



**WESTERN
AUSTRALIAN
GOVERNMENT**
Gazette

ISSN 1448-949X

PRINT POST APPROVED PP665002/00041



PERTH, WEDNESDAY, 15 OCTOBER 2014 No. 164 SPECIAL

PUBLISHED BY AUTHORITY JOHN A. STRIJK, GOVERNMENT PRINTER AT 12.30 PM

© STATE OF WESTERN AUSTRALIA

SHIRE OF KELLERBERRIN

CEMETERIES ACT 1986

CEMETERIES LOCAL LAW 2014

LOCAL GOVERNMENT ACT 1995

**ACTIVITIES ON THOROUGHFARES AND
TRADING IN THOROUGHFARES AND PUBLIC
PLACES LOCAL LAW 2014**

**LOCAL GOVERNMENT (COUNCIL MEETINGS)
LOCAL LAW 2014**

LOCAL GOVERNMENT ACT 1995

DIVIDING FENCES ACT 1961

FENCING LOCAL LAW 2014

CEMETERIES ACT 1986

SHIRE OF KELLERBERRIN

CEMETERIES LOCAL LAW 2014

Under the powers conferred by the *Cemeteries Act 1986*, the Shire of Kellerberrin resolved on the 19 August 2014 to adopt the Cemeteries Local Law 2014 in relation to the Kellerberrin Public Cemetery, with such modifications as are here set out.

ARRANGEMENT

PART 1—PRELIMINARY

- 1.1 Citation
- 1.2 Interpretation

PART 2—ADMINISTRATION

- 2.1 Powers and Functions of CEO

PART 3—APPLICATION FOR FUNERALS

- 3.1 Application for Burial
- 3.2 Applications to be Accompanied by Certificates etc
- 3.3 Certificate of Identification
- 3.4 Minimum Notice Required

PART 4—FUNERAL DIRECTORS

- 4.1 Funeral Director's Licence Expiry
- 4.2 Single Funeral Permits
- 4.3 Application Refusal

PART 5—FUNERALS*Division 1—General*

- 5.1 Requirements for Funerals and Coffins
- 5.2 Funeral Processions
- 5.3 Vehicle Entry Restricted
- 5.4 Vehicle Access and Speed Limitations
- 5.5 Conduct of Funeral by Local Government

Division 2—Placement of Ashes

- 5.6 Disposal of Ashes

PART 6—BURIALS

- 6.1 Depth of Graves
- 6.2 Mausoleum, etc

PART 7—MEMORIALS AND OTHER WORK*Division 1—General*

- 7.1 Application for Monumental Work
- 7.2 Placement of Monumental Work
- 7.3 Removal of Rubbish
- 7.4 Operation of Work
- 7.5 Removal of Sand, Soil or Loam
- 7.6 Hours of Work
- 7.7 Unfinished Work

- 7.8 Use of Wood
- 7.9 Plants and Trees
- 7.10 Supervision
- 7.11 Australian War Graves
- 7.12 Placing of Glass Domes and Vases
- 7.13 Specification of Monuments
- 7.14 Headstones

Division 2—Memorial Plaque Section

- 7.15 Requirements of a Memorial Plaque

Division 3—Licensing of Monumental Masons

- 7.16 Monumental Mason's Licence
- 7.17 Expiry Date, Non-Transferability
- 7.18 Carrying out Monumental Work
- 7.19 Responsibilities of the Holder of a Monumental Mason's Licence
- 7.20 Cancellation of a Monumental Mason's Licence

PART 8—GENERAL

- 8.1 Animals
- 8.2 Guide Dogs
- 8.3 Damaging and Removing of Objects
- 8.4 Withered Flowers
- 8.5 Littering and Vandalism
- 8.6 Advertising
- 8.7 Obeying Signs and Directions
- 8.8 Removal from the Cemetery

PART 9—OFFENCES AND MODIFIED PENALTY

- 9.1 General
- 9.2 Modified Penalties

FIRST SCHEDULE—MODIFIED PENALTIES

SECOND SCHEDULE—INFRINGEMENT NOTICE

THIRD SCHEDULE—WITHDRAWAL OF INFRINGEMENT NOTICE

CEMETERIES ACT 1986

SHIRE OF KELLERBERRIN

CEMETERIES LOCAL LAW 2014**PART 1—PRELIMINARY****1.1 Citation**

This Cemeteries Local Law may be cited as the *Shire of Kellerberrin Cemeteries Local Law 2014*.

1.2 Interpretation

In this Cemeteries Local Law 2014 unless the context otherwise requires—

- “ashes” means so much of the remains of a dead body after the due processes of cremation as may be contained in a standard sized cremation urn;
- “authorised officer” means an employee of the Local Government authorised by the Local Government for the purposes of performing any function or exercising any power conferred upon an authorised officer by this Cemeteries Local Law 2014
- “CEO” means the chief executive officer for the time being, of the Local Government;
- “Funeral Director” means a person holding a current funeral director’s licence;
- “Local Government” means the Shire of Kellerberrin;
- “mausoleum” means a building or construction wholly above or partially above and below ground level, so constructed as to allow the deposition of dead bodies into a compartment in the wall or floor and being sealed from view;
- “monumental mason” means a person holding a current monumental mason’s licence;
- “personal representative” means the administrator or executor of an estate of a deceased person;
- “set fee” refers to fees and charges set by a resolution of the Local Government and published in the *Government Gazette*, under section 53 of the Act;
- “single funeral permit” means a permit issued by the Local Government under section 20 or 21 of the Act which entitles the holder to conduct at the cemetery a funeral of a person named in the permit.

PART 2—ADMINISTRATION**2.1 Powers and Functions of CEO**

Subject to any directions given by the Local Government, the CEO shall exercise all the powers and functions of the Local Government in respect of the cemetery.

PART 3—APPLICATION FOR FUNERALS**3.1 Application for Burial**

- (1) A person may apply for approval to bury a dead body in the cemetery in the form determined by the Local Government from time to time.
- (2) An application under subclause (1) is to be accompanied by the set fee.

3.2 Applications to be Accompanied by Certificates etc

All applications referred to in clauses 3.1 and 3.2 shall be accompanied by either a medical certificate of death or a Coroner’s order of burial, and a certificate issued under clause 3.4, in respect of the body.

3.3 Certificate of Identification

- (1) After a dead body is placed in a coffin and prior to a dead body being removed to the cemetery, a person who personally knew the deceased shall identify the dead body and shall complete a certificate of identification in the form determined by the Local Government from time to time, unless—
 - (a) in the opinion of the Funeral Director, the dead body is not in a fit state to be viewed; or
 - (b) after reasonable effort the Funeral Director is unable to arrange for a person to identify the dead body.

(2) Where—

- (a) in the opinion of the Funeral Director, the dead body is not in a fit state to be viewed; or
- (b) after reasonable effort the Funeral Director is unable to arrange for a person to identify the dead body, then the Funeral Director shall complete a certificate in the form determined by the Local Government from time to time.

3.4 Minimum Notice Required

All bookings to hold a funeral shall be made with the Local Government at least twenty four hours prior to the time proposed for burial on the application, otherwise an extra charge may be made.

PART 4—FUNERAL DIRECTORS

4.1 Funeral Director's Licence Expiry

A funeral director's licence shall expire on the 30th day of June in each year.

4.2 Single Funeral Permits

Every application for a single funeral permit made under section 20 or 21 of the Act shall include coffin specifications and details of the vehicle transporting the dead body to the gravesite.

4.3 Application Refusal

The Local Government may refuse an application for a single funeral permit if, in the opinion of the Local Government, either the coffin specifications or the details of the vehicle transporting the dead body to the gravesite are not structurally sound or are otherwise inadequate or inappropriate, or on any other grounds.

PART 5—FUNERALS

Division 1—General

5.1 Requirements for Funerals and Coffins

A person shall not bring a dead body into the cemetery unless—

- (a) the Local Government has approved an application for the burial of that dead body in accordance with Part 3 of this Cemeteries Local Law 2014;
- (b) it is enclosed in a coffin which in the opinion of the Local Government is structurally sound and bears the name of the deceased person indelibly inscribed in legible characters on a plate on the coffin's lid; and
- (c) under the plate referred to in paragraph (b) there is a substantive lead strip bearing the surname of the deceased person stamped in legible characters, each character being not less than 10 millimetres in height.

5.2 Funeral Processions

The time fixed by the Local Government for any burial shall be the time at which the funeral procession is to arrive at the cemetery gates, and, if not punctually observed, then the applicant who applied to hold the funeral under clause 3.1 shall pay the set fee for being late.

5.3 Vehicle Entry Restricted

- (1) Subject to clause 5.3(2), every funeral procession shall enter by the principal entrance, and no vehicle except the hearse, and official mourning coaches, shall be permitted to enter the cemetery.
- (2) This clause shall not apply to persons using wheelchairs or motorised wheelchairs.

5.4 Vehicle Access and Speed Limitations

Vehicles shall proceed within the cemetery by the constructed roadway or other areas designated for the use of vehicles and shall not exceed the speed of 25 km per hour.

5.5 Conduct of Funeral by Local Government

When conducting a funeral under section 22 of the Act the Local Government may—

- (a) require a written request for it to conduct a funeral to be lodged with it;
- (b) in its absolute discretion, charge any person requesting it to conduct a funeral the set fee for the conduct of that funeral by it;
- (c) where no fee or a reduced fee has been charged by it for the conduct of the funeral, determine the manner in which the funeral shall be conducted;
- (d) specify an area in the cemetery where the dead body is to be buried or the ashes placed;
- (e) conduct the funeral notwithstanding the failure of a person to make any application or to obtain any consent required under this Cemeteries Local Law 2014;
- (f) do or require anything which it considers is necessary or convenient for the conduct of a funeral by it.

*Division 2—Placement of Ashes***5.6 Disposal of Ashes**

(1) The personal representative of a deceased person whose body has been cremated may apply, in an application under clause 3.1 or otherwise, for permission to dispose of the ashes in the cemetery and upon payment of the set fee the Local Government may grant permission for the ashes to be disposed of by one of the following methods—

Ashes Path

Family Grave

Scattering to the Winds

Other memorials approved by the Local Government.

(2) Subject to sub-clauses (3) and (4), a person shall not place the ashes of a deceased person in the cemetery.

(3) An authorised officer may place the ashes of a deceased person in a cemetery in accordance with the Local Government approval provided—

(a) the person requesting the placement of the ashes has the permission of the Local Government; and

(b) the ashes are placed within an area set aside for that purpose by the Local Government.

(4) An authorised officer may place the ashes of a deceased person within a grave in accordance with the Local Government approval, provided the person requesting the placement of the ashes has the written permission of the Local Government and the approval of the holder of the right of burial of the grave.

PART 6—BURIALS**6.1 Depth of Graves**

(1) A person shall not bury a coffin within the cemetery so that the distance from the top of the coffin to the original surface of the ground is—

(a) subject to paragraph (b), less than 750 millimetres, unless that person has the permission of an authorised officer; or

(b) in any circumstances less than 600 millimetres.

(2) The permission of the authorised officer in sub-clause (1)(a) will only be granted where in the opinion of the authorised officer exceptional circumstances require granting of that permission.

6.2 Mausoleum, etc

(1) A person other than the Board shall not construct a brick grave, crypt, vault or mausoleum within the cemetery.

(2) A person may request the Board to construct a vault or mausoleum within the cemetery which vault or mausoleum shall at all times remain the property of the Board.

(3) An application under subclause (2) shall be in writing and shall be accompanied by payment of the set fee.

(4) A person shall not place a dead body in a mausoleum except—

(a) in a closed coffin; and

(b) in a soundly constructed chamber; and

(c) in accordance with sub-clause (5).

(5) The number of burials in a chamber must not exceed the number for which the chamber was designed.

PART 7—MEMORIALS AND OTHER WORK*Division 1—General***7.1 Application for Monumental Work**

A Local Government may require the written consent of the holder of the right of burial of the grave to accompany an application under section 30 of the Act.

7.2 Placement of Monumental Work

Every memorial shall be placed on proper and substantial foundations.

7.3 Removal of Rubbish

All refuse, rubbish or surplus material remaining after memorial works are completed under a permit issued under section 30 of the Act shall be immediately removed from the cemetery by the person carrying out the same.

7.4 Operation of Work

All material required in the erection and completion of any work shall, as far as possible, be prepared before being taken to the cemetery, and all materials required by tradesmen shall be admitted at such entrance as the CEO or an authorised officer shall direct.

7.5 Removal of Sand, Soil or Loam

No sand, earth or other material shall be taken from any part of the cemetery for use in the erection of any memorial or work except with the written approval of the Local Government.

7.6 Hours of Work

Persons shall not be permitted to carry out memorial or other work on graves within the cemetery other than during the hours of 8.00am and 6.00pm on weekdays, and 8.00am and noon on Saturdays, without the written permission of the Local Government.

7.7 Unfinished Work

Should any work by masons or others be not completed before 6 pm on weekdays and noon on Saturdays, they shall be required to leave the work in a neat and safe condition to the satisfaction of the CEO or an authorised officer.

7.8 Use of Wood

No wooden fence, railing, cross or other wooden erection shall be allowed on or around any grave, other than as a temporary marker and with the prior approval of the Local Government.

7.9 Plants and Trees

No trees or shrubs shall be planted on any grave or within the cemetery except such as shall be approved by the CEO.

7.10 Supervision

All workers, whether employed by the Local Government or by any other person, shall at all times whilst within the boundaries of the cemetery be subject to the supervision of the CEO or an authorised officer and shall obey such directions as the CEO or an authorised officer may give.

7.11 Australian War Graves

Notwithstanding anything in this Cemeteries Local Law 2014 to the contrary, the Office of Australian War Graves—

- (a) may place a memorial on a military grave; and
- (b) is not required to pay the set fee for any memorial that is placed upon a military grave.

7.12 Placing of Glass Domes and Vases

A person shall not place glass domes, vases or other grave ornaments outside the perimeter of a grave in the cemetery as defined in the plans kept and maintained under section 40(2) of the Act.

7.13 Specification of Monuments

(1) All monuments in the lawn section of a cemetery shall—

- (a) be made of natural stone; and
- (b) be placed upon a base of natural stone; and
- (c) comply with the following specifications—
 - (i) the overall height of the monument above the original surface of the grave shall not exceed 1.05 metres;
 - (ii) the height of the base of the monument above the original surface of the grave shall not be less than 150 millimetres nor more than 450 millimetres;
 - (iii) the width of the base of the monument shall not exceed 1.20 metres;
 - (iv) the depth of the base of the monument shall not exceed 300 millimetres; and
- (d) have foundations extending to the bottom of the grave unless concrete beam foundations are provided by the Board.

(2) An admiralty bronze memorial plaque may be attached to a monument erected or being erected in the lawn section of the cemetery.

(3) A person shall not display any trade names or marks upon any monument erected with the lawn section of the cemetery.

7.14 Headstones

In the lawn section of the cemetery, that part of a headstone above its base shall not extend horizontally beyond that base.

*Division 2—Memorial Plaque Section***7.15 Requirements of a Memorial Plaque**

(1) All memorial plaques placed in a memorial plaque section of the cemetery shall—

- (a) be made of admiralty bronze or any other material approved by the Board; and
- (b) not be less than the dimensions 380 millimetres x 280 millimetres, nor more than 560 millimetres x 305 millimetres; and

(2) All memorial plaques made of admiralty bronze shall—

- (a) not exceed 20 millimetres in thickness; and
- (b) be placed upon a base mounting approved by the Board.

(3) All memorial plaques made of stone shall—

- (a) not exceed 50 millimetres in thickness placed upon a base mounting approved by the Board; and
- (b) not be less than 100 millimetres in thickness if it is not to be placed upon a base mounting

*Division 3—Licensing of Monumental Masons***7.16 Monumental Mason's Licence**

(1) The Local Government may upon receipt of an application in writing by any person and upon payment of the set fee issue to the applicant a monumental mason's licence.

(2) A licence issued under sub-clause (1) authorises the holder to carry out monumental works within the cemetery subject to the provisions of this Cemeteries Local Law 2014 and such conditions as the Local Government shall specify upon the issue of that licence.

7.17 Expiry Date, Non-Transferability

A monumental mason's licence—

- (a) shall, subject to clause 7.20, be valid from the date specified therein until the 30th day of June next following; and
- (b) is not transferable.

7.18 Carrying out Monumental Work

A person shall not carry out monumental work within the cemetery unless that person—

- (a) is the holder of a current monumental mason's licence issued pursuant to clause 7.16 or does so as the employee of a person who holds such a licence; or
- (b) is authorised by the Local Government to do so.

7.19 Responsibilities of the Holder of a Monumental Mason's Licence

The holder of a monumental mason's licence shall be responsible for the compliance by every person purporting to be authorised to carry out monumental works within the cemetery pursuant to that licence with all the requirements and conditions of the licence, this Cemeteries Local Law 2014, the Act and any other written law which may affect the carrying out of monumental works.

7.20 Cancellation of a Monumental Mason's Licence

(1) The Local Government may by notice in writing to the holder of a monumental mason's licence terminate the licence on any of the following grounds—

- (a) that the holder of the licence has committed a breach of the requirements and conditions of the licence, this Cemeteries Local Law 2014, the Act or any other written law which may affect the carrying out of monumental works;
- (b) that, in the opinion of the Local Government, the conduct of the holder of the licence or any person in the employ of that holder in carrying out or attempting to carry out any works within the cemetery, is inappropriate or unbecoming; or
- (c) that the holder of the licence has purported to transfer the licence issued to that holder.

(2) Upon the termination of a monumental mason's licence under this clause no part of any fee paid for the issue of that licence is refundable by the Local Government.

PART 8—GENERAL**8.1 Animals**

Subject to clause 8.2, a person shall not bring an animal into or permit an animal to enter or remain in the cemetery, other than with the approval of the CEO or an authorised officer.

8.2 Guide Dogs

Clause 8.1 shall not apply to a hearing impaired person or a person who is blind or partially blind and is accompanied by a hearing or guide dog.

8.3 Damaging and Removing of Objects

Subject to clause 8.4, a person shall not damage, remove or pick any tree, plant, shrub or flower in the cemetery or any other object or thing on any grave or memorial or which is the property of the Local Government without the permission of the Local Government.

8.4 Withered Flowers

A person may remove withered flowers from a grave or memorial and these are to be placed in a receptacle provided by the Local Government for that purpose.

8.5 Littering and Vandalism

A person shall not—

- (a) break or cause to be broken any glass, ceramic or other material in or upon the cemetery;
- (b) discard, deposit, leave or cause to be discarded, deposited or left any refuse or litter in or upon the cemetery other than in a receptacle provided for that purpose.

8.6 Advertising

A person shall not carry on or advertise any trade, business or profession within the cemetery without the prior written approval of the Local Government which consent may be granted subject to such conditions as the Local Government thinks fit.

8.7 Obeying Signs and Directions

A person shall obey all signs displayed, marked, placed or erected by the Local Government within the cemetery and any other lawful direction by the CEO or an authorised officer.

8.8 Removal from the Cemetery

Any person failing to comply with any provisions of this Cemeteries Local Law 2014 or behaving in a manner that in the opinion of the Local Government, the CEO or an authorised officer is inappropriate in the cemetery may in addition to any penalty provided by this Cemeteries Local Law 2014, be ordered to leave the cemetery by the Local Government, the CEO or an authorised officer.

PART 9—OFFENCES AND MODIFIED PENALTIES

9.1 General

A person who commits a breach of any provisions of this Cemeteries Local Law 2014 commits an offence and shall on conviction be liable to a penalty not exceeding \$500.00 and if the offence is a continuing one to a further penalty not exceeding \$20.00 for every day or part of a day during which the offence has continued.

9.2 Modified Penalties

- (1) The offences specified in the First Schedule are offences which may be dealt with under section 63 of the Act.
- (2) The modified penalty payable in respect of an offence specified in the First Schedule is set out in the fourth column of the First Schedule.
- (3) The prescribed form of the infringement notice referred to in section 63(1) of the Act is set out in the Second Schedule.
- (4) The prescribed form of the notice withdrawing an infringement notice referred to in section 63(3) of the Act is set out in the Third Schedule.

First Schedule

Cemeteries Act 1986

Shire of Kellerberrin

Shire of Kellerberrin Cemeteries Local Law 2014

MODIFIED PENALTIES

Item No.	Clause	Nature of Offence	Modified Penalty
1	5.4	Excessive speed	\$50.00
2	5.4	Unauthorised use—driving of vehicles	\$50.00
3	7.3	Placing and removal of rubbish and surplus materials	\$50.00
4	7.7	Leaving uncompleted works in an untidy or unsafe condition	\$50.00
5	8.1	Animal at large	\$50.00
6	8.5	Dumping of Rubbish	\$50.00
7	8.6	Unauthorised advertising, and/or trading	\$50.00
8	8.7	Disobeying sign or lawful direction	\$50.00

Second Schedule

Cemeteries Act 1986

Shire of Kellerberrin

Shire of Kellerberrin Cemeteries Local Law 2014

INFRINGEMENT NOTICE

TO: _____
(Name)

(Address)

It is alleged that at _____ : _____ hours on _____ day
of _____ 19_____ at _____

_____ of the
you committed the offence indicated below by an (x) in breach of clause of the
*[insert name of
Local Law or By-law]*

(Authorised Person)

Offence

Animal at large
 Dumping rubbish
 Excessive speed in vehicle
 Leaving uncompleted works in an untidy or unsafe condition
 Non removal of rubbish
 Unauthorised advertising or trading
 Unauthorised vehicle use
 Disobeying sign or lawful direction
 Other Offence _____
 \$ _____

You may dispose of this matter—

By payment of the penalty as shown within 21 days of the date of this notice (or the date of the giving of this notice if that is a different date) to the Chief Executive Officer of the *Shire of Kellerberrin* at 110 Massingham Street, Kellerberrin, between the hours of 9am to 4.30pm Monday to Friday.

Please make cheques payable to Shire of Kellerberrin.

Payments by mail should be addressed to—

The Chief Executive Officer
 Shire of Kellerberrin
 110 Massingham Street,
 KELLERBERRIN WA 6410

If the penalty is not paid within the time specified, then a complaint of the alleged offence may be made and heard and determined by a court.

Third Schedule

Cemeteries Act 1986

Shire of Kellerberrin

Shire of Kellerberrin Cemeteries Local Law 2014

WITHDRAWAL OF INFRINGEMENT NOTICE

No. _____

Date ____ / ____ / ____

To (1) _____

Infringement Notice No _____ dated ____ / ____ / ____ for the alleged offence of (2)

Penalty (3) \$ _____ is withdrawn.

(Delete whichever does not apply)

* No further action will be taken.

* It is proposed to institute court proceedings for the alleged offence.

- (1) Insert name and address of alleged offender.
- (2) Insert short particulars of offence alleged.
- (3) Insert amount of penalty prescribed.

 (Authorised Person)

Dated: 9 September 2014.

The Common Seal of the Shire of Kellerberrin was Here unto affixed by authority Of a decision of the Council In the presence of—

ROD FORSYTH, Shire President.
 RAYMOND GRIFFITHS, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995

SHIRE OF KELLERBERRIN

**ACTIVITIES ON THOROUGHFARES AND TRADING IN
THOROUGHFARES AND PUBLIC PLACES LOCAL LAW**

TABLE OF CONTENTS

PART 1-PRELIMINARY

- 1.1 Citation
- 1.2 Repeal
- 1.3 Definitions
- 1.4 Application

PART 2—ACTIVITIES ON THOROUGHFARES AND PUBLIC PLACES*Division 1—General*

- 2.1 General prohibitions
- 2.2 Activities allowed with a permit general
- 2.3 No possession and consumption of liquor on thoroughfare

Division 2—Vehicle crossing

Subdivision 1—Temporary crossings

- 2.4 Permit required

Subdivision 2—Redundant vehicle crossings

- 2.5 Removal of redundant crossing.

Division 3—Verge treatments

Subdivision 1—Preliminary

- 2.6 Interpretation
- 2.7 Application

Subdivision 2—Permissible verge treatments

- 2.8 Permissible verge treatments
- 2.9 Only permissible verge treatments to be installed
- 2.10 Obligations of owner or occupier
- 2.11 Notice to owner or occupier

Subdivision 3—Existing verge treatments

- 2.12 Transitional provision

Subdivision 4—Public works

- 2.13 Power to carry out public works on verge

Division 4—Property numbers

Subdivision 1—Preliminary

- 2.14 Interpretation

Subdivision 2—Assignment and marking of numbers

- 2.15 Assignment of numbers

Division 5—Fencing

- 2.16 Public place Item 4(1) of Division 1, Schedule 3.1 of Act

Division 6—Signs erected by the local government

- 2.17 Signs
- 2.18 Transitional

Division 7—Driving on a closed thoroughfare

- 2.19 No driving on closed thoroughfare

PART 3—ADVERTISING SIGNS ON THOROUGHFARES*Division 1—Preliminary*

- 3.1 Interpretation

Division 2—Permit

- 3.2 Advertising signs and portable direction signs
- 3.3 Matters to be considered in determining application for permit

Division 3—Conditions on permit

- 3.4 Conditions on portable sign
- 3.5 Conditions on election sign

PART 4—OBSTRUCTING ANIMALS, VEHICLES OR SHOPPING TROLLEYS*Division 1—Animals and vehicles*

- 4.1 Leaving animal or vehicle in public place or on local government property
- 4.2 Prohibitions relating to animals

Division 2—Shopping trolleys

- 4.3 Interpretation
- 4.4 Shopping trolley to be marked
- 4.5 Person not to leave trolley in public place
- 4.6 Retailer to remove abandoned trolley
- 4.7 Retailer taken to own trolley

PART 5—ROADSIDE CONSERVATION*Division 1—Preliminary*

- 5.1 Interpretation
- 5.2 Application

Division 2—Flora roads

- 5.3 Declaration of flora road
- 5.4 Construction works on flora roads
- 5.5 Signposting of flora roads
- 5.6 Driving only on carriageway of flora roads

Division 3—Special environmental areas

- 5.7 Designation of special environmental areas
- 5.8 Marking of special environmental areas

Division 4—Planting in thoroughfares

- 5.9 Permit to plant
- 5.10 Relevant considerations in determining application

Division 5—Clearance of vegetation

- 5.11 Permit to clear
- 5.12 Application for permit

Division 6—Fire management

- 5.13 Permit to burn thoroughfare
- 5.14 Application for permit
- 5.15 When application for permit can be approved
- 5.16 Prohibitions on burning

Division 7—Firebreaks

- 5.17 Permit for firebreaks on thoroughfares
- 5.18 Application for permit cannot be approved

Division 8—Commercial wildflower harvesting on thoroughfares

- 5.19 General prohibition on commercial wildflower harvesting
- 5.20 Permit for revegetation projects

PART 6—TRADING IN THOROUGHFARES AND PUBLIC PLACES*Division 1—Stallholders and traders*

Subdivision 1—Preliminary

6.1 Interpretation

Subdivision 2—Permits

- 6.2 Stallholder's permit
- 6.3 Trader's permit
- 6.4 No permit required to sell newspaper
- 6.5 Relevant considerations in determining application for permit
- 6.6 Conditions of permit
- 6.7 Exemptions from requirement to pay fee or to obtain a permit

Subdivision 3—Conduct of stallholders and traders

6.8 Conduct of stallholders and traders

Division 2—Street entertainers

Subdivision 1—Preliminary

6.9 Interpretation

Subdivision 2—Permits

- 6.10 Permit required to perform
- 6.11 Variation of permitted area and permitted time
- 6.12 Duration of permit
- 6.13 Cancellation of permit
- 6.14 Obligations of permit holder

Division 3—Outdoor eating facilities on public places

- 6.15 Interpretation
- 6.16 Permit required to conduct Facility
- 6.17 Matters to be considered in determining application
- 6.18 Obligations of permit holder
- 6.19 Removal of Facility unlawfully conducted
- 6.20 Use of Facility by public
- 6.21 Temporary removal of Facility may be requested

PART 7—PERMITS*Division 1—Applying for a permit*

- 7.1 Application for permit
- 7.2 Decision on application for permit

Division 2—Conditions

- 7.3 Conditions which may be imposed on a permit
- 7.4 Imposing conditions under a policy
- 7.5 Compliance with and variation of conditions

Division 3—General

- 7.6 Duration of permit
- 7.6 Renewal of permit
- 7.8 Transfer of permit
- 7.9 Production of permit
- 7.10 Cancellation of permit

PART 8—OBJECTIONS AND APPEALS

- 8.1 Application of Part 9 Division 1 of Act

PART 9—MISCELLANEOUS NOTICES

- 9.1 Notice to redirect or repair sprinkler
- 9.2 Hazardous plants
- 9.3 Notice to repair damage to thoroughfare
- 9.4 Notice to remove thing unlawfully placed on thoroughfare

PART 10—ENFORCEMENT*Division 1—Notices given under this local law*

- 10.1 Offence to fail to comply with notice
- 10.2 Local government may undertake requirements of notice

Division 2—Offences and penalties

Subdivision 1—General

10.3 Offences

Subdivision 2—Infringement notices and modified penalties

10.4 Prescribed offences

10.5 Forms

SCHEDULE 1—PRESCRIBED OFFENCES

LOCAL GOVERNMENT ACT 1995

SHIRE OF KELLERBERRIN

**ACTIVITIES ON THOROUGHFARES AND TRADING IN
THOROUGHFARES AND PUBLIC PLACES LOCAL LAW**

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Kellerberrin resolved on 18 August 2014 to make the following local law.

PART 1—PRELIMINARY**1.1 Citation**

This local law may be cited as the Shire of Kellerberrin Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law 2014.

1.2 Repeal

(1) The Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Laws adopted by the Shire of Kellerberrin on 18 May 2004 and published in the *Government Gazette* on 13 July 2004, and amended from time to time, are repealed

1.3 Definitions

In this local law unless the context otherwise requires “Act” means the *Local Government Act 1995*;

“applicant” means a person who applies for a permit;

“authorized person” means a person authorized by the local government under section 9.10 of the Act to perform any of the functions of an authorized person under this local law;

“built-up area” has the meaning given to it in the *Road Traffic Code 2000*;

“bulk rubbish container” means a bin or container designed or used for holding a substantial quantity of rubbish and which is unlikely to be lifted without mechanical assistance, but does not include a bin or container used in connection with the local government’s regular domestic rubbish collection service;

“carriageway” means the paved or made portion of a thoroughfare used or intended for use by vehicles; *Road Traffic Code 2000*;

“CEO” means the chief executive officer of the local government;

“commencement day” means the day on which this local law comes into operation;

“Council” means the council of the local government;

“crossing” means a crossing giving access from a public thoroughfare to

(a) private land; or

(b) a private thoroughfare serving private land;

“district” means the district of the local government;

“footpath” has the meaning given to it in the *Road Traffic Code 2000*.

“garden” means any part of a thoroughfare planted, developed or treated, otherwise than as a lawn, with one or more plants;

“intersection” has the meaning given to it in the *Road Traffic Code 2000*;

“kerb” includes the edge of a carriageway;

“lawn” means any part of a thoroughfare which is planted only with grass, or with a similar plant, but will include any other plant provided that it has been planted by the local government;

“liquor” has the meaning given to it in section 3 of the *Liquor Licensing Act 1988*;

“local government” means the Shire of Kellerberrin;

“local government property” means anything except a thoroughfare

(a) which belongs to the local government;

(b) of which the local government is the management body under the Land Administration Act 1997; or

(c) which is an “otherwise unvested facility” within section 3.53 of the Act; “lot” has the meaning given to it in the *Town Planning and Development Act 1928*; “owner” or “occupier” in relation to land does not include the local government;

- “permissible verge treatment” means any one of the 4 treatments described in clause 2.8(2), and includes any reticulation pipes and sprinklers;
- “permit” means a permit issued under this local law;
- “permit holder” means a person who holds a valid permit;
- “person” does not include the local government;
- “premises” for the purpose of the definition of “public place” in both this clause and clause 6.1, means a building or similar structure, but does not include a carpark or a similar place;
- “public place” includes any thoroughfare or place which the public are allowed to use, whether or not the thoroughfare or place is on private property, but does not include
- (a) premises on private property from which trading is lawfully conducted under a written law; and
 - (b) local government property;
- “Regulations” means the *Local Government (Functions and General) Regulations 1996*;
- “sign” includes a notice, flag, mark, structure or device on which may be shown words, numbers, expressions or symbols;
- “thoroughfare” has the meaning given to it in the Act, but does not include a private thoroughfare which is not under the management control of the local government;
- “town planning scheme” means a town planning scheme of the local government made under the *Town Planning and Development Act 1928*;
- “townsite” means the townsite of Kellerberrin and Doodlakine which are—
- (a) constituted under section 26(2) of the *Land Administration Act 1997*; or
 - (b) referred to in clause 37 of Schedule 9.3 of the Act;
- “vehicle” includes—
- (a) every conveyance and every object capable of being propelled or drawn on wheels, tracks or otherwise; and
 - (b) an animal being ridden or driven,
- but excludes—
- (a) a wheel-chair or any device designed for use by a physically impaired person on a footpath; and
 - (b) a pram, a stroller or a similar device; and
- “verge” means that part of a thoroughfare between the carriageway and the land which abuts the thoroughfare, but does not include any footpath.

1.4 Application

This local law applies throughout the district.

PART 2—ACTIVITIES IN THOROUGHFARES AND PUBLIC PLACES

Division 1—General

2.1 General prohibitions

A person shall not—

- (a) plant any plant which exceeds or which may exceed 0.75m in height on a thoroughfare so that the plant is within 10m of an intersection;
- (b) damage a lawn or a garden or remove any plant or part of a plant from a lawn or a garden unless—
 - (i) the person is the owner or the occupier of the lot abutting that portion of the thoroughfare and the lawn or the garden or the particular plant has not been installed or planted by the local government; or
 - (ii) the person is acting under the authority of a written law;
- (c) plant any plant (except grass or a similar plant) on a thoroughfare so that it is within 2m of a carriageway;
- (d) place on any footpath any fruit, fruit skins or other substance or fluid (whether vegetable or otherwise, but not water) which may create a hazard for any person using the footpath;
- (e) unless at the direction of the local government, damage, remove or interfere with any signpost, direction plate, guidepost, notice, shelter, shed, fence or any structure erected on a thoroughfare by the local government or a person acting under the authority of a written law;
- (f) play or participate in any game or sport so as to cause danger to any person or thing or impede the movement of vehicles or persons on a thoroughfare; or
- (g) within a mall, arcade or verandah of a shopping centre, ride any bicycle, skateboard, rollerblades or similar device.

2.2 Activities allowed with a permit-general

(1) A person shall not, without a permit—

- (a) dig or otherwise create a trench through or under a kerb or footpath;

- (b) subject to Division 3 of this Part, throw, place or deposit anything on a verge except for removal by the local government under a bulk rubbish collection, and then only in accordance with the terms and conditions and during the period of time advertised in connection with that collection by the local government;
 - (c) cause any obstruction to a vehicle or a person using a thoroughfare as a thoroughfare;
 - (d) cause any obstruction to a water channel or a water course in a thoroughfare;
 - (e) throw, place or drain offensive, noxious or dangerous fluid onto a thoroughfare;
 - (f) damage a thoroughfare;
 - (g) light any fire or burn anything on a thoroughfare other than in a stove or fireplace provided for that purpose or under a permit issued under clause 5.13;
 - (h) fell any tree onto a thoroughfare;
 - (i) unless installing or in order to maintain a permissible verge treatment—
 - (i) lay pipes under or provide taps on any verge; or
 - (ii) place or install anything on any part of a thoroughfare, and without limiting the generality of the foregoing, any gravel, stone, flagstone, cement, concrete slabs, blocks, bricks, pebbles, plastic sheeting, kerbing, wood chips, bark or sawdust;
 - (j) provide, erect, install or use in or on any building, structure or land abutting on a thoroughfare any hoist or other thing for use over the thoroughfare;
 - (k) on a public place use anything or do anything so as to create a nuisance;
 - (l) place or cause to be placed on a thoroughfare a bulk rubbish container; or
 - (m) interfere with the soil of, or anything in a thoroughfare or take anything from a thoroughfare.
- (2) The local government may exempt a person from compliance with subclause (1) on the application of that person.

2.3 No possession and consumption of liquor on thoroughfare

- (1) A person shall not consume any liquor or have in her or his possession or under her or his control any liquor on a thoroughfare unless—
- (a) that is permitted under the *Liquor Licensing Act 1988* or under another written law; or
 - (b) the person is doing so in accordance with a permit.
- (2) Subclause (1) does not apply where the liquor is in a sealed container.

Division 2—Vehicle crossing

Subdivision 1—Temporary crossings

2.4 Permit required

- (1) Where it is likely that works on a lot will involve vehicles leaving a thoroughfare and entering the lot, the person responsible for the works shall obtain a permit for the construction of a temporary crossing to protect the existing carriageway, kerb, drains and footpath, where—
- (a) a crossing does not exist; or
 - (b) a crossing does exist, but the nature of the vehicles and their loads is such that they are likely to cause damage to the crossing.
- (2) The “person responsible for the works” in subclause (1) is to be taken to be
- (a) the builder named on the building licence issued under the *Local Government (Miscellaneous Provisions) Act 1960*, if one has been issued in relation to the works; or
 - (b) the registered proprietor of the lot, if no building licence has been issued under the *Local Government (Miscellaneous Provisions) Act 1960* in relation to the works.
- (3) If the local government approves an application for a permit for the purpose of subclause (1), the permit is taken to be issued on the condition that until such time as the temporary crossing is removed, the permit holder shall keep the temporary crossing in good repair and in such a condition so as not to create any danger or obstruction to persons using the thoroughfare.

Subdivision 2—Redundant vehicle crossings

2.5 Removal of redundant crossing

- (1) Where works on a lot will result in a crossing no longer giving access to a lot, the crossing is to be removed and the kerb, drain, footpath, verge and any other part of the thoroughfare affected by the removal are to be reinstated to the satisfaction of the local government.
- (2) The local government may give written notice to the owner or occupier of a lot requiring her or him to—
- (a) remove any part of or all of a crossing which does not give access to the lot; and
 - (b) reinstate the kerb, drain, footpath, verge and any other part of the thoroughfare, which may be affected by the removal,

within the period of time stated in the notice, and the owner or occupier of the lot shall comply with that notice.

*Division 3—Verge treatments**Subdivision 1—Preliminary***2.6 Interpretation**

In this Division, unless the context otherwise requires—

“acceptable material” means any material which will create a hard surface, and which appears on a list of acceptable materials maintained by the local government.

2.7 Application

This Division only applies to the townsite.

*Subdivision 2—Permissible verge treatments***2.8 Permissible verge treatments**

(1) An owner or occupier of land which abuts on a verge may on that part of the verge directly in front of her or his land install a permissible verge treatment.

(2) The permissible verge treatments are—

- (a) the planting and maintenance of a lawn;
- (b) the planting and maintenance of a garden provided that—
 - (i) clear sight visibility is maintained at all times for a person using the abutting thoroughfare in the vicinity of an intersection or bend in the thoroughfare or using a driveway on land adjacent to the thoroughfare for access to or from the thoroughfare; and
 - (ii) where there is no footpath, a pedestrian has safe and clear access of a minimum width of 2m along that part of the verge immediately adjacent to the kerb;
- (c) the installation of an acceptable material; or
- (d) the installation over no more than one third of the area of the verge (excluding any vehicle crossing) of an acceptable material in accordance with paragraph (c), and the planting and maintenance of either a lawn or a garden on the balance of the verge in accordance with paragraph (a) or (b).

2.9 Only permissible verge treatments to be installed

(1) A person shall not install or maintain a verge treatment which is not a permissible verge treatment.

(2) The owner and occupier of the lot abutting a verge treatment referred to in subclause (1) are each to be taken to have installed and maintained that verge treatment for the purposes of this clause and clause 2.10.

2.10 Obligations of owner or occupier

An owner or occupier who installs or maintains a permissible verge treatment shall—

- (a) keep the permissible verge treatment in a good and tidy condition and ensure, where the verge treatment is a garden or lawn, that a footpath on the verge and a carriageway adjoining the verge is not obstructed by the verge treatment;
- (b) not place any obstruction on or around the verge treatment; and
- (c) not disturb a footpath on the verge.

2.11 Notice to owner or occupier

The local government may give a notice in writing to the owner or the occupier of a lot abutting on a verge to make good, within the time specified in the notice, any breach of a provision of this Division.

*Subdivision 3—Existing verge treatments***2.12 Transitional provision**

(1) In this clause—

“former provisions” means the local law of the local government which permitted certain types of verge treatments, whether with or without the consent of the local government, and which was repealed by this local law.

(2) A verge treatment which—

- (a) was installed prior to the commencement day; and
- (b) on the commencement day is a type of verge treatment which was permitted under and complied with the former provisions,

is to be taken to be a permissible verge treatment for so long as the verge treatment remains of the same type and continues to comply with the former provisions.

*Subdivision 4—Public works***2.13 Power to carry out public works on verge**

Where the local government or an authority empowered to do so under a written law disturbs a verge, the local government or the authority—

- (a) is not liable to compensate any person for that disturbance;
- (b) may backfill with sand, if necessary, any garden or lawn; and

- (c) is not liable to replace or restore any—
 - (i) verge treatment and, in particular, any plant or any acceptable material or other hard surface; or
 - (ii) sprinklers, pipes or other reticulation equipment.

Division 4—Property numbers

Subdivision 1—Preliminary

2.14 Interpretation

In this Division, unless the context requires otherwise—

“Number” means a number of a lot with or without an alphabetical suffix indicating the address of the lot by reference to a thoroughfare.

Subdivision 2—Assignment and marking of numbers

2.15 Assignment of numbers

The local government may assign a Number to a lot in the district and may assign another Number to the lot instead of that previously assigned.

Division 5—Fencing

2.16 Public place-Item 4(1) of Division 1, Schedule 3.1 of Act

The following places are specified as a public place for the purpose of item 4(1) of Division 1 of Schedule 3.1 of the Act—

- (a) a public place, as that term is defined in clause 1.2; and
- (b) local government property.

Division 6—Signs erected by the local government

2.17 Signs

- (1) A local government may erect a sign on a public place specifying any conditions of use which apply to that place.
- (2) A person shall comply with a sign erected under subclause (1).
- (3) A condition of use specified on a sign erected under subclause (1) is to be for the purpose of giving notice of the effect of a provision of this local law.

2.18 Transitional

Where a sign erected on a public place has been erected under a local law of the local government repealed by this local law, then on and from the commencement day, it is to be taken to be a sign erected under clause 2.17 if—

- (a) the sign specifies a condition of use relating to the public place which gives notice of the effect of a provision of this local law; and
- (b) the condition of use specified is not inconsistent with any provision of this local law.

Division 7—Driving on a closed thoroughfare

2.19 No driving on closed thoroughfare

- (1) A person shall not drive or take a vehicle on a closed thoroughfare unless—
 - (a) that is in accordance with any limits or exceptions specified in the order made under section 3.50 of the Act; or
 - (b) the person has first obtained a permit.
- (2) In this clause—

“closed thoroughfare” means a thoroughfare wholly or partially closed under section 3.50 or 3.50A of the Act.

PART 3—ADVERTISING SIGNS ON THOROUGHFARES

Division 1—Preliminary

3.1 Interpretation

In this Part, unless the context otherwise requires—

“advertising sign” means a sign used for the purpose of advertisement and includes an “election sign”;

“direction sign” means a sign which indicates the direction of another place, activity or event, but does not include any such sign erected or affixed by the local government or the Commissioner of Main Roads;

“election sign” means a sign or poster which advertises any aspect of a forthcoming Federal, State or Local Government election; and

“portable direction sign” means a portable free standing direction sign; and

“portable sign” means a portable free standing advertising sign.

*Division 2—Permit***3.2 Advertising signs and portable direction signs**

(1) A person shall not, without a permit—

- (a) erect or place an advertising sign on a thoroughfare; or
- (b) post any bill or paint, place or affix any advertisement on a thoroughfare.

(2) Notwithstanding subclause (1), a permit is not required in respect of a portable direction sign which neither exceeds 500 millimetres in height nor 0.5 square metres in area, provided that the sign is placed or erected on a thoroughfare on an infrequent or occasional basis only to direct attention to a place, activity or event during the hours of that activity or event.

(3) Notwithstanding subclause (1), a person shall not erect or place an advertising sign—

- (a) on a footpath;
- (b) over any footpath where the resulting vertical clearance between the sign and the footpath is less than 2.5 metres;
- (c) on or within 3 metres of a carriageway;
- (d) in any other location where, in the opinion of the local government, the sign is likely to obstruct lines of sight along a thoroughfare or cause danger to any person using the thoroughfare; or
- (e) on any natural feature, including a rock or tree, on a thoroughfare, or on any bridge or the structural approaches to a bridge.

3.3 Matters to be considered in determining application for permit

In determining an application for a permit for the purpose of clause 3.2(1), the local government is to have regard to—

- (a) any other written law regulating the erection or placement of signs within the district;
- (b) the dimensions of the sign;
- (c) other advertising signs already approved or erected in the vicinity of the proposed location of the sign;
- (d) whether or not the sign will create a hazard to persons using a thoroughfare; and
- (e) the amount of the public liability insurance cover, if any, to be obtained by the applicant.

*Division 3—Conditions on permit***3.4 Conditions on portable sign**

If the local government approves an application for a permit for a portable sign, the application is to be taken to be approved subject to the following conditions—

- (a) the portable sign shall—
 - (i) not exceed 1 metres in height;
 - (ii) not exceed an area of 1 square metres on any side;
 - (iii) relate only to the business activity described on the permit;
 - (iv) contain letters not less than 200 millimetres in height;
 - (v) not be erected in any position other than immediately adjacent to the building or the business to which the sign relates;
 - (vi) be removed each day at the close of the business to which it relates and not be erected again until the business next opens for trading;
 - (vii) be secured in position in accordance with any requirements of the local government;
 - (viii) be placed so as not to obstruct or impede the reasonable use of a thoroughfare or access to a place by any person; and
 - (ix) be maintained in good condition; and
- (b) no more than one portable sign shall be erected in relation to the one building or business.

3.5 Conditions on election sign

If the local government approves an application for a permit for the erection or placement of an election sign on a thoroughfare, the application is to be taken to be approved subject to the sign—

- (a) being erected at least 30 metres from any intersection;
- (b) being free standing and not being affixed to any existing sign, post, power or light pole, or similar structure;
- (c) being placed so as not to obstruct or impede the reasonable use of a thoroughfare, or access to a place by any person;
- (d) being placed so as not to obstruct or impede the vision of a driver of a vehicle entering or leaving a thoroughfare or crossing;
- (e) being maintained in good condition;
- (f) not being erected until the election to which it relates has been officially announced;
- (g) being removed within 24 hours of the close of polls on voting day;
- (h) not being placed within 100 metres of any works on the thoroughfare;

- (i) being securely installed;
- (j) not being an illuminated sign;
- (k) not incorporating reflective or fluorescent materials; and
- (l) not displaying only part of a message which is to be read with other separate signs in order to obtain the whole message.

PART 4—OBSTRUCTING ANIMALS, VEHICLES OR SHOPPING TROLLEYS

Division 1—Animals and vehicles

4.1 Leaving animal or vehicle in public place or on local government property

(1) A person shall not leave an animal or a vehicle, or any part of a vehicle, in a public place or on local government property so that it obstructs the use of any part of that public place or local government property, unless that person has first obtained a permit or is authorized to do so under a written law.

(2) A person will not contravene subclause (1) where the animal is secured or tethered for a period not exceeding 1 hour.

(3) A person will not contravene subclause (1) where the vehicle is left for a period not exceeding 24 hours.

4.2 Prohibitions relating to animals

(1) In subclause (2), “owner” in relation to an animal includes—

- (a) an owner of it;
- (b) a person in possession of it;
- (c) a person who has control of it; and
- (d) a person who ordinarily occupies the premises where the animal is permitted to stay.

(2) An owner of an animal shall not—

- (a) allow the animal to enter or remain for any time on any thoroughfare except for the use of the thoroughfare as a thoroughfare and unless it is led, ridden or driven;
- (b) allow an animal which has a contagious or infectious disease to be led, ridden or driven in a public place; or
- (c) train or race the animal on a thoroughfare.

(3) An owner of a horse shall not lead, ride or drive a horse on a thoroughfare in a built-up area, unless that person does so under a permit or under the authority of a written law.

Division 2—Shopping trolleys

4.3 Interpretation

In this Division—

“retailer” means a proprietor of a shop in respect of which shopping trolleys are provided for the use of customers of the shop; and

“shopping trolley” means a wheeled container or receptacle supplied by a retailer to enable a person to transport goods.

4.4 Shopping trolley to be marked

A retailer shall clearly mark its name or its trading name on any shopping trolley made available for the use of customers.

4.5 Person not to leave trolley in public place

A person shall not leave a shopping trolley in a public place other than in an area set aside for the storage of shopping trolleys.

4.6 Retailer to remove abandoned trolley

(1) If a shopping trolley is found in a public place, other than in an area set aside for the storage of shopping trolleys, the local government may advise (verbally or in writing) a retailer whose name is marked on the trolley of the location of the shopping trolley.

(2) A retailer shall remove a shopping trolley within 24 hours of being so advised under subclause (1), unless the retailer—

- (a) requests the local government to collect and deliver the shopping trolley to the retailer; and
- (b) pays any fee for that collection and delivery (imposed and determined under and in accordance with sections 6.16 to 6.19 of the Act) within the period specified by the local government.

4.7 Retailer taken to own trolley

In the absence of any proof to the contrary, a shopping trolley is to be taken to belong to a retailer whose name is marked on the trolley.

PART 5—ROADSIDE CONSERVATION*Division 1—Preliminary***5.1 Interpretation**

In this Part—

- “MRWA” means Main Roads Western Australia;
- “protected flora” has the meaning given to it in section 6(1) of the *Wildlife Conservation Act 1950*;
- “rare flora” has the meaning given to it in section 23F of the *Wildlife Conservation Act 1950*;
- “Roadside Conservation Committee” means the Roadside Conservation Committee established under the Land Resource Policy Council within the Office of Premier and Cabinet; and
- “special environmental area” means an area designated as such under clause 5.7.

5.2 Application

This Part does not apply to the townsite.

*Division 2—Flora roads***5.3 Declaration of flora road**

The local government may declare a thoroughfare which has, in the opinion of the local government, high quality roadside vegetation to be a flora road.

5.4 Construction works on flora roads

Construction and maintenance work carried out by the local government on a flora road is to be in accordance with the “Code of Practice for Roadside Conservation and Road Maintenance” prepared by the Roadside Conservation Committee.

5.5 Signposting of flora roads

The local government may signpost flora roads with the standard MRWA “flora road” sign.

5.6 Driving only on carriageway of flora roads

- (1) A person driving or riding a vehicle on a flora road shall only drive or ride the vehicle on the carriageway.
- (2) Subclause (1) does not apply where—
 - (a) conditions on the thoroughfare do not reasonably permit a vehicle to remain on the carriageway;
 - (b) there is no carriageway; or
 - (c) an exemption from the application of subclause (1) has been obtained from the local government.

*Division 3—Special environmental areas***5.7 Designation of special environmental areas**

The local government may designate a thoroughfare, or any part of a thoroughfare, has a special environmental area which—

- (a) as protected flora or rare flora; or
- (b) in the opinion of the local government, has environmental, aesthetic or cultural significance.

5.8 Marking of special environmental areas

The local government is to mark and keep a register of each thoroughfare, or part of a thoroughfare, designated as a special environmental area.

*Division 4—Planting in thoroughfares***5.9 Permit to plant**

A person shall not plant any plant or sow any seeds in a thoroughfare without first obtaining a permit.

5.10 Relevant considerations in determining application

In determining an application for a permit for the purpose of clause 5.9, the local government is to have regard to—

- (a) existing vegetation within that part of the thoroughfare in which the planting is to take place; and
- (b) the diversity of species and the prevalence of the species which are to be planted or sown.

*Division 5—Clearance of vegetation***5.11 Permit to clear**

A person shall not clear and maintain in a cleared state, the surface of a thoroughfare within 1m of that person’s land without first obtaining a permit and any other approvals which may be required under any written law.

5.12 Application for permit

In addition to the requirements of clause 7.1(2), a person making an application for a permit for the purpose of clause 5.11 shall submit a sketch plan clearly showing the boundary of the person's land and the portions of the thoroughfare joining that person's land which are to be cleared.

*Division 6—Fire management***5.13 Permit to burn thoroughfare**

A person shall not burn part of a thoroughfare without first obtaining a permit or unless acting under the authority of any other written law.

5.14 Application for permit

In addition to the requirements of clause 7.1(2), an application for a permit for the purposes of clause 5.13 shall—

- (a) include a sketch plan showing the portions of a thoroughfare which are proposed to be burned; and
- (b) advise of the estimated fire intensity and the measures to be taken to protect upper storey vegetation from the burn.

5.15 When application for permit can be approved

The local government may approve an application for a permit for the purpose of clause 5.13 only if the burning of the particular part of the thoroughfare will—

- (a) reduce a fire hazard and alternative means of reducing that hazard, such as slashing or the use of herbicides, are considered by the local government to be not feasible or more detrimental to native flora and fauna than burning; or
- (b) in the opinion of the local government, be beneficial for the preservation and conservation of native flora and fauna.

5.16 Prohibitions on burning

Notwithstanding anything to the contrary in this local law, an application for a permit for the purpose of clause 5.13 is not to be approved by the local government—

- (a) for burning between 31 August and 1 May of the following year where the intensity of the burn could damage native flora and fauna; or
- (b) in any year to any person for any part of a thoroughfare which is on the opposite side of the carriageway to that portion of the thoroughfare for which a permit to burn has been approved in the same year.

*Division 7—Firebreaks***5.17 Permit for firebreaks on thoroughfares**

A person shall not construct a firebreak on a thoroughfare without first obtaining a permit.

5.18 When application for permit cannot be approved

- (1) The local government is not to approve an application for a permit for the purpose of clause 5.17 where the thoroughfare is less than 20m wide.
- (2) Subclause (1) does not apply where the firebreak is, in the opinion of the local government, desirable for the protection of roadside vegetation.

*Division 8—Commercial wildflower harvesting on thoroughfares***5.19 General prohibition on commercial wildflower harvesting**

Subject to clause 5.20, a person shall not commercially harvest native flora on a thoroughfare.

5.20 Permit for revegetation projects

- (1) A person shall not collect seed from native flora on a thoroughfare without first obtaining a permit.
- (2) The local government may approve an application for a permit under subclause (1) only where—
 - (a) the seed is required for a revegetation project in any part of the district; and
 - (b) the thoroughfare, or the relevant part of it, is not a special environmental area.
- (3) Unless the local government specifically provides to the contrary on a permit, if the local government approves an application for a permit for the purpose of subclause (1) it is to be taken to be approved subject to the following conditions—
 - (a) the collection of the seed is to be carried out so as not to endanger the long time survival of the native flora on the thoroughfare; and
 - (b) any licence or approval which may be required under any other written law is to be obtained by the applicant.

PART 6—RADING IN THOROUGHFARES AND PUBLIC PLACES*Division 1—Stallholders and traders*

Subdivision 1—Preliminary

6.1 Interpretation

In this Division, unless the context otherwise requires—

“Competition Principles Agreement” means the Competition Principles Agreement executed by each State and Territory of the Commonwealth and the Commonwealth of Australia on 11 April 1995;

“public place” includes—

- (a) any thoroughfare or place which the public are allowed to use whether or not the thoroughfare or place is on private property; and
- (b) local government property,

but does not include premises on private property from which trading is lawfully conducted under a written law.

“stall” means a movable or temporarily fixed structure, stand or table in, on or from which goods or services are sold, hired or offered for sale or hire;

“stallholder” means a person in charge of a stall; “stallholder’s permit” means a permit issued to a stallholder; “trader” means a person who carries on trading;

“trader’s permit” means a permit issued to a trader; and

“trading” includes—

- (a) the selling or hiring of, the offering for sale or hire of or the soliciting of orders for goods or services in a public place;
- (b) displaying goods in any public place for the purpose of—
 - (i) offering them for sale or hire;
 - (ii) inviting offers for their sale or hire;
 - (iii) soliciting orders for them; or
 - (iv) carrying out any other transaction in relation to them; and
- (c) the going from place to place, whether or not public places, and—
 - (i) offering goods or services for sale or hire;
 - (ii) inviting offers or soliciting orders for the sale or the hire of goods or services; or
 - (iii) carrying out any other transaction in relation to goods or services, but does not include
- (d) the setting up of a stall or the conducting of a business at a stall under the authority of a stallholder’s permit;
- (e) the selling or the offering for sale of goods and services to, or the soliciting of orders for goods and services from a person who sells those goods or services;
- (f) the selling or the offering for sale or hire by a person of goods of her or his own manufacture or services which he or she provides; and
- (g) the selling or hiring or the offering for sale or hire of—
 - (i) goods by a person who represents a manufacturer of the goods; or
 - (ii) services by a person who represents a provider of the services, which are only sold directly to consumers and not through a shop.

Subdivision 2—Permits

6.2 Stallholder’s permit

(1) A person shall not conduct a stall on a public place unless that person is—

- (a) the holder of a valid stallholder’s permit; or
- (b) an assistant specified in a valid stallholder’s permit.

(2) Every application for a stallholder’s permit shall—

- (a) state the full name and address of the applicant;
- (b) specify the proposed number of assistants to be engaged by the applicant in conducting the stall, as well as their names and addresses if already engaged;
- (c) specify the proposed location of the stall;
- (d) specify the period of time for which the permit is sought, together with the proposed days and hours of operation;
- (e) specify the proposed goods or services to be sold or hired or offered for sale or hire from the stall; and
- (f) be accompanied by an accurate plan and description of the proposed stall.

6.3 Trader’s permit

(1) A person shall not carry on trading unless that person is—

- (a) the holder of a valid trader’s permit; or
- (b) an assistant specified in a valid trader’s permit.

- (2) Every application for a trader's permit shall—
- (a) state the full name and address of the applicant;
 - (b) specify the proposed number of assistants, if any, to be engaged by the applicant in trading, as well as their names and addresses if already engaged;
 - (c) specify the location or locations in which the applicant proposes to trade;
 - (d) specify the period of time for which the permit is sought, together with the proposed days and hours of trading;
 - (e) specify the proposed goods or services which will be traded; and
 - (f) be accompanied by an accurate plan and description of any proposed structure or vehicle which may be used by the applicant in trading.
- (3) The conditions subject to which the local government may approve an application for a trader's permit include that the permit holder is permitted to remain at a particular location for as long as there is a customer making a purchase, but if there is no customer making a purchase the permit holder must move on from that location within a reasonable time of the last purchase having been made.

6.4 No permit required to sell newspaper

Notwithstanding any other provision of this local law, a person who sells, or offers for sale, a newspaper only is not required to obtain a permit.

6.5 Relevant considerations in determining application for permit

- (1) In determining an application for a permit for the purposes of this Division, the local government is to have regard to—
- (a) any relevant policies of the local government;
 - (b) the desirability of the proposed activity;
 - (c) the location of the proposed activity;
 - (d) the principles set out in the Competition Principles Agreement; and
 - (e) such other matters as the local government may consider to be relevant in the circumstances of the case.
- (2) The local government may refuse to approve an application for a permit under this Division on any one or more of the following grounds—
- (a) that the applicant has committed a breach of any provision of this local law or of any written law relevant to the activity in respect of which the permit is sought;
 - (b) that the applicant is not a desirable or suitable person to hold a permit;
 - (c) that—
 - (i) the applicant is an undischarged bankrupt or is in liquidation;
 - (ii) the applicant has entered into any composition or arrangement with creditors; or
 - (iii) a manager, an administrator, a trustee, a receiver, or a receiver and manager has been appointed in relation to any part of the applicant's undertakings or property; or
 - (d) such other grounds as the local government may consider to be relevant in the circumstances of the case.

6.6 Conditions of permit

- (1) If the local government approves an application for a permit under this Division subject to conditions, those conditions may include—
- (a) the place, the part of the district, or the thoroughfare to which the permit applies;
 - (b) the days and hours during which a permit holder may conduct a stall or trade;
 - (c) the number, type, form and construction, as the case may be, of any stand, table, structure or vehicle which may be used in conducting a stall or in trading;
 - (d) the goods or services in respect of which a permit holder may conduct a stall or trade;
 - (e) the number of persons and the names of persons permitted to conduct a stall or trade;
 - (f) the requirement for personal attendance at the stall or the place of trading by the permit holder and the nomination of assistants, nominees or substitutes for the permit holder;
 - (g) whether and under what terms the permit is transferable;
 - (h) any prohibitions or restrictions concerning the—
 - (i) causing or making of any noise or disturbance which is likely to be a nuisance to persons in the vicinity of the permit holder;
 - (ii) the use of amplifiers, sound equipment and sound instruments;
 - (iii) the use of signs; and
 - (iv) the use of any lighting apparatus or device;
 - (i) the manner in which the permit holder's name and other details of a valid permit are to be displayed;
 - (j) the care, maintenance and cleansing of the stall or any structure used for trading and the place of the stall or any structure;

- (k) the vacating of the place of a stall or trading when the stall is not being conducted or trading is not being carried on;
 - (l) the acquisition by the stallholder or trader of public risk insurance;
 - (m) the period for which the permit is valid; and
 - (n) the designation of any place or places where trading is wholly or from time to time prohibited by the local government.
- (2) Where a permit holder by reason of illness, accident or other sufficient cause is unable to comply with this local law, the local government may at the request of that permit holder authorize another person to be a nominee of the permit holder for a specified period, and this local law and the conditions of the permit shall apply to the nominee as if he or she was the permit holder.

6.7 Exemptions from requirement to pay fee or to obtain a permit

(1) In this clause—

“charitable organisation” means an institution, association, club, society or body whether incorporated or not, the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature and from which any member does not receive any pecuniary profit except where the member is an employee or the profit is an honorarium; and

“commercial participant” means any person who is involved in operating a stall or in conducting any trading activity for personal gain or profit.

(2) The local government may waive any fee required to be paid by an applicant for a stallholder’s permit or a trader’s permit on making an application for or on the issue of a permit, or may return any such fee which has been paid, if the stall is conducted or the trading is carried on—

- (a) on a portion of a public place adjoining the normal place of business of the applicant; or
- (b) by a charitable organisation that does not sublet space to, or involve commercial participants in the conduct of a stall or trading, and any assistants that may be specified in the permit are members of that charitable organisation.

(3) The local government may exempt a person or a class of persons, whether or not in relation to a specified public place, from the requirements of this Division.

Subdivision 3—Conduct of stallholders and traders

6.8 Conduct of stallholders and traders

(1) A stallholder while conducting a stall or a trader while trading shall—

- (a) display her or his permit to do so in a conspicuous place on the stall, vehicle or temporary structure or if there is no stall, vehicle or temporary structure, carry the permit with her or him while conducting a stall or trading;
- (b) not display a permit unless it is a valid permit; and
- (c) when selling goods by weight, carry and use for that purpose, scales tested and certified in accordance with the provisions of the *Weights and Measures Act 1915*.

(2) A stallholder or trader shall not—

- (a) deposit or store any box or basket containing goods on any part of a thoroughfare so as to obstruct the movement of pedestrians or vehicles;
- (b) act in an offensive manner;
- (c) use or cause to be used any apparatus or device including any flap or shelf, whereby the dimensions of a stall, vehicle or structure are increased beyond those specified in the permit; or
- (d) in the case of a trader, carry on trading from a public place, unless there is adequate parking for customers’ vehicles reasonably close to the place of trading.

Division 2—Street entertainers

Subdivision 1—Preliminary

6.9 Interpretation

In this Division, unless the context otherwise requires—

“perform” includes to play a musical instrument, sing, mime, dance, give an acrobatic or aerobic display or entertain, but does not include public speaking;

“permit” means a permit issued for the purpose of clause 6.10;

“permitted area” means the area or areas, specified in a permit, in which the permit holder may perform; and

“permitted time” means the time or times, specified in a permit, during which the permit holder may perform.

Subdivision 2—Permits

6.10 Permit required to perform

A person shall not perform in a public place without a permit.

6.11 Variation of permitted area and permitted time

- (1) The local government may by notice in writing to a permit holder vary—
- (a) the permitted area;
 - (b) the permitted time; or
 - (c) both the permitted area and the permitted time, shown on a permit.
- (2) The local government may direct a permit holder to move from one permitted area to another permitted area, if more than one area is specified in a permit.

6.12 Duration of permit

A permit is valid for a period of 3 months after the date on which it is issued unless it is sooner cancelled under this local law.

6.13 Cancellation of permit

The CEO may cancel a permit if in her or his opinion the volume of sound caused by the permit holder in connection with the performance adversely affects the enjoyment, convenience or comfort of other persons in a public place, or if, in her or his opinion, or in the opinion of an authorized person, the performance otherwise constitutes a nuisance.

6.14 Obligations of permit holder

A permit holder shall not in a public place—

- (a) perform wearing dirty, torn or ragged clothing;
- (b) act in an offensive manner; or
- (c) place, install, erect, play or use any musical instrument or any device which emits music, including a loud speaker or an amplifier—
 - (i) other than in the permitted area; and
 - (ii) unless the musical instrument or device is specified in the permit.

Division 3—Outdoor eating facilities on public places

6.15 Interpretation

In this Division—

“Facility” means an outdoor eating facility or establishment on any part of a public place, but does not include such a facility or establishment on private land;

“permit holder” means the person to whom a permit has been issued for the purpose of clause 6.16; and

“public place” has the meaning given to it in clause 6.1.

6.16 Permit required to conduct Facility

A person shall not establish or conduct a Facility without a permit.

6.17 Matters to be considered in determining application

In determining an application for a permit for the purpose of clause 6.16, the local government may consider in addition to any other matter it considers relevant, whether or not—

- (a) the Facility is conducted in conjunction with and as an extension of food premises which abut on the Facility, and whether the applicant is the person conducting such food premises;
- (b) any abutting food premises are registered in accordance with the *Health Act 1911* and whether the use of the premises is permitted under the town planning scheme;
- (c) the Facility will comply with any local law made under section 172 of the *Health Act 1911*;
- (d) users of the Facility will have access to proper and sufficient sanitary and ablutionary conveniences;
- (e) the Facility would—
 - (i) obstruct the visibility or clear sight lines at an intersection of thoroughfares of any person; or
 - (ii) impede pedestrian access; and
- (f) the tables, chairs and other equipment to be used may obstruct or impede the use of the public place for the purpose for which it was designed.

6.18 Obligations of permit holder

(1) The permit holder for a Facility shall—

- (a) ensure that the Facility is conducted at all times in accordance with the provisions of this local law and any local law made under section 172 of the *Health Act 1911*;
- (b) ensure that the eating area is kept in a clean and tidy condition at all times;
- (c) maintain the chairs, tables and other structures in the eating area in a good, clean and serviceable condition at all times;
- (d) be solely responsible for all and any costs associated with the removal, alteration, repair, reinstatement or reconstruction of any part of the public place arising from the conduct of the Facility; and
- (e) be solely responsible for all rates and taxes levied upon the land occupied by the Facility.

(2) Whenever, in the opinion of the local government, any work is required to be carried out to a Facility, the local government may give a notice to the permit holder for the Facility to carry out that work within the time limited by the notice.

(3) In subclause (2), “work” includes the removal, alteration, repair, reinstatement or reconstruction of any part of a public place arising from or in connection with the setting up or conduct of a Facility.

6.19 Removal of Facility unlawfully conducted

Where a Facility is conducted without a permit, or in contravention of a condition of a permit, any tables, chairs, umbrellas or other equipment may be removed by an authorized person and impounded in accordance with the Act.

6.20 Use of Facility by public

(1) A person shall not occupy a chair or otherwise use the equipment in a Facility the subject of a permit unless the person uses them for the purpose of consuming food or drinks provided by the Facility.

(2) A person shall leave a Facility when requested to do so by the permit holder.

6.21 Temporary removal of Facility may be requested

(1) The permit holder for a Facility is to temporarily remove the Facility when requested to do so on reasonable grounds by an authorised person or a member of the Police Service or an emergency.

(2) The permit holder may replace the Facility removed under subclause (1) as soon as the person who directed her or him to remove it allows it to be replaced.

PART 7—PERMITS

Division 1—Applying for a permit

7.1 Application for permit

(1) Where a person is required to obtain a permit under this local law, that person shall apply for the permit in accordance with subclause (2).

(2) An application for a permit under this local law shall—

- (a) be in the form determined by the local government;
- (b) be signed by the applicant;
- (c) provide the information required by the form; and
- (d) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.

(3) The local government may require an applicant to provide additional information reasonably related to an application before determining an application for a permit.

(4) The local government may require an applicant to give local public notice of the application for a permit.

(5) The local government may refuse to consider an application for a permit which is not in accordance with subclause (2).

7.2 Decision on application for permit

(1) The local government may—

- (a) approve an application for a permit unconditionally or subject to any conditions; or
- (b) refuse to approve an application for a permit.

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

(3) If the local government refuses to approve an application for a permit, it is to give written notice of that refusal to the applicant.

(4) Where a clause of this local law refers to conditions which may be imposed on a permit or which are to be taken to be imposed on a permit, the clause does not limit the power of the local government to impose other conditions on the permit under subclause (1)(a).

(5) Where a clause of this local law refers to the grounds on which an application for a permit may be or is to be refused, the clause does not limit the power of the local government to refuse the application for a permit on other grounds under subclause (1)(b).

Division 2—Conditions

7.3 Conditions which may be imposed on a permit

The local government may approve an application for a permit subject to conditions relating to—

- (a) the payment of a fee;
- (b) the duration and commencement of the permit;
- (c) the commencement of the permit being contingent on the happening of an event;
- (d) the rectification, remedying or restoration of a situation or circumstance reasonably related to the application;
- (e) the approval of another application for a permit which may be required by the local government under any written law;

- (f) the area of the district to which the permit applies;
- (g) where a permit is issued for an activity which will or may cause damage to a public place, the payment of a deposit or bond against such damage;
- (h) the obtaining of public risk insurance in an amount and on terms reasonably required by the local government; and
- (i) the provision of an indemnity from the permit holder indemnifying the local government in respect of any injury to any person or any damage to any property which may occur in connection with the use of the public place by the permit holder.

7.4 Imposing conditions under a policy

(1) In this clause—

“policy” means a policy of the local government adopted by the Council containing conditions subject to which an application for a permit may be approved under clause 7.2(1)(a).

(2) Under clause 7.2(1)(a) the local government may approve an application subject to conditions by reference to a policy.

(3) The local government is to give a copy of the policy, or the part of the policy which is relevant to the application for a permit, with the form of permit referred to in clause 7.2(2).

(4) An application for a permit is to be taken not to have been approved subject to the conditions contained in a policy until the local government gives the permit holder a copy of the policy or the part of the policy which is relevant to the application.

(5) Sections 5.94 and 5.95 of the Act shall apply to a policy and for that purpose a policy is to be taken to be information within section 5.94(u)(i) of the Act.

7.5 Compliance with and variation of conditions

(1) Where an application for a permit has been approved subject to conditions, or where a permit is to be taken to be subject to conditions under this local law, the permit holder shall comply with each of those conditions.

(2) The local government may vary the conditions of a permit, and the permit holder shall comply with those conditions as varied.

Division 3—General

7.6 Duration of permit

A permit is valid for one year from the date on which it is issued, unless it is—

- (a) otherwise stated in this local law or in the permit; or
- (b) cancelled under clause 7.10.

7.7 Renewal of permit

(1) A permit holder may apply to the local government in writing prior to expiry of a permit for the renewal of the permit.

(2) The provisions of—

- (a) this Part; and
- (b) any other provision of this local law relevant to the permit which is to be renewed, shall apply to an application for the renewal of a permit *mutatis mutandis*.

7.8 Transfer of permit

(1) An application for the transfer of a valid permit is to—

- (a) be made in writing;
- (b) be signed by the permit holder and the proposed transferee of the permit;
- (c) provide such information as the local government may require to enable the application to be determined; and
- (d) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.

(2) The local government may approve an application for the transfer of a permit, refuse to approve it or approve it subject to any conditions.

(3) Where the local government approves an application for the transfer of a permit, the transfer may be effected by—

- (a) an endorsement on the permit signed by the CEO; or
- (b) issuing to the transferee a permit in the form determined by the local government.

(4) Where the local government approves an application for the transfer of a permit, it is not required to refund any part of any fee paid by the former permit holder.

7.9 Production of permit

A permit holder is to produce to an authorized person her or his permit immediately upon being required to do so by that authorized person.

7.10 Cancellation of permit

(1) Subject to clause 8.1, a permit may be cancelled by the local government if the permit holder has not complied with a—

- (i) condition of the permit; or
 - (ii) provision of any written law which may relate to the activity regulated by the permit; or
- (a) if it is relevant to the activity regulated by the permit—
- (i) the permit holder has become bankrupt, or gone into liquidation;
 - (ii) the permit holder has entered into any composition or arrangement with creditors; or
 - (iii) a manager, an administrator, a trustee, a receiver, or a receiver and manager is appointed in relation to any part of the permit holder's undertakings or property.
- (2) On the cancellation of a permit the permit holder
- (a) shall return the permit as soon as practicable to the local government; and
 - (b) is to be taken to have forfeited any fees paid in respect of the permit.

PART 8—OBJECTIONS AND APPEALS

8.1 Application of Part 9 Division 1 of Act

When the local government makes a decision—

- (a) under clause 7.2(1); or
 - (b) as to whether it will renew, vary, or cancel a permit,
- the provisions of Division 1 of Part 9 of the Act and regulations 33 and 34 of the Regulations apply to that decision.

PART 9—MISCELLANEOUS NOTICES

9.1 Notice to redirect or repair sprinkler

Where a lawn or a garden is being watered with a sprinkler which is on the lawn or the garden, in a manner which causes or may cause an inconvenience or obstruction to any person using a thoroughfare, the local government may give a notice to the owner or the occupier of the land abutting on the lawn or the garden, requiring the owner or the occupier or both to move or alter the direction of the sprinkler or other watering equipment.

9.2 Hazardous plants

- (1) Where a plant in a garden creates or may create a hazard for any person using a thoroughfare, the local government may give a notice to the owner or the occupier of the land abutting on the garden to remove, cut, move or otherwise deal with that plant so as to remove the hazard.
- (2) Subclause (1) does not apply where the plant was planted by the local government.

9.3 Notice to repair damage to thoroughfare

Where any portion of a thoroughfare has been damaged, the local government may by notice to the person who caused the damage order the person to repair or replace that portion of the thoroughfare to the satisfaction of the local government.

9.4 Notice to remove thing unlawfully placed on thoroughfare

Where anything is placed on a thoroughfare in contravention of this local law, the local government may by notice in writing to the owner or the occupier of the property which abuts on that portion of the thoroughfare where the thing has been placed, or such other person who may be responsible for the thing being so placed, require the relevant person to remove the thing.

PART 10—ENFORCEMENT

Division 1—Notices given under this local law

10.1 Offence to fail to comply with notice

Whenever the local government gives a notice under this local law requiring a person to do anything, if the person fails to comply with the notice, the person commits an offence.

10.2 Local government may undertake requirements of notice

Where a person fails to comply with a notice referred to in clause 10.1, the local government may do the thing specified in the notice and recover from that person, as a debt, the costs incurred in so doing.

Division 2—Offences and penalties

Subdivision 1—General

10.3 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 \$5,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

Subdivision 2—Infringement notices and modified penalties

10.4 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.

(3) For the purpose of guidance only, before giving an infringement notice to a person in respect of the commission of a prescribed offence, an authorized person should be satisfied that—

- (a) commission of the prescribed offence is a relatively minor matter; and
- (b) only straightforward issues of law and fact are involved in determining whether the prescribed offence was committed, and the facts in issue are readily ascertainable.

10.5 Forms

Unless otherwise specified, for the purposes of this local law—

- (a) where a vehicle is involved in the commission of an offence, the form of the notice referred to in section 9.13 of the Act is that of Form 1 in Schedule 1 of the Regulations;
- (b) 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
- (c) the form of the notice referred to in section 9.20 of the Act is that of Form 3 in Schedule 1 of the Regulations.

Schedule 1
PRESCRIBED OFFENCES

Clause	Description	Modified Penalty \$
2.1(a)	Plant of 0.75m in height on thoroughfare within 10m of intersection	100
2.1(b)	Damaging lawn or garden	100
2.1(c)	Plant (except grass) on thoroughfare within 2m of carriageway	100
2.1(d)	Placing hazardous substance on footpath	100
2.1(e)	Damaging or interfering with signpost or structure on thoroughfare	300
2.1(f)	Playing games so as to impede vehicles or persons on thoroughfare	100
2.1(g)	Riding of skateboard or similar device on mall or verandah of shopping centre	100
2.2(1)(a)	Digging a trench through a kerb or footpath without a permit	100
2.2(1)(b)	Throwing or placing anything on a verge without a permit	100
2.2(1)(c)	Causing obstruction to vehicle or person on thoroughfare without a permit	100
2.2(1)(d)	Causing obstruction to water channel on thoroughfare without a permit	200
2.2(1)(e)	Placing or draining offensive fluid on thoroughfare without a permit	200
2.2(1)(g)	Lighting a fire on a thoroughfare without a permit	300
2.2(1)(h)	Felling tree onto thoroughfare without a permit	100
2.2(1)(i)	Installing pipes or stone on thoroughfare without a permit	100
2.2(1)(j)	Installing a hoist or other thing on a structure or land for use over a thoroughfare without a permit	300
2.2(1)(k)	Creating a nuisance on a thoroughfare without a permit	100
2.2(1)(l)	Placing a bulk rubbish container on a thoroughfare without a permit	100
2.2(1)(m)	Interfering with anything on a thoroughfare without a permit	100
2.3(1)	Consumption or possession of liquor on thoroughfare	100
2.4(1)	Failure to obtain permit for temporary crossing	200
2.5(2)	Failure to comply with notice to remove crossing and reinstate kerb	300
2.9(1)	Installation of verge treatment other than permissible verge treatment	200
2.10	Failure to maintain permissible verge treatment or placement of obstruction on verge	100

Clause	Description	Modified Penalty \$
2.11	Failure to comply with notice to rectify default	100
2.17(2)	Failure to comply with sign on public place	100
2.19(1)	Driving or taking a vehicle on a closed thoroughfare	300
3.2(1)	Placing advertising sign or affixing any advertisement on a thoroughfare without a permit	100
3.2(3)	Erecting or placing of advertising sign in a prohibited area	100
4.1(1)	Animal or vehicle obstructing a public place or local government property	100
4.2(2)(a)	Animal on thoroughfare when not led, ridden or driven	100
4.2(2)(b)	Animal on public place with infectious disease	100
4.2(2)(c)	Training or racing animal on thoroughfare in built-up area	100
4.2(3)	Horse led, ridden or driven on thoroughfare in built-up area	100
4.5	Person leaving shopping trolley in public place other than trolley bay	100
4.6(2)	Failure to remove shopping trolley upon being advised of location	100
5.6(1)	Driving a vehicle on other than the carriageway of a flora road	200
5.9	Planting in thoroughfare without a permit	200
5.11	Failure to obtain permit to clear a thoroughfare	500
5.13	Burning of thoroughfare without a permit	500
5.17	Construction of firebreak on thoroughfare without a permit	500
5.19	Commercial harvesting of native flora on thoroughfare	500
5.20(1)	Collecting seed from native flora on thoroughfare without a permit	300
6.2(1)	Conducting of stall in public place without a permit	300
6.3(1)	Trading without a permit	300
6.8(1)(a)	Failure of stallholder or trader to display or carry permit	100
6.8(1)(b)	Stallholder or trader not displaying valid permit	100
6.8(1)(c)	Stallholder or trader not carrying certified scales when selling goods by weight	100
6.8(2)	Stallholder or trader engaged in prohibited conduct	100
6.10	Performing in a public place without a permit	100
6.11(2)	Failure of performer to move onto another area when directed	100
6.14	Failure of performer to comply with obligations	100
6.16	Establishment or conduct of outdoor eating facility without a permit	300
6.18	Failure of permit holder of outdoor eating facility to comply with obligations	100
6.20(1)	Use of equipment of outdoor eating facility without purchase of food or drink from facility	50
6.20(2)	Failure to leave outdoor eating facility when requested to do so by permit holder	50
7.5	Failure to comply with a condition of a permit	100
7.9	Failure to produce permit on request of authorized person	100
10.1	Failure to comply with notice given under local law	100

Dated: 9 September 2014.

The Common Seal of the Shire of Kellerberrin was affixed by authority of a resolution of the Council in the presence of

ROD FORSYTH, President.
RAYMOND GRIFFITHS, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995**SHIRE OF KELLERBERRIN****LOCAL GOVERNMENT (COUNCIL MEETINGS)
LOCAL LAW 2014****ARRANGEMENT****PART 1—PRELIMINARY**

- 1.1 Citation
- 1.2 Commencement
- 1.3 Application and intent
- 1.4 Interpretation
- 1.5 Repeal
- 1.6 Provisions of the Act, Regulations and other legislation

PART 2—ESTABLISHMENT AND MEMBERSHIP OF COMMITTEES

- 2.1 Establishment of committees
- 2.2 Types of committees
- 2.3 Delegation of some powers and duties to certain committees
- 2.4 Limits on delegation of powers and duties to certain committees
- 2.5 Appointment of committee Members
- 2.6 Tenure of committee membership
- 2.7 Resignation of committee Members
- 2.8 Register of delegations to committees
- 2.9 Committees to report

PART 3—CALLING AND CONVENING MEETINGS

- 3.1 Ordinary and special Council meetings
- 3.2 Calling Council meetings
- 3.3 Convening Council meetings
- 3.4 Calling committee meetings
- 3.5 Public notice of meetings

PART 4—PRESIDING MEMBER AND QUORUM*Division 1—Who presides*

- 4.1 Who presides
- 4.2 When the Deputy Mayor/Deputy President can act
- 4.3 Who acts if no Mayor/President
- 4.4 Election of Presiding Members of committees
- 4.5 Election of Deputy Presiding Members of committees
- 4.6 Functions of Deputy Presiding Members
- 4.7 Who acts if no Presiding Member

Division 2—Quorum

- 4.8 Quorum for meetings
- 4.9 Reduction of quorum for Council meetings
- 4.10 Reduction of quorum for committee meetings
- 4.11 Procedure where no quorum to begin a meeting
- 4.12 Procedure where quorum not present during a meeting
- 4.13 Names to be recorded

PART 5—BUSINESS OF A MEETING

- 5.1 Business to be specified
- 5.2 Order of business
- 5.3 Motions of which previous notice has been given
- 5.4 New business of an urgent nature
- 5.5 Adoption by exception resolution

PART 6—PUBLIC PARTICIPATION

- 6.1 Meetings generally open to the public
- 6.2 Meetings not open to the public
- 6.3 Question time for the public
- 6.4 Question time for the public at certain meetings
- 6.5 Minimum question time for the public
- 6.6 Procedures for question time for the public
- 6.7 Other procedures for question time for the public
- 6.8 Distinguished visitors
- 6.9 Deputations
- 6.10 Petitions
- 6.11 Presentations
- 6.12 Participation at committee meetings
- 6.13 Council may meet to hear public submissions
- 6.14 Public Inspection of agenda materials
- 6.15 Confidentiality of information withheld
- 6.16 Recording of proceedings
- 6.17 Prevention of disturbance

PART 7—QUESTIONS BY MEMBERS**PART 8—CONDUCT OF MEMBERS**

- 8.1 Members to be in their proper places
- 8.2 Respect to the Presiding Member
- 8.3 Titles to be used
- 8.4 Advice of entry or departure
- 8.5 Members to indicate their intention to speak
- 8.6 Priority of speaking
- 8.7 Presiding Member may take part in debates
- 8.8 Relevance
- 8.9 Speaking twice
- 8.10 Duration of speeches
- 8.11 No speaking after conclusion of debate
- 8.12 No interruption
- 8.13 Personal explanations
- 8.14 No reopening of discussion
- 8.15 Adverse reflection
- 8.16 Withdrawal of offensive language

PART 9—PRESERVING ORDER

- 9.1 Presiding Member to preserve order
- 9.2 Point of order
- 9.3 Procedures on a point of order
- 9.4 Calling attention to breach
- 9.5 Ruling by the Presiding Member
- 9.6 Continued breach of order
- 9.7 Right of Presiding Member to adjourn

PART 10—DEBATE OF SUBSTANTIVE MOTIONS

- 10.1 Motions to be stated and in writing
- 10.2 Motions to be supported
- 10.3 Unopposed business
- 10.4 Only one substantive motion at a time
- 10.5 Order of call in debate
- 10.6 Limit of debate
- 10.7 Member may require question to be read
- 10.8 Consent of seconder required for alteration
- 10.9 Order of amendments
- 10.10 Form of an amendment
- 10.11 Amendment must not negate original motion
- 10.12 Relevance of amendments
- 10.13 Mover of motion may speak on amendment
- 10.14 Effect of an amendment
- 10.15 Withdrawal of motion or amendment
- 10.16 Right of reply

PART 11—PROCEDURAL MOTIONS

- 11.1 Permissible procedural motions
- 11.2 No debate
- 11.3 Who may move
- 11.4 Procedural motions—right of reply on substantive motion
- 11.5 Meeting to proceed to the next business
- 11.6 Debate to be adjourned
- 11.7 Meeting now adjourn

- 11.8 Question to be put
- 11.9 Member to be no longer heard
- 11.10 Ruling of the Presiding Member to be disagreed with

PART 12—DISCLOSURE OF INTERESTS

- 12.1 Disclosure of interests

PART 13—VOTING

- 13.1 Question—when put
- 13.2 Voting
- 13.3 Majorities required for decisions
- 13.4 Method of taking vote

PART 14—MINUTES OF MEETINGS

- 14.1 Keeping of minutes
- 14.2 Content of minutes
- 14.3 Public inspection of unconfirmed minutes
- 14.4 Confirmation of minutes

PART 15—ADJOURNMENT OF MEETING

- 15.1 Meeting may be adjourned
- 15.2 Effect of adjournment

PART 16—REVOKING OR CHANGING DECISIONS

- 16.1 Requirements to revoke or change decisions
- 16.2 Limitations on powers to revoke or change decisions
- 16.3 Implementing a decision

PART 17—SUSPENSION OF LOCAL LAWS

- 17.1 Suspension of Local Laws
- 17.2 Where Local Laws do not apply
- 17.3 Cases not provided for in Local Laws

PART 18—MEETINGS OF ELECTORS

- 18.1 Electors' general meetings
- 18.2 Matters for discussion at general electors' meeting
- 18.3 Electors' special meetings
- 18.4 Requests for electors' special meetings
- 18.5 Convening electors' meetings
- 18.6 Who presides at electors' meetings
- 18.7 Procedure for electors' meetings
- 18.8 Participation of non-electors
- 18.9 Voting at electors' meetings
- 18.10 Minutes of electors' meetings
- 18.11 Decisions made at electors' meetings

PART 19—ENFORCEMENT

- 19.1 Penalty for breach
- 19.2 Who can prosecute

LOCAL GOVERNMENT ACT 1995

SHIRE OF KELLERBERRIN

LOCAL GOVERNMENT (COUNCIL MEETINGS)
LOCAL LAW 2014

Under the powers conferred by the *Local Government Act 1995* and under all other relevant powers, the Shire of Kellerberrin resolved on 19 August 2014 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

(1) This local law may be cited as the Shire of Kellerberrin Local Government (Council Meetings) Local Law 2014.

1.2 Commencement

By virtue of section 3.14 of the Act, these Local Laws come into operation 14 days after the date of their publication in the *Government Gazette*.

1.3 Application and intent

(1) These Local Laws provide rules and guidelines which apply to the conduct of meetings of the Council and its committees and to meetings of electors.

(2) All meetings are to be conducted in accordance with the Act, the Regulations and these Local Laws.

(3) These Local Laws are intended to result in—

- (a) better decision-making by the Council and committees;
- (b) the orderly conduct of meetings dealing with Council business;
- (c) better understanding of the process of conducting meetings; and
- (d) more efficient and effective use of time at meetings.

1.4 Interpretation

(1) In these Local Laws unless the context otherwise requires—

“**absolute majority**” has the meaning given to it in the Act;

“**75% majority**” has the meaning given to it in the Act;

“**Act**” means the *Local Government Act 1995*;

“**CEO**” means the Chief Executive Officer of the Local Government;

“**committee**” means a committee of the Council established under section 5.8 of the Act;

“**committee meeting**” means a meeting of a committee;

“**Council**” means the Council of the Shire of Kellerberrin;

“**Local Government**” means the Shire of Kellerberrin;

“**Mayor/President**” means the Mayor/President of the Local Government or other Presiding Member at a Council meeting under section 5.6 of the Act;

“**meeting**” means a meeting of the Council or a committee, as the context requires;

“**Member**” has the meaning given to it in the Act;

“**Presiding Member**” means—

- (a) in respect of the Council, the person presiding under section 5.6 of the Act; and
- (b) in respect of a committee, the person presiding under sections 5.12, 5.13, and 5.14 of the Act;

“**Regulations**” means the *Local Government (Administration) Regulations 1996*;

“**simple majority**” means more than 50% of the members present and voting; and,

“**substantive motion**” means an original motion or an original motion as amended, but does not include an amendment or a procedural motion.

(2) Unless otherwise defined in these Local Laws, the terms and expressions used in these Local Laws are to have the meaning given to them in the Act and Regulations.

1.5 Repeal

- (1) The following Local Laws are repealed—
Shire of Kellerberrin Local Laws Relating to Standing Orders.

1.6 Provisions of the Act, Regulations and other legislation

- (1) Throughout these Local Laws, provisions of the Act and Regulations, and provisions of other legislation, are reproduced in a boxed format.
- (2) The purpose of reproducing these provisions is to assist the reader by giving a fuller picture of related legislative provisions that also apply to meetings of the Council, committees and electors.
- (3) The reproduced provisions of the Act and Regulations and other legislation—
- (a) are to be treated as footnotes and are not part of these Local Laws (see section 32(2) of the *Interpretation Act 1984*); and
 - (b) reproduce only the provisions that were in force at the time that the Council resolved to adopt these Local Laws and therefore may not necessarily be correct at a future date.

PART 2—ESTABLISHMENT AND MEMBERSHIP OF COMMITTEES**2.1 Establishment of committees**

- (1) The establishment of committees is dealt with in the Act.
- (2) A Council resolution to establish a committee under section 5.8 of the Act is to include—
- (a) the terms of reference of the committee;
 - (b) the number of council members, officers and other persons to be appointed to the committee;
 - (c) the names or titles of the council members and officers to be appointed to the committee;
 - (d) the names of other persons to be appointed to the committee or an explanation of the procedure to be followed to determine the appointments; and
 - (e) details of the delegation of any powers or duties to the committee under section 5.16 of the Act.
- (3) These Local Laws are to apply to the conduct of committee meetings.

2.2 Types of committees

The types of committees are dealt with in the Act.

2.3 Delegation of some powers and duties to certain committees

The delegation of some powers and duties to certain committees is dealt with in the Act.

2.4 Limits on delegation of powers and duties to certain committees

The limits on the delegation of powers and duties to certain committees are dealt with in the Act.

2.5 Appointment of committee members

The appointment of committee members is dealt with in the Act.

2.6 Tenure of committee membership

Tenure of committee membership is dealt with in the Act.

2.7 Resignation of committee members

The resignation of committee members is dealt with in the Regulations.

2.8 Register of delegations to committees

The register of delegations to committees is dealt with in the Act.

2.9 Committees to report

A committee—

- (a) is answerable to the Council; and
- (b) is to report on its activities when, and to the extent, required by the Council.

PART 3—CALLING AND CONVENING MEETINGS**3.1 Ordinary and special Council meetings**

- (1) Ordinary and special Council meetings are dealt with in the Act.
- (2) An ordinary meeting of the Council, held on a monthly basis or otherwise as determined by the Council, is for the purpose of considering and dealing with the ordinary business of the Council.
- (3) A special meeting of the Council is held for the purpose of considering and dealing with Council business that is urgent, complex in nature, for a particular purpose or confidential.

3.2 Calling Council meetings

The calling of Council meetings is dealt with in the Act.

3.3 Convening Council meetings

- (1) The convening of a Council meeting is dealt with in the Act.
- (2) Subject to subclause (3), the CEO is to give at least 72 hours notice, for the purposes of section 5.5, in convening a special meeting of the Council.

(3) Where, in the opinion of the Mayor/President or at least one-third of the Members, there is a need to meet urgently, the CEO may give a lesser period of notice of a special Council meeting.

3.4 Calling committee meetings

The CEO is to call a meeting of any committee when requested by the Mayor/President, the Presiding Member of a committee or any two members of that committee.

3.5 Public notice of meetings

Public notice of meetings is dealt with in the Regulations.

PART 4—PRESIDING MEMBER AND QUORUM

Division 1—Who presides

4.1 Who presides

Who presides at a Council meeting is dealt with in the Act.

4.2 When the Deputy Mayor/Deputy President can act

When the Deputy Mayor/Deputy President can act is dealt with in the Act.

4.3 Who acts if no Mayor/President

Who acts if there is no Mayor/President is dealt with in the Act.

4.4 Election of Presiding Members of committees

The election of Presiding Members of committees and their deputies is dealt with in the Act.

4.5 Election of Deputy Presiding Members of committees

The election of Deputy Presiding Members of committees is dealt with in the Act.

4.6 Functions of Deputy Presiding Members

The functions of Deputy Presiding Members are dealt with in the Act.

4.7 Who acts if no Presiding Member

Who acts if no Presiding Member is dealt with in the Act.

Division 2—Quorum

4.8 Quorum for meetings

The quorum for meetings is dealt with in the Act.

4.9 Reduction of quorum for Council meetings

The power of the Minister to reduce the number for a quorum and certain majorities is dealt with in the Act.

4.10 Reduction of quorum for committee meetings

The reduction of a quorum for committee meetings is dealt with in the Act.

4.11 Procedure where no quorum to begin a meeting

The procedure where there is no quorum to begin a meeting is dealt with in the Act.

4.12 Procedure where quorum not present during a meeting

If at any time during a meeting a quorum is not present, the Presiding Member is—

- (a) immediately to suspend the proceedings of the meeting for a period of up to 15 minutes; and
- (b) if a quorum is not present at the expiry of that period, the Presiding Member is to adjourn the meeting to some future time or date.

4.13 Names to be recorded

At any meeting—

- (a) at which there is not a quorum present; or
- (b) which is adjourned for want of a quorum,

the names of the Members then present are to be recorded in the minutes.

PART 5—BUSINESS OF A MEETING

5.1 Business to be specified

(1) No business is to be transacted at any ordinary meeting of the Council other than that specified in the agenda, without the approval of the Presiding Member or the Council.

(2) No business is to be transacted at a special meeting of the Council other than that given in the notice as the purpose of the meeting.

(3) Subject to subclause (4), no business is to be transacted at an adjourned meeting of the Council other than that—

- (a) specified in the notice of the meeting which had been adjourned; and
- (b) which remains unresolved.

(4) Where a meeting is adjourned to the next ordinary meeting of the Council then, unless the Council resolves otherwise, the business unresolved at the adjourned meeting is to be dealt with before considering Reports (Item 10) at that ordinary meeting.

5.2 Order of business

(1) Unless otherwise decided by the Council the order of business at any ordinary meeting of the Council is to be as follows—

1. Declaration of Opening/Announcement of Visitors
2. Announcements from the Presiding Member
3. Attendance
 - 3.1 Apologies
 - 3.2 Approved leave of absence
4. Declaration of interest
5. Public Question Time
 - 5.1 Response to previous public questions taken on notice
 - 5.2 Public question time
6. Confirmation of minutes
7. Presentations
 - 7.1 Petitions
 - 7.2 Presentations
 - 7.3 Deputations
 - 7.4 Delegates' reports
8. Method of dealing with agenda business
9. Reports
10. Applications for leave of absence
11. Motions of which previous notice has been given
12. Questions from Members without notice
13. New business of an urgent nature introduced by decision of the meeting
14. Meeting closed to public
 - 14.1 Matters for which the meeting may be closed
 - 14.2 Public reading of resolutions that may be made public
15. Closure

(2) Unless otherwise decided by the Council, the order of business at any special meeting of the Council is to be the order in which that business stands in the agenda of the meeting.

(3) In determining the order of business for any meeting of the Council, the provisions of the Act and Regulations relating to the time at which public question time is to be held are to be observed.

5.3 Motions of which previous notice has been given

(1) Unless the Act, Regulations or these Local Laws otherwise provide, a Member may raise at a meeting such business as he or she considers appropriate, in the form of a motion, of which notice has been given in writing to the CEO and which has been included on the agenda.

(2) A notice of motion under subclause (1) is to be given at least 7 clear working days before the meeting at which the motion is moved.

(3) A notice of motion is to relate to the good governance of the district.

(4) The CEO—

- (a) may, with the concurrence of the Mayor/President, may exclude from the notice paper any notice of motion deemed to be, or likely to involve, a breach of any of these Local Laws or any other written law;
- (b) will inform Members on each occasion that a notice has been excluded and the reasons for that exclusion;
- (c) may, after consultation with the Member where this is practicable, make such amendments to the form but not the substance as will bring the notice of motion into due form; and
- (d) may provide to the Council relevant and material facts and circumstances pertaining to the notice of motion on such matters as policy, budget and law.

(5) A motion of which notice has been given is to lapse unless—

- (a) the Member who gave notice of it, or some other Member authorised by the originating Member in writing, moves the motion when called on; or
- (b) the Council on a motion agrees to defer consideration of the motion to a later stage or date.

(6) If a notice of motion is given and lapses under subclause (5), notice of a motion in the same terms or to the same effect is not to be given again for at least 3 months from the date of such lapse.

5.4 New business of an urgent nature

(1) In cases of extreme urgency or other special circumstances, matters may, on a motion by the Presiding Member that is carried by the meeting, be raised without notice and decided by the meeting.

(2) In subclause (1), 'cases of extreme urgency or other special circumstances' means matters that have arisen after the preparation of the agenda that are considered by the Presiding Member to be of such importance and urgency that they are unable to be dealt with administratively by the Local Government and must be considered and dealt with by the Council before the next meeting.

5.5 Adoption by exception resolution

(1) In this clause 'adoption by exception resolution' means a resolution of the Council that has the effect of adopting, for a number of specifically identified reports, the officer recommendation as the Council resolution.

(2) Subject to subclause (3), the Local Government may pass an adoption by exception resolution.

(3) An adoption by exception resolution may not be used for a matter—

- (a) that requires a 75% majority or a special majority;
- (b) in which an interest has been disclosed;
- (c) that has been the subject of a petition or deputation;
- (d) that is a matter on which a Member wishes to make a statement; or
- (e) that is a matter on which a Member wishes to move a motion that is different to the recommendation.

PART 6—PUBLIC PARTICIPATION

6.1 Meetings generally open to the public

Meetings being generally open to the public is dealt with in the Act.

6.2 Meetings not open to the public

(1) The CEO may, at any time, recommend that a meeting or part of a meeting be closed to members of the public.

(2) The Council or a committee, in one or more of the circumstances dealt with in the Act, may at any time, by resolution, decide to close a meeting or part of a meeting.

(3) If a resolution under subclause (2) is carried—

- (a) the Presiding Member is to direct everyone to leave the meeting except—
 - (i) the Members;
 - (ii) the CEO; and
 - (iii) any Officer specified by the Presiding Member; and
- (b) the meeting is to be closed to the public until, at the conclusion of the matter justifying the closure of the meeting to the public, the Council or the committee, by resolution, decides otherwise.

(4) A person who fails to comply with a direction under subclause (3)(a) may, by order of the Presiding Member, be removed from the meeting.

(5) While the resolution under subclause (2) remains in force, the operation of clause 8.8 is to be suspended until the Council or the committee, by resolution, decides otherwise.

(6) A resolution under this clause may be made without notice.

(7) Unless the Council resolves otherwise, once the meeting is reopened to members of the public, the Presiding Member is to ensure that any resolution of the Council made while the meeting was closed is to be read out including a vote of a Member to be included in the minutes.

6.3 Question time for the public

Question time for the public is dealt with in the Act.

6.4 Question time for the public at certain meetings

Question time for the public at certain meetings is dealt with in the Regulations.

6.5 Minimum question time for the public

Minimum question time for the public is dealt with in the Regulations.

6.6 Procedures for question time for the public

Procedures for question time for the public are dealt with in the Regulations.

6.7 Other procedures for question time for the public

(1) A member of the public who raises a question during question time, is to state his or her name and address.

(2) A question may be taken on notice by the Council for later response.

(3) When a question is taken on notice the CEO is to ensure that—

- (a) a response is given to the member of the public in writing; and
- (b) a summary of the response is included in the agenda of the next meeting of the Council.

(4) Where a question relating to a matter in which a relevant person has an interest is directed to the relevant person, the relevant person is to—

- (a) declare that he or she has an interest in the matter; and
- (b) allow another person to respond to the question.

- (5) Each member of the public with a question is entitled to ask up to 2 questions before other members of the public will be invited to ask their questions.
- (6) Where a member of the public provides written questions then the Presiding Member may elect for the questions to be responded to as normal business correspondence.
- (7) The Presiding Member may decide that a public question shall not be responded to where—
- (a) the same or similar question was asked at a previous meeting, a response was provided and the member of the public is directed to the minutes of the meeting at which the response was provided;
 - (b) the member of the public uses public question time to make a statement, provided that the Presiding Member has taken all reasonable steps to assist the member of the public to phrase the statement as a question; or
 - (c) the member of the public asks a question that is offensive or defamatory in nature, provided that the Presiding Member has taken all reasonable steps to assist the member of the public to phrase the question in a manner that is not offensive or defamatory.
- (8) A member of the public shall have two minutes to submit a question.
- (9) The Council, by resolution, may agree to extend public question time.
- (10) Where an answer to a question is given at a meeting, a summary of the question and the answer is to be included in the minutes.

6.8 Distinguished visitors

If a distinguished visitor is present at a meeting of the Council, the Presiding Member may acknowledge the presence of the distinguished visitor at an appropriate time during the meeting, and the presence of that visitor shall be recorded in the minutes.

6.9 Deputations

- (1) Any person or group wishing to be received as a deputation by the Council is to either—
- (a) apply, before the meeting, to the CEO for approval; or
 - (b) with the approval of the Presiding Member, at the meeting, address the Council.
- (2) The CEO may either—
- (a) approve the request and invite the deputation to attend a meeting of the Council; or
 - (b) refer the request to the Council to decide by simple majority whether or not to receive the deputation.
- (3) Unless the council resolves otherwise, a deputation invited to attend a Council meeting—
- (a) is not to exceed 5 persons, only 2 of whom may address the Council, although others may respond to specific questions from Members;
 - (b) is not to address the Council for a period exceeding 10 minutes without the agreement of the Council; and,
 - (c) additional members of the deputation may be allowed to speak with the leave of the Presiding Member.
- (4) Any matter which is the subject of a deputation to the Council is not to be decided by the Council until the deputation has completed its presentation.

6.10 Petitions

- (1) A petition is to—
- (a) be addressed to the Mayor/President;
 - (b) be made by electors of the district;
 - (c) state the request on each page of the petition;
 - (d) contain the name, address and signature of each elector making the request, and the date each elector signed;
 - (e) contain a summary of the reasons for the request; and
 - (f) state the name of the person to whom, and an address at which, notice to the petitioners can be given.
- (2) Upon receiving a petition, the Local Government is to submit the petition to the relevant officer to be included in his or her deliberations and report on the matter that is the subject of the petition, subject to subclause(3).
- (3) At any meeting, the Council is not to vote on any matter that is the subject of a petition presented to that meeting, unless—
- (a) the matter is the subject of a report included in the agenda; and
 - (b) the Council has considered the issues raised in the petition.

6.11 Presentations

- (1) In this clause, a “presentation” means the acceptance of a gift or an award by the Council on behalf of the Local Government or the community.
- (2) A presentation may be made to the Council at a meeting only with the prior approval of the CEO.

6.12 Participation at committee meetings

- (1) In this clause a reference to a person is to a person who—
 - (a) is entitled to attend a committee meeting;
 - (b) attends a committee meeting; and
 - (c) is not a member of that committee.
- (2) Without the consent of the Presiding Member, no person is to address a committee meeting.
- (3) The Presiding Member of a committee may allow a person to make an oral submission to the committee for up to 3 minutes.
- (4) A person addressing the committee with the consent of the Presiding Member is to cease that address immediately after being directed to do so by the Presiding Member.
- (5) A person who fails to comply with a direction of the Presiding Member under subclause (4) may, by order of the Presiding Member, be removed from the committee room.
- (6) The Council may make a policy dealing with the circumstances in which a person may be given consent to address a committee meeting.

6.13 Council may meet to hear public submissions

- (1) Where an item on the agenda at a Council meeting is contentious and is likely to be the subject of a number of deputations, the Council may resolve to meet at another time to provide a greater opportunity to be heard.
- (2) The CEO and the Mayor/President shall set the time and date of the meeting to provide the opportunity to be heard.
- (3) Where the Council resolves to meet to provide the opportunity to be heard under subclause (1), the Presiding Member shall—
 - (a) instruct the CEO to provide local public notice of the time and date when the Council will meet to provide an opportunity to be heard;
 - (b) provide a written invitation to attend the meeting to provide the opportunity to be heard to all members of the public who have applied under clause 6.9 to make a deputation on the issue; and
 - (c) cause minutes to be kept of the meeting to provide the opportunity to be heard.
- (4) A meeting held under subclause (1) shall be conducted only to hear submissions. The Council shall not make resolutions at a meeting to provide the opportunity to be heard.
- (5) At a meeting held under subclause (1), each person making a submission shall be provided with the opportunity to fully state his or her case.
- (6) A member of the public shall be limited to 10 minutes in making an oral submission, but this period may be extended at the discretion of the Presiding Member.
- (7) Once every member of the public has had the opportunity to make a submission the Presiding Member is to close the meeting.
- (8) The CEO is to ensure that a report is included on the agenda of the next Council meeting summarising each submission made at the meeting.
- (9) The Council must not resolve on the matter that is the subject of a meeting to provide the opportunity to be heard until it has received the CEO's report under subclause (8).

6.14 Public Inspection of agenda materials

The right of the public to inspect the documents referred to, and in accordance with, regulation 14 of the Regulations may be exercised at the Shire of Kellerberrin offices at 34 Padbury Street Kellerberrin and on the Local Government's website.

6.15 Confidentiality of information withheld

- (1) Information withheld by the CEO from the public under regulation 14(2) of the Regulations is to be—
 - (a) identified in the agenda of a Council meeting under the item "Matters for which meeting may be closed";
 - (b) marked "*Confidential*" in the agenda; and
 - (c) kept confidential by Officers and Members until the Council resolves otherwise.
- (2) A member or an officer in receipt of confidential information under subclause (1) or information that is provided or disclosed during a meeting or part of a meeting that is closed to the public is not to disclose any of that information to any person other than another member or an officer to the extent necessary for the purpose of carrying out his or her duties.
- (3) Subclause (2) does not apply where a member or officer discloses the information to his or her lawyer or government officer for the purpose of seeking advice in order to lawfully fulfil his or her role and responsibilities.

6.16 Recording of proceedings

A person is not to use any electronic, visual or vocal recording device or instrument to record the proceedings of the Council without the permission of the Presiding Member.

6.17 Prevention of disturbance

- (1) A reference in this clause to a person is to a person other than a member.

- (2) A person addressing the Council shall extend due courtesy and respect to the Council and the processes under which it operates and shall comply with any direction by the Presiding Member.
- (3) A person observing a meeting shall not create a disturbance at a meeting, by interrupting or interfering with the proceedings, whether by expressing approval or dissent, by conversing or by any other means.
- (4) A person shall ensure that his or her mobile telephone or audible pager is not switched on or used during any meeting of the Council.
- (5) A person shall not behave in a manner that is contrary to section 75 of the Criminal Code.

PART 7—QUESTIONS BY MEMBERS

- (1) Members may ask questions relating to an item on the notice paper or on matters related to the good government of persons in the district.
- (2) A Member requesting general information from an Officer at a Council meeting may ask a question without notice and with the consent of the Presiding Member, may ask one or more further questions of that Officer or another Officer present at the meeting.
- (3) Where possible the Officer shall endeavour to answer the question to the best of his or her knowledge and ability, however, if the information is unavailable or the answer requires research or investigation, the Officer may ask that—
 - (i) the question be placed on notice for the next meeting of Council; and
 - (ii) the answer to the question be given to the Member who asked it within 14 days.
- (4) Every question and answer—
 - (i) is to be brief and concise; and
 - (ii) is not to be accompanied by argument, expression of opinion or statement of facts, except to the extent necessary to explain the question or answer.
- (5) In answering any question, an Officer may qualify his or her answer and may at a later time in the meeting or at a subsequent meeting alter, correct, add to or otherwise amend the original answer.

PART 8—CONDUCT OF MEMBERS

8.1 Members to be in their proper places

- (1) At the first meeting held after each election day, the CEO is to allot, alphabetically by ward, a position at the Council table to each Member.
- (2) Each Member is to occupy his or her allotted position at each Council meeting.

8.2 Respect to the Presiding Member

After the business of a Council has been commenced, a Member is not to enter or leave the meeting without first paying due respect to the Presiding Member.

8.3 Titles to be used

A speaker, when referring to the Mayor/President, Deputy Mayor/Deputy President or Presiding Member, or a Member or Officer, is to use the title of that person's office.

8.4 Advice of entry or departure

During the course of a meeting of the Council, a Member is not to enter or leave the meeting without first advising the Presiding Member, in order to facilitate the recording in the minutes of the time or entry or departure.

8.5 Members to indicate their intention to speak

A Member of the Council who wishes to speak is to indicate his or her intention to speak by raising his or her hand or by another method agreed by the Council.

8.6 Priority of speaking

- (1) Where two or more Members indicate, at the same time, their intention to speak, the Presiding Member is to decide which Member is entitled to be heard first.
- (2) A decision of the Presiding Member under subclause (1) is not open to discussion or dissent.
- (3) A Member is to cease speaking immediately after being asked to do so by the Presiding Member.

8.7 Presiding Member may take part in debates

The Presiding Member may take part in a discussion of any matter before the Council, subject to compliance with these Local Laws.

8.8 Relevance

- (1) A Member is to restrict his or her remarks to the motion or amendment under discussion, or to a personal explanation or point of order.
- (2) The Presiding Member, at any time, may—
 - (a) call the attention of the meeting to—
 - (i) any irrelevant, repetitious, offensive or insulting language by a Member; or
 - (ii) any breach of order or decorum by a Member; and
 - (b) direct that Member, if speaking, to discontinue his or her speech.

(3) A Member is to comply with the direction of the Presiding Member under subclause (2) by immediately ceasing to speak.

8.9 Speaking twice

A Member is not to address the Council more than once on any motion or amendment except—

- (a) as the mover of a substantive motion, to exercise a right of reply;
- (b) to raise a point of order; or
- (c) to make a personal explanation.

8.10 Duration of speeches

(1) A Member is not to speak on any matter for more than 5 minutes without the consent of the Council which, if given, is to be given without debate.

(2) An extension under this clause cannot be given to allow a Member's total speaking time to exceed 10 minutes.

8.11 No speaking after conclusion of debate

A Member is not to speak on any motion or amendment—

- (a) after the mover has replied; or
- (b) after the question has been put.

8.12 No interruption

A Member is not to interrupt another Member who is speaking unless—

- (a) to raise a point of order;
- (b) to call attention to the absence of a quorum;
- (c) to make a personal explanation under clause 8.13; or
- (d) to move a procedural motion that the Member be no longer heard (see clause 11(1)(e)).

8.13 Personal explanations

(1) A Member who wishes to make a personal explanation relating to a matter referred to by another Member who is then speaking is to indicate to the Presiding Member his or her intention to make a personal explanation.

(2) The Presiding Member is to determine whether the personal explanation is to be heard immediately or at the conclusion of the speech by the other Member.

(3) A Member making a personal explanation is to confine his or her observations to a succinct statement relating to a specific part of the speech at which he or she may have been misunderstood.

8.14 No reopening of discussion

A Member is not to reopen discussion on any Council decision, except to move that the decision be revoked or changed (see Part 16).

8.15 Adverse reflection

(1) A Member is not to reflect adversely on a decision of the Council except on a motion that the decision be revoked or changed (see Part 16).

(2) A Member is not—

- (a) to reflect adversely on the character or actions of another Member or Officer; or
- (b) to impute any motive to a Member or Officer, unless the meeting resolves, without debate, that the question then before the meeting cannot otherwise be adequately considered.

(3) A Member is not to use offensive or objectionable expressions in reference to any Member, Officer or other person.

(4) If a Member specifically requests, immediately after their use, that any particular words used by a Member be recorded in the minutes—

- (a) the Presiding Member is to cause the words used to be taken down and read to the meeting for verification; and
- (b) the Council may, by resolution, decide to record those words in the minutes.

8.16 Withdrawal of offensive language

(1) A Member who, in the opinion of the Presiding Member, uses an expression which—

- (a) in the absence of a resolution under clause 8.15—
 - (i) reflects adversely on the character or actions of another Member or Officer; or
 - (ii) imputes any motive to a Member or Officer; or
- (b) is offensive or insulting, must, when directed by the Presiding Member, withdraw the expression and make a satisfactory apology.

(2) If a Member fails to comply with a direction of the Presiding Member under subclause (1), the Presiding Member may refuse to hear the Member further on the matter then under discussion and call on the next speaker.

PART 9—PRESERVING ORDER**9.1 Presiding Member to preserve order**

- (1) The Presiding Member is to preserve order, and, whenever he or she considers necessary, may call any Member to order.
- (2) When the Presiding Member speaks during a debate, any Member then speaking, or indicating that he or she wishes to speak, is immediately to sit down and every Member present is to preserve strict silence so that the Presiding Member may be heard without interruption.
- (3) Subclause (2) is not to be used by the Presiding Member to exercise the right provided in clause 8.7, but to preserve order.

9.2 Point of order

- (1) A Member may object, by way of a point of order, only to a breach of—
 - (a) any of these Local Laws; or
 - (b) any other written law.
- (2) Despite anything in these Local Laws to the contrary, a point of order—
 - (a) takes precedence over any discussion; and
 - (b) until determined, suspends the consideration or discussion of any other matter.

9.3 Procedures on a point of order

- (1) A Member who is addressing the Presiding Member is not to be interrupted except on a point of order.
- (2) A Member interrupted on a point of order is to resume his or her seat until—
 - (a) the Member raising the point of order has been heard; and
 - (b) the Presiding Member has ruled on the point of order, and, if permitted, the Member who has been interrupted may then proceed.

9.4 Calling attention to breach

A Member may, at any time, draw the attention of the Presiding Member to any breach of these Local Laws.

9.5 Ruling by the Presiding Member

- (1) The Presiding Member is to rule on any point of order which is raised by either upholding or rejecting the point of order.
- (2) A ruling by the Presiding Member on a point of order—
 - (a) is not to be the subject of debate or comment; and
 - (b) is to be final unless the majority of Members then present and voting, on a motion moved immediately after the ruling, dissent from the ruling.
- (3) Subject to a motion of dissent being carried under subclause (2), if the Presiding Member rules that—
 - (a) any motion, amendment or other matter before the meeting is out of order, it is not to be considered further; and
 - (b) a statement made or act done by a Member is out of order, the Presiding Member may require the Member to make an explanation, retraction or apology.

9.6 Continued breach of order

If a Member—

- (a) persists in any conduct that the Presiding Member had ruled is out of order; or
- (b) refuses to make an explanation, retraction or apology required by the Presiding Member under clause 9.5(3),

the Presiding Member may direct the Member to refrain from taking any further part in that meeting, other than by voting, and the Member is to comply with that direction.

9.7 Right of Presiding Member to adjourn

- (1) For the purpose of preserving or regaining order, the Presiding Member may adjourn the meeting for a period of up to 15 minutes.
- (2) On resumption, the debate is to continue at the point at which the meeting was adjourned.
- (3) If, at any one meeting, the Presiding Member adjourns the meeting more than once for the purpose of preserving or regaining order, the second or subsequent adjournment may be to a later time on the same day or to another day.

PART 10—DEBATE OF SUBSTANTIVE MOTIONS**10.1 Motions to be stated and in writing**

Any Member who wishes to move a substantive motion or an amendment to a substantive motion—

- (a) is to state the substance of the motion before speaking to it; and
- (b) if required by the Presiding Member, is to put the motion or amendment in writing.

10.2 Motions to be supported

- (1) A substantive motion or an amendment to a substantive motion is not open to debate until it has been seconded.
- (2) A motion to revoke or change a decision made at a Council meeting is not open to debate unless the motion has the support required under regulation 10 of the Regulations.

10.3 Unopposed business

- (1) Immediately after a substantive motion has been moved and seconded, the Presiding Member may ask the meeting if any Member opposes it.
- (2) If no Member opposes the motion, the Presiding Member may declare it carried without debate and without taking a vote.
- (3) A motion declared carried under this clause is to be recorded in the minutes as a unanimous decision of the Council.
- (4) If a Member opposes a motion, the motion is to be dealt with under this Part.
- (5) This clause does not apply to a motion to revoke or change a decision which has been made at a Council meeting (see Part 16).

10.4 Only one substantive motion at a time

When a substantive motion is under debate at a meeting of the Council, no further substantive motion is to be accepted. The Council is not to consider more than one substantive motion at any time.

10.5 Order of call in debate

The Presiding Member is to call speakers to a substantive motion in the following order—

- (a) the mover to state the motion;
- (b) a seconder to the motion;
- (c) the mover to speak to the motion;
- (d) the seconder to speak to the motion;
- (e) a speaker against the motion;
- (f) a speaker for the motion;
- (g) other speakers against and for the motion, alternating where possible; and
- (h) mover takes right of reply which closes debate.

10.6 Limit of debate

The Presiding Member may offer the right of reply and put a substantive motion to the vote if he or she believes that sufficient discussion has taken place even though all Members may not have spoken.

10.7 Member may require question to be read

A Member may require the question or matter under discussion to be read at any time during a debate, but not so as to interrupt any other Member who is speaking.

10.8 Consent of seconder required for alteration

The mover of a substantive motion may not alter the wording of the motion without the consent of the seconder.

10.9 Order of amendments

Any number of amendments may be proposed to a substantive motion, but when an amendment is moved to a substantive motion, no second or subsequent amendment is to be moved or considered until the first amendment has been withdrawn, carried or lost.

10.10 Form of an amendment

An amendment must add, delete, or substitute words to the substantive motion.

10.11 Amendment must not negate original motion

An amendment to a substantive motion cannot negate the original motion or the intent of the original motion.

10.12 Relevance of amendments

Each amendment is to be relevant to the motion in respect of which it is moved.

10.13 Mover of motion may speak on amendment

Any Member may speak during debate on an amendment.

10.14 Effect of an amendment

If an amendment to a substantive motion is carried, the motion as amended then becomes the substantive motion, on which any Member may speak and any further amendment may be moved.

10.15 Withdrawal of motion or amendment

- (1) Subject to subclause (2), the Council may, without debate, grant leave to withdraw a motion or amendment on the request of the mover of the motion or amendment and with the approval of the seconder.

(2) Where an amendment has been proposed to a substantive motion, the substantive motion is not to be withdrawn, except by consent of the majority of Members present, until the amendment proposed has been withdrawn or lost.

10.16 Right of reply

- (1) The mover of a substantive motion has the right of reply.
- (2) The mover of any amendment to a substantive motion has a right of reply.
- (3) The right of the reply may only be exercised—
 - (a) where no amendment is moved to the substantive motion—at the conclusion of the discussion on the motion; or
 - (b) where one or more amendments have been moved to the substantive motion—at the conclusion of the discussion on the substantive motion and any amendments.
- (4) After the mover of the substantive motion has commenced the reply—
 - (a) no other Member is to speak on the question;
 - (b) there is to be no further discussion on, or any further amendment to, the motion.
- (5) The right of the reply is to be confined to rebutting arguments raised by previous speakers and no new matter is to be introduced.
- (6) At the conclusion of the right of reply, the substantive motion, or the substantive motion as amended, is immediately to be put to the vote.

PART 11—PROCEDURAL MOTIONS

11.1 Permissible procedural motions

In addition to the right to move an amendment to a substantive motion (under Part 10), a Member may move the following procedural motions—

- (a) that the meeting proceed to the next item of business;
- (b) that the debate be adjourned;
- (c) that the meeting now adjourn;
- (d) that the question be now put;
- (e) that the Member be no longer heard;
- (f) that the ruling of the Presiding Member be disagreed with;
- (g) that the meeting be closed to the public (see clause 6.2).

11.2 No debate

- (1) The mover of a motion specified in paragraph (a), (b), (c), (f) or (g) of clause 11.1 may speak to the motion for not more than five minutes, the seconder is not to speak other than to formally second the motion, and there is to be no debate on the motion.
- (2) The mover of a motion specified in paragraph (d) or (e) of clause 11.1 may not speak to the motion, the seconder is not to speak other than to formally second the motion, and there is to be no debate on the motion.

11.3 Who may move

No person who has moved, seconded, or spoken for or against the substantive motion, or any amendment to the substantive motion, may move any procedural motion which, if carried, would close the debate on the substantive motion or amendment.

11.4 Procedural motions—right of reply on substantive motion

The carrying of a procedural motion which closes debate on the substantive motion or amendment and forces a decision on the substantive motion or amendment does not deny the right of reply to the mover of the substantive motion.

11.5 Meeting to proceed to the next business

The motion “that the meeting proceed to the next business”, if carried, has the effect that—

- (a) the debate on the substantive motion or amendment ceases immediately;
- (b) no decision is made on the substantive motion;
- (c) the Council moves to the next item of business; and
- (d) there is no requirement for the matter to be raised again for consideration.

11.6 Debate to be adjourned

A motion “that the debate be adjourned”—

- (a) is to state the time to which the debate is to be adjourned; and
- (b) if carried, has the effect that all debate on the substantive motion or amendment ceases immediately, but continues at the time stated in the motion.

11.7 Meeting now adjourn

- (1) A Member is not to move or second more than one motion of adjournment during the same sitting of the Council.
- (2) Before putting the motion for the adjournment of the Council, the Presiding Member may seek leave of the Council to deal first with matters that may be the subject of an adoption by exception resolution (see clause 5.5).

- (3) A motion “that the meeting now adjourn”—
- (a) is to state the time and date to which the meeting is to be adjourned; and
 - (b) if carried, has the effect that the meeting is adjourned to the time and date specified in the motion.

(4) A meeting adjourned under subclause (3) is to continue from the point at which it was adjourned, unless the Presiding Member or the Council determines otherwise.

11.8 Question to be put

(1) If the motion “that the question be now put”, is carried during debate on a substantive motion without amendment, the Presiding Member is to offer the right of reply and then put the motion to the vote without further debate.

(2) If the motion “that the question be now put” is carried during discussion of an amendment, the Presiding Member is to put the amendment to the vote without further debate.

(3) This motion, if lost, causes debate to continue.

11.9 Member to be no longer heard

If the motion “that the member be no longer heard”, is carried, the speaker against whom the motion has been moved cannot speak further on the current substantive motion, or any amendment relating to it, except to exercise the right of reply if he or she is the mover of the substantive motion.

11.10 Ruling of the Presiding Member to be disagreed with

If the motion “that the ruling of the Presiding Member be disagreed with”, is carried, that ruling is to have no effect and the meeting is to proceed accordingly.

PART 12—DISCLOSURE OF INTERESTS

12.1 Disclosure of interests

Disclosure of interests is dealt with in the Act.

PART 13—VOTING

13.1 Question—when put

(1) Immediately after the debate on any question is concluded and the right of reply has been exercised, the Presiding Member—

- (a) is to put the question to the Council; and
- (b) if requested by any Member, is to again state the terms of the question.

(2) A Member is not to leave the meeting when the Presiding Member is putting any question.

13.2 Voting

Voting is dealt with in the Act and the Regulations.

13.3 Majorities required for decisions

The majorities required for decisions of the Council and committees are dealt with in the Act.

13.4 Method of taking vote

(1) In taking the vote on any motion or amendment the Presiding Member—

- (a) is to put the question, first in the affirmative, and then in the negative;
- (b) may put the question in this way as often as may be necessary to enable him or her to determine whether the affirmative or the negative has the majority of votes;
- (c) may accept a vote on the voices or may require a show of hands; and,
- (d) is, subject to this clause, to declare the result.

(2) If a Member calls for a show of hands, the result of the vote is to be determined on the count of raised hands.

(3) If a member of council or a committee specifically requests that there be recorded—

- (a) his or her vote; or,
- (b) the vote of all members present,

on a matter voted on at a meeting of the council or committee, the person presiding is to cause the vote or votes, as the case may be, to be recorded in the minutes.

(4) If a Member calls for a division—

- (a) those voting in the affirmative are to pass to the right of the Chair; and
- (b) those voting in the negative are to pass to the left of the Chair.

(5) For every division, the CEO is to record—

- (a) the name of each member who voted; and
- (b) whether he or she voted in the affirmative or negative.

PART 14—MINUTES OF MEETINGS**14.1 Keeping of minutes**

The keeping and confirmation of minutes are dealt with in the Act.

14.2 Content of minutes

(1) The content of minutes is dealt with in the Regulations.

(2) In addition to the matters required by regulation 11, the minutes of a Council meeting is to include, where an application for approval is refused or the authorisation of a licence, permit or certificate is withheld or cancelled, the reasons for the decision.

14.3 Public inspection of unconfirmed minutes

The public inspection of unconfirmed minutes is dealt with in the Regulations.

14.4 Confirmation of minutes

(1) When minutes of an ordinary meeting of the Council are distributed for consideration prior to their confirmation at the next meeting, if a Member is dissatisfied with the accuracy of the minutes, the Member may provide the Local Government with a written copy of the alternative wording to amend the minutes no later than 7 clear working days before the next ordinary meeting of the Council.

(2) At the next ordinary meeting of the Council, the Member who provided the alternative wording shall, at the time for confirmation of minutes—

- (a) state the item or items with which he or she is dissatisfied; and
- (b) propose a motion clearly outlining the alternative wording to amend the minutes.

(3) Members must not discuss items of business contained in the minutes, other than discussion as to their accuracy as a record of the proceedings.

PART 15—ADJOURNMENT OF MEETING**15.1 Meeting may be adjourned**

The Council may adjourn any meeting—

- (a) to a later time on the same day; or
- (b) to any other time on any other day, including a time which coincides with the conclusion of another meeting or event.

15.2 Effect of adjournment

Where any matter, motion, debate or meeting is adjourned under these Local Laws—

- (a) the names of Members who have spoken on the matter prior to the adjournment are to be recorded in the minutes;
- (b) debate is to be resumed at the next meeting at the point where it was interrupted; and
- (c) the provisions of clause 8.8 [speaking twice] apply when the debate is resumed.

PART 16—REVOKING OR CHANGING DECISIONS**16.1 Requirements to revoke or change decisions**

The requirements to revoke or change a decision made at a meeting are dealt with in regulation 10 of the Regulations.

16.2 Limitations on powers to revoke or change decisions

(1) Subject to subclause (2), the Council or a committee is not to consider a motion to revoke or change a decision—

- (a) where, at the time the motion is moved or notice is given, any action has been taken under clause 16.3 to implement the decision; or
- (b) where the decision is procedural in its form or effect.

(2) The Council or a committee may consider a motion to revoke or change a decision of the kind described in subclause (1)(a) if the motion is accompanied by a written statement of the legal and financial consequences of carrying the motion.

16.3 Implementing a decision

(1) In this clause—

- (a) “authorisation” means a licence, permit, approval or other means of authorising a person to do anything;
- (b) “implement”, in relation to a decision, includes—
 - (i) communicate notice of the decision to a person affected by, or with an interest in, the decision; and
 - (ii) take any other action to give effect to the decision; and
- (c) “valid notice of revocation motion” means a notice of motion to revoke or change a decision that complies with the requirements of the Act, Regulations and the Local Laws and may be considered, but has not yet been considered, by the Council or a committee as the case may be.

- (2) Subject to subclause (4), and unless a resolution is made under subclause (3), a decision made at a meeting is not to be implemented by the CEO or any other person until the afternoon of the first business day after the commencement of the meeting at which the decision was made.
- (3) The Council or a committee may, by resolution carried at the same meeting at which a decision was made, direct the CEO or another person to take immediate action to implement the decision.
- (4) A decision made at a meeting is not to be implemented by the CEO or any other person—
- (a) if, before commencing any implementation action, the CEO or that person is given a valid notice of revocation motion; and
 - (b) unless and until the valid notice of revocation motion has been determined by the Council or the committee as the case may be.
- (5) The CEO is to ensure that members of the public attending the meeting are informed by an appropriate notice that a decision to grant an authorisation—
- (a) is to take effect only in accordance with this clause; and
 - (b) cannot be acted upon by the person who has been granted the authorisation unless and until the decision has been implemented in accordance with this clause.

PART 17—SUSPENSION OF LOCAL LAWS

17.1 Suspension of Local Laws

- (1) A Member may at any time move that the operation of one or more of the provisions of these Local Laws be suspended.
- (2) A Member moving a motion under subclause (1) is to state the reasons for the motion but no other discussion is to take place.
- (3) A motion under subclause (1) which is—
- (a) seconded; and
 - (b) carried by an absolute majority,

is to suspend the operation of the clause or clauses to which the motion relates for the duration of the meeting, unless the meeting earlier resolves otherwise.

17.2 Where Local Laws do not apply

- (1) In situations where—
- (a) one or more provisions of these Local Laws have been suspended; or
 - (b) a matter is not regulated by the Act, the Regulations or these Standing Orders, the Presiding Member is to decide questions relating to the conduct of the meeting.
- (2) The decision of the Presiding Member under subclause (1) is final, except where a motion is moved and carried under clause 11.10.

17.3 Cases not provided for in Local Laws

The Presiding Member is to decide questions of order, procedure, debate, or otherwise in cases where these Local Laws, the Act or the Regulations are silent. The decision of the Presiding Member in these cases is final, except where a motion is moved and carried under clause 11.10.

PART 18—MEETINGS OF ELECTORS

18.1 Electors' general meetings

Electors' general meetings are dealt with in the Act.

18.2 Matters for discussion at electors' general meetings

The matters to be discussed at electors' general meetings are dealt with in the Regulations.

18.3 Electors' special meetings

Electors' special meetings are dealt with in the Act.

18.4 Requests for electors' special meetings

Requests for electors' special meetings are dealt with in the Regulations.

18.5 Convening electors' meetings

Convening electors' meetings is dealt with in the Act.

18.6 Who presides at electors' meetings

Who presides at electors' meetings is dealt with in the Act.

18.7 Procedure for electors' meetings

- (1) The procedure for electors' meetings is dealt with in the Act and the Regulations.
- (2) In exercising his or her discretion to determine the procedure to be followed at an electors' meeting, the Presiding Member is to have regard to these Local Laws.

18.8 Participation of non-electors

A person who is not an elector of the Local Government shall not take part in any discussion at an electors' meeting unless the meeting, by resolution, permits the person do so.

18.9 Voting at electors' meetings

Voting at electors' meetings is dealt with in the Regulations.

18.10 Minutes of electors' meetings

Minutes of electors' meetings are dealt with in the Act.

18.11 Decisions made at electors' meetings

Decisions made at electors' meetings are dealt with in the Act.

PART 19—ENFORCEMENT**19.1 Penalty for breach**

A person who breaches a provision of these Local Laws commits an offence.

Penalty: \$5,000.00 and a daily penalty of \$500.00.

19.2 Who can prosecute

Who can prosecute is dealt with in the Act.

Dated: 9 September 2014.

The Common Seal of the Shire of Kellerberrin was affixed by the authority of a resolution of Council in the presence of—

ROD FORSYTH, President.
RAYMOND GRIFFITHS, Chief Executive Officer.

**LOCAL GOVERNMENT ACT 1995
DIVIDING FENCES ACT 1961**

SHIRE OF KELLERBERRIN

FENCING LOCAL LAW 2014

TABLE OF CONTENTS

PART 1—PRELIMINARY

- 1.1 Citation
- 1.2 Commencement
- 1.3 Repeal
- 1.4 Application
- 1.5 Interpretation
- 1.6 Fees and charges

PART 2—FENCES

Division 1—Sufficient fences

- 2.1 Sufficient Fences

Division 2—General

- 2.2 Fences within front or rear set back areas
- 2.3 Gates in fences
- 2.4 Depositing fencing material on public place
- 2.5 Alteration of ground levels
- 2.6 Maintenance of fences
- 2.7 Fences and sightlines
- 2.8 Fences across rights-of-way, public access ways or thoroughfares
- 2.9 General discretion of the local government

Division 3—Fencing materials

- 2.10 Pre-used fencing materials
- 2.11 Barbed wire fences and spiked or jagged materials
- 2.12 Electrified and razor wire fences
- 2.13 Prohibited fencing materials

Division 4—Tennis court fencing

- 2.14 Tennis court fencing

Division 5—Estate fencing

- 2.15 Estate fencing

PART 3—APPROVALS

- 3.1 Application for approval
- 3.2 Decision on application for approval
- 3.3 Compliance with approval
- 3.4 Duration of approval

PART 4—MISCELLANEOUS

- 4.1 False or misleading statement

PART 5—NOTICES OF BREACH

- 5.1 Notices of breach

PART 6—OFFENCES

- 6.1 Offences and penalties
- 6.2 Modified penalties
- 6.3 Form of notices

PART 7—OBJECTIONS AND REVIEW

7.1 Objections and review

SCHEDULE 1—PRESCRIBED OFFENCES**SCHEDULE 2—RESIDENTIAL LOT****SCHEDULE 3—TOWN CENTRE LOT****SCHEDULE 3A—INDUSTRIAL LOT****SCHEDULE 4—GENERAL AGRICULTURE LOT****SCHEDULE 4A—RURAL RESIDENTIAL LOT****SCHEDULE 5—ELECTRIFIED FENCE LICENCE****SCHEDULE 6—RAZOR WIRE FENCE LICENCE**

**LOCAL GOVERNMENT ACT 1995
DIVIDING FENCES ACT 1961**

SHIRE OF KELLERBERRIN

FENCING LOCAL LAW 2014

Under the powers conferred by the *Dividing Fences Act 1961*, the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Kellerberrin resolved on Tuesday 20 May 2014 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Kellerberrin Fencing Local Law 2014*.

1.2 Commencement

This local law comes into operation 14 days after the date of its publication in the *Government Gazette* in accordance with clause 3.14 of the Act.

1.3 Repeal

(1) The *Shire of Kellerberrin Local Laws Relating to Fencing* published in the *Government Gazette* 13 July 2004 and Fencing Amendment Local Law 2007 published in the *Government Gazette* 19 June 2007 is repealed.

(2) Where a policy was made or adopted by the local government under or in relation to a local law repealed by this local law, then the policy is to no longer have any effect on and from the commencement day.

(3) The Council may resolve that notwithstanding subclause (2) specified policies continue, or are to be taken to have continued, to have effect on and from the commencement day.

1.4 Application

This local law applies throughout the district.

1.5 Interpretation

In this local law, unless the context requires otherwise—

Act means the *Local Government Act 1995*;

applicant means a person who makes an application for approval under this local law;

AS/NZS means an Australian Standard or New Zealand Standard published by Standards Australia;

authorised person means a person authorised by the local government under section 9.10 of the Act to perform any of the functions of an authorised person under this local law;

boundary fence means a fence constructed on the boundary of a lot which abuts a thoroughfare;

Building Surveyor means a Building Surveyor of the local government;

CEO means the Chief Executive Officer of the local government;

Council means the Council of the Shire of Kellerberrin;

dangerous in relation to any fence means—

- (a) an electrified fence other than a fence approved by the local government under this local law;
- (b) a fence containing barbed wire other than a fence erected and maintained in accordance with this local law;
- (c) a fence containing exposed broken glass, asbestos fibre, razor wire or any other potentially harmful projection or material; or
- (d) a fence which is likely to collapse or fall, or part of which is likely to collapse or fall, from any cause;

district means the district of the local government;

dividing fence has the meaning given in the *Dividing Fences Act 1961*; electrified fence means a fence carrying or designed to carry an electric charge;

estate entry statement means a fence, or wall constructed of masonry or other materials to identify the entrance of an estate and may include but not be limited to a sign indicating the estate name and locality, sculptures, flagpoles and flags;

estate boundary fence means the fence erected around the external boundary of a subdivision of land to indicate the extent of that subdivision and includes any special works or construction that identifies the entrance to that land;

farmlet has the same meaning as rural lot;

fence means any structure used or functioning as a barrier, irrespective of where it is located and includes any gate;

front boundary means the boundary line between a lot and the thoroughfare upon which that lot abuts, or in the case of a lot abutting on more than one thoroughfare the boundary line between the lot and the primary thoroughfare;

front fence means a fence erected on the front boundary of a lot or on a line adjacent to the front boundary;

front setback area means the area between the building line of a lot and the front boundary of that lot;

general agriculture lot means a lot where a rural use—

- (a) is or may be permitted under the town planning scheme; and
- (b) is or will be the predominant use of the lot;

height in relation to a fence means the vertical distance between—

- (a) the top of the fence at any point; and
- (b) the ground level or, where the ground levels on each side of the fence are not the same, the higher ground level, immediately below that point;

industrial lot means a lot where an industrial use is or may be permitted under the local planning scheme and is or will be the predominant use of the lot;

licence means an electrified fence licence or a razor wire fence licence;

light industrial has the same meaning as industrial lot;

local government means the Shire of Kellerberrin;

local government property means anything—

- (a) which belongs to the local government;
- (b) of which the local government is the management body under the *Land Administration Act 1997*; or
- (c) which is an “otherwise unvested facility” under section 3.53 of the Act;

local planning scheme means a local planning scheme of the local government made under the *Planning and Development Act 2005*;

lot has the meaning given to it in and for the purposes of the *Planning and Development Act 2005*;

notice of breach means a notice referred to in clause 5.1;

occupier has the meaning given to it in the Act;

owner has the meaning given to it in the Act;

rear setback area means the area between the building line of a lot and the rear boundary of that lot;

residential lot means a lot where a residential use—

- (a) is or may be permitted under the town planning scheme; and
- (b) is or will be the predominant use of the lot;

retaining wall means any structure which prevents the movement of soil or retains soil or structures in order to allow ground levels of different elevations to exist adjacent to one another;

rural residential lot means a lot where a rural residential use—

- (a) is or may be permitted under the town planning scheme; and
- (b) is or will be the predominant use of the lot;

rural smallholding lot has the same meaning as a rural residential lot;

rural townsite lot has the same meaning as a rural residential lot;

Schedule means a Schedule to this local law;

Special mix residential lot has the same meaning as a residential lot;

sufficient fence means a fence that satisfies clause 2.1 and includes a fence of the description and quality agreed upon by the owners of adjoining lots which does not fail to satisfy clause 2.1; and

thoroughfare has the meaning given to it in the Act.

town centre lot means a lot where a town centre use—

- (a) is or may be permitted under the local planning scheme; and
- (b) is or will be the predominant use of the lot;

1.6 Fees and charges

All fees and charges applicable under this local law shall be determined by the local government from time to time under and in accordance with sections 6.16 to 6.19 of the Act.

PART 2—FENCES

Division 1—Sufficient fences

2.1 Sufficient Fences

- (1) A person shall not erect a dividing fence or a boundary fence that is not a sufficient fence.
- (2) Pursuant to section 24 of the *Dividing Fences Act 1961* and subject to subclauses (3), (4) and (5) of this local law, a sufficient fence—
 - (a) on a residential lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of Schedule 2;
 - (b) on a town centre lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of Schedule 3;
 - (c) on an industrial lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of Schedule 3A;
 - (d) on a general agriculture lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of Schedule 4; and
 - (e) on a rural residential lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of Schedule 4A.
- (3) Where a fence is erected on or near the boundary between a residential lot and a town centre lot, industrial lot, general agriculture lot or a rural residential lot a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of Schedule 2.
- (4) Unless an authorised person determines otherwise, a sufficient fence on a boundary between lots other than those specified in subclauses (2) and (3) is a dividing fence constructed in accordance with the specifications and requirements of Schedule 2.
- (5) Notwithstanding any other provisions in this local law, a dividing fence or boundary fence constructed of masonry, stone or concrete shall be a sufficient fence only if it is designed by a suitably qualified structural engineer and constructed in accordance with that design where—
 - (a) it is greater than 1,800 millimetres in height; or
 - (b) the Building Survey or so requires.
- (6) Notwithstanding any other provision in this local law, a dividing fence or boundary fence shall not exceed 1800 millimetres in height unless the approval of the local government has been obtained to such a fence.

Division 2—General

2.2 Fences within front or rear setback areas

- (1) Notwithstanding the provisions of clause 2.1, a person shall not erect a fence within the front or rear setback areas, including along the side boundaries, unless the fence complies with the provisions of the local planning scheme or the Residential Design Codes.
- (2) Where there is inconsistency between the standards and requirements of the local planning scheme and those specified in the Residential Design Codes, the standards and requirements of the local planning scheme shall prevail to the extent of the inconsistency.

2.3 Gates in fences

A person shall not erect a gate in a fence, which does not—

- (a) open into the lot; or
- (b) open by sliding parallel and on the inside of the fence, which it forms part of, when closed.

2.4 Depositing fencing material on public place

A person shall not deposit or permit the deposit of any materials whatsoever used in the construction or maintenance of any fence, on any thoroughfare, public place or local government property unless the approval of the local government has been obtained.

2.5 Alteration of ground levels

- (1) A fence constructed of corrugated fibre-reinforced pressed cement shall not have more than 150 millimetres difference in the ground levels on each side of the fence.
- (2) Where land has been filled or retained to a height of more than 500 millimetres above natural ground level at or within 1,000 millimetres of a boundary of a lot, a person shall only erect a dividing fence that is a sufficient fence on the said filled land or retaining wall if the person produces to the local government the written agreement of the owners of the adjoining lot.
- (3) A person shall not alter the natural ground level of land on or within 1,000 millimetres of the boundary of a lot, whether by removing soil or bringing onto the land any fill of any kind, by more than 500 millimetres without the approval of the local government.

2.6 Maintenance of fences

- (1) An owner of a lot on which a fence is erected shall maintain the fence in good condition so as to prevent it from becoming dangerous, dilapidated or unsightly to the amenity of the locality.

2.7 Fences and sight lines

(1) Where a front fence or a boundary fence is adjacent to a vehicle access point or a thoroughfare, the front fence or boundary fence is to have a sight line truncation or a reduction in height shall be provided at the property line to ensure adequate visibility, as follows—

- (a) at an intersection of a driveway with a road or right-of-way a minimum sight line truncation of 1.5 metres x 1.5 metres, where achievable, or as a minimum a sight line truncation of 1 metre x 1 metre for low and medium peak vehicle movements, and a sight line truncation of 3 metres x 3 metres where achievable, for high peak vehicle movements;
- (b) at an intersection of two roads a minimum sight line truncation of 3 metres x 3 metres. A sight line truncation is not required on the entry side of a driveway where it is clearly defined as “ENTRY ONLY” or where a driveway is not less than 6 metres wide, and where appropriate signage and line marking is provided.

(2) Subclause (1) does not apply to a fence of open construction that does not obscure the lines of vision of a motorist using a vehicle access point or thoroughfare.

(3) A person shall not erect or maintain a fence without the sight line or height reduction required under subclause (1).

2.8 Fences across rights-of-way, public access ways or thoroughfares

A person must not, without the approval of the local government, erect or maintain a fence or obstruction of a temporary or permanent nature across any right-of-way, public access way or thoroughfare so as to impede or prevent use of those facilities in the manner for which they are intended and constructed.

2.9 General discretion of the local government

(1) Notwithstanding the provisions of clause 2.1, the local government may approve the erection or repair of a dividing fence, which is not a sufficient fence where all of the owners of the lots to be separated by the dividing fence make an application for approval for that purpose.

(2) In determining whether to grant its approval under subclause (1), the local government may consider whether the erection or repair of the fence would have an adverse effect on—

- (a) the safe or convenient use of any land;
- (b) the safety or convenience of any person; or
- (c) the visual amenity of the locality.

Division 3—Fencing Materials

2.10 Pre-used fencing materials

(1) Notwithstanding clause 2.1, a person shall not construct a fence on a residential lot, a town centre lot or an industrial lot from pre-used materials without the approval of the local government.

(2) Where the local government approves the use of pre-used materials in the construction of a fence under subclause (1) that approval shall be conditional on the applicant painting or treating the pre-used material as stated in or attached to the form of approval issued by the local government under clause 3.2.

2.11 Barbed wire fences and spiked or jagged materials

(1) An owner or occupier of a residential lot, a town centre lot or an industrial lot shall not erect, affix to or allow to remain on any fence on such a lot any barbed wire or other material with spiked or jagged projections, unless the approval of the local government has been obtained.

(2) Where an approval has been obtained in accordance with subclause (1), the owner or occupier shall not erect, affix or allow to remain on any fence bounding that lot any barbed wire or other materials with spiked or jagged projections unless such wire or materials are carried on posts set at an angle of 45 degrees into the lot, and unless the bottom row of wire or other materials is setback 150 millimetres from the face of the fence, is at least 2,000 millimetres above ground level and the total height shall not exceed 2,400 millimetres.

2.12 Electrified and razor wire fences

(1) An owner or occupier of a lot, shall not—

- (a) except on a rural lot, construct or use an electrified fence on that lot without obtaining the approval of the local government; or
- (b) construct a fence wholly or partly of razor wire on that lot without obtaining the approval of the local government.

(2) The local government shall not approve an application for the purpose of subclause (1)(a)—

- (a) in respect of a lot which is or which abuts a residential lot;
- (b) unless the fence complies with “AS/NZS 3016:2002 Electrical installations—Electricity security fences”; and
- (c) unless provision is made so as to enable the fence to be rendered inoperable during the hours of business operations, if any, on the lot where it is erected.

(3) The local government shall not approve an application for the purpose of subclause (1)(b)—

- (a) if the fence is within 3,000 millimetres of the boundary of the lot; or
- (b) where any razor wire used in the construction of the fence is less than 2,000 millimetres or more than 2,400 millimetres above the ground level.

(4) An application for approval for the purpose of subclauses (1) shall be made by the owner of the lot on which the fence is or is to be erected, or by the occupier of the lot with the written consent of the owner.

(5) Where the local government approves an application made under this clause, it shall provide a licence to the applicant in the form of—

- (a) Schedule 5, where an application is made under sub clause (1)(a); or
- (b) Schedule 6, where an application is made under sub clause (2)(b).

2.13 Prohibited fencing materials

A person shall not affix or use broken glass in the construction of any fence.

Division 4—Tennis Court Fencing

2.14 Tennis court fencing

- (1) A person shall not erect a fence around or partly around a tennis court on a lot unless—
- (a) the fence is not more than 3,600 millimetres in height;
 - (b) the whole of the fence is at least 900 millimetres from the boundary between the lot on which the tennis court is located and the adjoining lot; and
 - (c) the fence is fabricated from 2.5 millimetre poly-vinyl chloride coated or galvanised wire 50 millimetre link mesh, erected in accordance with the manufacturer's specifications.
- (2) Subclause (1) does not apply to a fence erected with the approval of the local government.
- (3) In determining any application for approval for the purpose of subclause (2), where the fence will be less than 900 millimetres from the boundary between the lot on which the tennis court is located and the adjoining lot, the local government shall invite the owner of the adjoining lot to make submissions on the proposal, and the local government shall have regard to any such submissions in making its decision under clause 3.2.

Division 5—Estate Fencing

2.15 Estate fencing

- (1) A person shall not construct or erect an estate entry statement or estate boundary fence without the approval of the local government.
- (2) Where an estate entry statement or estate boundary fence is constructed and contains an estate name, the entry statement or estate boundary fence shall also depict the locality name in at least equal prominence.
- (3) An owner or occupier of a lot adjacent to an estate boundary fence shall, where that fence is damaged, dilapidated or in need of repair, cause it to be repaired or replaced with the same or similar materials with which it was first constructed, so as far as practicable the repaired or replaced section shall be the same as the original fence.

PART 3—APPROVALS

3.1 Application for approval

- (1) Where a person is required to obtain the approval of the local government under this local law, that person shall apply for approval in accordance with subclause (2);
- (2) An application for approval under this local law shall—
- (a) be in the form determined by the local government;
 - (b) be signed by the applicant and the owner of the lot;
 - (c) provide the information required by the form; and
 - (d) be forwarded to the CEO together with any fee imposed and determined by the local government under sections 6.16 to 6.19 of the Act.
- (3) The local government may require an applicant to provide additional information reasonably related to an application before determining an application for approval.
- (4) The local government may refuse to consider an application for approval which is not in accordance with subclauses (2) and (3).

3.2 Decision on application for approval

- (1) The local government may—
- (a) approve an application for approval unconditionally or subject to any conditions; or
 - (b) refuse to approve an application for approval.
- (2) If the local government approves an application for approval, it is to issue to the applicant an approval in the form determined by the local government.
- (3) If the local government refuses to approve an application for approval, it is to give written notice of that refusal to the applicant.
- (4) Where a clause of this local law refers to conditions, which may be imposed on an approval, or which are to be taken to be imposed on an approval, the clause does not limit the power of the local government to impose other conditions on the approval under subclause (1)(a).

3.3 Compliance with approval

Where an application for approval has been approved, the applicant and the owner and occupier of the lot to which the approval relates, shall comply with the terms and any conditions of that approval.

3.4 Duration of approval

Unless otherwise stated in the form of approval, an approval granted under this local law runs with the lot to which it relates and may be relied upon by any subsequent occupier or owner of the lot and may be enforced against them, by the local government.

PART 4—MISCELLANEOUS

4.1 False or misleading statement

A person shall not make a false or misleading statement in connection with any application, requirement or request under this local law.

PART 5—NOTICES OF BREACH

5.1 Notices of breach

(1) Where a breach of any provision of this local law has occurred in relation to a fence on a lot, the local government may give a notice of breach in writing to the owner of that lot.

(2) A notice of breach shall—

- (a) specify the provision of this local law which has been breached;
- (b) specify the particulars of the breach; and
- (c) state that the owner is required to remedy the breach within the time specified in the notice.

(3) An owner given a notice of breach shall comply with the terms of the notice and remedy the breach within the time specified in the notice.

(4) Should an owner fail to comply with a notice of breach, the local government may by its employees, agents or contractors enter upon the lot to which the notice relates and remedy the breach, and may recover the expenses of so doing from the owner or occupier of the lot, as the case may be, in a court of competent jurisdiction.

(5) The provisions of this clause are subject to section 3.25 and item 12 of Division 1 of Schedule 3.1 of the Act and any entry on to land will be in accordance with Part 3, Division 3 of the Act.

PART 6—OFFENCES

6.1 Offences and penalties

(1) A person who fails to comply with a notice of breach commits an offence and is liable upon conviction to a penalty of not less than \$250 and not exceeding \$5,000 and, if the offence is a continuing offence, to a maximum daily penalty of \$500.

(2) A person who fails to comply with or who contravenes any provision of this local law commits an offence and is liable on conviction to a penalty of not less than \$250 and not exceeding \$5,000 and, if the offence is a continuing offence, to a maximum daily penalty of \$500.

6.2 Modified penalties

(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 appearing in the final column of Schedule 1 directly opposite a prescribed offence in that Schedule is the modified penalty for that prescribed offence.

(3) For the purpose of guidance only, before giving an infringement notice to a person in respect of the commission of a prescribed offence, an authorised person should be satisfied that—

- (a) commission of the prescribed offence is a relatively minor matter; and
- (b) only straightforward issues of law and fact are involved in determining whether the prescribed offence was committed, and the facts in issue are readily ascertainable.

6.3 Form of notices

For the purposes of this local law—

- (a) the form of the infringement notice referred to in sections 9.16 and 9.17 of the Act is to be in or substantially in the form of Form 2 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*; and
- (b) the form of the withdrawal of infringement notice referred to in section 9.20 of the Act is to be in or substantially in the form of Form 3 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

PART 7—OBJECTIONS AND REVIEW

7.1 Objections and review

When the local government makes a decision under clause 3.2, the provision of Part 9 Division 1 of the Act and Regulation 33 of the *Local Government (Functions and General) Regulations 1996* apply to that decision.

Schedule 1
PRESCRIBED OFFENCES

Clause 6.2(2)

OFFENCES AND MODIFIED PENALTIES

Item No.	Clause No.	Nature of offence	Modified penalties \$
1	2.1(1)	Erect a fence which is not a sufficient fence	250
2	2.2	Erect a fence within the front or rear setback areas which does not comply with the local planning scheme	200
3	2.3(a)	Erect a gate in a fence not opening into the lot	200
4	2.3(b)	Erect a gate in a fence not sliding parallel and inside of fence	200
5	2.15 (1)	Construct or erect an estate entry statement or estate boundary fence without the written approval of the local government	250
6	2.6(1)	Failure to maintain a fence in good condition to prevent fence becoming dangerous, dilapidated or unsightly	250
7	2.7(3)	Erect a fence without the required sight line truncation or height reduction	250
8	2.8	Erect or maintain a fence or obstruction of temporary or permanent nature across a right-of way, public access way or thoroughfare without written approval	250
9	2.10(1)	Construct a dividing fence on a residential, town centre or industrial lot from pre-used materials without written approval	250
10	2.11(1)	Erect a fence using barbed wire or material with spiked or jagged projections in fence construction without written approval	250
11	2.12(1)	Construct, erect or use razor wire in a fence or electrify a fence without written approval	250
12	2.13	Affix, or use, any broken glass in a fence	250
13	2.14(1)(a)	Erect a tennis court fence higher than 3,600 millimetres without written approval	200
14	2.14(1)(b)	Erect tennis court fence less than 900 millimetres from boundary of adjoining lot without written approval	200
15	2.14(1)(c)	Erect a link mesh fence higher than 3,600 millimetres or not in accordance with manufacturer's specification without written approval	200
16	3.3	Failure to comply with terms or conditions of approval	250
17	5.1(3)	Failure to comply with notice of breach	250

Schedule 2
RESIDENTIAL LOT

Clause 2.1(2)(a)

Specifications for a sufficient fence on a residential lot

1. Each of the identified categories in this Schedule, with minimum and maximum specifications where stated, is a sufficient fence on a residential lot.

2. An application must be made to the local government for grant of consent to any variation to the specifications in this Schedule.

(1) Height: 1,800 millimetres except with respect to the front or rear setbacks; Minimum height: subject to requirements and standards of local planning scheme;

(A) Timber fence

A fully enclosed timber fence is to be built to manufacturer's specifications or in accordance with established construction techniques.

(B) Corrugated fence

A fence constructed of corrugated fibre-reinforced pressed cement or steel-sheeting constructed to manufacturer's specifications or which otherwise satisfies the following specifications—

- (a) length: minimum in-ground length of 25 per cent of the total length of the sheet; depth: minimum in-ground depth of 600 millimetres;

- (b) total height and depth of fence to consist of a single continuous fibre-reinforced cement of steel sheet;
 - (c) corrugated sheets to be lapped and capped with extruded “snap-fit” type capping in accordance with the manufacturer’s written instructions; and
 - (d) height: 1,800 millimetres except with respect to the front set back; minimum height: subject to requirements and standards of local planning schemes.
- (C) Brick, stone or concrete fence
- A fence constructed of brick, stone or concrete which satisfies the following requirements and specifications—
- (a) a site classification is to be provided by a professional engineer in accordance with AS2870-1996 as amended;
 - (b) the footing is to be designed in accordance with AS2870-1996 as amended;
 - (c) fences to be offset at a minimum of 200 millimetres and at maximum 3,000 millimetres centres; or 225 millimetres x 100 millimetres engaged piers to be provided at: maximum 3,000 millimetres centres;
 - (d) expansion joints in accordance with the manufacturer’s written instructions; and
 - (e) height of the fence to be 1,800 millimetres, except with respect to front, side and rear setback areas for which there is no minimum height but subject to requirements and standards of local planning scheme.
- (D) Composite fence
- A composite fence which satisfies the following specifications for the brick construction—
- (a) a site classification is to be provided by a professional engineer in accordance with AS2870-1996 as amended;
 - (b) the footing is to be designed in accordance with AS2870-1996 as amended;
 - (c) height: maximum overall height of 1,800 millimetres, except with respect to front, side and rear setback areas for which there is no minimum height but subject to requirements and standards of local planning scheme;
 - (d) brick fence of height not exceeding 1,200 millimetres shall have brick piers of minimum of 230 millimetres x 230 millimetres x 1,800 millimetres centres; bonded to a maximum height base wall of 514 millimetres; or, brick fence of height exceeding 1,200 millimetres shall have brick piers of minimum of 230 millimetres x 230 millimetres x 1,800 millimetres centres; bonded to a maximum height base wall of 514 millimetres;
 - (e) each pier shall be reinforced with, one R10 galvanised starting rod for 230 millimetres x 230 millimetres piers; and, two R10 galvanised starting rods for 345 millimetres x 345 millimetres piers, each rod being 1,500 millimetres high with a 250 millimetres horizontal leg bedded into the concrete footing; set 65 millimetres above the base of the footing and the top of the footing shall be 1 course (85 millimetres) below ground level;
 - (f) cavity to brick piers to be filled with 20MPa concrete;
 - (g) minimum ultimate strength of brickwork shall be 20 MPa, mortar shall be a mix of 1 part cement, 1 part lime and 6 parts sand;
 - (h) the ground under the footings is to be compacted to 7 blows per 300 millimetres and checked with a standard falling weight penetrometer; and
 - (i) control joints in brickwork shall be provided at piers at a maximum of 6-metre centres.
- (E) Brick fence with basewall A brick fence which satisfies the following specifications for the brick construction—
- (a) height not exceeding 1,200 millimetres having brickpiers of—minimum of 230 millimetres x 230 millimetres x 2,700 millimetres centres bonded to the base wall; and each pier shall be reinforced with one R10 galvanised starting rod as previously specified; or
 - (b) height exceeding 1,200 millimetres having brick piers of—minimum 345 millimetres x 345 millimetres x 2,700 millimetres centres bonded to base wall; and each pier shall be reinforced with two R10 galvanised starting rods as previously specified.
- (F) Brick fence with no basewall A brick fence, which satisfies the following specifications for the brick construction—
- (a) height not exceeding 1,200 millimetres having brick piers minimum 230 millimetres x 230 millimetres x 2,700 millimetres centres with no brick base wall; and, each pier shall be reinforced with one R10 galvanised starting rod as previously specified; or
 - (b) height exceeding 1,200 millimetres having brick piers minimum 345 millimetres x 345 millimetres x 2,700 millimetres centres with no brick base wall; and, each pier shall be reinforced with two R10 galvanised starting rods as previously specified.

**Schedule 3
TOWN CENTRE LOT**

Clause 2.1(2)(b)

Specifications for a sufficient fence on a town centre lot

1. Each of the identified categories in this Schedule or Schedule 2, with minimum and maximum specifications where stated, is a sufficient fence on a town centre lot.

2. An application must be made to the local government for grant of consent to any variation to the specifications in this Schedule.

(A) Galvanised or PVC fence and gate

A fence constructed of galvanised or PVC coated non-rail link mesh, chain mesh or steel mesh, which satisfies the following specifications—

- (a) corner posts to be minimum 50 millimetres nominal bore x 3.5 millimetres, footings of a 225 millimetres diameter x 900 millimetres;
- (b) intermediate posts to be minimum 37 millimetres nominal bore x 3.15 millimetres; maximum 3,500 millimetres centres; and footings of 225 millimetres diameter x 600 millimetres;
- (c) struts to be minimum 30 millimetres nominal bore x 3.15 millimetres fitted at each gate; 2 at each corner post; and footings 225 millimetres x 600 millimetres;
- (d) cables to be affixed to the top centre and bottom of all posts; and consists of 2 or more 3.15 millimetres wires twisted together; or single 4 millimetres wire;
- (e) non-rail link, chain or steel mesh is to be a height of 2,000 millimetres on top; and 3 strands of barbed wire carrying the fence to a height of 2,400 millimetres in accordance with requirements and standards of local planning scheme;
- (f) galvanised link mesh wire to be 2,000 millimetres in height; constructed of 50 millimetres mesh, 2.5 millimetres galvanised iron wire; and to be strained, neatly secured and laced to the posts and affixed to cables;
- (g) vehicle entry gates shall provide an opening not less than 3,600 millimetres constructed of 25 millimetres tubular framework; one horizontal and one vertical stay constructed of 20 millimetres piping; and shall be covered with 50 millimetres x 2.5 millimetres galvanised link mesh strained to framework.

(B) Gates shall be fixed with a drop bolt and locking attachment—

- (a) a fence of cement sheet or steel-sheeting construction to the minimum specifications referred to in Schedule 2 and no greater than 2,000 millimetres in height; or
- (b) a fence constructed of aluminium sheeting when supported on posts and rails provided that it is used behind a building line and no greater than 2,000 millimetres in height; or
- (c) a fence of timber, brick, stone or concrete constructed to the minimum specifications referred to in Schedule 2 and no greater than 2,000 millimetres in height.

**Schedule 3A
INDUSTRIAL LOT**

Clause 2.1(2)(c)

Specifications for a sufficient fence on an industrial lot

1. Each of the identified categories in this Schedule, with minimum and maximum specifications where stated, is a sufficient fence on an industrial lot.

2. An application must be made to the local government for grant of consent to any variation to the specifications in this Schedule.

(A) Galvanised or PVC fence and gate

A fence constructed of galvanised or PVC coated non-rail link mesh, chain mesh or steel mesh, which satisfies the following specifications—

- (a) maximum height 2,400 millimetres;
- (b) corner posts to be minimum 50 millimetres nominal bore x 3.5 millimetres footings of a 225 millimetres diameter x 900 millimetres;
- (c) intermediate posts to be minimum 37 millimetres nominal bore x 3.15 millimetres; maximum 3,500 millimetres centres; and footings of 225 millimetres diameter x 600 millimetres;
- (d) struts to be minimum 30 millimetres nominal bore x 3.15 millimetres fitted at each gate; 2 at each corner post; and footings 225 millimetres x 600 millimetres;
- (e) cables to be affixed to the top centre and bottom of all posts; and consists of two or more 3.15 millimetres wires twisted together; or single 4 millimetres wire;
- (f) non-rail link, chain or steel mesh is to be a height of 2,000 millimetres on top; and 3 strands of barbed wire carrying the fence to a height of 2,400 millimetres in accordance with requirements and standards of local planning scheme;

- (g) galvanised link mesh wire to be 2,000 millimetres in height; constructed of 50 millimetres mesh 2.5 millimetres galvanised iron wire; and to be strained, neatly secured and laced to the posts and affixed to cables;
 - (h) vehicle entry gates shall provide an opening not less than 3,600 millimetres constructed of 25 millimetres tubular framework;
 - (i) one horizontal and one vertical stay constructed of 20 millimetres piping; and shall be covered with 50 millimetres x 2.5 millimetres galvanised link mesh strained to framework.
- (B) Gates shall be fixed with a drop bolt and locking attachment—
- (a) a fence of cement sheet or steel-sheeting construction to the minimum specifications referred in Schedule 2, of a minimum height of 1,800 millimetres but no greater than 2,400 millimetres;
 - (b) a fence constructed of aluminium sheeting when supported on posts and rails provided that it is used behind a building line and is of a minimum height of 1,800 millimetres but no greater than 2,400 millimetres; or
 - (c) a fence of timber, brick, stone or concrete constructed to the minimum specifications referred to in Schedule 2 of a minimum height of 1,800 millimetres but no greater than 2,400 millimetre

Schedule 4

GENERAL AGRICULTURE LOT

Clause 2.1(2)(d)

Specifications for a Sufficient Fence on a Rural Lot

1. Each of the identified categories in this Schedule, with minimum and maximum specifications where stated is a sufficient fence on a general agriculture lot.

2. An application must be made to the local government for grant of consent to any variation to the specifications in this Schedule.

(A) Non-electrified fence

A fence that is a fence of posts and wire construction and satisfies the following specifications—

- (a) wire is to be high-tensile wire and not less than 2.5 millimetres;
- (b) minimum of 5 wires are to be used, generally with the lower wires spaced closer together than the higher wires so as to prevent smaller stock passing through, and connected to posts in all cases; or
- (c) minimum 5 line ring lock type fencing fixed to the manufactures specifications;
- (d) posts are to be of indigenous timber or other suitable material including—
 - (i) timber impregnated with a termite and fungicidal preservative;
 - (ii) standard iron star pickets; or
 - (iii) concrete;
- (e) posts are to be placed at not more than 5,000 millimetres intervals, set minimum 600 millimetres in the ground and 1,200 millimetres above the ground;
- (f) if timber posts are used, posts are to be cut not less than 1,800 millimetres long x 50 millimetres diameter at small end if round, or 125 millimetres x 60 millimetres if split or sawn;
- (g) if strainer posts are to be not less than 2,250 millimetres long and 150 millimetres diameter at the small end (tubular steel to be 50 millimetres in diameter) these strainer posts shall be placed a minimum of 1,000 millimetres in the ground and set at all corners, gateways and fence line angles but not exceeding 200 metres apart; and
- (h) barbed wire may be used to replace a maximum of 2 wires. Where a fence adjoins a thoroughfare barbed wire is to be affixed to the inside of the fence.

(B) Electrified fence

An electrified fence having 4 wires is a sufficient fence that is constructed generally in accordance with a non-electrified fence.

Schedule 4A

RURAL RESIDENTIAL LOT

Clause 2.1(2)(e)

Specifications for a sufficient fence on a rural residential lot

As provided in Schedule 4, except an electric fence is not permitted unless approved by the local government.

**Schedule 5
ELECTRIFIED FENCE LICENCE
Licence for approved electrified fence**

Clause 2.12(1)(a)

This is to certify that
of.....
is licensed, subject to the conditions set out below, to have and use an electrified fence on
.....
.....
(address)

from20.....and until this licence is transferred or cancelled.

Dated.....20.....

Chief Executive Officer
Shire of Kellerberrin

Conditions of licence

The holder of the licence must—

- (a) display the licence in a prominent position on the land or premises on which the electrified fence has been constructed;
- (b) upon the request of an authorised officer produce to him or her this licence;
- (c) within 14 days of a change in the ownership or occupation of the land or premises in respect of which the licence has been granted, notify the Chief Executive Officer in writing of the details of that change or those changes;
- (d) obtain the written consent of the local government prior to the commencement of any alteration, addition or other work relating to or affecting the electrified fence;
- (e) comply with AS/NZS3016:2002 Electrical installations; and
- (f) following construction of the fence, lodge with Synergy a certificate of installation from a qualified electrician and comply with any requirements of Synergy regarding the construction of the fence.

Transfer by endorsement

This licence is transferred to.....of
..... from and
including the date of this endorsement.

Dated.....20.....

Chief Executive Officer
Shire of Kellerberrin

**Schedule 6
RAZOR WIRE FENCE LICENCE**

Clause 2.12(1)(b)

Licence for approved razor wire fence licence

This is to certify that of
..... is licensed, subject to the conditions set out below, to have a fence
constructed wholly or partially of razor wire on
.....
(address)

from20.....and until this licence is transferred or cancelled.

Dated.....20.....

Chief Executive Officer
Shire of Kellerberrin

Conditions of licence

The holder of the licence must—

- (a) display this licence in a prominent position on the land or premises on which the fence has been constructed;
- (b) on the request of the local government, produce to him or her this licence;
- (c) within 14 days of a change in the ownership or occupation of the land or premises in respect of which the licence has been granted, notify the Chief Executive Officer in writing of the details of that change or those changes; and
- (d) obtain the written consent of the Shire prior to the commencement of any alteration, addition or other work relating to or affecting the fence.

Transfer by endorsement

This licence is transferred to

..... of
.....
.....

from and including the date of this endorsement. Dated.....20.....

Chief Executive Officer
Shire of Kellerberrin

Dated: 5 August 2014.

The Common Seal of the Shire of Kellerberrin was affixed by authority of a resolution of the Council in the presence of—

ROD FORSYTH, Shire President.
RAYMOND GRIFFITHS, Chief Executive Officer.
