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SHIRE OF WAROONA

LOCAL GOVERNMENT ACT 1995
DIVIDING FENCES ACT 1961

FENCING LOCAL LAW 2014

LOCAL GOVERNMENT ACT 1995

LOCAL GOVERNMENT PROPERTY LOCAL LAW 2014

LOCAL GOVERNMENT ACT 1995
BUSH FIRES ACT 1954

REPEAL LOCAL LAW 2014

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

SHIRE OF WAROONA

FENCING LOCAL LAW 2014

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

SHIRE OF WAROONA

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 Waroona resolved on 25 November 2014 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Waroona 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 Application

This local law applies throughout the district.

1.4 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 means an Australian Standard published by Standards Australia, as amended from time to time;

AS/NZS means an Australian/New Zealand Standard published by Standards Australia, as amended from time to time;

authorised person means a person appointed 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 Waroona;

commercial lot means a lot where a commercial use—

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

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;

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;

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—

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

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

local government means the Shire of Waroona;

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 design code provides the basis for the control of residential development throughout Western Australia;

residential lot means a lot where a residential use—

- (a) is or may be permitted under the local planning scheme, and
- (b) is or will be the predominant use of the lot excluding special use—single residential lots;

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 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;

Schedule means a Schedule to this local law;

special rural lot means a lot where a special rural use—

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

special use—single residential means a lot where a residential use is or may be permitted for a single house only under the local planning scheme and the land is located within a floodway as designated by the Department of Water;

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.

1.5 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), 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 commercial 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 rural lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of Schedule 4;
 - (e) on a special rural lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of Schedule 4A; and
 - (f) on a special use—single residential lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of the Schedule 4B.
- (3) Where a fence is erected on or near the boundary between a residential lot and a commercial lot, industrial lot, rural lot, special rural lot or a special use—single 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 1800 millimetres in height; or
 - (b) the Building Surveyor 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 1000 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 1000 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 1.0 metre x 1.0 metre for low and medium peak vehicle movements, and a sight line truncation of 3.0 metres x 3.0 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 commercial 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 commercial 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 2000 millimetres above ground level and the total height shall not exceed 2400 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 3000 millimetres of the boundary of the lot; or
- (b) where any razor wire used in the construction of the fence is less than 2000 millimetres or more than 2400 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 subclause (1)(a); or
- (b) Schedule 6, where an application is made under subclause (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 3600 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 \$5000 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 \$5000 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 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 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	2.6(1)	Failure to maintain a fence in good condition to prevent fence becoming dangerous, dilapidated or unsightly	250
6	2.7(3)	Erect a fence without the required sight line truncation or height reduction	250
7	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 approval	250
8	2.10(1)	Construct a dividing fence on a residential, commercial or industrial lot from pre-used materials without written approval	250
9	2.11(1)	Erect a fence using barbed wire or material with spiked or jagged projections in fence construction without approval	250
10	2.12(1)	Construct, erect or use razor wire in a fence or electrify a fence without approval	250
11	2.13	Affix, or use, any broken glass in a fence	250
12	2.14(1)(a)	Erect a tennis court fence higher than 3600 millimetres without approval	200
13	2.14(1)(b)	Erect tennis court fence less than 900 millimetres from boundary of adjoining lot without approval	200
14	2.14(1)(c)	Erect a link mesh fence higher than 3600 millimetres or not in accordance with manufacturer's specification without approval	200
15	2.15 (1)	Construct or erect an estate entry statement or estate boundary fence without the approval of the local government	250
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: 1800 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 percent 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: 1800 millimetres except with respect to the front setback;
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 AS2870-2011, being relating to residential slabs and footings, as amended;
- (b) the footing is to be designed in accordance with AS2870-2011 as amended;
- (c) fences to be offset at a minimum of 200 millimetres and at maximum 3000 millimetres centres; or 225 millimetres x 100 millimetres engaged piers to be provided at: maximum 3000 millimetres centres;
- (d) expansion joints in accordance with the manufacturer's written instructions; and
- (e) height of the fence to be 1800 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 AS2870-2011 as amended;
- (b) the footing is to be designed in accordance with AS2870-2011 as amended;
- (c) height: maximum overall height of 1800 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 1200 millimetres shall have brick piers of minimum of 230 millimetres x 230 millimetres x 1800 millimetres centres;
bonded to a maximum height base wall of 514 millimetres; or,
brick fence of height exceeding 1200 millimetres shall have brick piers of minimum of 230 millimetres x 230 millimetres x 1800 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 x 345 millimetres piers, each rod being 1500 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 20 MPa 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 base wall

A brick fence which satisfies the following specifications for the brick construction—

- (a) height not exceeding 1200 millimetres having brick piers of—
minimum of 230 millimetres x 230 millimetres x 2700 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 1200 millimetres having brick piers of—
minimum 345 millimetres x 345 millimetres x 2700 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 base wall

A brick fence which satisfies the following specifications for the brick construction—

- (a) height not exceeding 1200 millimetres having brick piers minimum 230 millimetres x 230 millimetres x 2700 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 1200 millimetres having brick piers minimum 345 millimetres x 345 millimetres x 2700 millimetres centres with no brick base wall; and,
each pier shall be reinforced with two R10 galvanised starting rods as previously specified.

Schedule 3—Commercial lot

[clause 2.1(2)(b)]

SPECIFICATIONS FOR A SUFFICIENT FENCE ON A COMMERCIAL LOT

1. Each of the identified categories in this Schedule, with minimum and maximum specifications where stated, is a sufficient fence on a commercial 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 3500 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; two 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 two 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 2000 millimetres on top; and three strands of barbed wire carrying the fence to a height of 2400 millimetres in accordance with requirements and standards of local planning scheme;
- (f) galvanised link mesh wire to be 2000 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 3600 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 2000 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 2000 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 2000 millimetres in height.

Schedule 3 A—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 2400 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 3500 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; two 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 2000 millimetres on top; and three strands of barbed wire carrying the fence to a height of 2400 millimetres in accordance with requirements and standards of local planning scheme;

- (g) galvanised link mesh wire to be 2000 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 3600 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 1800 millimetres but no greater than 2400 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 1800 millimetres but no greater than 2400 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 1800 millimetres but no greater than 2400 millimetres.

Schedule 4—Rural 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 rural 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 ringlock 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 5000 millimetres intervals, set minimum 600 millimetres in the ground and 1200 millimetres above the ground;
- (f) if timber posts are used, posts are to be cut not less than 1800 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 2250 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 1000 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 two 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 4 A—Special rural lot

[clause 2.1(2)(e)]

SPECIFICATIONS FOR A SUFFICIENT FENCE ON A SPECIAL RURAL LOT

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

Schedule 4 B—Special use—single residential lot

[clause 2.1(2)(f)]

SPECIFICATIONS FOR A SUFFICIENT FENCE IN A SPECIAL USE—SINGLE RESIDENTIAL LOT

As provided in Schedule 4, except that all fences shall have openings of at least 300 millimetres between the existing ground level and the lowest portion of the fence to allow the unimpeded flow of water in a flood event.

Schedule 5—Electrified fence licence

[clause 2.12(1)(a)]

LICENCE FOR APPROVED ELECTRIFIED FENCE

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

from 20..... and until this licence is transferred or cancelled.
Dated 20.....

Chief Executive Officer,
Shire of Waroona

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/NZS 3016:2002 Electrical installations—Electric security fences; 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 Waroona.

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)

from 20..... and until this licence is transferred or cancelled.

Dated 20.....

Chief Executive Officer,
Shire of Waroona

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 Waroona

Dated: 2 December 2014.

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

Cr CHRISTINE GERMAIN, President.
IAN CURLEY, Chief Executive Officer.

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LOCAL GOVERNMENT ACT 1995

SHIRE OF WAROONA

LOCAL GOVERNMENT PROPERTY LOCAL LAW 2014

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Waroona resolved on 25 November 2014 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Waroona Local Government Property Local Law 2014*.

1.2 Commencement

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

1.3 Repeal

The Shire of Waroona Local Government Property Local Law as published in the *Government Gazette* on 27 August 2001 is repealed.

1.4 Application

This local law applies throughout the district.

1.5 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 under clause 3.2;

authorised person means a person appointed 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;

boat means any ship, vessel or structure capable of being used in navigation by water, however propelled or moved, and includes a jet ski;

building means any building which is local government property and includes a—

(a) hall or room;

(b) corridor, stairway or annexe of any hall or room, stand alone structure;

CEO means the Chief Executive Officer of the local government;

children's playground means an area set aside for use by children and noted by the presence of dedicated children's playground equipment and the presence of either sand or other form of soft fall surface;

Code means the Code of Practice for the Design, Operation, Management and Maintenance of Aquatic Facilities as published by the Executive Director, Public Health, pursuant to the provisions of section 344A (2) of the *Health Act 1911*;

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

costs of the local government include its administrative costs;

Council means the council of the local government;

determination means a determination made under clause 2.1;

district means the district of the local government;

fauna means any animal indigenous to or which periodically migrates to any State or Territory of the Commonwealth or the territorial waters of the Commonwealth and includes, in relation to any such animal—

(a) any class of animal or individual member; or

(b) the eggs or larvae.

flora means all vascular plants other than plants recognised as weeds;

function means an event or activity characterised by all or any of the following—

- (a) formal gathering, organisation and preparation;
- (b) its occurrence is generally advertised or notified in writing to particular persons;
- (c) organised by or on behalf of a club;
- (d) payment of a fee to attend it; and
- (e) systematic recurrence in relation to the day, time and place.

General Regulations means the *Local Government (Functions and General) General Regulations 1996*;

Health Act means the *Health Act 1911*;

Indecent exposure means the revealing to view of those parts of the body, especially the genitals, which by law and convention should be covered by clothing under the given circumstances;

liquor has the same meaning as is given to it in section 3 of the *Liquor Control Act 1988*;

local government means the Shire of Waroona;

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;

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

manager means the person for the time being employed by the local government to control and manage a pool area or other facility which is local government property and includes the person’s assistant or deputy;

nuisance means—

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

offensive language means use of swearwords, cursing, expletives, and bad language, which offends other people;

permit means a permit issued under this local law;

permit holder means a person or organisation who holds a valid permit;

person does not include the local government;

pool area means any swimming and wading pools and spas and all buildings, structures, fittings, fixtures, machinery, chattels, furniture and equipment forming part of or used in connection with such swimming and wading pools and spas which are local government property;

prohibited drug is given its meaning under section 4 of the *Misuse of Drugs Act 1981*;

Schedule means a Schedule in this local law;

sign includes a notice, flag, mark, structure or device approved by the local government on which may be shown words, numbers, expressions or symbols;

trading means the selling or hiring, or the offering for sale or hire of goods or services, and includes displaying goods for the purpose of—

- (a) offering them for sale or hire;
- (b) inviting offers for their sale or hire;
- (c) soliciting orders for them; or
- (d) carrying out any other transaction in relation to them.

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 drive;

but excludes—

- (c) a wheel-chair or any device designed for use, by a physically impaired person on a footpath;
- (d) a pram, a stroller or a similar device.

1.6 Interpretation

In this local law, a reference to local government property includes a reference to any part of that local government property.

1.7 Overriding power to hire or agree

Despite anything to the contrary in this local law, the local government may—

- (a) hire local government property to any person; or
- (b) enter into an agreement with any person regarding the use of any local government property.

PART 2—DETERMINATIONS IN RESPECT OF LOCAL GOVERNMENT PROPERTY*Division 1—Determinations***2.1 Determinations as to use of local government property**

- (1) The local government may make a determination in accordance with clause 2.2—
 - (a) setting aside specified local government property for the pursuit of all or any of the activities referred to in clause 2.7;
 - (b) prohibiting a person from pursuing all or any of the activities referred to in clause 2.8 on specified local government property, or parts thereof;
 - (c) as to the matters in clauses 2.7(2) and 2.8(1); and
 - (d) as to any matter ancillary or necessary to give effect to a determination.

2.2 Procedure for making a determination

- (1) The local government is to give local public notice of its intention to make a determination.
- (2) The local public notice referred to in subclause (1) is to state that—
 - (a) the local government intends to make a determination, the purpose and effect of which is summarised in the notice;
 - (b) a copy of the proposed determination may be inspected and obtained from the offices of the local government; and
 - (c) submissions in writing about the proposed determination may be lodged with the local government within 21 days after the date of publication.
- (3) If no submissions are received in accordance with subclause (2)(c), the Council is to decide to—
 - (a) give local public notice that the proposed determination has effect as a determination on and from the date of publication;
 - (b) amend the proposed determination, in which case subclause (5) will apply; or
 - (c) not continue with the proposed determination.
- (4) If submissions are received in accordance with subclause (2)(c) the Council is to—
 - (a) consider those submissions; and
 - (b) decide—
 - (i) whether or not to amend the proposed determination; or
 - (ii) not to continue with the proposed determination.
- (5) If the Council decides to amend the proposed determination, it is to give local public notice—
 - (a) of the effect of the amendments; and
 - (b) that the proposed determination has effect as a determination on and from the date of publication.
- (6) If the Council decides not to amend the proposed determination, it is to give local public notice that the proposed determination has effect as a determination on and from the date of publication.
- (7) A proposed determination is to have effect as a determination on and from the date of publication of the local public notice referred to in subclauses (3), (5) and (6).
- (8) A decision under subclause (3) or (4) is not to be delegated by the Council.

2.3 Discretion to erect signs

- (1) The local government may erect a sign on local government property to give notice of the effect of a determination which applies to that property.
- (2) Where a sign erected on local government property has been erected under a local law of the local government repealed by this local law, then it is to be taken to be and have effect as a determination on and from the commencement day, except to the extent that the sign is inconsistent with any provision of this local law or any determination made under clause 2.1.
- (3) A person must—
 - (a) not act in contravention of any sign erected on a beach under clause 2.3(1);
 - (b) comply with any direction given under part 8; and
 - (c) not interfere with, obscure, obstruct, or hang any item of clothing or towel on a flag, sign, or notice.

2.4 Determination to be complied with

A person must comply with a determination.

2.5 Register of determinations

- (1) The local government is to keep a register of determinations made under clause 2.1, and of any amendments to or revocations of determinations made under clause 2.6.
- (2) Sections 5.94 and 5.95 of the Act are to apply to the register referred to in subclause (1) and for that purpose the register is to be taken to be information within section 5.94(u)(i) of the Act.

2.6 Amendment or revocation of a determination

- (1) The Council may amend or revoke a determination.
- (2) The provisions of clause 2.2 are to apply to an amendment of a determination as if the amendment were a proposed determination.
- (3) If the Council revokes a determination it is to give local public notice of the revocation and the determination is to cease to have effect on the date of publication.

*Division 2—Activities which may be pursued or prohibited under a determination***2.7 Activities which may be pursued on specified local government property**

- (1) A determination may provide that specified local government property is set aside as an area on which a person may—
- (a) bring, ride or drive an animal;
 - (b) take, ride or drive a vehicle, or a particular class of vehicle;
 - (c) use a children's playground provided that the person is under an age specified in the determination, but the determination is not to apply to a person having the charge of a person under the specified age;
 - (d) deposit refuse, rubbish or liquid waste, whether or not of particular classes, and whether or not in specified areas of that local government property;
 - (e) ride a bicycle, a skateboard, rollerblades, a sandboard or a similar device.
- (2) A determination may specify the extent to which and the manner in which an activity referred to in subclause (1) may be pursued and in particular—
- (a) the days and times during which the activity may be pursued;
 - (b) that an activity may be pursued on a class of local government property, specified local government property or all local government property;
 - (c) that an activity is to be taken to be prohibited on all local government property other than that specified in the determination;
 - (d) may limit the activity to a class of vehicles, boats, equipment or things, or may extend it to all vehicles, boats, equipment or things;
 - (e) may specify that the activity can be pursued by a class of persons or all persons; and
 - (f) may distinguish between different classes of the activity.
- (3) This clause is subject to any written law and any law of the Commonwealth about assistance as defined in section 9(2) of the *Disability Discrimination Act 1992* (Commonwealth).

2.8 Activities which are prohibited on specified local government property

- (1) A determination may provide that a person is prohibited from pursuing all or any of the following activities on specified local government property—
- (a) smoking on premises;
 - (b) riding a bicycle, a skateboard, rollerblades, a sandboard or a similar device;
 - (c) taking, riding or driving a vehicle on the property or a particular class of vehicle;
 - (d) riding or driving a vehicle of a particular class or any vehicle above a specified speed;
 - (e) taking or using a boat, or a particular class of boat;
 - (f) the playing or practice of any ball game which may cause detriment to the property or any fauna or flora on the property or injury to other persons;
 - (g) the traversing of sand dunes or land which in the opinion of the local government has environmental value warranting such protection, either absolutely or except by paths provided for that purpose.
- (2) A determination may specify the extent to which and the manner in which a person is prohibited from pursuing an activity referred to in subclause (1) and, in particular—
- (a) the days and times during which the activity is prohibited;
 - (b) that an activity is prohibited on a class of local government property, specified local government property or all local government property;
 - (c) that an activity is prohibited in respect of a class of vehicles, boats, equipment or things, or all vehicles, boats, equipment or things;
 - (d) that an activity is prohibited in respect of a class of persons or all persons; and
 - (e) may distinguish between different classes of the activity.
- (3) In this clause—
- premises** means a building, stadium or similar structure which is local government property, or part thereof, but not an open space such as a park or a playing field.

2.9 Outright prohibition of specific activities on any local government property

(1) The following activities are prohibited from being pursued on any property owned or controlled by the local government—

- (a) throw or release any stone, arrow, spear projectile, or other missile, whether of the same kind or not, that may endanger other persons or property except where it is permitted in the course of a function being lawfully held;
- (b) climb upon or over under or through any wall, building, tree guard fence or gate designed or installed for the purposes of prohibiting or restricting the entry of persons or vehicles;
- (c) alter, break, cut, damage deface, destroy, disfigure or, mutilate any equipment, building, landscaping, irrigation equipment, tree or other plants, portion of turf, or structure of any kind;
- (d) destroy, damage, harass, injure, cause harm to, catch, snare or take any domestic animal or poultry, or any other mammal, monotreme, bird or reptile or any other fauna;
- (e) drive or take any watercraft into any place where persons are bathing in such a manner as to cause or be likely to cause annoyance or injury to any person bathing or about to bathe;
- (f) clean fish or leave or deposit fish offal;
- (g) climb upon any wall, building or tree guard or over, under or through any fence or gate designed or installed for the purpose of prohibiting or restricting the entry of persons or vehicles;
- (h) bathe, swim or wade in any sump, drain, fountain or pond;
- (i) add any dye or chemical to the water of any sump, drain, fountain, swimming pool, weir, pond, lake or other body of water on property controlled by the local government;
- (j) damage, destroy, interfere with or remove any water pipe, tap, hose, hose fitting, sprinkler, irrigator, watering device, valve, pump, motor, controller or switchboard;
- (k) break or permit to be broken any glass, metal, bottle or utensil or deposit or leave any rubbish, refuse, bottle, can, tin, paper, broken glass, china or litter of any kind other than in receptacles provided for that purpose;
- (l) climb, injure, cut, break, deface, pull up, pick, remove or destroy any tree, tree guard, shrub, flowers, grass or flora or any plant of any kind or description or, without the written consent of the Council, or to plant any such thing or sow any seeds without the prior authority in writing of the Council;
- (m) carry or discharge any firearm, air-gun, or other missile discharging device, or throw or discharge any explosive device, stone, spear or missile;
- (n) operate any musical instrument, radio, record or cassette player, radiogram, television, amplifying equipment or other sound producing, enhancing or amplifying electronic device at such volume as to cause a nuisance or annoyance to other persons in or near the locality;
- (o) unlock or unfasten any gate unless authorised by the local government;
- (p) unlock or unfasten any door unless authorised by the local government;
- (q) bring or leave a vehicle, caravan, or omnibus (whether in good order or derelict) on local government property not designated by Council for parking and without the consent of the local government;
- (r) play or practice the game of golf, archery, or any similar game or activity, unless otherwise approved by the Council;
- (s) release into any waterway upon or passing through a reserve under the control of the local government any fish, animal or plant;
- (t) Tow any device other than a registered trailer designed for a specific lawful purpose, unless a licence has been issued by an authorised person for such towing;
- (u) Bring or leave any rubbish on local government property not designated by Council for depositing rubbish and without the consent of the local government.

(2) This clause shall not apply to an authorised person acting in the course of his or her duties.

PART 3—PERMITS*Division 1—Preliminary***3.1 Application of Part**

This Part does not apply to a person or organisation who uses or occupies local government property under a written agreement with the local government to do so.

3.2 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 refuse to consider an application for a permit which is not in accordance with subclause (2) or where the requirements of subclause (3) has not been satisfied.

3.3 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) The local government may, at any time, amend a condition of approval and the amended condition takes effect when written notice of it is given to the permit holder.

3.4 Conditions which may be imposed on a permit

(1) Examples of the conditions that the local government may impose on a permit are conditions relating to—

- (a) the payment of a fee;
- (b) compliance with a standard or a policy of the local government adopted by the local government;
- (c) the duration and commencement of the permit;
- (d) the commencement of the permit being contingent on the happening of an event;
- (e) the rectification, remedying or restoration of a situation or circumstance reasonably related to the application;
- (f) the approval of another application for a permit which may be required by the local government under any written law;
- (g) the area of the district to which the permit applies;
- (h) where a permit is issued for an activity which will or may cause damage to local government property, the payment of a deposit or bond against such damage; and
- (i) the obtaining of public risk insurance in an amount and on terms reasonably required by the local government.

(2) Examples of the type and content of the conditions on which a permit to hire local government property may be issued—

- (a) when fees and charges are to be paid;
- (b) payment of a bond against possible damage or cleaning expenses or both;
- (c) restrictions on the erection of material or external decorations;
- (d) rules about the use of furniture, plant and effects;
- (e) limitations on the number of persons who may attend any function in or on local government property;
- (f) the duration of the hire;
- (g) the right of the local government to cancel a booking during the course of an annual or seasonal booking, if the local government sees fit;
- (h) a prohibition on the sale, supply or consumption of liquor unless a liquor licence is first obtained for that purpose under the *Liquor Control Act 1988*;
- (i) whether or not the hire is for the exclusive use of the local government property;
- (j) the obtaining of a policy of insurance in the names of both the local government and the hirer, 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 hire of the local government property by the hirer; and
- (k) the provision of an indemnity from the hirer, 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 hire of the local government property by the hirer.

3.5 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 3.3(1)(a).

(2) Under clause 3.3(1)(a) the local government may approve an application subject to conditions by reference to a policy.

(3) The local government must 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 3.3(2).

(4) An application for a permit shall not to be taken 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 shall be deemed to be information within section 5.94(u)(i) of the Act.

3.6 Compliance with conditions

Where an application for a permit has been approved subject to conditions, the permit holder shall comply with each of those conditions.

3.7 Agreement for building

Where a person applies for a permit to erect a building on local government property the local government may enter into an agreement with the permit holder in respect of the ownership of the materials in the building.

3.8 Duration of permit

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

- (a) it is otherwise stated in this local law or in the permit; or
- (b) it is cancelled under clause 3.12.

3.9 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 this Part shall apply to an application for the renewal of a permit as though it were an application for a permit.

3.10 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 an endorsement on the permit signed by the CEO.

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

3.11 Production of permit

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

3.12 Cancellation of permit

(1) Subject to clause 9.1, a permit may be cancelled by the local government if the permit holder has not complied with a—

- (a) condition of the permit; or
- (b) a determination or a provision of any written law which may relate to the activity regulated by the permit.

(2) On the cancellation of a permit the permit holder—

- (a) shall return the permit as soon as practicable to the CEO; and
- (b) is to be taken to have forfeited any fees paid in respect of the permit.

3.13 Activities needing a permit

(1) A person shall not without a permit—

- (a) subject to subclause (3), hire local government property;
- (b) advertise anything by any means on local government property;
- (c) erect on local government property, a structure for public amusement or for any performance, whether for gain or otherwise;
- (d) teach, coach or train, for profit, any person in a pool area or an indoor recreation facility which is local government property;
- (e) fly or operate, whether remote controlled or not, any mechanically operated model vehicle, model boat or model aeroplane, or similar such devices;
- (f) plant any plant or sow any seeds on local government property, unless doing so with an authorised officer;
- (g) carry on any trading on local government property unless the trading is conducted—
 - (i) with the consent of a person who holds a permit to conduct a function, and where the trading is carried on under and in accordance with the permit; or
 - (ii) by a person who has a licence or permit to carry on trading on local government property under any written law;

- (h) unless an employee of the local government in the course of her or his duties or on an area set aside for that purpose—
 - (i) drive or ride or take any vehicle on to local government property; or
 - (ii) park or stop any vehicle on local government property;
 - (i) conduct a function on local government property;
 - (j) charge any person for entry to local government property, unless the charge is for entry to land or a building hired by a voluntary non-profit organisation;
 - (k) erect a building or a refuelling site on local government property;
 - (l) make any excavation on or erect or remove any fence on local government property;
 - (m) erect or install any structure above or below ground, which is local government property, for the purpose of supplying any water, power, sewer, communication, television or similar service to a person;
 - (n) deposit or store anything on local government property;
 - (o) conduct or take part in any gambling game or contest or bet, or offer to bet, publicly; or
 - (p) erect, install, operate or use any broadcasting, public address system, loudspeaker or other device for the amplification of sound on local government property.
- (2) The local government may exempt a person from compliance with subclause (1) on the application of that person.
- (3) The local government may exempt specified local government property or a class of local government property from the application of subclause (1)(a).
- (4) This section shall not apply to an authorised person acting in the course of his or her duties.

3.14 Permit required to camp outside a facility

- (1) In this clause—
facility has the same meaning as is given to it in section 5(1) of the *Caravan Parks and Camping Grounds Act 1995*.
- (2) This clause does not apply to a facility operated by the local government.
- (3) Except in accordance with a permit, a person must not—
 - (a) camp on, lodge at or occupy any structure at night on local government property for the purpose of sleeping; or
 - (b) erect any tent, camp, hut or similar structure on local government property other than a beach shade or windbreak erected for use during the hours of daylight and which is dismantled during those hours on the same day.
- (4) The maximum period for which the local government may approve an application for a permit in respect to paragraph 3(a) or 3(b) is that provided in regulation 11(2)(a) of the *Caravan Parks and Camping Grounds General Regulations 1997*.

3.15 Permit required for possession and consumption of liquor

- (1) A person, on local government property, shall not consume any liquor or have in her or his possession or under her or his control any liquor, unless—
 - (a) that it is permitted under the *Liquor Control Act 1988*; and
 - (b) a permit has been obtained for that purpose.
- (2) Subclause (1) does not apply where the liquor is in a sealed container.

3.16 Responsibilities of permit holder

- A holder of a permit shall in respect of local government property to which the permit relates—
 - (a) ensure that an authorised person has unobstructed access to the local government property for the purpose of inspecting the property or enforcing any provision of this local law;
 - (b) leave the local government property in a clean and tidy condition after its use;
 - (c) report any damage or defacement of the local government property to the local government; and
 - (d) prevent the consumption of any liquor on the local government property unless the permit allows it and a licence has been obtained under the *Liquor Control Act 1988* for that purpose.

PART 4—BEHAVIOUR ON ALL LOCAL GOVERNMENT PROPERTY

Division 1—Behaviour on and interference with local government property

4.1 Behaviour which interferes with others

- (1) A person shall not in or on any local government property behave in a manner which—
 - (a) interferes with the enjoyment of a person who might use the property;
 - (b) cause a disturbance to nearby residents; or
 - (c) creates a nuisance.
- (2) Subclause (1) shall also include the use of offensive language.

4.2 Behaviour detrimental to property

(1) A person shall not behave in or on local government property in a way which is or might be detrimental to the property.

(2) In subclause (1)—

detrimental to the property includes—

- (a) removing anything from the local government property such as a rock, a plant or a seat provided for the use of any person; and
- (b) destroying, defacing or damaging anything on the local government property, such as a plant, or a seat provided for the use of any person or a building.

4.3 Intoxicated persons not to enter local government property

A person must not enter or remain on local government property while under the influence of liquor or a prohibited drug.

4.4 No prohibited drugs

A person shall not take a prohibited drug on to, or consume or use a prohibited drug on, local government property.

4.5 Appropriate behaviour and adequate clothing

(1) A person over the age of 7 years shall not on or in any local government property—

- (a) appear in public unless properly dressed in clothing which covers the body to prevent indecent exposure;
- (b) loiter outside or act in a manner which could be regarded as a nuisance in any portion of a toilet block or change room facility set aside for the opposite or same gender; and
- (c) without the consent of the occupier, enter or attempt to enter any toilet or other compartment which is already occupied.

(2) Where an authorised person considers that the clothing of any person on local government property is not proper and adequate to prevent indecent exposure, the authorised person may direct that person to put on adequate clothing and that person shall comply with that direction immediately.

4.6 Only specified gender to use entry of toilet block or change room

(1) Where a sign on a toilet block or change room specifies that a particular entry of the toilet block or change room is to be used by—

- (a) females—then a person of the male gender must not use that entry of the toilet block or change room; or
- (b) males—then a person of the female gender must not use that entry of the toilet block or change room;
- (c) families—then, where the toilet block or change room is being used by a family, only an immediate member of that family may use that entry of the toilet block or change room.

(2) Paragraphs (a) and (b) of subclause (1) do not apply to a child, when accompanied by a parent, guardian, or care giver, where the child is—

- (a) under the age of 7 years; or
- (b) otherwise permitted by an authorised person to use the relevant entry.

4.7 Use of shower facilities

A person may use a shower facility in change rooms only on condition that—

- (a) the facilities must be used by the person only for the purposes of cleansing and washing themselves;
- (b) use of the facilities must be restricted to a maximum period of 15 minutes, or such lesser time as required by an attendant; or
- (c) the facilities must not be used for the purposes of laundering or washing any clothing or other articles.

4.8 Refusal of entry to local government property

(1) An authorised person may refuse to allow entry, or suspend admission, to any local government property by any person who he or she believes has behaved in a manner contrary to the provisions of this Part.

(2) This refusal or suspension can be for any period of up to 12 months as decided by that authorised person.

(3) A decision made under this clause is a decision to which Part 8 applies.

*Division 2—Signs***4.9 Signs**

(1) A local government may erect a sign, flag or notice on local government property specifying any conditions of use which apply to that property.

(2) A person shall comply with a sign, flag, or notice, erected under subclause (1).

- (3) A condition of use specified on a sign or notice erected under subclause (1) is—
- (a) not to be inconsistent with any provision of this local law or any determination; and
 - (b) to be for the purpose of giving notice of the effect of the provision of this local law; or
 - (c) for the purpose of restricting activities, whether temporarily or permanently.
- (4) It is an offense to remove or otherwise interfere with any notice, flag or sign.

PART 5—MATTERS RELATING TO PARTICULAR LOCAL GOVERNMENT PROPERTY

Division 1—Swimming pool areas

5.1 When entry must be refused

- (1) A manager or an authorised person must refuse admission to a pool area for any person who—
- (a) in her or his opinion is—
 - (i) under the minimum age of that specified in the Code and who is unaccompanied by a responsible person over the age of that specified in the Code;
 - (ii) under the minimum age of that specified in the Code and who is accompanied by a responsible person over the age of that specified in the Code where the responsible person is incapable of, or not providing, adequate supervision of, or care, for that person;
 - (iii) suffering from any contagious, infectious or cutaneous disease or complaint, or is in an unclean condition;
 - (iv) under the influence of liquor or a prohibited drug;
 - (b) is to be refused admission under and in accordance with a decision of the local government for breaching a clause of this local law, or by a separate determination of the local government.
- (2) If a person referred to in paragraph (a) or (b) of subclause (1) is in a pool area, a manager or an authorised person must—
- (a) direct the person to leave; and
 - (b) if the person refuses or fails to leave, remove the person or arrange for the person to be removed, from the pool area.

5.2 Consumption of food or drink may be prohibited

A person must not consume any food or drink in an area where consumption is prohibited by a sign.

Division 2—Preston Beach

5.3 Restrictions within Designated Recreation Area at Preston Beach

The following restrictions shall apply at Preston Beach.

- (1) In this clause, “Designated Recreation Area “ means that portion of foreshore as delineated on the attached schedule 2 of this local law and described as that portion of the foreshore which lies between the low water mark and the high water mark of the Indian Ocean and running in a northerly direction for 150metres and running in a southerly direction for 150metres from the prolongation of the northern boundary of the pedestrian access way onto the beach front via Reserve No 32010.
- (2) Within the “Designated Recreation Area”, as shown on schedule 2 of this local law, a person shall not, during the period extending from November 1 to April 30 of each year, carry out any activities associated with fishing.
- (3) A person shall not drive any vehicle within the Designated Recreation Area at Preston Beach during the period November 1 to April 30 of each year or engage in sand boarding or other similar activity without written permission from the local government.
- (4) Fish for sharks by use of set or buoyed lines or use blood or any other lure for the purpose of attracting sharks.
- (5) The lighting of any fires on any beaches or on any sand dunes areas in the district is strictly prohibited at all times.
- (6) Cause any damage to any sand dune or dune system, or remove or damage any vegetation on any sand dune or any fence or structure or thing placed on or in the vicinity of a sand dune for the purpose of restricting or controlling access or avoiding damage to the dune, or (without limiting the generality of the foregoing) remove sand from any sand dune.

Division 3—Fenced or closed property

5.4 No entry to fenced or closed local government property

A person must not enter local government property which has been fenced off or closed to the public by a sign or otherwise, unless that person is authorised to do so by the local government.

This section shall not apply to an Authorised Officer or Person acting in the course of his or her duties.

PART 6—FEES FOR ENTRY ON TO LOCAL GOVERNMENT PROPERTY**6.1 No unauthorised entry to function**

(1) A person shall not enter local government property on such days or during such times as the property may be set aside for a function for which a charge for admission is authorised, except—

- (a) through the proper entrance for that purpose; and
- (b) on payment of the fee chargeable for admission at the time.

(2) The local government may exempt a person from compliance with subclause (1)(b).

PART 7—OBJECTIONS AND REVIEW**7.1 Objections and Review**

Division 1 of Part 9 of the Act and Regulation 33 of the General Regulations applies to a decision under this local law—

- (a) to grant a person a permit or consent under this local law; or
- (b) to renew, vary, or cancel a permit or consent that a person has under this local law.

PART 8—MISCELLANEOUS**8.1 Authorised person to be obeyed**

A person on local government property shall obey any lawful direction of an authorised person and shall not in any way obstruct or hinder an authorised person in the execution of his or her duties.

8.2 Persons may be directed to leave local government property

An authorised person may direct a person to leave, or temporarily suspend a person from, local government property where he or reasonably suspects that the person has contravened a provision of any written law.

8.3 Personal Details

(1) An authorised person who finds a person committing or who on reasonable grounds suspects the person of having committed a breach of any provisions of this Local Law, may demand from the person that person's full name, current address, and telephone number.

(2) A person who refuses to give his or her full name, current address and telephone number or who states a false name, current address, and telephone number on a demand being made, commits an offence.

8.4 Failure to Comply with Notice

A person who—

- (a) fails to comply with a notice issued under this Local Law; or
- (b) fails to comply with any conditions specified in a notice issued under this Local Law;

commits an offence.

8.5 Disposal of lost property

An article left on any local government property, and not claimed within a period of 3 months, may be disposed of by the local government in any manner it thinks fit.

8.6 Liability for damage to local government property

(1) Where a person unlawfully damages local government property, the local government may by notice in writing to that person require that person within the time required in the notice to, at the option of the local government, pay the costs of—

- (a) reinstating the property to the state it was in prior to the occurrence of the damage; or
- (b) replacing that property.

(2) On a failure to comply with a notice issued under subclause (1), the local government may recover the costs referred to in the notice as a debt due to it.

PART 9—ENFORCEMENT**9.1 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 a person fails to comply with the notice, that person commits an offence.

9.2 Local government may undertake requirements of notice

Where a person fails to comply with a notice referred to in clause 9.1, the local government may do the thing specified in the notice and recover from the person to whom the notice was given, as a debt, the costs incurred in so doing.

9.3 Offences and general penalty

(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.

9.4 Prescribed Offences and 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 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 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.

9.5 Form of notices

(1) 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 General Regulations;
- (b) the form of the infringement notice given under section 9.17 of the Act is that of Form 2 in Schedule 1 of the General 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 General Regulations.

(2) Where an infringement notice is given under section 9.17 of the Act in respect of an alleged offence against clause 2.4, the notice is to contain a description of the alleged offence.

9.6 Impounding of goods

Provisions dealing with the power to impound goods that are involved in a contravention, including a contravention of this local law, are contained in the Act and General Regulations.

9.7 Evidence of a determination

(1) In any legal proceedings, evidence of a determination may be given by tendering the register referred to in clause 2.5 or a certified copy of an extract from the register.

(2) It is to be presumed, unless the contrary is proved, that the determination was properly made and that every requirement for it to be made and have effect has been satisfied.

(3) Subclause (2) does not make valid a determination that has not been properly made.

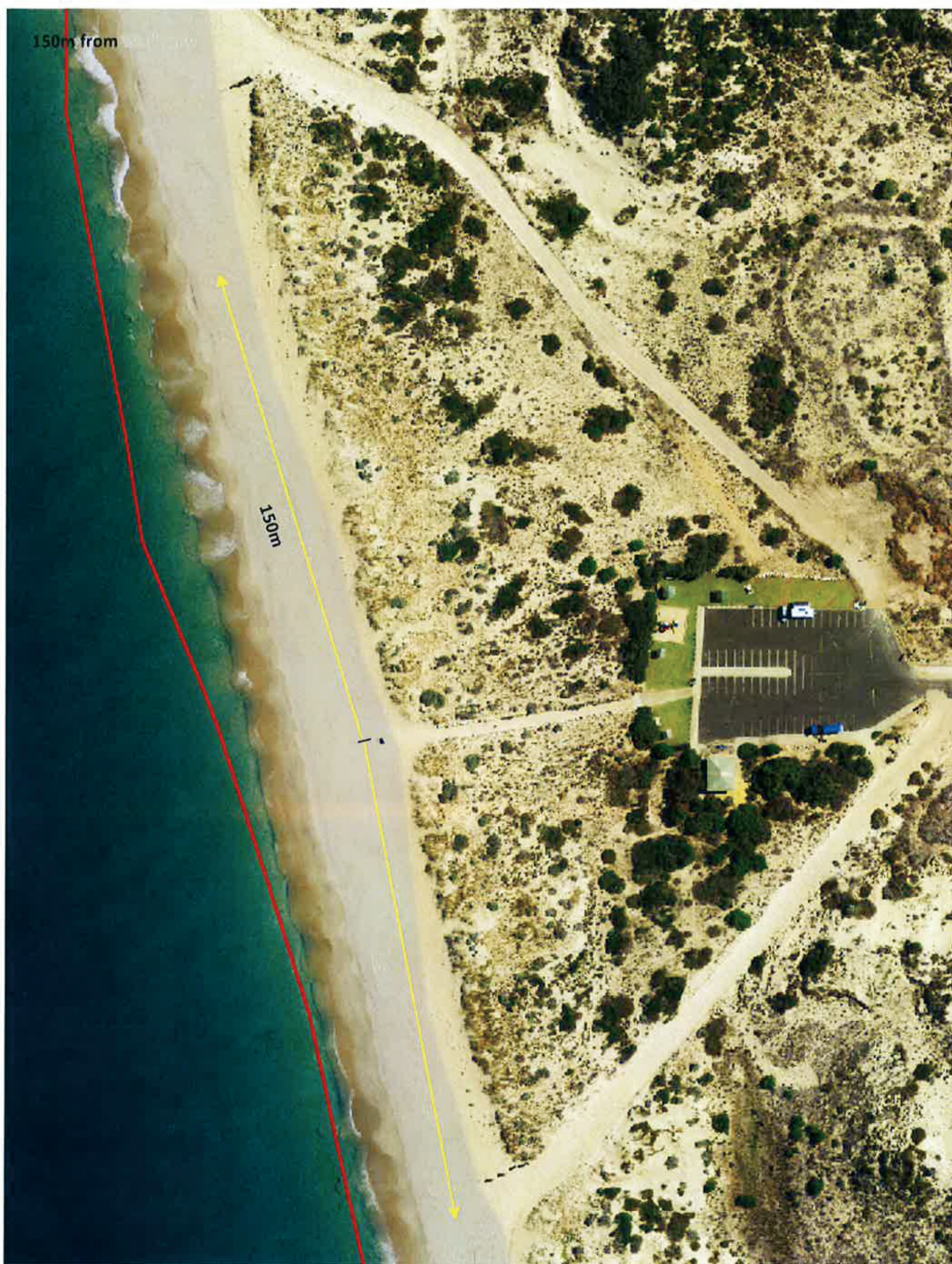
Schedule 1

Local Government Act 1995

INFRINGEMENT NOTICE PENALTIES

Item	Clause	Description	Modified Penalty \$
1	3.2	Failure to obtain a permit for an activity requiring a permit	200
2	3.4	Failure to comply with a permit or a condition imposed by a permit	300
3	8.2	Failure to comply with a request or direction to leave premises or any part of premises	300
4	4.9	Failure to comply with a sign that prohibits an activity	200
5	8.3	Failure to provide a person's full name, current address and telephone number	300
6	9.1	Failure to comply with a notice	300
7		Any offence not otherwise listed in this schedule	200

Schedule 2
PRESTON BEACH DESIGNATED RECREATION AREA



Schedule 2—The Preston Beach “Designated Recreation Area”, being that portion of the foreshore which lies between the low water mark and the high water mark of the Indian Ocean and running in a northerly direction for 150 metres and running in a southerly direction for 150 metres from the prolongation of the northern boundary of the pedestrian access way onto the beach front via Reserve No. 32010. Activities in this area are restricted by the provision of Clause 5.3.

Dated: 2 December 2014.

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

Cr CHRISTINE GERMAIN, President.
IAN CURLEY, Chief Executive Officer.

**LOCAL GOVERNMENT ACT 1995
BUSH FIRES ACT 1954**

SHIRE OF WAROONA

REPEAL LOCAL LAW 2014

Under the powers conferred by the *Local Government Act 1995* and the *Bush Fires Act 1954* and under all other powers enabling it, the Council of the Shire of Waroona has resolved to make the following local law.

1. Citation

This local law may be cited as the *Shire of Waroona Repeal Local Law 2014*.

2. Commencement

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

3. Repeal

The following local laws are repealed—

- (a) Bushfire Brigades, published in the *Government Gazette* on 27 August 2001
- (b) Fencing and Tennis Court Floodlighting published in the *Government Gazette* on 20 November 1998

The local law to repeal both of the above items was resolved by the Council on 25 November 2014.

Dated: 2 December 2014.

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

Cr CHRISTINE GERMAIN, President.
IAN CURLEY, Chief Executive Officer.
