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LOCAL GOVERNMENT ACT 1995

TOWN OF BASSENDEAN

BEE KEEPING LOCAL LAW 2018

DUST AND BUILDING WASTE LOCAL LAW 2018

TOWN OF BASSENDEAN REPEAL LOCAL LAW 2018

LOCAL GOVERNMENT ACT 1995

TOWN OF BASSENDEAN

BEE KEEPING LOCAL LAW 2018

Under the powers conferred by the *Local Government Act 1995* and under all other enabling powers, the Council of the Town of Bassendean resolved on 23 October 2018 to make the following local law.

PART 1—PRELIMINARY

1.1 Title

This is the Town of Bassendean Bee Keeping Local Law 2018.

1.2 Commencement

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

1.3 Repeal

The Town of Bassendean Bee Keeping Local Law as published in the *Government Gazette* of 16 August 2001 is repealed.

1.4 Application

This local law applies throughout the district.

1.5 Terms used

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

Act means the Local Government Act 1995;

authorised person means a person authorised by the local government under section 9.10 of the Act to carry out functions with respect to this local law;

- bee means a bee of the species Apis mellifera;
- *bee hive* means a movable or fixed structure, container or object which contains a bees nest containing an independent colony of bees and in which bees are kept;
- **beekeeper** has the meaning given in regulation 3 of the *Biosecurity and Agriculture Management* Regulations 2013;

Crown land has the meaning given in section 3(1) of the Land Administration Act 1997;

district means the district of the local government;

local government means the Town of Bassendean;

nuisance means—

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

permit means a permit issued under this local law;

permit holder means a person who holds a valid permit;

- **registered beekeeper** means a person who is registered as a beekeeper under regulation 13(7) of the Biosecurity and Agriculture Management (Identification and Movement of Stock and Apiaries) Regulations 2013;
- **Regulations** means the Biosecurity and Agriculture Management (Identification and Movement of Stock and Apiaries) Regulations 2013; and

Schedule means a schedule to this local law.

(2) A term that is used in this local law and is not defined in subclause (1) has the same meaning as is given in the Act.

PART 2—PERMIT TO KEEP BEES

2.1 Permit required to keep bees

(1) Subject to this clause, a person must not keep bees or allow bees to be kept on land—

- (a) unless that person is a registered beekeeper if required by the Regulations; and
- (b) in accordance with a valid permit issued in relation to the land.
- (2) Subclause (1) does not apply where an occupier of land keeps bees on the land—
 - (a) for a continuous period not exceeding 8 weeks in a 12 month period; and
 - (b) for the purpose of pollinating a crop on the land.

(3) An occupier referred to in subclause (2), in keeping bees under that subclause, shall provide a good and sufficient water supply on the land that is readily accessible by the bees.

(4) Subclause (1) does not apply where a person keeps bees on Crown land.

(5) In relation to all land—

- (a) no more than 2 bee hives may be kept on land of less than 2,000 m² in area;
- (b) no more than 5 bee hives may be kept on land of between 2,000 m² and 20,000m² in area;
- (c) before establishing any bee hives on the land, the occupier of the land must notify, in writing, the occupier of each property adjoining the land that the bee hives are to be kept;
- (d) a good and sufficient supply of water must be provided in a way that is readily accessible to any bees kept on that land; and
- (e) bees from the bee hives must not become a nuisance.

2.2 Application for a permit

An applicant for a permit must—

- (a) be a registered beekeeper if required by the Regulations;
- (b) provide the information (including any comments from neighbours) that may be required by the local government;
- (c) apply in the form determined by the local government; and
- (d) pay any application fee imposed by the local government under sections 6.16 to 6.19 of the Act.

2.3 Determination of application

(1) The local government may—

- (a) refuse to determine an application that does not comply with clause 2.2;
- (b) approve an application subject to any conditions that it considers appropriate; or
- (c) refuse to approve an application.

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

(3) A permit is valid from the date of issue until it is cancelled under this local law.

(4) A permit holder must comply with the permit conditions.

2.4 Variation or cancellation

(1) The local government may vary a permit condition by giving written notice to the permit holder and the varied condition takes effect 7 days after that notice is given.

(2) The local government may cancel a permit if—

- (a) the permit holder requests the local government to do so; or
- (b) the permit holder fails to comply with a notice under clause 3.1 within the time specified in the notice or commits any other offence under this local law.

(3) A permit is taken to be cancelled on—

- (a) the permit holder ceasing to be registered as a beekeeper; or
- (b) the expiration of a continuous period of 12 months during which the permit holder has not kept any bees on the land to which the permit relates.

2.5 Information to be provided by a permit holder

(1) In this clause a 'permit holder' includes the holder of a permit cancelled under clause 2.4(3).

(2) A permit holder must notify the local government in writing as soon as practicable after—

- (a) the permit holder ceases to be a registered beekeeper; or
- (b) a continuous period of 12 months passes during which the permit holder has not kept any bees on the land to which the permit relates.

(3) A permit holder must, within 7 days of an authorised person giving the permit holder a written notice to do so, provide to the local government either or both of—

- (a) written proof of the permit holder's registration as a beekeeper under regulation 13(7) of the Biosecurity and Agriculture Management (Identification and Movement Stock and Apiaries) Regulations 2013; and
- (b) a signed statement as to whether the permit holder has, within the 12 months preceding the date of the notice, kept bees on the land to which the permit relates and which is identified in the notice.

2.6 Permit not transferable

A permit—

- (a) is personal to the permit holder;
- (b) applies only to the land described in the permit; and
- (c) is not transferable.

2.7 Nuisance

A person must not keep or allow to be kept bees or bee hives, or both, on land so as to create a nuisance.

2.8 Objections and review rights

Division 1 of Part 9 of the Act applies to a decision under this local law-

- (a) to refuse an application for a permit;
- (b) to impose or vary a condition of a permit;
- (c) to cancel a permit; or
- (d) to give a person a notice under clause 3.1.

PART 3—ENFORCEMENT

3.1 Notice to remove

(1) If, in the opinion of an authorised person, the bees on any land (whether or not the subject of a permit) are likely to endanger the safety of any person or create a serious public nuisance, the authorised person may give to the owner or occupier of that land a written notice requiring the owner or occupier as the case may be to remove the bees before the date specified in the notice.

(2) If, in the opinion of an authorised person, a person has breached a provision of this local law, the authorised person may give to that person a written notice requiring him or her to remedy that breach before the date specified in the notice.

3.2 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 that person is prohibited from doing commits an offence.

(2) A person who commits an offence under this local law is liable to a penalty of \$5,000 and where the offence is of a continuing nature, to a daily penalty of \$500 in respect of each day or part of a day during which the offence has continued.

3.3 Prescribed offences

(1) An offence against a clause specified in the Schedule 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 the Schedule.

3.4 Forms

(1) The form of the infringement notice referred to in section 9.17 of the Act is Form 2 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

(2) The form of the infringement withdrawal notice referred to in section 9.20 of the Act is Form 3 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

SCHEDULE—PRESCRIBED OFFENCES AND MODIFIED PENALTIES

[Clause 3.3]

Item No.	Clause No.	Nature of Offence	Modified Penalty \$
1	2.1(1)(b)	Failure to obtain permit to keep bees	100
2	2.1(3)	Failure to comply with obligation when temporarily keeping bees	100
3	2.3(4)	Failure to comply with a condition of a permit to keep bees	100
4	2.7	Creation of nuisance from keeping of bees or bee hives	100
5	3.1	Failure to comply with notice of local government	100

Dated this 18th day of January 2019.

The Common Seal of the Town of Bassendean was affixed to this document by resolution of the Council in the presence of—

LOCAL GOVERNMENT ACT 1995

TOWN OF BASSENDEAN

DUST AND BUILDING WASTE LOCAL LAW 2018

PART 1-PRELIMINARY

- 1.1 Citation
- 1.2 Commencement
- 1.2 Application
- 1.4 Interpretation

PART 2-GENERAL CONTROL MEASURES

- 2.1 Dust, sand and sand drift control measures
- 2.2 Building waste control measures
- 2.3 Escape of loads being transported

PART 3-DUST MANAGEMENT PLANS

- 3.1 Dust generating development
- 3.2 Requirement for a dust management plan
- 3.3 Content of dust management plan
- 3.4 Assessing a dust management plan
- 3.5 Other situations where a dust management plan required

PART 4-NOTICES

- 4.1 Notice to comply
- 4.2 Notice to cease activity4.3 Notice to prevent possible breach
- 4.4 Withdrawing a notice

PART 5-OFFENCES AND PENALTIES

- 5.1 Offences
- 5.2 Prescribed offences
- 5.3 Prescribed notices
- 5.4 Penalties

SCHEDULE 1-PRESCRIBED OFFENCES

TOWN OF BASSENDEAN

DUST AND BUILDING WASTE LOCAL LAW 2018

Under the powers conferred by the *Local Government Act 1995*, and all other powers enabling it, the Council of the Town of Bassendean resolved on 24 April 2018 to make this local law.

PART 1-PRELIMINARY

1.1 Citation

This local law may be cited as the Town of Bassendean Dust and Building Waste Local Law 2018.

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

This local law applies throughout the district.

1.4 Interpretation

In this local law, unless the contrary intention appears-

Act means the Local Government Act 1995;

- *authorised person* means a person authorised by the *local government* under section 9.10 of the Act to perform any of the functions of the *local government* under this local law;
- *building site* means a site on which building works or construction works are being, or are proposed to be, undertaken;
- *building waste* means builders rubble, demolition waste and other waste, from or in connection with a building site;
- *building works* means building works in respect of which a building permit or demolition permit is required under the *Building Act 2011*;
- **CEO** means Chief Executive Officer of the local government;

development means the development or use of any land, including-

- (a) any demolition, erection, construction, alteration of or addition to any building or structure on the land; and
- (b) the carrying out on the land of any excavation or other works;
- *district* means the district of the Town and includes any area placed under the jurisdiction of the Local government under any written law;
- *dust* means any visible granular or particulate material which has or has the potential to become airborne and includes organic matter and sand, but does not include smoke;

dust generating development means a development referred to in clause 3.1 of this local law;

dust management plan means a plan referred to in Part 3 of this local law;

- *equipment* means equipment, machinery or vehicles used for or in connection with the development of land;
- *extractive industry* means an industry which involves the activity of extraction of sand, gravel, clay, soil, rock, stone or similar substance from land, and includes—
 - (a) the management of products from any of those materials when the manufacture is carried out on the land from which any of the materials so used is extracted or on land adjacent to that land; and
 - (b) the storage of such materials or products;
- *land* includes any land, premises, building or other structure on the land;

local government means the Town of Bassendean;

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 or to perform any work in relation to any land and includes a builder or contractor;

owner has the same meaning given to it in the Act;

person in charge means the person on or near a site who appears to the local government to be the person apparently in charge of a dust generating development on the site;

Regulations mean the Local Government (Functions and General) Regulations 1996;

- *sand* means any granular or particulate material consisting of rocks finer than gravel, and includes dust and organic matter;
- *sand drift* means the movement of sand, sediment and similar materials across, within or along a surface;
- *street* means a thoroughfare which the public is entitled to use, and includes every part of the thoroughfare, including the verge and other things including bridges and culverts appurtenant to it; and
- waste has the meaning given to it in section 3(1) of the Waste Avoidance and Resource Recovery Act 2007.

Where, under this local law, a duty or liability is imposed on an owner, the duty or liability, as the case may be, is deemed to be imposed jointly and severally on each of the owner and occupier.

Where, under this local law, an act is required to be done in relation to any land, the owner and occupier of the land must each cause that act to be done.

Where, under this local law, an act is forbidden to be done in relation to any land, the owner and occupier of the land must each prevent that act from being done.

Where this local law refers to the giving of notice, this is to be given as set out in sections 9.50, 9.52 and 9.53 of the Act and in the form determined by the local government from time to time.

PART 2-GENERAL CONTROL MEASURES

2.1 Dust, sand and sand drift control measures

An owner or occupier of land must take effective measures to-

- (a) stabilise dust and sand on the land;
- (b) ensure that no dust, sand or sand drift is released or escapes from the land whether by means of wind, water or any other cause; and
- (c) notify the owners or occupiers of adjoining land in writing 48 hours prior to the commencement of any activity that has the potential to cause the release or escape of dust or sand from the land giving details of—
 - (i) the nature of the activity;
 - (ii) the proposed time and location of the activity; and
 - (iii) the name of the person responsible for carrying out the activity and how and where that person may be contacted.

2.2 Building waste control measures

(1) A person must not commence or continue, or permit the commencement or continuation of building works on a building site unless—

- (a) an *Approved Receptacle* is provided and maintained on the building site;
- (b) all building waste is placed, and kept securely, in the *Approved Receptacle*;
- (c) the lid of the *Approved Receptacle* is kept securely in place at all times except when building waste is being placed in, or removed from, the *Approved Receptacle*; and

(d) the Approved Receptacle is maintained in an effective and operable condition.

(2) In this clause—

Approved Receptacle means-

- (a) a receptacle with a capacity of at least 4 cubic metres with a lid;
- (b) a wire enclosure with a capacity of at least 4 cubic metres with a lid; or
- (c) any other receptacle or container, with a lid, that is approved by the local government or an authorised person.

2.3 Escape of loads being transported

(1) A person must not drive a vehicle carrying a load from a dust or sand generating development, or a building site, unless effective measures have been taken to ensure that the load, or any part of it, cannot escape from the vehicle.

- (2) In this clause—
 - (a) **load** includes any material or other thing used in connection with the load; and **vehicle** has the meaning given to it in the *Road Traffic Code 2000*.

PART 3-DUST MANAGEMENT PLANS

3.1 Dust generating development

- (1) A dust generating development is a development that—
 - (a) has been authorised, or requires authorisation, under an application for subdivision approval for land exceeding an area of 5,000 square metres;

- (b) is an extractive industry; or
- (c) is determined by the local government, under this clause, to be a dust generating development.
- (2) The local government may determine that a development which—
 - (a) is proposed to be carried out, or is being carried out; and
 - (b) involves or may involve a significant risk of the release or escape of dust or sand affecting adjoining land, is a dust generating development.

(3) Examples of proposed developments for the purpose of subclause (2) are those that are the subject of—

- (a) an application for subdivision approval for land having an area of 5,000 square metres or less;
- (b) an application for development approval under a town planning scheme of the local government; or
- (c) an application for a building permit or a demolition permit.

(4) Written notice of a determination made under subclause (2) is to be given, in whatever form the local government considers to be appropriate, to—

- (a) the owner or occupier of the land on which the dust generating development is to be carried out or is being carried out;
- (b) a contractor or developer carrying out the dust generating development;
- (c) an applicant for approval for, or in relation to, the dust generating development; or
- (d) the person in charge.

3.2 Requirement for a dust management plan

A person must not commence or carry out a dust generating development unless-

- (a) a dust management plan, in a form approved by the local government, has been lodged with the local government;
- (b) the local government has approved the dust management plan; and
- (c) the person complies with any condition to which the approval is subject.

3.3 Content of dust management plan

A dust management plan must—

- (a) specify the nature and extent of the development;
- (b) identify the dust and sand exposure risks associated with that development;
- (c) specify the measures that are proposed to be taken to address the risks;
- (d) specify targets for maximum atmospheric concentrations of dust;
- (e) specify the measures to be taken for the monitoring of dust including, where appropriate, professionally monitored dust measuring devices to be stationed at the dust generating development site;
- (f) be signed by the owner of the land which is the subject of the dust generating development; and
- (g) be given to the local government and accompanied by whatever plans, documents or other information as the local government may reasonably require.

3.4 Assessing a dust management plan

(1) The local government may—

- (a) refuse to consider a dust management plan that does not comply, or in its opinion does not adequately comply, with the requirements of this Part; and
- (b) require the owner or occupier to provide further plans, documents or other information to enable it to properly assess the dust management plan.
- (2) In assessing a dust management plan, the local government may—
 - (a) consult with any person or body;
 - (b) have regard to any relevant publications from the Department of Water and Environmental Regulation or other relevant State Authority; and
 - (c) the local government may refuse to approve or may approve a dust management plan.
- (3) The local government may—
 - (a) impose whatever conditions it considers appropriate in granting approval; and
 - (b) limit the period during which the approval is to be valid.

3.5 Other situations where a dust management plan required

Where it appears to an authorised person that dust or sand is escaping, being released or being carried, or is likely to escape, be released or be carried, from any land, the authorised person may, by notice in writing, direct the owner or occupier, within a time specified in the notice, to submit to the local government for its approval a dust management plan.

PART 4-NOTICES

4.1 Notice to comply

(1) This clause applies where the local government is of the opinion that—

- (a) an owner or occupier has not complied with clause 2.1(a) or (b);
 - (b) dust or sand or building waste has been released or escaped from the owner's or occupier's land; or
 - (c) a person has not complied with a term or condition of an approved dust management plan.

(2) Where the local government is of the opinion referred to in subclause (1), it may give to the owner or occupier of the land, or the person who has not complied, a notice requiring the owner or occupier, or other person, to do one or more of the following—

- (a) comply with clause 2.1(a) or (b);
- (b) clean up and properly dispose of any released or escaped dust, sand or building waste;
- (c) comply with the terms and conditions of the approved dust management plan;
- (d) clean up and make good any damage resulting from the released or escaped dust, sand or building waste, including any damage to adjoining or other affected properties; and
- (e) take effective measures to stop any further release or escape of dust, sand or building waste from the land.
- (3) The requirements set out in a notice issued under subclause (2) must be complied with—
 - (a) immediately, if the notice so specifies;
 - (b) within such other period as is specified in the notice; or
 - (c) where no other time period is specified in the notice-
 - (i) within 24 hours of the notice being given to the owner; or
 - (ii) to the person who has not complied.

4.2 Notice to cease activity

(1) This clause applies where the local government is of the opinion that-----

- (a) dust, sand or building waste has escaped or has been released as the result of an activity undertaken on land or as a consequence of the use of equipment on land; or
- (b) as a result of the failure of a person to comply with a term or condition of an approved dust management plan, there is a risk that dust, sand or building waste may be released or may escape from the land.

(2) Where the local government is of the opinion referred to in subclause (1), it may give a notice to the owner or occupier of the land, the person responsible for complying with the approved dust management plan or the person in charge, as the case may be, requiring that, for the period specified in the notice—

- (a) the activity or use of the equipment on the land cease immediately; or
- (b) any development on the land under the dust generating development cease immediately.

4.3 Notice to prevent possible breach

Where the local government is of the opinion that dust or building 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 or occupier of the land, or the person in charge, a notice prohibiting the activity from being carried on except in accordance with the conditions that are specified in the notice.

4.4 Withdrawing a notice

(1) The local government may withdraw a notice that has been issued under this local law to the owner or occupier of any land, or any other person, if the owner, occupier or other person satisfies the local government, within 24 hours or within any other period that is specified in the notice from the date of giving of the notice, that—

- (a) he or she was not responsible for the conduct in respect of which the notice was given under clause 4.1, or the activity in respect of which a notice was given under clause 4.2, as the case may be;
- (b) he or she took all reasonable precautions to prevent the conduct or activity, as the case may be; and
- (c) where another person was responsible for the conduct or activity, he or she identifies the person responsible for the conduct or activity sufficiently to enable the notice to be issued to that person.

(2) Subclause (1) is not to apply where a notice is issued to which clause 4.1(2)(c) applies.

5.1 Offences

PART 5—OFFENCES AND PENALTIES

Any person who-

- (a) fails to comply with a notice issued under this local law;
- (b) fails to do anything required or directed to be done under this local law;
- (c) does anything which under this local law the person is prohibited from doing; or
- (d) contravenes any provision of this local law, commits an offence.

5.2 Prescribed offences

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

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

5.3 Prescribed notices

For the purposes of this local law-

- (a) 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
- (b) the form of the infringement withdrawal notice referred to in section 9.20 of the Act is that of Form 3 in Schedule 1 of the Regulations.

5.4 Penalties

A person who commits an offence under this local law is to be liable to-

- (a) a penalty not exceeding \$5,000 and not less than—
 - (i) in the case of a first such offence, \$500;
 - (ii) in the case of a second such offence, \$1,500; and
 - (iii) in the case of a third or subsequent offence, \$3,000, and
- (b) if the offence is of a continuing nature, an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

SCHEDULE 1—PRESCRIBED OFFENCES

[Clause 5.2] Item Clause Description Modified Penalty No. 1 \$500 2.1(a) Failure to take effective measures to stabilise dust and sand drift. 2 2.1(b) Failure to take effective measures to ensure no dust, or sand \$500 is released or escapes from the land. Failure to take effective measures to notify the owners or 3 21(c) \$500 occupiers of adjoining land as required. 4 Failure to provide an approved receptacle or enclosure or \$500 2.2(1)(a)approved container on a building site. 5 Failure to place in, and secure, all building waste in an \$500 2.2(1)(b)approved receptacle. Failure to keep secure lid of approved receptacle. 6 2.2(1)(c)\$500 Failure to maintain the approved receptacle in an effective 7 2.2(1) (d) \$500 and operable condition. Failure to take effective measures to prevent a load or any 8 2.3(1)\$500 part of it escaping from a vehicle during transportation. 9 3.2(1)(a)Commencing or carrying out a dust generating development \$500 without lodging an appropriate dust management plan. 10 3.2(1)(b)Commencing or carrying out a dust generating development \$500 without the approval of a dust management plan. 11 3.2(1)(c)Commencing or carrying out a dust generating development \$500 approval contrary to a condition of approval on the approved dust management plan. 124.1Failure to comply with a notice. \$500 13 4.2(2)Failure to comply with a notice to cease activity \$500 or development. 144.3Failure to comply with a notice to prevent a possible breach. \$500

Dated this 18th day of January 2019.

The Common Seal of the Town of Bassendean was affixed to this document by resolution of the Council in the presence of—

Cr RENEE JOY McLENNAN, Mayor. Ms PETA MAREE MABBS, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995

TOWN OF BASSENDEAN

TOWN OF BASSENDEAN REPEAL LOCAL LAW 2018

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Town of Bassendean resolved on 24 April 2018 to make the following local law.

1 Citation

This local law may be cited as the Town of Bassendean Repeal Local Law 2018.

2 Commencement

This local law will come into operation 14 days after publication in the Government Gazette.

3 Repeal

The following local laws are repealed-

- (a) The By-law regarding Discount on Rates, published in the Government Gazette on 17 September 1920;
- (b) The Schedule of Poundage and Sustemance Fees, published in the Government Gazette on 19 February 1915 and as amended and published in the Government Gazette on 16 December 1921, 7 September 1923, 9 October 1942, 13 August 1948 and 18 April 1952;
- (c) The By-law prescribing a Shopping and Residential Area, published in the Government Gazette on 11 January 1935;
- (d) The Local Law relating to Parks and Reserves, published in the Government Gazette on 13 August 1937;
- (e) The Local Law relating to Health Model By-laws Series "A", published in the Government Gazette on 14 November 1941;
- (f) The Adoption of Draft Model By-laws (Street Lawns and Gardens) No. 11, published in the Government Gazette on 11 June 1963;
- (g) The By-laws relating to Parking of Commercial Vehicles on Street Verges, published in the Government Gazette on 29 May 1981 and as amended and published in the Government Gazette on 21 April 1989;
- (h) The By-law relating to Refuse, Rubbish, Dangerous Things and Nuisances, published in the Government Gazette on 22 July 1983;
- (i) The By-law relating to Conduct of Proceedings and the Business of Council, published in the Government Gazette on 15 November 1991 and as amended and published in the Government Gazette on 19 January 1996;
- (j) The Town of Bassendean Urban Environment and Nuisance Local Law, published in the Government Gazette on 16 August 2001; and
- (k) The Town of Bassendean Signs, Hoardings and Bill Posting Local Law, published in the Government Gazette on 16 August 2001.

Dated this 18th day of January 2019.

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Cr RENEE JOY McLENNAN, Mayor. Ms PETA MAREE MABBS, Chief Executive Officer.