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LOCAL GOVERNMENT ACT 1995

**MINDARIE
REGIONAL COUNCIL**

**WASTE FACILITY SITE
LOCAL LAW 2012**

LOCAL GOVERNMENT ACT 1995

MINDARIE REGIONAL COUNCIL

WASTE FACILITY SITE LOCAL LAW 2012

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LOCAL GOVERNMENT ACT 1995

MINDARIE REGIONAL COUNCIL

WASTE FACILITY SITE LOCAL LAW 2012

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Mindarie Regional Council resolved on the 19 April 2012 to make the following local law.

PART 1—PRELIMINARY

1. Title Citation

This local law is the *Mindarie Regional Council Waste Facility Site Local Law 2012*.

2. Commencement

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

3. Repeal

The *Mindarie Regional Council Tamala Park Local Law 2002* published in the *Government Gazette* on 27 December 2002 is repealed.

4. Interpretations used in this local law

In this local law, unless the contrary intention appears—

ACROD sticker has the same meaning as given in the *Local Government (Parking for Disabled Persons) Regulations 1988*;

Act means the *Local Government Act 1995*;

authorised officer means a person authorised by the local government under section 9.10 of the Act, to perform any of the functions under this Local Law;

carriageway has the same meaning as it has in the *Road Traffic Code 2000*;

drive has the same meaning as in the *Road Traffic Act 1974*;

emergency vehicle has the same meaning as in the *Road Traffic Code 2000*;

local government means the Mindarie Regional Council;

litter has the same meaning as given in the *Litter Act 1979*;

parking area means an area designated for the parking of vehicles;

permission has a meaning given in clause 6;

protection in relation to the environment, includes conservation, preservation, enhancement and management thereof has the same meaning as given in the *Environmental Protection Act 1984*;

road has the same meaning as given in the *Road Traffic Act 1974*;

sign includes a traffic sign, inscription, road marking, mark, structure or device approved by the local government on which may be shown words, numbers, expressions or symbols, and which is placed on or near a thoroughfare or within a parking station or reserve for the purpose of prohibiting, regulating, guiding, directing or restricting the parking of vehicles;

site has the meaning given in clause 5;

traffic sign has the meaning given to it by the *Road Traffic Code 2000*;

unattended in relation to a vehicle, means that the driver has left the vehicle so that the driver is more than 3 metres from the closest point of the vehicle—

(a) restricting or regulating the use of roads, tracks or paths on the site; or

(b) prohibiting, restricting or regulating the use, standing or parking of vehicles on the site;

vehicle has the same meaning as given in the *Road Traffic Act 1974*.

5. Site

The site is all of the land being Lot 9504 on Plan 52070 known as 1700 Marmion Avenue, Mindarie, Western Australia.

6. Permissions

- (1) Where a provision of this local law states that an act or activity must not be done or carried on without permission, the reference to permission is to the permission of the local government.
- (2) For the purposes of any such provision, the local government may refuse permission or in the exercise of its power, it may grant permission—
 - (a) generally or for any specific instance; or
 - (b) on and subject to such terms and conditions as it considers appropriate including terms and conditions as to—
 - (i) the part of the site to which the permission applies;
 - (ii) the class or description of persons to whom the permission extends; or
 - (iii) the payment of any fee or charge whether before the act is done or the activity is commenced or otherwise.
- (3) The local government may amend or revoke a permission that has been granted.
- (4) A permission must be in writing and must be obtained before the act is done or the activity is commenced.
- (5) Where a permission has been given to a person subject to any condition, the permission is to be taken to have lapsed during any period when the condition was not observed or performed according to its tenor by that person.

PART 2—ACCESS TO THE SITE**7. Local government may restrict access**

- (1) The local government may—
 - (a) close the site or part of the site; or
 - (b) close a road, track or path on the site,to pedestrians or vehicles or both for such period as the local government thinks fit.
- (2) Where the local government closes any part of the site including a road, track or path on the site, it shall erect signs to give effect to the closure.
- (3) The inscription on a sign erected or established under this clause operates according to its tenor.
- (4) A person must not, without written permission—
 - (a) enter the site or any part of the site that is for the time being closed under this clause; or
 - (b) drive a vehicle on a road, track or path that is for the time being closed under this clause.

8. Unauthorised entry

A person must not, without written permission, enter or attempt to enter the site except through an entrance provided by the local government for that purpose.

9. Defence

It is a defence for the defendant to prove that the act complained of was necessary to prevent or mitigate injury to a person or damage to property.

PART 3—REGULATION OF VEHICLES**10. Traffic signs and directions**

- (1) The local government may erect or establish traffic signs on the site.
- (2) The inscription on a traffic sign operates according to its tenor.
- (3) A person must comply with—
 - (a) the inscription on a traffic sign erected or established under subclause (1); or
 - (b) a signal or direction by an authorised officer as to the use, parking or movement of a vehicle that is addressed to the person and that is reasonably required for the regulation of traffic on the site.

11. Parking

- (1) A person must not, without permission, park a vehicle, or cause or permit it to be parked, on the site—
 - (a) in a place, other than a parking area, that is off a carriageway;
 - (b) on part of a carriageway, if the parking of vehicles on that part of the carriageway is prohibited by a traffic sign;
 - (c) during a period when the person is not on the site, whether or not the vehicle is parked in a parking area;
 - (d) in a place that is marked with parking bays, unless it is entirely within the confines of a parking bay; or
 - (e) in an area designated for the parking of vehicles of people with a disability, unless—
 - (i) a person with a disability is the driver of, or a passenger in the vehicle; and
 - (ii) an ACROD sticker is displayed in a prominent position on the vehicle.

(2) Any person, who commits a parking offence under this local law is liable, upon conviction, to a penalty not exceeding \$1,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$100, for each day or part of a day during which the offence has continued.

12. Emergency vehicles

In an emergency situation a driver of an emergency vehicle may park or stop that emergency vehicle at any place on the site at any time when it is expedient and safe to do so.

PART 4—PROTECTION OF THE ENVIRONMENT

13. Protection of flora and fungi

(1) In this clause—

flora means any form of plant life including any part, seeds or spores;

fungi means yeast, mold, smuts, mushrooms and toadstools; and

take includes gather, pluck, cut, pull up and dig up.

(2) A person must not, without written authorisation under another written law, intentionally damage, destroy or take any flora or fungi living or dead on the site.

(3) A person must not, without written authorisation, intentionally remove any stake-supporting label on or near—

(a) protective fencing;

around or near;

(b) any flora or fungi living or dead on the site.

14. Protection of fauna

(1) In this clause—

fauna means any living thing that is not a human being or a plant and the eggs and immature stages of any such living thing; and

take includes remove, catch, trap and snare.

(2) A person must not, without written authorisation under any other written law, injure, take, or interfere with any fauna on the site.

(3) A person must not, without written authorisation under any other written law, intentionally carry or have in the person's possession on the site, a trap, cage, net, or other device for taking or transporting fauna.

(4) A person must not, without written authorisation under any other written law, intentionally lay or place any trap, net or other device for the taking of fauna on the site.

(5) A person must not, or without written authorisation under another written law, intentionally interfere with or destroy any nest or habitat of fauna on the site.

15. Protection of rocks, soil, etc.

A person must not, without written authorisation under any other written law—

(a) intentionally remove, damage, interfere with or mark any rock or other geological material on the site;

(b) intentionally remove or displace soil on the site; or

(c) intentionally otherwise damage or interfere with the natural surface of the site.

16. Litter

(1) In this clause—

litter has the same meaning as in the *Litter Act 1979*.

(2) A person must not,—

(a) deposit litter, or cause litter to be deposited, on the site unless the litter is deposited in a litter receptacle; or

(b) deposit litter, or cause litter to be deposited, in a litter receptacle on the site if the litter was not generated on the site.

(3) Any person found littering under this local law is liable, upon conviction, to a penalty not exceeding \$1,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$100, for each day or part of a day during which the offence has continued.

PART 5—CONTROL OF CERTAIN ACTIVITIES

17. Unauthorised structures

(1) In this clause—

structure means a building, tent, shelter, fence or other thing that is fixed permanently or temporarily, to land or to anything that is fixed to land.

(2) A person must not, without permission, erect or place a structure on the site.

18. Unauthorised trading, etc.

- (1) A person must not, without written authorisation—
- (a) sell or hire, any goods or services;
 - (b) provide any service or conduct any business or activity for fee or reward;
 - (c) sell, distribute, or offer or expose for sale or distribute any printed or written material on the site.

19. Commercial photography

A person must not, without permission, take still or motion pictures on the site by photographic or electronic means for—

- (a) the purpose of public display, broadcast or transmission; or
- (b) use in the promotion or sale of goods or services.

20. Unauthorised advertising.

A person must not, without written permission—

- (a) place any notice, advertisement or document on any structure, object or natural surface on the site;
- (b) paint, mark or deface any structure, object or natural surface on the site.
- (c) cause any of the acts prohibited by paragraph (a) or (b) to be done by another person.

21. Lighting fires etc.

A person must not, without written permission—

- (a) light a fire; or
- (b) use a gas barbecue or other cooker, on the site.

22. Explosive devices

A person must not, without written permission, possess, throw, set off or ignite a firework, sparkler or other explosive device on the site

23. Camping

(1) In this clause—

camping means to stay or lodge, whether in a tent, temporary shelter, vehicle or otherwise.

(2) A person must not camp on the site written authorisation.

24. Unauthorised removal of property

- (1) A person must not remove or disturb any property on the site without written authorisation.
- (2) Subclause (1) does not apply to the owner of the property or to any person legally entitled to possession of the property.

PART 6—ENFORCEMENT**25. Offences**

(1) Any 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) Any person who commits an offence under this local law is liable, upon conviction, to a penalty not exceeding \$1,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$100, for each day or part of a day during which the offence has continued.

26. 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.

Schedule 1
PRESCRIBED OFFENCES

[clause 26]

Modified Penalties

Item Number	Clause No.	Nature of offence	Modified Penalties \$
1	7(4)(a)	Enter the site or any part of the site that is closed for the time being; or driving a vehicle on a road, track or path that is closed for the time being.	200
2	8	Enter the site other than through an entrance without permission	200

Item Number	Clause No.	Nature of offence	Modified Penalties \$
3	11(a to d)	Park a vehicle, or cause or permit it to be parked, on the site without permission. Park in a place, other than a parking area, that is off a carriageway. Park on part of a carriageway, if the parking of vehicles on that part of the carriageway is prohibited by a traffic sign. Park during a period when the person is not on the site, whether or not the vehicle is parked in a parking area. Park in a place that is marked with parking bays, unless it is entirely within the confines of a parking bay	100
4	11(e)	Park a vehicle or vehicles in an area designated for a person or persons with a disability, unless the person or persons with a disability is the driver of, or a passenger in, the vehicle and an ACROD sticker is displayed in a prominent position on the vehicle.	100
5	13(1)	Damage, destroy or take away flora without permission	200
6	14(1)	Injure, take, or interfere with any fauna without permission	200
7	16(1)	Deposit litter other than in a litter receptacle	100
8	20	Sticking of bills, advertising etc without permission	100
9	21	Light a fire or use a cooker without permission	200
10	24	Disturb or remove property from the site without permission	200

Dated 26 April 2012.

The Common Seal of Mindarie Regional Council was affixed pursuant to a resolution of the Council in the presence of—

RUSSEL FISHWICK, Chairman.
BRIAN CALLANDER, Chief Executive Officer.