

**SHIRE OF GINGIN LOCAL GOVERNMENT PROPERTY LOCAL LAW 2018**  
**UNDERTAKING TO JOINT STANDING COMMITTEE ON DELEGATES**  
**LEGISLATION**

At the Ordinary Council meeting on 19 March 2019, the Council of the Shire of Gingin resolved to give the following undertaking to the Joint Standing Committee on Delegated Legislation:

1. When the Shire of Gingin Local Government Property Amendment Local Law 2018 is next amended or reviewed, amend the Local Law to:
  - a. Amend clauses 5(c), 5(d) and 21(e); and
  - b. Make all necessary consequential amendments.
2. The Local Law will not be enforced in a manner contrary to the undertaking given;
3. The Shire will provide a copy of the Minutes of the meeting at which Council resolved to provide the undertaking; and
4. Where the Local Law is made publicly available, whether in hard copy or electronic form, it will be accompanied by a copy of these undertakings.

AARON COOK  
CHIEF EXECUTIVE OFFICER

## **Local Government Act 1995**

### **Shire of Gingin**

#### **Local Government Property Amendment Local Law 2018**

Under the powers conferred on it by the *Local Government Act 1995* and all other relevant powers enabling it, the Council of the Shire of Gingin resolved on 20 November 2018 to make this local law.

#### **1. Title**

This local law may be cited as the *Shire of Gingin Local Government Property Amendment Local Law 2018*.

#### **2. Commencement**

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

#### **3. Principal Local Law**

This local law amends the *Shire of Gingin Local Government Property Local Law 2004* as published in the *Government Gazette* on 13 September 2004 and as amended in the *Government Gazette* on 10 October 2006.

#### **4. Clause 1.2 amended**

In Clause 1.2 -

- (a) In the definition for “**Authorized Person**” delete “authorized” and insert “authorised” wherever it appears in the definition.
- (b) Insert new definitions in alphabetical order as follows:

“**Code**” means the Code of Practice for the Design, Operation, Management and Maintenance of Aquatic Facilities as published by the Chief Health Officer, pursuant to the provisions of section 344A(2) of the *Health (Miscellaneous Provisions) Act 1911*;

“**Health Act**” means the *Health (Miscellaneous Provisions) Act 1911*;

“**local public notice**” has the same meaning as in section 1.7 of the Act;

“**nuisance**” means –

- (a) any thing, condition, circumstance or state of affairs which is injurious or dangerous to the health of a reasonable person, or which has a disturbing effect on the state of reasonable physical, mental or social wellbeing of a person;
- (b) anything a person does or permits or causes to be done which interferes with or is likely to interfere with the enjoyment or safe use by another person of any public place; and

- (c) anything a person does on public or private land which detracts from or interferes with the enjoyment or value of lands owned by another person; and

“**waste**” includes matter –

- (a) whether liquid, solid, gaseous or radioactive and whether useful or useless, which is discharged into the environment; or
- (b) prescribed by regulations under the *Waste Avoidance and Resource Recovery Act 2007* to be waste.;
- (c) Amend the definition for “**liquor**” by deleting “*Licensing*” and substituting “*Control*”; and
- (d) Amend the definition for “**trading**” in paragraph (d) by deleting “and”.

## 5. **Clause 2.8 amended**

In Clause 2.8 -

- (a) After the clause title insert clause 2.8(1A) as follows -

(1A) In this clause –

“**premises**” means a building, stadium or similar structure which is local government property, but not an open space such as a park or a playing field.

- (b) Delete clause 2.8(3);
- (c) In clause 2.8(2)(g), delete “and”;
- (d) In clause 2.8(2)(h), delete the full stop and insert “; and”; and
- (e) After clause 2.8(2)(h) insert the following -
  - (i) bring, ride or drive an animal.

## 6. **Clause 3.2 amended**

In clause 3.2(5) insert “or where the requirements of subclauses (3) or (4) have not been satisfied” at the end of the clause.

## 7. **Clause 3.4 amended**

In clause 3.4 -

- (a) In clause 3.4(2), insert “the generality of” between “limiting” and “clause”; and
- (b) In clause 3.4(2)(h), delete “*Licensing*” and insert “*Control*”.

## 8. **Clause 3.9 amended**

In clause 3.9(2) delete “mutatis mutandis” and insert “with appropriate modification”.

**9. Clause 3.11 amended**

In clause 3.11 delete “authorized” and insert “authorised” wherever it appears in the clause.

**10. Clause 3.13 amended**

In clause 3.13 -

- (a) In clause 3.13(1)(o), delete “or” at the end of the clause;
- (b) In clause 3.13(1)(p), delete the full stop and insert a semi colon; and
- (c) After clause 3.13(1)(p) insert the following -
  - (q) deposit or store anything on local government property; or
  - (r) erect, install, operate or use any broadcasting, public address system, loudspeaker or other device for the amplification of sound on local government property.

**11. Clause 3.15 amended**

In clause 3.15(1)(a) delete “*Licensing*” and insert “*Control*”.

**12. Clause 3.16 amended**

In clause 3.16 -

- (a) In clause 3.16(a), delete “authorized” and insert “authorised”; and
- (b) In clause 3.16(d), delete “*Licensing*” and insert “*Control*”.

**13. Clause 4.1 amended**

In clause 4.1 -

- (a) In clause 4.1(a), delete “or”.
- (b) In clause 4.1(b), delete the full stop and insert “; or”.
- (c) After clause 4.1(b) insert the following:
  - (c) creating a nuisance.

**14. Clause 4.2 amended**

In clause 4.2 -

- (a) Renumber clause 4.2(1) and 4.2(2) as 4.2(2) and 4.2(1), respectively; and

(b) In subclause 4.2(1), delete “subclause (1)” and insert “this clause”.

**15. Clause 4.3 amended**

In clause 4.3 -

(a) Renumber clause 4.3(1) and 4.3(2) as 4.3(2) and 4.3(1), respectively; and

(b) In subclause 4.3(2), delete “authorized” and substitute “authorised”.

**16. Clause 5.1 amended**

In clause 5.1 -

(a) After the clause title, redesignate the remaining clause text as subclause (1);

(b) In clause 5.1(1) -

(i) Delete “authorized” and insert “authorised”; and

(ii) Delete “, may direct to leave or shall remove or cause to be removed from”;

(c) In clause 5.1(1)(a)(i) -

(i) delete “under the age of 6 years” and substitute “minimum age as specified in the Code”; and

(ii) delete “of 14 years” and substitute “as specified in the Code”;

(d) After clause 5.1(1)(a)(i) insert the following -

(iia) under the minimum age as specified in the Code and who is accompanied by a responsible person over the age as specified in the Code where the responsible person is incapable of, or not providing, adequate supervision of, or care, for that person;

and

(e) After clause 5.1(1) insert the following:

(2) If a person referred to in subclause 5.1(1)(a) or subclause 5.1(1)(b) is in a pool area, a Manager or an authorised person must –

(a) direct the person to leave; and

(b) if the person refuses or fails to leave, remove the person or arrange for the person to be removed, from the pool area.

**17. Clause 5.3 amended**

In clause 5.3(2) delete “authorized” and insert “authorised”.

**18. Clause 5.4 amended**

In clause 5.4 -

- (a) In clause 5.4(2), delete “authorized” and insert “authorised”; and
- (b) In clause 5.4(4), delete “authorized” and insert “authorised”.

**19. Clause 5.5 amended**

In clause 5.5 –

- (a) In clause 5.5(b), delete “and”;
- (b) In clause 5.5(c), delete the comma and insert “; and”; and
- (c) After clause 5.5(c) insert the following -
  - (d) not interfere with, obscure, obstruct or hang any item of clothing or towel on a flag, sign, notice or item of life saving equipment,

**20. Clause 5.6 amended**

In clause 5.6 delete “authorized” and insert “authorised”.

**21. Clause 5.7 amended**

In clause 5.7 –

- (a) Renumber clause 5.7 as clause 5.7(1);
  - (b) In clause 5.7(1)(a), delete “or”;
  - (c) In clause 5.7(1)(b), delete the full stop and substitute “; or”;
  - (d) After clause 5.7(1)(b) insert the following -
    - (c) families, then, when the toilet block or change room is being used by a family, only an immediate member of that family may use that entry of the toilet block or change room.
- and
- (e) After clause 5.7(1) insert the following -
    - (2) Clause 5.7.1(a) and clause 5.7.1(b) do not apply to a child when accompanied by a parent, guardian or caregiver, where the child is –
      - (a) under the age of eight years; or

- (b) otherwise permitted by an authorised person to use the relevant entry.

**22. Clause 5.8 amended**

In clause 5.8(1)(d) delete “authorized” and insert “authorised”.

**23. Clause 6.1 amended**

In clause 6.1 delete “authorized” and insert “authorised” wherever it appears throughout the clause.

**24. Clause 7.5 amended**

In clause 7.5(d) insert “the” between “paid” and “fee”.

**25. Clause 7.6 amended**

In clause 7.6 delete “authorized” and insert “authorised” wherever it appears throughout the clause.

**26. Clause 7.11 amended**

In clause 7.11 delete “authorized” and insert “authorised” wherever it appears throughout the clause.

**27. Clause 8.1 amended**

In clause 8.1–

(a) Delete the clause title and substitute “Objections and Appeals”.

(b) In the final sentence of the clause:

(i) delete “regulations” and substitute “regulation”; and

(ii) delete “and 34”.

**28. Clause 9.1 amended**

In clause 9.1 delete “authorized” and insert “authorised” wherever it appears throughout the clause.

**29. Clause 9.2 amended**

In clause 9.2 –

(a) Delete “authorized” and substitute “authorised”; and

(b) Insert “, or temporarily suspend a person from,” between “leave” and “local”.

### 30. Clause 9.4 amended

After the clause heading insert the following -

(1A) In this clause –

“costs” of the local government includes its administrative costs.

### 31. Clause 10.4 amended

In clause 10.4(3) delete “authorized” and insert “authorised”.

### 32. Schedule 1 amended

Delete Schedule 1 and insert the following -

#### SCHEDULE 1

#### PRESCRIBED OFFENCES

CLAUSE	DESCRIPTION	MODIFIED PENALTY (\$)
2.4	Failure to comply with determination	125
3.6	Failure to comply with conditions of permit	125
3.13(1)	Failure to obtain a permit	125
3.14(3)	Failure to obtain permit to camp outside a facility	125
3.15(1)	Failure to obtain permit for liquor	125
3.16	Failure of permit holder to comply with responsibilities	125
4.2(1)	Behaviour detrimental to property	125
4.4	Under influence of liquor or prohibited drug	125
4.6(2)	Failure to comply with sign on local government property	125
5.2	Consuming food or drink in prohibited area	125
5.5	Failure to comply with sign or direction on beach	125
5.6	Unauthorised entry to fenced or closed local government property	125
5.7	Gender not specified using entry of toilet block or change room	125
5.8(1)	Unauthorised presence of animal on aerodrome	350
5.8(2)	Animal wandering at large on aerodrome – person in charge	350
5.8(3)	Animal wandering at large on aerodrome – owner	350
6.1(1)	Unauthorised entry to function on local government property	125
7.3	Unauthorised use of any part of jetty which is closed or under repair or construction	125
7.4	Mooring of boats in unauthorised manner	125
7.5	Unauthorised mooring of a boat to jetty	125
7.6	Failure to remove moored boat on direction of authorised person	125
7.7	Launching of boat from jetty without consent	125



7.8	Mooring when not ready to load or discharge cargo, at times not permitted or for longer than permitted	125
7.9	Unlawful storing of goods on jetty	125
7.10	Removing goods from jetty during other than permitted hours	125
7.11	Failure to remove cargo on jetty on direction of authorised person	125
7.12	Unauthorised deposit of bulk cargo on jetty	125
7.14	Fishing from jetty or bridge so as to obstruct a boat or another person	125
10.1	Failure to comply with notice	250

Dated this ..... day of ..... 20.....

The Common Seal of the Shire of Gingin )  
was affixed by authority )  
of a resolution of the Council in the )  
presence of: )

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I B COLLARD  
Shire President

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A COOK  
Chief Executive Officer