenant to it;

townsites means all townsites within the district which are—

- (a) constituted under section 26(2) of the *Land Administration Act 1997*; or
- (b) referred to in clause 37 of Schedule 9.3 of the Act.

truck means a motor vehicle having a tare weight in excess of 3000 kilograms;

vehicle means any motor vehicle, part of a motor vehicle in a state of disrepair or in the process of being wrecked whether licensed or not;

wastewater in relation to pools and spas means water other than backwash water; and

wreck includes the dismantling, breaking up, storage and disposal of vehicles.

(2) Any other expression used in this local law and not defined herein shall have the meaning given to it in the Act.

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

(4) Where under this local law the local government is authorised to carry out actions or cause to be undertaken works as a consequence of the failure of any person to comply with the terms of a notice or other conduct, the right to enter land is at all times subject to the provisions of Part 3, Division 3, Subdivision 3 of the Act.

PART 2—KEEPING OF ANIMALS*Division 1—Keeping of animals and birds***2.1 Interpretation**

In this division, unless the context otherwise requires—

animal includes cats, dogs, rabbits and ferrets or the like; and

bird includes but is not limited to galahs, parrots, corellas, cockatoos and other Australian native birds, budgerigars, finches, pigeons and doves or the like.

2.2 Cleanliness

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

- (a) maintain the premises within which the animal is kept at all times in a clean condition, free from excrement, filth, food waste and all other matter.
- (b) ensure the keeping of the animal or bird does not cause a nuisance or is injurious, offensive or dangerous to health.

2.3 Disposal of dead animals

(1) The operators of commercial poultry farms, licensed piggeries and similar intensive animal or bird farming shall not dispose of any dead animals or birds on their premises without written approval from the local government.

(2) An owner and occupier of land on which there is a dead animal shall immediately dispose of the dead animal in such a manner as not to cause or be a nuisance to any person.

*Division 2—Keeping of large animals***2.4 Interpretation**

In this Division, unless the context otherwise requires—

approved animal includes a cow, horse or large animal the subject of an approval by the local government;

cow includes an ox, calf, or bull;

horse includes an ass, mule, donkey or pony; and

large animal includes a pig, sheep, goat, deer, llama, alpaca or camel.

2.5 Conditions for keeping of an animal

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

(2) An owner or occupier of a premises who has an approved animal shall ensure—

- (a) the premises has an area of not less than 2000 square metres for the exclusive use of the approved animal; and
- (b) the approved animal does not approach within 30m of a dwelling.

*Division 3—Keeping of poultry and pigeons***2.6 Interpretation**

In this Division, unless the context otherwise requires—

poultry includes bantams, ducks and other domestic fowls.

2.7 Limitation on numbers of poultry and pigeons

Subject to clause 2.9, an owner or occupier of premises within a townsite shall not keep a combined total of more than 12 poultry and pigeons without the approval of the local government, on any one lot of land.

2.8 Conditions for keeping poultry in limited numbers

A person who keeps poultry or permits poultry to be kept shall ensure that—

- (a) they provide a properly constructed and securely fastened structure or coop;
- (b) all structures within which poultry are kept are maintained at all times in a clean condition;
- (c) the structure has an impervious floor to permit washing down;
- (d) subject to clause (a) poultry that have been released to free-range are otherwise confined to the property; and
- (e) the poultry do not cause or be a nuisance to any person.

2.9 Roosters, geese, turkeys, peafowls, guinea fowls, emu and ostrich

(1) Except on land in a rural or rural residential zone or with the prior written permission of the local government, an owner or occupier of premises shall not keep or allow to be kept on that land a rooster; a goose or gander; a turkey; a peacock or peahen; a guinea fowl; an emu or an ostrich.

(2) The local government may upon written application, grant approval with or without conditions to the owner or occupier of premises to keep any one or more birds as specified.

(3) A person who has been granted approval under this section to keep a bird may keep the bird on the premises only while he or she is the occupier thereof.

(4) The local government may revoke an approval granted under this section if it is of the opinion that the keeping of the birds specified in the approval is causing a nuisance or is injurious, offensive or dangerous to health.

2.10 Pigeons or doves

A person who keeps, or permits to be kept, pigeons or doves shall ensure that—

- (a) none is able to approach within 15 metres of a dwelling, public building or premises where people are employed or where food is stored, prepared, manufactured or sold; and
- (b) except where registered homing pigeons are freed for exercise, the pigeons or doves are kept in a properly constructed pigeon loft or dove cote that is maintained in such a manner so as not to cause a nuisance to any person.

2.11 Restrictions on pigeon nesting or perching

(1) The local government may issue a notice to an owner or occupier of a house, in or on which pigeons are in the habit of nesting or perching, to take reasonable steps to prevent them from continuing to do so.

(2) Where a notice is issued under subclause (1), the requirements set out in the notice must be complied with within the period specified in the notice.

PART 3—BUILDING, DEVELOPMENT AND LAND CARE

Division 1—Litter and refuse on building sites and development sites

3.1 Provision of refuse receptacles

The owner or occupier of a building site or development site shall at all times provide and maintain available for use on the site a refuse receptacle, to the satisfaction of an authorised person, and be of such design as will—

- (a) contain any refuse likely to be produced on the site; and
- (b) prevent refuse being blown from the receptacle by wind.

3.2 Control of refuse

(1) From the time of commencement of works on a building site or development site until the time of completion of such work, the owner or occupier of the site shall—

- (a) ensure all refuse on the site is placed and contained in the refuse receptacle and prevented from being blown from the site by wind;
- (b) keep the thoroughfare verge, and any other reserve, immediately adjacent to the site free of refuse generated or originating from the building site or development site; and
- (c) ensure the refuse receptacle is emptied when full.

(2) The owner or occupier of a building site or development site shall ensure that within 2 days of completion of works on the site—

- (a) the site and the thoroughfare verge immediately adjacent to it is cleared of all refuse generated or originating from the building site or development site; and
- (b) that all refuse receptacles are permanently removed from the site.

3.3 Unauthorised storage of materials

(1) No construction materials shall be stored on a building site or development site without written approval of the local government.

(2) Written approval must be obtained from the local government prior to any proposal to store construction material on any thoroughfare verge.

Division 2—Prevention of dust and liquid waste

3.4 Prohibited activities

(1) An owner and or occupier of land shall take reasonable steps to—

- (a) stabilise dust on the land;
- (b) contain all liquid waste on the land; and
- (c) ensure no dust or liquid waste is released or escapes from the land, by means of wind, water or any other cause.

(2) Where the local government forms the opinion that an owner or occupier has not complied with subclause (1), the local government may serve on the owner and/or occupier of the land a notice requiring the owner and or occupier to do one or more of the following—

- (a) comply with subclause (1)(a) or (1)(b);
- (b) clean up and properly dispose of any released or escaped dust or liquid waste;
- (c) clean up and make good any damage resulting from the released or escaped dust or liquid waste; and
- (d) take reasonable steps to stop any further release or escape of dust or liquid waste.

(3) Where a notice is issued under subclause (2), the requirements set out in the notice must be complied with in the period as is specified in the notice.

(4) Where the local government is of the opinion that dust or liquid waste may be released or escape as a result of an activity which is likely to be carried on from any land, the local government may give to the owner and or occupier a notice providing that the activity may only be carried on subject to conditions specified in the notice.

Division 3—Smoke

3.5 Burning of cleared vegetation prohibited

An owner or occupier of any building site or development site shall ensure that no vegetation or other material cleared from the site is burnt on the site unless authorisation in writing is given by the local government.

Division 4—Unsightly land and disused materials

3.6 Removal of refuse and disused materials

(1) The owner or occupier of a lot shall not keep, or permit to remain on the lot, any refuse, rubbish or disused material of any nature or kind which in the opinion of the local government or an authorised person is likely to give the lot an untidy appearance and does not conform with the general appearance of other land in that particular part of the district.

(2) The local government or an authorised person may give notice in writing to the owner or occupier of a lot requiring the removal of refuse, rubbish or disused material from the lot within the time frame specified in the notice.

3.7 Removal of unsightly overgrowth of vegetation

(1) The owner or occupier of a lot shall not permit to remain on a lot any unsightly overgrowth of vegetation that gives the lot an untidy appearance and does not conform with the general appearance of other land in that particular part of the district.

(2) The local government or an authorised person may give notice in writing to the owner or occupier of a lot requiring the removal of the overgrowth of vegetation within the time specified in the notice.

3.8 Storage of vehicles and machinery

The owner or occupier of a lot shall not—

- (a) store any vehicle, part or body of a vehicle or machinery in a state of disrepair;
- (b) allow to remain on any land, a vehicle, part or body of a vehicle or machinery in a state of disrepair;
- (c) wreck, dismantle or break up any vehicle, part or body of a vehicle or machinery; unless—
 - (i) inside a building;
 - (ii) or within an area enclosed by a fence or wall not less than 2 metres in height and of such a nature as to screen all vehicles, parts of bodies of vehicles or machinery from the street and from adjoining properties; or
- (d) wreck, dismantle or break up a vehicle so as to cause a nuisance.

3.9 Commercial wrecking of vehicles

An owner or occupier of land in the district must not undertake, permit or suffer the commercial wrecking of vehicles on that land, without first having obtained written approval from the local government.

3.10 Disposing of disused refrigerators or similar containers

A person shall not place, leave or dispose of a disused refrigerator, ice-chest, ice-box, trunk, chest or other similar article having a compartment which has a capacity of 0.04 cubic metres or more on any land without first—

- (a) removing every door and lid and every lock, catch and hinge attached to a door or lid or otherwise rendering every door and lid incapable of being fastened; and
- (b) removing any refrigerants as per requirements of the *Environmental Protection (Ozone Protection) Policy 2000*.

PART 4—NUISANCES AND DANGEROUS THINGS

Division 1—Light

4.1 Use of exterior lights

An owner or occupier of land on which floodlights or other exterior lights are erected or used shall not allow the floodlights or other exterior lights to shine directly onto any other premises.

4.2 Emission or reflection of light

An owner or occupier of land shall ensure that—

- (a) artificial light is not emitted or reflected from anything on the land so as to illuminate premises outside that land at a level that interferes unreasonably with normal daily activities; and
- (b) natural light is not reflected from anything on the land so as to create or cause a nuisance to the occupier of any other premises or to a person lawfully using a thoroughfare.

4.3 Notice may require specified action to prevent emission or reflection of light

(1) Where—

- (a) floodlights or other exterior lights shine directly onto any other premises;
- (b) artificial light is emitted or reflected from anything on the land so as to illuminate premises outside the land that interferes unreasonably with normal daily activities; or
- (c) natural light is reflected from anything on the land so as to create or cause a nuisance to the occupier of any other premises or to a person lawfully using a thoroughfare,

the local government may by notice in writing direct the owner or occupier to take such actions as necessary within the time specified in the notice.

(2) The notice referred to in subclause (1) may direct that—

- (a) floodlights or other exterior lights are used only during the hours specified in the notice;
- (b) the direction in which the lights shine be altered as specified in the notice; or
- (c) any reflective surfaces be painted or otherwise treated so as to abate the nuisance;
- (d) any combination of these measures that the local government believes to be appropriate to the circumstances.

Division 2—Smoke, fumes, odours and other emissions

4.4 Burning rubbish, refuse or other material

(1) A person shall not on any land within a townsite, having an area of 2000 square metres or less, set fire to rubbish, refuse or other materials unless—

- (a) written approval has first been obtained from the local government;
- (b) the person demonstrates to the satisfaction of the local government that reasonable alternatives for the disposal of the rubbish, refuse or other material do not exist and the potential for pollution is low;
- (c) the material does not include any plastic, rubber, food scraps or other material likely to cause the generation of smoke or odour in such quantity as to cause a nuisance to other persons;
- (d) a haze alert has not been issued by the Bureau of Meteorology for the period during which burning is to take place; and
- (e) the burning complies with the *Bush Fires Act 1954*, any annual fire hazard reduction notice issued by the local government under that Act and any conditions of approval as determined by the local government.

(2) Subclause (1) shall not apply to any barbeque, solid fuel water heater, space heater or ovens fired with dry paper, dry wood, synthetic char or charcoal type fuel.

(3) Subclause (1) is subject to any fire danger rating as determined by the Bureau of Meteorology.

4.5 Escape of smoke, fumes, odours and other emissions

An owner or occupier of land or premises shall not cause or permit the escape of smoke, fumes or odours from the land so as to cause or to be a nuisance to any person.

Division 3—Livestock carrying vehicles

4.6 Livestock vehicles

(1) A person shall not park a vehicle containing livestock in a townsite for a period in excess of 30 minutes.

(2) A person shall not park a vehicle which contains or has been used for the carriage of livestock so as to create or be a nuisance to any person, by reason of the odour emanating from the vehicle.

(3) If a person parks a vehicle containing livestock in a townsite in accordance with subclause (1), then the person does not contravene subclause (2).

4.7 Truck noise from residential land

A person shall not start or drive a truck on land or adjacent land which is zoned, approved or used for residential purposes between the hours of 10.30 pm and 6.30 am on the following day without first obtaining the written consent of the local government.

Division 4—Stormwater management

4.8 Containment of stormwater

(1) Subject to subclause (2), the owner or occupier of a lot shall ensure that all stormwater received by any building, house, structure or any paved, sealed or other surfaced areas, including any vehicle access ways on the lot, is contained and managed within the lot and is not permitted to discharge onto or run-off onto adjacent land so as to cause a nuisance, or cause damage to any structures situated on adjacent land.

(2) Subclause (1) shall not prevent the discharge of stormwater from a lot into a local government stormwater drain, by a method approved by the local government.

(3) The owner or occupier of a lot shall ensure that all stormwater drainage systems on the lot are maintained in a good state of repair and free from obstruction.

4.9 Guttering and downpipes

(1) The owner or occupier of a lot shall ensure that each building or house on the lot is provided with adequate guttering and downpipes sufficient to receive, without overflow, all stormwater from the roof of the building or house.

(2) The owner or occupier of a lot shall ensure that all guttering and downpipes to each building or house on the lot are maintained in a good state of repair and free from obstruction.

4.10 Containment and disposal of swimming pool and other wastewater

(1) The owner or occupier of a lot shall ensure that all wastewater and backwash water from swimming pool filtration systems or other water storage systems associated with a swimming pool shall be contained within, and disposed onto or into the lot on which the swimming pool is located.

*Division 5—Bird nuisance***4.11 Restrictions on feeding of birds**

(1) A person shall not feed a bird—

- (a) so as to cause a nuisance, or
- (b) with a food or substance that is not a natural food of a bird.

(2) Where an authorised person forms the opinion that a person has not complied with subclause (1) the authorised person may serve the person a notice requiring the person to clean up and properly dispose of any feed or waste products specified in the notice.

*Division 6—Bee keeping***4.12 Interpretation**

In this Division, unless the context otherwise requires—

bees means an insect belonging to any of the various hymenopterous insects of the super family *Apoidea* and commonly known as a bee.

4.13 Restrictions on keeping of bees in hives

(1) A person shall not keep or permit the keeping of bees anywhere within the district unless written approval to do so has been given by the local government.

(2) Where an authorised person forms the opinion that the approved bee hives are causing a nuisance, the local government may serve the person a notice requiring the person to remove bees or approved bee hives to be removed.

(3) A person shall comply with a notice within the time specified.

PART 5—OBJECTIONS AND APPEALS**5. Objections and appeals**

When the local government makes a decision under this local law as to whether it will—

- (a) grant a person a permit or authorisation;
- (b) vary or cancel a permit or authorisation; or
- (c) give a person a notice;

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

PART 6—ENFORCEMENT**6.1 Notice of breach**

(1) Where a breach of any provision of this local law has occurred, the local government may give a notice in writing to the person alleged to be responsible for such a breach.

(2) A notice issued pursuant to subclause (1) shall—

- (a) specify the provision of this local law which has been breached;
- (b) specify the particulars of the breach; and
- (c) state the manner in which the recipient is required to remedy the breach to the satisfaction of the local government within a time period stipulated in the notice which shall be not less than 14 days from the giving of the notice.

(3) It is an offence to fail to comply with a notice issued by the local government pursuant to subclause (1).

6.2 Form of notices

Where this local law refers to the giving of a notice other than the giving of an infringement notice and no particular form is prescribed, it will be sufficient that the notice be in writing giving sufficient details to enable the owner, occupier or other person to whom the notice is issued to know the offence committed and the measures required to be taken or conditions with which compliance is required, as the case may be.

*Division 2—Offences and penalties***6.3 Offences and penalties**

(1) A person who—

- (a) fails to do anything required or directed to be done under this local law;
- (b) fails to comply with the requirements of a notice issued under this local law by an authorised person; or
- (c) does anything which under this local law that person is prohibited from doing;

commits an offence.

(2) Where, under this local law, an act is required to be done or forbidden to be done in relation to any land or premises, the owner or occupier of the land or premises has the duty of causing to be done the act so required to be done, or of preventing from being done the act forbidden to be done.

(3) A person who commits an offence under this local law is liable to a maximum penalty of \$5000 and a maximum daily penalty of \$500 in respect of each day or part of a day during which the offence has continued.

*Division 3—Infringement notices and modified penalties***6.4 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—

- (a) in the case of a first offence the modified penalty will be that prescribed in column 4 of Schedule 1; and
- (b) in the case of a subsequent offence the modified penalty will be that prescribed in column 5 of Schedule 1.

6.5 Form of infringement notices

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 given under section 9.20 of the Act withdrawing an infringement notice is that of Form 3 in Schedule 1 of the Regulations.

Schedule 1
PRESCRIBED OFFENCES

[Clause 6.4]

Item	Clause	Description of offence	Modified penalty— first offence	Modified penalty— subsequent offence
1.	2.2(a)	Failure to maintain an animal or bird enclosure in a clean condition	\$250	\$500
2.	2.2(b)	Keeping of an animal or bird so as to cause a nuisance	\$250	\$500
3.	2.3(1)	Disposal of a dead animal on their premises	\$250	\$500
4.	2.3(2)	Allowing a dead animal on their land to cause a nuisance	\$250	\$500
5.	2.5(1)	Keeping a horse, cow or large animal within a townsite without written approval	\$250	\$500
6.	2.5(2)(a)	Failure to provide 2000 square metres of area for an approved animal	\$250	\$500
7.	2.5(2)(b)	Failure to keep an approved animal more than 30 metres from a dwelling	\$250	\$500
8.	2.7	Keeping more than 12 poultry and pigeons within a townsite	\$250	\$500
9.	2.8(a)	Failure to provide a properly constructed and securely fastened poultry structure or coop	\$250	\$500
10.	2.8(b)	Failure to maintain a poultry structure in a clean condition	\$250	\$500

Item	Clause	Description of offence	Modified penalty— first offence	Modified penalty— subsequent offence
11.	2.8(c)	Failure to provide a structure with an impervious floor graded to the front	\$250	\$500
12.	2.8(d)	Failure to keep poultry confined to the property	\$250	\$500
13.	2.8(e)	Keeping of poultry so as to cause a nuisance	\$250	\$500
14.	2.9(1)	Keeping of a rooster, goose or gander, turkey, peacock or peahen, guinea fowl, emu or ostrich without written permission of local government	\$250	\$500
15.	2.10(a)	Allowing pigeons to approach within 15 metres of a dwelling, public building or food business	\$250	\$500
16.	2.10(b)	Failure to keep pigeons or doves in a properly constructed loft or cote		
17.	2.11(2)	Failure to comply with a notice issued by the local government	\$250	\$500
18.	3.1	Failure to provide or maintain a refuse receptacle on a building site or development site	\$250	\$500
19.	3.2(1)(a)	Failure to contain refuse on a building site or development site in a refuse receptacle	\$250	\$500
20.	3.2(1)(b)	Failure to keep the thoroughfare verge, or any other reserve adjacent to a building site or development site free from refuse generated or originating from the site	\$250	\$500
21.	3.2(1)(c)	Failure to empty the refuse receptacle when full	\$250	\$500
22.	3.2(2)(a)	Failure to clear the site, adjacent thoroughfare verge or reserve of refuse within 2 days of completion of works on the site	\$250	\$500
23.	3.2(2)(b)	Failure to ensure all refuse receptacles are removed from the site within 2 days of the completion of works on the site	\$250	\$500
24.	3.3(1)	Unauthorised storage of construction materials on a building site or development site	\$250	\$500
25.	3.3(2)	Unauthorised storage of construction materials on a thoroughfare verge	\$250	\$500
26.	3.4(3)	Failure to comply with a notice issued by the local government	\$250	\$500
27.	3.4(4)	Failure to comply with a notice issued by the local government	\$250	\$500
28.	3.5	Burning of vegetation or other material cleared from a building site or development site	\$250	\$500
29.	3.6(2)	Failure to comply with a notice issued by the local government	\$250	\$500
30.	3.7(2)	Failure to comply with a notice issued by the local government	\$250	\$500
31.	3.8(a)	Store on a lot a vehicle, part or body of a vehicle or machinery in a state of disrepair	\$250	\$500
32.	3.8(b)	Allow to remain on any land, a vehicle, part or body of a vehicle or machinery in a state of disrepair	\$250	\$500
33.	3.8(c)(i)	Wreck, dismantle or break up any vehicle part or body, vessel or machinery not inside a building	\$250	\$500
34.	3.8(c)(ii)	Wreck, dismantle or break up any vehicle part or body, vessel or machinery not behind a sufficient fence or wall	\$250	\$500
35.	3.8(d)	Wreck, dismantle or break up a vehicle, vessel or machinery so as to cause a nuisance	\$250	\$500
36.	3.9	Undertake or permit to undertake the commercial wrecking of vehicles	\$250	\$500
37.	3.10(a)	Disposing of disused refrigerator or similar container with door or lid that can be fastened	\$250	\$500
38.	3.10(b)	Disposing of disused refrigerator or similar container without removing refrigerant	\$250	\$500

Item	Clause	Description of offence	Modified penalty— first offence	Modified penalty— subsequent offence
39.	4.1	Failure to prevent floodlights or other exterior lights from shining directly onto any other premises	\$250	\$500
40.	4.2(a)	Emitting or reflecting excessive artificial light that creates or causes a nuisance	\$250	\$500
41.	4.2(b)	Emitting or reflecting natural light that creates or causes a nuisance	\$250	\$500
42.	4.3(2)	Failure to comply with a notice issued by the local government	\$250	\$500
43.	4.4(1)	Setting fire to rubbish, refuse or other material on a lot having an area of 2000 square metres or less without the approval of the local government	\$250	\$500
44.	4.5	Cause or permit the escape of smoke, fumes, odour and other emissions so as to cause a nuisance	\$250	\$500
45.	4.6(1)	Parking a livestock vehicle in a townsite in excess of 30 minutes	\$250	\$500
46.	4.6(2)	Parking a livestock vehicle so as to cause a nuisance	\$250	\$500
47.	4.7	Starting or driving a truck on residential land, or adjoining residential land, without consent	\$250	\$500
48.	4.8(1)	Failure to ensure that all rainwater or stormwater received by a lot and any building, house or structure on the lot, is contained within the lot	\$250	\$500
49.	4.9(1)	Failure to have adequate guttering and downpipes sufficient to receive all stormwater	\$250	\$500
50.	4.9(2)	Failure to maintain all guttering and downpipes in a good state of repair and free from obstruction	\$250	\$500
51.	4.10(1)	Failure to contain or dispose of swimming pool wastewater on the lot on which the swimming pool is located	\$250	\$500
52.	4.11(1)(a)	Feeding a bird so as to cause a nuisance	\$250	\$500
53.	4.11(1)(b)	Feeding a bird a food/substance that is not a natural food	\$250	\$500
54.	4.13(1)	Keeping bees or a bee hive without approval	\$250	\$500
55.	4.13(3)	Failure to comply with a notice to remove bees or a bee hive	\$250	\$500

This Local Law was made by the Shire of Donnybrook-Balingup at an Ordinary Meeting held on 26 April 2017.

Dated: 29 May 2017.

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

Cr. ANGELO LOGIUDICE, President.

BENJAMIN ROSE, Chief Executive Officer.

**WASTE AVOIDANCE AND RESOURCE RECOVERY ACT 2007
LOCAL GOVERNMENT ACT 1995**

SHIRE OF DONNYBROOK-BALINGUP

WASTE LOCAL LAW 2017

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**WASTE AVOIDANCE AND RESOURCE RECOVERY ACT 2007
LOCAL GOVERNMENT ACT 1995**

SHIRE OF DONNYBROOK-BALINGUP

WASTE LOCAL LAW 2017

Under the powers conferred on it by the *Waste Avoidance and Resource Recovery Act 2007* and the *Local Government Act 1995* and under all other enabling powers, the Council of the Shire of Donnybrook-Balingup resolved on 26 April 2017 to make the following local law.

PART 1—PRELIMINARY

1.1 Short title

This is the Shire of Donnybrook-Balingup Waste Local Law 2017.

1.2 Commencement

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

1.3 Application

This local law applies throughout the district.

1.4 Repeal

This local law repeals Division 2 of Part 4 of the Shire of Donnybrook-Balingup Health Local Laws 1999, as published in the *Government Gazette* on 14 March 2000.

1.5 Meaning of terms used in this local law

(1) In this local law—

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

collectable waste means local government waste that is not—

- (a) liquid refuse,
- (b) liquid waste; or
- (c) non-collectable waste;

collection when used in relation to a receptacle, means the collection and removal of collectable waste from the receptacle by the local government or its contractor;

collection day means the day determined by the local government for the collection of collectable waste in the district or a part of the district;

collection time means the time on the collection day determined by the local government for the collection of collectable waste in the district or a part of the district;

costs of the local government include administrative costs;

district means the district of the local government;

general waste receptacle means a receptacle for the deposit and collection of collectable waste that is not recycling waste;

liquid refuse includes swimming pool discharges, washings from windows, vehicles and carpet cleaning, discharges from air conditioning equipment and other liquid used for cooling purposes;

liquid waste includes bathroom, kitchen, scullery and laundry wastes, septic tank contents, washings from animal or poultry pens and any other domestic or trade waste discharged by means of a drain into a receptacle for drainage;

LG Act means the *Local Government Act 1995*;

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

local government means the Shire of Donnybrook-Balingup;

local government waste has the same meaning as in the WARR Act;

non-collectable waste has the meaning set out in Schedule 1;

occupier in relation to premises, means any or all of the following—

- (a) a person by whom or on whose behalf the premises are actually occupied; or
- (b) a person having the management or control of the premises;

organic waste means waste that decomposes readily, such as garden waste or food waste;

organic waste receptacle means a receptacle for the deposit and collection of organic waste;

owner has the same meaning as in the LG Act;

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

receptacle means a receptacle—

- (a) that has been supplied for the use of the premises by the local government or its contractor, or which has otherwise been approved by the local government; and
- (b) the waste from which is collected and removed from the premises by the local government or its contractor;

recycling waste receptacle means a receptacle for the deposit and collection of recycling waste;

recycling waste means—

- (a) paper and cardboard;
- (b) plastic containers comprised of polyethylene terephthalate or high density polyethylene;
- (c) glass containers;
- (d) steel containers;
- (e) aluminium containers;
- (f) liquid paper board; and
- (g) any other waste determined by the local government to be recycling waste;

specified means specified by the local government or an authorised person, as the case may be;

street alignment means the boundary between the land comprising a street and the land that abuts the street;

WARR Act means the *Waste Avoidance and Resource Recovery Act 2007*;

waste has the same meaning as in the WARR Act;

waste facility means a waste facility, as defined in the WARR Act, that is operated by the local government; and

waste service has the same meaning as in the WARR Act.

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

1.6 Local public notice of determinations

Where, under this local law, the local government has a power to determine a matter—

- (a) local public notice, under section 1.7 of the LG Act, must be given of the matter determined;
- (b) the determination becomes effective only after local public notice has been given;
- (c) the determination remains in force for the period of one year after the date that local public notice has been given under paragraph (a);
- (d) after the period referred to in paragraph (c), the determination continues in force only if, and for so long as, it is the subject of local public notice, given annually, under section 1.7 of the LG Act; and
- (e) the determination must be recorded in a publicly accessible register of determinations that must be maintained by the local government.

1.7 Rates, fees and charges

The local government's powers to impose rates, fees and charges in relation to waste services are set out in sections 66 to 68 of the WARR Act and section 6.16 and 6.17 of the LG Act.

1.8 Power to provide waste services

The local government's power to provide, or enter into a contract for the provision of, waste services is dealt with in section 50 of the WARR Act.

PART 2—LOCAL GOVERNMENT WASTE

2.1 Supply of receptacles

(1) The local government is to supply, for the use of each premises situated within the area covered by the kerbside collection service, receptacles that are, or are capable of being, occupied or used for residential purposes, one or more receptacles for the collection and removal, from those premises, of collectable waste.

(2) The owner of premises to which subclause (1) applies must—

- (a) ensure that the fee or charge (if any) imposed by the local government in relation to each receptacle is paid to the local government; and

- (b) ensure that each receptacle is used, in respect of those premises, in accordance with this local law.

2.2 Deposit of waste in receptacles

- (1) An owner or occupier of premises must not deposit or permit to be deposited in a receptacle any non-collectable waste.
- (2) A person must not deposit waste in a receptacle that has been provided for the use of other premises without the consent of the owner or occupier of those premises.

2.3 General waste receptacles

- (1) An owner or occupier of premises must not deposit or permit to be deposited in a general waste receptacle—
 - (a) where the receptacle has a capacity of 240 litres—more than 70 kilograms of collectable waste; or
 - (b) where the receptacle has any other capacity—more than the weight determined by the local government.
- (2) Where the local government supplies recycling waste receptacles, an owner or occupier of premises must not deposit or permit to be deposited in a general waste receptacle any recycling waste.
- (3) Where the local government supplies organic waste receptacles, an owner or occupier of premises must not deposit or permit to be deposited in a general waste receptacle any organic waste.

2.4 Recycling waste receptacles

An owner or occupier of premises must not deposit or permit to be deposited in a recycling waste receptacle—

- (a) anything other than the particular type of recycling waste for which that receptacle was provided by the local government for those premises;
- (b) where the receptacle has a capacity of 240 litres—more than 70 kilograms of recycling waste; or
- (c) where the receptacle has any other capacity—more than the weight determined by the local government.

2.5 Organic waste receptacles

An owner or occupier of premises must not deposit or permit to be deposited in an organic waste receptacle—

- (a) anything other than the particular type of organic waste for which that receptacle was provided by the local government for those premises;
- (b) where the receptacle has a capacity of 240 litres—more than 70 kilograms of organic waste; or
- (c) where the receptacle has any other capacity—more than the weight determined by the local government.

2.6 Direction to place or remove a receptacle

- (1) The local government or an authorised person may give a written direction to an owner or occupier of specified premises—
 - (a) to place a receptacle in respect of those premises for collection; or
 - (b) to remove a receptacle in respect of those premises after collection.
- (2) The direction under subclause (1) may specify when the placement or removal is to occur, or where the receptacle is to be placed, or both.
- (3) An owner or occupier of premises must comply with a direction given under this clause.

2.7 Duties of owner or occupier

An owner or occupier of premises must—

- (a) except for a reasonable period before and after collection time, keep each receptacle in a storage space or area that is behind the street alignment;
- (b) take reasonable steps, if placing a receptacle for collection on the verge adjoining the premises, or other area as determined by the local government, to ensure that, within a reasonable period before collection time, each receptacle is—
 - (i) within 1 metre of the carriageway;
 - (ii) so that it does not unduly obstruct any footpath, cycle way, right-of-way or carriageway; and
 - (iii) facing squarely to the edge of and opening towards the carriageway,or in such other position as is approved in writing by the local government or an authorised person;
- (c) take reasonable steps to ensure that the premises are provided with an adequate number of receptacles; and
- (d) if the receptacle is lost, stolen, damaged or defective, notify the local government, as soon as practicable, after the event.

2.8 Exemption

- (1) An owner or occupier of premises may apply in writing to the local government for an exemption from compliance with the requirements of clause 2.7(a) or (b).
- (2) The local government or an authorised person may grant, with or without conditions, or refuse an application for exemption from compliance under this clause.
- (3) An exemption granted under this clause must state—
 - (a) the premises to which the exemption applies;
 - (b) the period during which the exemption applies; and
 - (c) any conditions imposed by the local government or the authorised person.
- (4) An exemption granted under this clause ceases to apply—
 - (a) if the local government decides, on reasonable grounds, that there has been a failure to comply with a condition of the exemption; and
 - (b) from the date that the local government informs the owner or occupier of its decision under clause 2.8(4)(a).

2.9 Damaging or removing receptacles

A person, other than the local government or its contractor, must not—

- (a) damage, destroy or interfere with a receptacle; or
- (b) except as permitted by this local law or as authorised by the local government or an authorised person, remove a receptacle from any premises to which it was delivered by the local government or its contractor.

PART 3—GENERAL DUTIES**3.1 Duties of an owner or occupier**

An owner or occupier of premises must—

- (a) take reasonable steps to ensure that a sufficient number of receptacles are provided to contain all waste which accumulates or may accumulate in or from the premises;
- (b) ensure that each receptacle is kept in good condition and repair;
- (c) take all reasonable steps to—
 - (i) prevent fly breeding and keep each receptacle free of flies, maggots, cockroaches, rodents and other vectors of disease;
 - (ii) prevent the emission of offensive or noxious odours from each receptacle; and
 - (iii) ensure that each receptacle does not cause a nuisance to an occupier of adjoining premises; and
- (d) whenever directed to do so by the local government or an authorised person, thoroughly clean, disinfect, deodorise and apply a residual insecticide to each receptacle.

3.2 Removal of waste from premises

(1) A person must not remove any waste from premises unless that person is—

- (a) the owner or occupier of the premises;
- (b) authorised to do so by the owner or occupier of the premises; or
- (c) authorised in writing to do so by the local government or an authorised person.

(2) A person must not remove any waste from a receptacle without the approval of—

- (a) the local government or an authorised person; or
- (b) the owner or occupier of the premises at which the receptacle is ordinarily kept.

3.3 Receptacles and containers for public use

A person must not, without the approval of the local government or an authorised person—

- (a) deposit household, commercial or other waste from any premises on or into; or
- (b) remove any waste from,

a receptacle provided for the use of the general public in a public place.

PART 4—OPERATION OF WASTE FACILITIES**4.1 Operation of this Part**

This Part applies to a person who enters a waste facility.

4.2 Hours of operation

The local government may from time to time determine the hours of operation of a waste facility.

4.3 Signs and directions

(1) The local government or an authorised person may regulate the use of a waste facility—

- (a) by means of a sign; or
- (b) by giving a direction to a person within a waste facility.

- (2) A person within a waste facility must comply with a sign or direction under subclause (1).
- (3) The local government or an authorised person may direct a person who commits, or is reasonably suspected by the local government or the authorised person of having committed, an offence under this clause to leave the waste facility immediately.
- (4) A person must comply with a direction under subclause (3).

4.4 Fees and charges

- (1) Unless subclause (3) applies, a person must, on or before entering a waste facility or on demand by the local government or an authorised person, pay the fee or charge as assessed by an authorised person.
- (2) An authorised person may assess the fee or charge in respect of a particular load of waste at a rate that applies to any part of that load, even if that rate is higher than the rate that would apply to any other part of the load.
- (3) Subclause (1) does not apply—
 - (a) to a person who disposes of waste in accordance with the terms of—
 - (i) a credit arrangement with the local government; or
 - (ii) any other arrangement with the local government to pay the fee or charge at a different time or in a different manner; and
 - (b) to the deposit of waste owned by the local government, or in the possession of an employee on behalf of the local government.

4.5 Depositing waste

- (1) A person must not deposit waste at a waste facility other than—
 - (a) at a location determined by a sign and in accordance with the sign; and
 - (b) in accordance with the direction of an authorised person.
- (2) The local government may determine the classification of any waste that may be deposited at a waste facility.

4.6 Prohibited activities

- (1) Unless authorised by the local government, a person must not—
 - (a) remove any waste or any other thing from a waste facility;
 - (b) deposit at a waste facility that is a landfill site any waste that is toxic, poisonous or hazardous, or the depositing of which is regulated or prohibited by any written law;
 - (c) light a fire in a waste facility;
 - (d) remove, damage or otherwise interfere with any flora in a waste facility;
 - (e) remove, injure or otherwise interfere with any fauna in a waste facility; or
 - (f) damage, deface or destroy any building, equipment, plant or property within a waste facility.
- (2) A person must not act in an abusive or threatening manner towards any person using, or engaged in the management or operation of, a waste facility.

PART 5—ENFORCEMENT

5.1 Offences and general penalty

- (1) A 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 a person is prohibited from doing, commits an offence.
- (2) A person who commits an offence under this local law is liable, on conviction, to a penalty not exceeding \$5,000, and if the offence is of a continuing nature, to a further penalty not exceeding \$500 in respect of each day or part of a day during which the offence has continued.

5.2 Other costs and expenses

- (1) A person who is convicted of an offence under this local law is to be liable, in addition to any penalty imposed under clause 5.1, to pay to the local government the costs and expenses incurred by the local government in taking remedial action such as—
 - (a) removing and lawfully disposing of toxic, hazardous or poisonous waste; or
 - (b) making good any damage caused to a waste facility.
- (2) The costs and expenses incurred by the local government are to be recoverable, as a debt due to the local government, in a court of competent civil jurisdiction.

5.3 Prescribed offences

- (1) An offence against a clause specified in Schedule 2 is a prescribed offence for the purposes of section 9.16(1) of the LG Act.
- (2) The amount of the modified penalty for a prescribed offence is that specified adjacent to the clause in Schedule 2.

5.4 Form of notices

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

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

(3) The form of the infringement withdrawal notice given under section 9.20 of the LG Act is that of Form 3 in Schedule 1 of the LG Regulations.

Schedule 1

MEANING OF 'NON-COLLECTABLE WASTE'

[Clause 2.2(1)]

non-collectable waste means—

- (a) hot or burning material;
- (b) household hazardous waste, including paint, acids, alkalis, fire extinguishers, solvents, pesticides, oils, gas cylinders, batteries, chemicals and heavy metals;
- (c) any other hazardous material, such as radioactive waste;
- (d) any explosive material, such as flares or ammunition;
- (e) electrical and electronic equipment;
- (f) hospital, medical, veterinary, laboratory or pathological substances;
- (g) construction or demolition waste;
- (h) sewage;
- (i) 'controlled waste' for the purposes of the *Environmental Protection (Controlled Waste) Regulations 2004*;
- (j) any object that is greater in length, width, or breadth than the corresponding dimension of the receptacle or that will not allow the lid of the receptacle to be tightly closed;
- (k) waste that is or is likely to become offensive or a nuisance, or give off an offensive or noxious odour, or to attract flies or cause fly breeding unless it is first wrapped in non-absorbent or impervious material or placed in a sealed impervious and leak-proof container; and
- (l) any other waste determined by the local government to be non-collectable waste.

Schedule 2

PRESCRIBED OFFENCES

[Clause 5.3]

Item No.	Clause No.	Description	Modified Penalty
1	2.1(2)(a)	Failing to pay fee or charge	\$350
2	2.1(2)(b)	Failing to ensure lawful use of receptacle	\$350
3	2.2(1)	Depositing non-collectable waste in a receptacle	\$350
4	2.2(2)	Depositing waste in another receptacle without consent	\$350
5	2.3(1)	Exceeding weight capacity of a general waste receptacle	\$350
6	2.3(2) and (3)	Depositing unauthorised waste in a general waste receptacle	\$350
7	2.4(a)	Depositing unauthorised waste in a recycling waste receptacle	\$350
8	2.4(b) and (c)	Exceeding weight capacity of a recycling waste receptacle	\$250
9	2.5(a)	Depositing unauthorised waste in an organic waste receptacle	\$350
10	2.5(b) and (c)	Exceeding weight capacity of an organic waste receptacle	\$350
11	2.6(3)	Failing to comply with a direction concerning placement or removal of a receptacle	\$250
12	2.7(a)	Failing to keep a receptacle in the required location	\$250
13	2.7(b)	Failing to place a receptacle for collection in a lawful position	\$250
14	2.7(c)	Failing to provide a sufficient number of receptacles	\$250
15	2.7(d)	Failing to notify of a lost, stolen, damaged or defective receptacle	\$50
16	2.9(a)	Damaging, destroying or interfering with a receptacle	\$400
17	2.9(b)	Removing a receptacle from premises	\$400
18	3.1(a)	Failing to provide a sufficient number of receptacles	\$250

Item No.	Clause No.	Description	Modified Penalty
19	3.1(b)	Failing to keep a receptacle in a good condition and repair	\$250
20	3.1(c)(i)	Failing to prevent fly breeding and vectors of disease in a receptacle	\$350
21	3.1(c)(ii)	Failing to prevent the emission of offensive odours from a receptacle	\$350
22	3.1(c)(iii)	Allowing a receptacle to cause a nuisance	\$250
23	3.1(d)	Failing to comply with a direction to clean, disinfect or deodorise receptacle	\$300
24	3.2(1)	Unauthorised removal of waste from premises	\$250
25	3.2(2)	Removing waste from a receptacle without approval	\$250
26	4.3(2)	Failing to comply with a sign or direction	\$500
27	4.3(4)	Failing to comply with a direction to leave	\$500
28	4.4(1)	Disposing waste without payment of fee or charge	\$500
29	4.5(1)	Depositing waste contrary to sign or direction	\$500
30	4.6(1)(a)	Removing waste without authority	\$250
31	4.6(1)(b)	Depositing toxic, poisonous or hazardous waste	\$500
32	4.6(1)(c)	Lighting a fire	\$300
33	4.6(1)(d)	Removing or interfering with any flora	\$300
34	4.6(1)(e)	Interfering with any fauna without approval	\$300
35	4.6(1)(f)	Damaging, defacing or destroying any building, equipment, plant or property within a waste facility	\$500
36	4.6(2)	Acting in an abusive or threatening manner	\$300

Consented to—

DAN VOLARIC, Acting Director General,
Department of Environment Regulation.

Date: 16 March 2017.

This Local Law was made by the Shire of Donnybrook-Balingup at an Ordinary Meeting held on 26 April 2017.

Dated: 29 May 2017.

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

Cr ANGELO LOGIUDICE, President.
BENJAMIN ROSE, Chief Executive Officer.