**EXPLANATORY MEMORANDUM**

**1. ADMINISTERING AUTHORITY**

[Insert name of local government or regional local government or authority here]

**2. PUBLICATION OF LOCAL LAW**

*WA Government Gazette* dated [insert date] No. [insert number]

**3. TITLE OF LOCAL LAW**

[Insert full name of the local law here]

**4. SECTION(S) OF ENABLING ACT(S)**

This local law was made under –

[insert the section(s) and the title(s) of the empowering Act(s)]

**5. PURPOSE, EFFECT AND JUSTIFICATION**

**Purpose** of the local law:

To make provisions about the [insert text]

**Effect** of the local law:

[Insert text]

**Justification** for the local law:

[Insert text]

**6. ADDITIONAL INFORMATION**

[Please refer to Direction 7 Item (6) for guidance]

**7. UNUSUAL OR CONTROVERSIAL PROVISIONS**

[Insert text]

**8. CONSULTATIONS, SUBMISSIONS AND RESPONSES**

[Insert text]

**9. FEES AND CHARGES, PENALTIES AND MODIFIED PENALTIES**

**Fees and charges:**

[Insert text. If none, type Nil and delete the table.]

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| TYPE OF FEE OR CHARGE | DATE LAST UPDATEDINCREASE/DECREASE | OLD FEE | NEW FEE | INCREASE/DECREASE **(%)** |
|  |  |  |  |  |
|  |  |  |  |  |

**Reason for new fees and charges or any increase in fees and charges:**

[Insert text if applicable. If not applicable, type N/A.]

**Penalties and modified penalties:**

[Insert text if applicable. If none, type Nil and delete the table.]

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| TYPE OF PENALTY | DATE LAST UPDATEDINCREASE/DECREASE | OLD | NEW | INCREASE/DECREASE **(%)** |
|  |  |  |  |  |
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**Reason for new penalties or any increase in penalties or modified penalties:**

[Insert text if applicable. If not applicable, type N/A.]

**10. STATUTORY PROCEDURES CHECKLIST**

The completed and signed Statutory Procedures Checklist is attached.

**11. DISCLAIMER**

The Explanatory Memorandum is produced only as an aid to understanding the abovementioned local law and must not be substituted for the local law or gazetted or made available to the public in any manner or circumstance.

**12. CONTACT PERSON**

The local government’s authorised officer for any enquiries about the local law is –

Full Name: [Insert text]

Position Title: [Insert text]

E-mail address: [Insert text]

Telephone No.: (08) [Insert text]

Facsimile No.: (08) [Insert text]

Mobile No. (if applicable): [Insert text]

**13.**

Signature:

PRINTED NAME: [INSERT IN BLOCK TEXT] [INSERT IN BLOCK TEXT]

Public Office: [Mayor / President] Chief Executive Officer

Administering Authority: [Insert text]

**STATUTORY PROCEDURES CHECKLIST**

**Procedures for making a valid Local Law:**

In accordance with *Local Government Act 1995* and *Ministerial Directions*

Please tick ✓ the 2nd column, where applicable, to indicate the procedural steps completed. Insert ‘N/A’ if the step is not applicable.

Only Box A is to be checked, not Box C, when the CEO of DEC has directed a local government.

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| **A. *Waste Avoidance and Resource Recovery Act 2007* and *Local Government Act 1995*** | | |
| 61(1)(b)  3.12(2)  3.12(5)  3.12(6)  3.12(7)  3.12(8) |  | Under s. 61(1)(b) of the **WARR Act** the CEO of DEC directed a local government to adopt or amend or repeal a waste-related local law–  **CEO of DEC’s letter of direction: [Insert date of letter]**  Presiding person gave notice to the meeting of the **purpose** and **effect** of the proposed local law in the prescribed manner:  (a) in the agenda of that meeting; and  (b) in the minutes of that meeting.  **Date of Council meeting: [Insert meeting date and item number]**  Published the adopted local law in the *Government Gazette.*  **Date of Gazette: [Insert date] No. [Insert number]**  and  Sent copy of adopted/gazetted local law to the Ministers:  **Sent to Minister for Local Government: [Insert date of letter]**  **Sent to Minister for Environment: [Insert date of letter]**  Local public notice: (refer s.1.7 under the LG Act)  Published in newspaper circulating generally throughout the State.  **Name of newspaper: [Insert text]**  **Date of publication: [Insert date] Page No.: [Insert number]**  *(copy of newspaper notice attached)*  **Appeared on Notice Boards (local government offices and every library):**  **From: [Insert date] To: [Insert date]**  Sent EM material to the Joint Standing Committee on Delegated Legislation.  **Hard copies sent to JSCDL: [Insert date of letter]**  **And either:**   * **Electronic copies sent by e-mail to JSCDL: [Insert date of e-mail]**   **or**   * **Copies on CD included with hard copies to JSCDL: [YES / NO]**   If applicable:  This local law is **an amendment local law** which amends the text of the principal local law.  or  This local law is **a repeal local law**. |

Procedure in Box B must be completed before the commencement of 3.12 procedures of the LG Act.

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| **B. *Local Government Act 1995***  **Section 3.6 Places outside the district (eg: shoreline on public beach)** | | |
| 3.6(1) |  | Governor’s approval was first obtained for a local government to make a local law that **applies** outside its district.  **Local government’s request for approval: [Insert date and Ref No.]**  **Notice in *Government Gazette* of Governor’s approval:**  **Date of Gazette: [Insert date] No. [Insert] Page No.: [Insert number]** |

| **C. *Local Government Act 1995***  *Section 3.12 Procedure for making local laws* | | |
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| 3.12(2) |  | Presiding person gave notice to the meeting of the **purpose** and **effect** of the proposed local law in the prescribed manner[[1]](#footnote-1):  (a) in the agenda of that meeting; and  (b) in the minutes of that meeting.  **Date of Council meeting: [Insert meeting date and item number]**  *(copy of Council minutes attached)* |
| 3.12(3)(a) |  | Local public notice: (refer s.1.7 under this Act)  Published in a newspaper circulating generally throughout the district, and exhibited on a notice board of the local government’s offices and every library in the district.  **Name of newspaper: [Insert text]**  **Date of publication: [Insert date] Page No.: [Insert number]**  *(If a different newspaper, copy of actual newspaper notice attached)*  **Appeared on Notice Boards (local government offices and every library):**  **From: [Insert date] To: [Insert date]** |
| 3.12(3)(b) |  | Immediately after local public notice is published: Sent copy of   * the proposed local law (in gazette-ready format) **and** * a copy of the localpublic notice,   to the Minister for Local Government[[2]](#footnote-2).  **Sent to Minister for Local Government: [Insert date of letter]**  and, where applicable, same copies sent to another Minister:   * Minister for Commerce[[3]](#footnote-3), administering the *Dividing Fences Act 1961* (forfencing local law)   or   * Minister for Emergency Services, administering the *Bush Fires Act 1954* (forbush fire brigade or fire-break local law)   or   * Minister for Environment, administering the *Waste Avoidance and Resource* *Recovery Act 2007* (forwaste local law)   or   * Minister for Health, administering the *Health Act 1911* (forhealth local law and cremation-related cemetery local law)   or   * Minister for Agriculture and Food, administering the *Agriculture and Related Resources Protection Act 1976* (forpest plant local law)   or   * Minister for **[Insert text]**, administering the ***[Insert Act]***, (for**[Insert text]** local law)   **Sent to other Minister for [Insert text]: [Insert date of letter]** |

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| **C. *Local Government Act 1995***  *Section 3.12 Procedure for making local laws (continued)* | | |
| 3.12(4)  3.12(4) |  | **Relevant to: WARR Act and Health Act - procedures prior to adoption:**  After last day for submissions, consideration at Council meeting of –   * submissions received   and   * whether to make the local law as proposed (by absolute majority)   or   * whether to make a local law that was not significantly different from what was proposed (by absolute majority).   **Council meeting date: [Insert meeting date & item number]**  *(copy of Council minutes attached)*  **and**   * **gave copy of final version of proposed local law for consent under** –   **WARR Act: Consent of CEO of DEC: [Insert date]**  **Health Act: Consent of Exec. Director of Public Health: [Insert date]**  *(Consent is required prior to local government’s actual adoption.)*  **LG Act - final procedure for actual adoption:**  After close of public consultation period of **minimum[[4]](#footnote-4)** 6 weeks, considered any submissions made about the proposed local law –  and adopted the local law as proposed (by absolute majority)  or adopted a local law that was considered not significantly different from what was proposed (by absolute majority).  **Council meeting date: [Insert meeting date & item number]**  *(copy of Council minutes attached)* |
| 3.12(5) |  | Published the adopted local law in the *Government Gazette.*  **Date of Gazette: [Insert date] No. [Insert number]**  After the adopted local law was published in the *Government Gazette*, sent a signed and sealed copy of the adopted local law to the Minister for Local Government.  **Sent to Minister for Local Government: [Insert date of letter]**  and where local law was made under legislation other than the *Local Government Act 1995*, sent to the relevant Minister:   * Minister for Commerce, administering the *Dividing Fences Act 1961* (forfencing local law)   or   * Minister for Emergency Services, administering the *Bush Fires Act 1954* (forbush fire brigade and fire-break local law)   or   * Minister for Environment, administering the *Waste Avoidance and Resource* *Recovery Act 2007* (forwaste local law)   or   * Minister for Health, administering the *Health Act 1911* (forhealth local law and cremation-related cemetery local law)   or   * Minister for Agriculture and Food, administering the *Agriculture and Related Resources Protection Act 1976* (forpest plant local law)   or   * Minister for **[Insert text]**, administering the ***[Insert Act]***, (for**[Insert text]** local law)   **Sent to other Minister for [Insert text]: [Insert date of letter]** |

Cont/...

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| **C. *Local Government Act 1995***  *Section 3.12 Procedure for making local laws (continued)* | | |
| 3.12(6) |  | After the local law was published in the Gazette and after a signed and sealed copy of the local law was given to the Minister(s): gave local public notice of gazettal (refer s.1.7 of this Act)  Published in a newspaper circulating generally throughout the District, and exhibited on a notice board of the local government’s offices and every library in the district.  **Name of newspaper: [Insert text]**  **Date of publication: [Insert date] Page No.: [Insert number]**  *(copy of Newspaper notice attached)*  **Appeared on Notice Boards (local government offices and every library):**  **From: [Insert date] To: [Insert date]** |
| 3.12(7) |  | Within 10 working days of the Gazettal date: supplied copies of the local law, Explanatory Memorandum, Statutory Procedures Checklist and other supporting material in accordance with Ministerial Directions, to the WA Parliament’s Joint Standing Committee on Delegated Legislation (JSCDL):  **Hard copies sent to JSCDL: [Insert date of letter]**  **And either:**   * **Electronic copies sent by e-mail to JSCDL: [Insert date of e-mail]**   **or**   * **Copies on CD included with hard copies to JSCDL:** **[YES / NO]** |
| 3.12(8) |  | This local law is **an amendment local law** which amends the text of the principal local law.  or  This local law is **a repeal local law**. |

Signature:

PRINTED NAME: [INSERT IN BLOCK TEXT] [INSERT IN BLOCK TEXT]

Public Office: [Mayor / President] Chief Executive Officer

Administering Authority: [Insert text]

1. Refer to regulation 3 in the *Local Government (Functions and General) Regulations 1996*. [↑](#footnote-ref-1)
2. The Minister for Local Government administers the *Cemeteries Act 1986* (for cemetery local laws), the *Dog Act 1976* (for doglocal laws) and the *Local Government Act 1995* (for standing orders, local government property, public places, public parking, activities on thoroughfareslocal laws, etc). [↑](#footnote-ref-2)
3. The Minister for Commerce also administers the *Local Government (Miscellaneous Provisions) Act 1960* (Parts VIII, IX & XV only) but no local laws are required these Parts. [↑](#footnote-ref-3)
4. The local government cannot adopt the local law before the public consultation period (minimum 6 weeks) has closed. Section 61(f) of the *Interpretation Act 1984* determines the method for calculating the consultation period. Guidance is provided in the *Local Government Operational Guidelines No. 16 on Local Laws,* downloadable from the Department of Local Government’s website*:* [www.dlg.wa.gov.au](http://www.dlg.wa.gov.au). [↑](#footnote-ref-4)