

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The Town of Bassendean Bee Keeping Local Law as published in the *Government Gazette* of 16 August 2001 is repealed.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

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