



**WESTERN  
AUSTRALIAN  
GOVERNMENT  
Gazette**

ISSN 1448-949X (print)

ISSN 2204-4264 (online)

PRINT POST APPROVED PP665002/00041



**PERTH, WEDNESDAY, 15 FEBRUARY 2017 No. 42 SPECIAL**

PUBLISHED BY AUTHORITY JOHN A. STRIJK, GOVERNMENT PRINTER AT 12.00 NOON

© STATE OF WESTERN AUSTRALIA

**SHIRE OF WYNDHAM  
EAST KIMBERLEY**

---

BUSH FIRES ACT 1954  
LOCAL GOVERNMENT ACT 1995

**BUSH FIRE BRIGADES  
LOCAL LAW 2017**

---

LOCAL GOVERNMENT ACT 1995  
DIVIDING FENCES ACT 1961

**FENCING LOCAL LAW 2017**



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

SHIRE OF WYNDHAM EAST KIMBERLEY

**BUSH FIRE BRIGADES LOCAL LAW 2017**

**Table of Contents**

**PART 1—PRELIMINARY**

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

**PART 2—ESTABLISHMENT OF BUSH FIRE BRIGADES**

- 2.1 Establishment of a bush fire brigade
- 2.2 Name and officers of bush fire brigade
- 2.3 Ranks within the bush fire brigade
- 2.4 Rules
- 2.5 Existing Bush Fire Brigades
- 2.6 Dissolution of bush fire brigade
- 2.7 New arrangement after dissolution

**PART 3—ORGANISATION AND MAINTENANCE OF BUSH FIRE BRIGADES**

- 3.1 Local government responsible for structure
- 3.2 Officers to be supplied with Act
- 3.3 Managerial role of Chief Bush Fire Control Officer
- 3.4 Chief Bush Fire Control Officer may attend meetings
- 3.5 Duties of Chief Bush Fire Control Officer
- 3.6 Holding of annual general meeting
- 3.7 Nomination of bush fire control officers to Bush Fire Advisory Committee
- 3.8 Nomination of bush fire control officer to the local government
- 3.9 Minutes to be tabled before the Bush Fire Advisory Committee
- 3.10 Functions of Advisory Committee
- 3.11 Advisory Committee to nominate bush fire control officers
- 3.12 Local government to have regard to nominees
- 3.13 Advisory Committee to consider bush fire brigade motions

**PART 4—TYPES OF BUSH FIRE BRIGADE MEMBERSHIP**

- 4.1 Types of membership of bush fire brigade
- 4.2 Fire fighting members
- 4.3 Associate members
- 4.4 Cadet members
- 4.5 Honorary life member
- 4.6 Notification of membership

**PART 5—APPOINTMENT, DISMISSAL AND MANAGEMENT OF MEMBERS**

- 5.1 Rules to govern

**PART 6—EQUIPMENT OF BUSH FIRE BRIGADES**

- 6.1 Policies of local government
- 6.2 Equipment in brigade area
- 6.3 Funding from local government budget
- 6.4 Consideration in the local government budget

**SCHEDULE 1—RULES GOVERNING THE OPERATION OF BUSH FIRE BRIGADES**

PART 1—PRELIMINARY

PART 2—OBJECTS AND MEMBERSHIP OF BUSH FIRE BRIGADE

PART 3—FUNCTIONS OF BRIGADE OFFICERS

PART 4—COMMITTEE

PART 5—MEETINGS OF BUSH FIRE BRIGADE

PART 6—MEETINGS OF COMMITTEE

PART 7—GENERAL ADMINISTRATION MATTERS

PART 8—NOTICES AND PROXIES

**APPENDIX I****APPENDIX II****APPENDIX III**

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

SHIRE OF WYNDHAM EAST KIMBERLEY

**BUSH FIRE BRIGADES LOCAL LAW 2017**

Under the powers conferred by the *Bush Fires Act 1954* and the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Wyndham East Kimberley resolved on 31 January 2017 to make the following local law.

**PART 1—PRELIMINARY**

**1.1 Citation**

This local law may be cited as the *Shire of Wyndham East Kimberley Bush Fire Brigades Local Law 2017*.

**1.2 Commencement**

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

**1.3 Definitions**

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

*Act* means the *Bush Fires Act 1954*;

*brigade area* is defined in clause 2.2(1)(b);

*brigade member* means a fire fighting member, associate member or a cadet member of a bush fire brigade;

*brigade officer* means a person holding a position referred to in clause 2.2(1)(c), whether or not he or she was appointed by the local government or elected at an annual general meeting of a bush fire brigade or otherwise appointed to the position;

*Bush Fire Advisory Committee* is appointed by the local government for the purposes noted in section 67 of the Act;

*bush fire brigade* is defined in section 7 of the Act;

*bush fire control officer* means a person appointed to that office by the local government;

*cadet member* is defined at 4.4 of this local law;

*Chief Bush Fire Control Officer* means the Chief Bush Fire Control Officer appointed by the local government;

*Council* means the Council of the local government;

*Department* means the Department of Fire and Emergency Services of Western Australia;

*district* means the district of the local government;

*fire fighting member* is defined in clause 4.2;

*local government* means the *Shire of Wyndham East Kimberley*;

*normal brigade activities* are defined in section 35A of the Act;

*Regulations* means Regulations made under the Act; and

*Rules* means the Rules Governing the Operation of Bush Fire Brigades set out in the Schedule 1 as varied from time to time under clause 2.4;

*Schedule* means the Schedule included in this local law;

*simple majority* means a majority vote of all members present at a meeting and any proxy votes;

*volunteer fire fighter* is defined in section 35A of Act.

(2) In this local law, unless the context otherwise requires, a reference to—

- (a) a Captain;
- (b) a First Lieutenant;
- (c) a Second Lieutenant;

- (d) any additional Lieutenants;
- (e) an Equipment Officer;
- (f) a Secretary;
- (g) a Treasurer; or
- (h) a Secretary / Treasurer combined,

means a person holding that position in a bush fire brigade.

#### **1.4 Repeal**

The *Shire of Wyndham East Kimberley Bush Fire Brigades Local Law 2003* as published in the *Government Gazette* on 3 December 2003 is repealed.

#### **1.5 Application**

This local law applies throughout the district.

### **PART 2—ESTABLISHMENT OF BUSH FIRE BRIGADES**

#### *Division 1—Establishment of a bush fire brigade*

##### **2.1 Establishment of a bush fire brigade**

(1) The local government may establish a bush fire brigade for the purpose of carrying out normal brigade activities.

(2) A bush fire brigade is established on the date of the local government's decision under subclause (1).

##### **2.2 Name and officers of bush fire brigade**

(1) On establishing a bush fire brigade under clause 2.1(1) the local government is to—

- (a) give a name to the bush fire brigade;
- (b) specify the area in which the bush fire brigade is primarily responsible for carrying out the normal brigade activities (the *brigade area*); and
- (c) appoint—
  - (i) a Captain;
  - (ii) a First Lieutenant;
  - (iii) a Second Lieutenant;
  - (iv) additional Lieutenants if the local government considers it necessary;
  - (v) an Equipment Officer;
  - (vi) a Secretary; and
  - (vii) a Treasurer; or
  - (viii) a Secretary/Treasurer combined.

(2) When considering the appointment of persons to the positions in subclause (1)(c), the local government is to have regard to the qualifications and experience which may be required to fill each position.

(3) A person appointed to a position in subclause (1)(c) is to be taken to be a brigade member.

(4) The appointments referred to in subclause (1)(c) expire at the completion of the first annual general meeting of the bush fire brigade.

(5) If a position referred to in subclause (1)(c) becomes vacant prior to the completion of the first annual general meeting, then the local government is to appoint a person to fill the vacancy in accordance with subclause (2).

#### *Division 2—Command at a fire*

##### **2.3 Ranks within the bush fire brigade**

(1) Where under the Act and Rules Governing the Operation of Bush Fire Brigades members of the bush fire brigade have command of a fire, unless a bush fire control officer is in attendance at the fire, the Captain has full control over other persons fighting the fire, and is to issue instructions as to the methods to be adopted by the fire fighters. In the absence of the Captain, the first Lieutenant, and in the absence of the first, the second Lieutenant and so on, in the order of seniority determined, is to exercise all the powers and duties of the Captain.

(2) Where a bush fire control officer is in attendance at a fire which the members of the bush fire brigade have command of under the Act and the Rules Governing the Operation of Bush Fire Brigades, the most senior bush fire control officer has full control over other persons fighting the fire and is to issue instructions as to the methods to be adopted by the fire fighters.

#### *Division 3—Application of Rules to a bush fire brigade*

##### **2.4 Rules**

(1) The Rules govern the operation of a bush fire brigade.

(2) A bush fire brigade and each brigade member is to comply with the Rules.

*Division 4—Transitional***2.5 Existing Bush Fire Brigades**

(1) Where a local government has established a bush fire brigade prior to the commencement date, then on and from the commencement day—

- (a) the bush fire brigade is to be taken to be a bush fire brigade established under and in accordance with this local law;
- (b) the provisions of this local law apply to the bush fire brigade save for clause 2.2; and
- (c) any rules governing the operation of the bush fire brigade are to be taken to have been repealed and substituted with the Rules.

(2) In this clause—

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

*Division 5—Dissolution of bush fire brigade***2.6 Dissolution of bush fire brigade**

In accordance with section 41(3) of the Act, the local government may cancel the registration of a bush fire brigade if it is of the opinion that the bush fire brigade is not complying with the Act, this local law, the Rules Governing the Operation of Bush Fire Brigades or the Rules, or is not achieving the objectives for which it was established.

**2.7 New arrangement after dissolution**

If a local government cancels the registration of a bush fire brigade, alternative bush fire control arrangements are to be made in respect of the brigade area.

**PART 3—ORGANISATION AND MAINTENANCE OF BUSH FIRE BRIGADES***Division 1—Local government responsibility***3.1 Local government responsible for structure**

The local government is to ensure that there is an appropriate structure through which the organisation of bush fire brigades is maintained.

**3.2 Officers to be supplied with Act**

The local government is to supply each brigade officer with a copy of the Act, the Regulations, the Rules Governing the Operation of Bush Fire Brigades, this local law and any other written laws which may be relevant to the performance of the brigade officers' functions, and any amendments which are made thereto from time to time.

*Division 2—Chief Bush Fire Control Officer***3.3 Managerial role of Chief Bush Fire Control Officer**

Where only 1 person is appointed as a bush fire control officer by the local government, that person is a Chief Bush Fire Control Officer for the purposes of this local law.

Subject to any directions by the local government the Chief Bush Fire Control Officer has primary managerial responsibility for the organisation and maintenance of bush fire brigades.

**3.4 Chief Bush Fire Control Officer may attend meetings**

The Chief Bush Fire Control Officer or her or his nominee (who is to be a bush fire control officer) may attend as a non-voting representative of the local government at any meeting of a bush fire brigade.

**3.5 Duties of Chief Bush Fire Control Officer**

The duties of the Chief Bush Fire Control Officer include but are not limited to—

- (a) providing leadership to volunteer fire fighters;
- (b) monitoring bush fire brigades' resourcing, equipment (including protective clothing) and training levels and report thereon with recommendations at least once a year to the local government;
- (c) liaising with the local government concerning fire prevention or fire suppression matters generally and directions to be issued by the local government to bush fire control officers including those who issue permits to burn, bush fire brigades or brigade officers; and
- (d) ensuring that bush fire brigades are registered with the local government and that lists of brigade members are maintained.

*Division 3—Annual general meetings of bush fire brigades***3.6 Holding of annual general meeting**

A bush fire brigade is to hold its annual general meeting during the month of March each year.

**3.7 Nomination of bush fire control officers to Bush Fire Advisory Committee**

At the annual general meeting of a bush fire brigade, one brigade member is to be nominated to the Bush Fire Advisory Committee to serve as the bush fire control officer for the brigade area until the next annual general meeting.

### **3.8 Nomination of bush fire control officer to the local government**

If the local government has not established a Bush Fire Advisory Committee, then at the annual general meeting of a bush fire brigade, the bush fire brigade is to nominate 1 brigade member to the local government to serve as the bush fire control officer for the brigade area until the next annual general meeting.

### **3.9 Minutes to be tabled before the Bush Fire Advisory Committee**

(1) The Secretary is to forward a copy of the minutes of the annual general meeting of a bush fire brigade to the Chief Bush Fire Control Officer within 1 month after the meeting.

(2) The Chief Bush Fire Control Officer is to table the minutes of a bush fire brigade's annual general meeting at the next meeting of the—

- (a) Bush Fire Advisory Committee; or
- (b) Council, if there is no Bush Fire Advisory Committee, following their receipt under subclause (1).

#### *Division 4—Bush Fire Advisory Committee*

### **3.10 Functions of Advisory Committee**

The Bush Fire Advisory Committee is to have the functions set out in section 67 of the Act and is to include such number of nominees of the bush fire brigades as is determined by the local government.

### **3.11 Advisory Committee to nominate bush fire control officers**

As soon as practicable after the annual general meeting of each bush fire brigade in the district, the Bush Fire Advisory Committee is to nominate to the local government from the persons nominated by each bush fire brigade a person for the position of a bush fire control officer for the brigade area.

### **3.12 Local government to have regard to nominees**

When considering persons for the position of a bush fire control officer, the local government is to have regard to those persons nominated by the Bush Fire Advisory Committee, but is not bound to appoint the persons nominated.

### **3.13 Advisory Committee to consider bush fire brigade motions**

The Bush Fire Advisory Committee is to make recommendations to the local government on all motions received by the Bush Fire Advisory Committee from bush fire brigades.

## **PART 4—TYPES OF BUSH FIRE BRIGADE MEMBERSHIP**

### **4.1 Types of membership of bush fire brigade**

The membership of a bush fire brigade consists of the following—

- (a) fire fighting members;
- (b) associate members;
- (c) cadet members; and
- (d) honorary life members.

### **4.2 Fire fighting members**

Fire fighting members are those persons being at least 16 years of age who undertake all normal brigade activities.

### **4.3 Associate members**

Associate members are those persons who are willing to supply free vehicular transport for fire fighting members or fire fighting equipment, or who are prepared to render other assistance required by the bush fire brigade.

### **4.4 Cadet members**

Cadet members are—

- (a) to be aged 11 to 15 years;
- (b) to be admitted to membership only with the consent of their parent or guardian;
- (c) admitted for the purpose of training and are not to attend or be in attendance at an uncontrolled fire or other emergency incident;
- (d) to be supervised by a fire fighting member when undertaking normal brigade activities as defined by paragraphs (c), (d), (e), (f) and (g) of section 35A of the Act;
- (e) ineligible to vote at bush fire brigade meetings; and
- (f) not to be assigned ranks under the Department's rank structure.

### **4.5 Honorary life member**

(1) The bush fire brigade may by a simple majority resolution appoint a person as an honorary life member in recognition of services by that person to the bush fire brigade.

(2) No membership fees are to be payable by an honorary life member.

### **4.6 Notification of membership**

No later than 31 May in each year, the bush fire brigade is to report to the Chief Bush Fire Control Officer the name, contact details and type of membership of each brigade member.



**PART 5—APPOINTMENT, DISMISSAL AND MANAGEMENT OF MEMBERS**

**5.1 Rules to govern**

The appointment, dismissal and management of brigade members by the bush fire brigade are governed by the Rules.

**PART 6—EQUIPMENT OF BUSH FIRE BRIGADES**

**6.1 Policies of local government**

The local government may make policies under which it—

- (a) provides funding to bush fire brigades for the purchase of protective clothing, equipment and appliances; and
- (b) keeps bush fire brigades informed of opportunities for funding from other bodies.

**6.2 Equipment in brigade area**

Not later than 31 May in each year, the bush fire brigade is to report to the local government the nature, quantity and quality of all protective clothing, equipment and appliances of the bush fire brigade which are generally available within the brigade area (or at a station of the bush fire brigade).

**6.3 Funding from local government budget**

A request to the local government from the bush fire brigade for funding of protective clothing, equipment or appliance needs is to be received by the local government by 31 March in order to be considered in the next following local government budget, and is to be accompanied by the last audited financial statement and a current statement of assets and liabilities of the bush fire brigade.

**6.4 Consideration in the local government budget**

The local government may approve or refuse an application for funding depending upon the assessment of budget priorities for the year in question.

**SCHEDULE 1—RULES GOVERNING THE OPERATION OF BUSH FIRE BRIGADES**

[Clause 2.4]

**PART 1—PRELIMINARY**

**1.1 Interpretation**

(1) In these Rules, unless the context otherwise requires, where a term is used in these Rules and is defined in the local law, the Act or the Regulations, then the term is to be taken to have the meaning assigned to it in the local law, the Act or the Regulations, as the case may be.

(2) In these Rules, unless the context otherwise requires—

**absolute majority** means a majority of more than 50% of the number of—

- (a) brigade members of the bush fire brigade, whether in attendance at the meeting or not, if the majority is required at a meeting of the bush fire brigade; or
- (b) brigade officers of the bush fire brigade, whether in attendance at the meeting or not, if the majority is required at a meeting of the Committee;

**Committee** means the Committee of the bush fire brigade;

**local law** means the *Shire of Wyndham East Kimberley Bush Fire Brigades Local Law 2017*; and

**normal brigade activities** are defined by section 35A of the Act.

(3) Subject to these Rules, where a decision is to be made by the bush fire brigade, then the decision may be made by a resolution passed by a simple majority of the brigade members who are present in person or by proxy at the meeting.

(4) Subject to these Rules, where a decision is to be made by the Committee, then the decision may be made by a resolution passed by a simple majority of the brigade officers who are present in person or by proxy at the meeting.

**PART 2—OBJECTS AND MEMBERSHIP OF BUSH FIRE BRIGADE**

**2.1 Objects of bush fire brigade**

The objects of the bush fire brigade are to carry out—

- (a) the normal brigade activities; and
- (b) the functions of the bush fire brigade which are specified in the Act, the Regulations and the local law.

**2.2 Committee to determine applications**

Applications for membership are to be determined by the Committee.

**2.3 Conditions of membership**

In relation to any type of membership, as described in Part 4 of the local law, the bush fire brigade may establish policies pertaining to—

- (a) the qualifications required;

- (b) fees payable, if any;
- (c) a requirement to serve a probationary period;
- (d) procedures to be employed by the Committee prior to approval of an application for membership,

and the Committee is to act within the parameters of any such policy in determining applications for membership.

#### **2.4 Applications for membership**

An application for membership is to be in writing and is to be submitted to the Secretary and in the case of—

- (a) an application for firefighting membership is to be accompanied by a completed form in the form of that in Appendix I.
- (b) an application for associate membership is to be accompanied by a completed form in the form of that in Appendix II.
- (c) an application for cadet membership is to be accompanied by a completed form in the form of that in Appendix III.

#### **2.5 Decision on application for membership**

(1) The Committee may—

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

(2) If the Committee refuses to approve an application for membership, it is to give written reasons for the refusal, as soon as practicable after the decision is made, to the applicant and the advice that the applicant has the right to object to the local government.

#### **2.6 Department to be notified of registrations**

If any application for membership is approved, the Secretary of the bush fire brigade is to supply registration details to the Department of Fire and Emergency Services within 14 days of a person being admitted to membership in the form required by the Department from time to time.

#### **2.7 Termination of membership**

(1) Membership of the bush fire brigade terminates if the member—

- (a) dies;
- (b) gives written notice of resignation to the Secretary;
- (c) is, in the opinion of the Committee, permanently incapacitated by mental or physical ill-health;
- (d) is dismissed by the Committee; or
- (e) ceases to be a member or is taken to have resigned under subclause (2).

(2) A brigade member whose membership fees are more than 1 year in arrears is to be taken to have resigned from the bush fire brigade.

#### **2.8 Suspension of membership**

(1) Membership of the bush fire brigade may be suspended at any time if, in the opinion of the Committee, circumstances warrant suspending the member.

(2) The period of suspension shall be at the discretion of the Committee.

(3) Upon the expiry of the period of suspension the Committee may—

- (a) extend the period of suspension;
- (b) terminate the membership; or
- (c) reinstate the membership.

#### **2.9 Existing liabilities to continue**

(1) The resignation, or dismissal of a member under clause 2.7 does not affect any liability of the brigade member arising prior to the date of resignation or dismissal.

#### **2.10 Member has right of defence**

A brigade member is not to be dismissed under clause 2.7(1)(d) without being given the opportunity to meet with the Committee and answer any charges which might give grounds for dismissal.

#### **2.11 Objection Rights**

A person whose—

- (a) application for membership is refused under clause 2.5(1)(b);
- (b) membership is terminated under clause 2.7(1)(c), clause 2.7(1)(d) or clause 2.8(3)(b); or
- (c) membership is suspended under clause 2.8(1) or clause 2.8(3)(a),

has the right of objection to the local government which may dispose of the objection by—

- (a) dismissing the objection;
- (b) varying the decision objected to; or
- (c) revoking the decision objected to, with or without—
  - (i) substituting for it another decision; or
  - (ii) referring the matter, with or without directions, for another decision by the Committee.

## PART 3—FUNCTIONS OF BRIGADE OFFICERS

**3.1 Chain of command during fire fighting activities**

Subject to the Act and the local law, the command procedures to apply during fire fighting activities are as detailed in the local government's Rules Governing the Operation of Bush Fire Brigades.

**3.2 Duties of Captain**

- (1) Subject to subclause (2), the Captain is to preside at all meetings.
- (2) In the absence of the Captain, the meeting may elect another person to preside at the meeting.

**3.3 Secretary**

- (1) The Secretary is to—
  - (a) be in attendance at all meetings and keep a correct minute and account of the proceedings of the bush fire brigade in a book which shall be open for inspection by brigade members at any reasonable time;
  - (b) answer all correspondence or direct it appropriately, and keep a record of the same;
  - (c) prepare and send out all necessary notices of meetings;
  - (d) receive membership fees, donations and other monies on behalf of the bush fire brigade, and remit them to the Treasurer upon receipt;
  - (e) complete and forward an incident report form in the form required by the Department to the Chief Bush Fire Control Officer and the Department within 14 days after attendance by the bush fire brigade at an incident;
  - (f) maintain a register of all current brigade members which includes each brigade member's contact details and type of membership; and
  - (g) provide no later than 31 May in each year, a report to the Chief Bush Fire Control Officer detailing the name, contact details and type of membership of each brigade member.
- (2) Where a bush fire brigade attends an incident on more than 1 day, the incident report form is to be completed and forwarded under subclause (1)(e) within 14 days after the last day of attendance.

**3.4 Treasurer**

The Treasurer is to—

- (a) receive donations and deposits from the Secretary, and deposit all monies to the credit of the bush fire brigade's bank account;
- (b) pay accounts as authorised by the Committee;
- (c) keep a record of all monies received and payments made, maintain the accounts and prepare the balance sheet for each financial year;
- (d) be the custodian of all monies of the bush fire brigade;
- (e) regularly inform the Secretary of the names of those brigade members who have paid their membership fees; and
- (f) report on the financial position at meetings of the bush fire brigade or Committee.

**3.5 Equipment Officer**

The Equipment Officer is responsible for the custody and maintenance in good order and condition of all protective clothing, equipment and appliances provided by the local government to the bush fire brigade or of the bush fire brigade.

**3.6 Storage of equipment**

- (1) The Equipment Officer may store all of the equipment of the bush fire brigade at a place approved by the Captain (the "station").
- (2) If there is to be more than one station in the brigade area, the Equipment Officer is to appoint in respect of each station a person who is responsible for the custody and maintenance in good order and condition of all equipment and appliances at the station, subject to any direction of the Equipment Officer.

**3.7 Equipment Officer to report**

The Equipment Officer is to provide, no later than 31 May of each year, a report to the local government and bush fire brigade Captain describing the nature, quantity and quality of all protective clothing, equipment and appliances of the bush fire brigade which are generally available within the bush fire brigade area or at a station of the bush fire brigade.

## PART 4—COMMITTEE

**4.1 Management of bush fire brigade**

- (1) Subject to the provisions of these Rules, the administration and management of the affairs of the bush fire brigade are vested in the Committee.
- (2) Without limiting the generality of subclause (1), the Committee is to have the following functions—
  - (a) to recommend to the local government amendments to these Rules;
  - (b) to draft the annual budget for the bush fire brigade and present it at the annual general meeting of the bush fire brigade;

- (c) to propose a motion for consideration at any meeting of the bush fire brigade;
- (d) to recommend to the local government equipment which needs to be supplied by the local government to the bush fire brigade;
- (e) to invest or place on deposit any of the funds of the bush fire brigade not immediately required to perform the normal brigade activities;
- (f) to delegate to a person, as from time to time thought fit, any functions (being less than the total functions of the Committee) on any conditions it thinks fit;
- (g) to do all things necessary or convenient in order to perform any of its functions and to secure the performance of the normal brigade activities by the bush fire brigade; and
- (h) deal with membership applications, grievances, disputes and disciplinary matters.

#### **4.2 Constitution of Committee**

- (1) The Committee of the bush fire brigade is to consist of the brigade officers being the Captain, Secretary, Treasurer, Equipment Officer and the Lieutenants of the bush fire brigade.
- (2) The brigade officers are to—
  - (a) be elected at the annual general meeting of the bush fire brigade;
  - (b) hold office until the next annual general meeting; and
  - (c) be eligible for re-election at the next annual general meeting.
- (3) Any brigade officer may be removed from office by an absolute majority decision of the brigade members present in person or by proxy at a special meeting called for such a purpose.
- (4) The Committee may appoint a brigade member to fill a vacancy in any office arising from a resolution under subclause (3) or which has arisen for any other reason.

### **PART 5—MEETINGS OF BUSH FIRE BRIGADE**

#### **5.1 Ordinary meetings**

- (1) Ordinary meetings may be called at any time by the Secretary by giving at least 7 days' notice to all brigade members and to the Chief Bush Fire Control Officer, for the purpose of—
  - (a) organising and checking equipment;
  - (b) requisitioning new or replacement equipment;
  - (c) organising field excursions, training sessions, hazard reduction programs, and the preparation of fire-breaks;
  - (d) establishing new procedures in respect of any of the normal brigade activities; and
  - (e) dealing with any general business.
- (2) In a notice given under subclause (1), the Secretary is to specify the business which is to be conducted at the meeting.
- (3) Business may be conducted at an ordinary meeting of the bush fire brigade notwithstanding that it was not specified in a notice given under subclause (1), in relation to that meeting.

#### **5.2 Special meetings**

- (1) The Secretary is to call a special meeting when 5 or more brigade members request 1 in writing.
- (2) At least 2 days' notice of a special meeting is to be given by the Secretary, to all brigade members and to the Chief Bush Fire Control Officer.
- (3) In a notice given under subclause (2) the Secretary is to specify the business which is to be conducted at the meeting.
- (4) No business is to be conducted at a special meeting beyond that specified in a notice given under subclause (2) in relation to that meeting.

#### **5.3 Annual general meeting**

- (1) At least 7 days' notice of the annual general meeting is to be given by the Secretary to all brigade members and to the Chief Bush Fire Control Officer.
- (2) At the annual general meeting the bush fire brigade is to—
  - (a) elect the brigade officers from among the brigade members;
  - (b) consider the Captain's report on the year's activities;
  - (c) adopt the annual financial statements;
  - (d) appoint an Auditor for the ensuing financial year in accordance with clause 5.6; and
  - (e) deal with any general business.
- (3) In a notice given under subclause (1), the Secretary is to specify the business which is to be conducted at the meeting.
- (4) Business may be conducted at an annual general meeting notwithstanding that, it was not specified in a notice given under subclause (1) in relation to that meeting.

#### **5.4 Quorum**

- (1) The quorum for a meeting of the bush fire brigade is at least 50% of the number of offices (whether vacant or not) of member of the bush fire brigade.

(2) No business is to be transacted at a meeting of the bush fire brigade unless a quorum of brigade members is present in person or by proxy.

(3) If a meeting ceases to have a quorum at any time, the presiding member is to immediately—

(a) close the meeting; or

(b) adjourn the meeting for 10 minutes, after which the meeting is to be closed if a quorum is not achieved within that time.

### **5.5 Voting**

Each brigade member is to have 1 vote, however in the event of an equality of votes, the Captain (or person presiding) may exercise a casting vote.

### **5.6 Auditor**

(1) At the annual general meeting a person, not being a brigade member, is to be appointed as the Auditor of the bush fire brigade for the ensuing financial year.

(2) The Auditor is to audit the accounts of the bush fire brigade not less than 7 days before the annual general meeting and is to certify to their correctness or otherwise and present a report at the annual general meeting.

## **PART 6—MEETINGS OF COMMITTEE**

### **6.1 Meetings of Committee**

(1) The Committee is to meet for the despatch of business, adjourn and otherwise regulate its meeting as it thinks fit.

(2) The Captain or Secretary may convene a meeting of the Committee at any time.

### **6.2 Quorum**

No business is to be transacted at a meeting of the Committee unless a quorum of 3 brigade officers are present in person.

### **6.3 Voting**

Each brigade officer is to have 1 vote, however in the case of an equality of votes, the Captain (or person presiding) may exercise a casting vote.

## **PART 7—GENERAL ADMINISTRATION MATTERS**

### **7.1 Fees**

(1) The membership fees, if any, for each type of member for the ensuing 12 months are to be determined by the bush fire brigade at the annual general meeting.

(2) Subject to subclause (3), a member is to pay the membership fees for her or his type of membership on or before 1 May.

(3) The bush fire brigade may exempt a brigade member, or a class of membership, from the payment of membership fees, for such period and on such conditions as the bush fire brigade may determine.

### **7.2 Funds**

The funds of the bush fire brigade are to be used solely for the purpose of promoting the objects of the bush fire brigade.

### **7.3 Financial year**

The financial year of the bush fire brigade is to commence on 1 July and is to end on 30 June of the following year.

### **7.4 Banking**

(1) The funds of the bush fire brigade are to be placed in a bank account and are to be drawn on only by cheques signed jointly by any 2 of the Captain, Secretary or Treasurer.

(2) If the Secretary/Treasurer is a combined position, the Captain and Secretary/Treasurer are to sign the cheques referred to in subclause (1).

### **7.5 Disclosure of interests**

(1) A brigade member shall disclose to the bush fire brigade or Committee any financial interest, whether direct or indirect, he or she may have in any matter being considered by the bush fire brigade or Committee, as appropriate.

(2) If a financial interest has been disclosed under subclause (1), then the bush fire brigade or Committee, as appropriate, is to decide, in the absence of the brigade member who disclosed that interest, whether or not the brigade member is to be permitted to vote on that matter.

(3) Where the bush fire brigade or Committee, as appropriate, decides under subclause (2), that a brigade member is not to be permitted to vote on a matter, and the brigade member votes on the matter, then her or his vote is to be taken to have no effect and is not to be counted.

### **7.6 Disagreements**

(1) Any disagreement between brigade members may be referred to either the Captain or to the Committee.

(2) Where a disagreement in subclause (1) is considered by the Captain or the Committee to be of importance to the interests of the bush fire brigade, then the Captain or the Committee, as the case may be, is to refer the disagreement to the annual general meeting, an ordinary meeting or a special meeting of the bush fire brigade.

(3) The local government is the final arbiter on matters affecting the bush fire brigade, and may resolve any disagreement which is not resolved under subclause (1) or (2).

PART 8—NOTICES AND PROXIES

8.1 Notices

(1) Notices of meetings of the bush fire brigade are to be in writing and sent by ordinary post to the registered address of each brigade member.

(2) Notices of meetings of the Committee may be given in writing in accordance with subclause (1) or by such other means as the Committee may decide, by an absolute majority, at a meeting of the Committee.

(3) Any accidental omission to give notice of a meeting to, or non-receipt by a person entitled to receive such notice, is not to invalidate the meeting the subject of the notice or any resolutions passed at the meeting.

(4) Where any notice other than a notice of meeting is to be given under these Rules, the notice is to be—

- (a) in writing;
- (b) unless otherwise specified, given to or by the Secretary;
- (c) given by—
  - (i) personal delivery;
  - (ii) post; or
  - (iii) facsimile transmission;
- (d) taken to have been received, as the case may be—
  - (i) at the time of personal delivery;
  - (ii) 2 business days after posting; or
  - (iii) on the printing of the sender’s transmission report.

8.2 Proxies

(1) Where under these Rules a brigade member may vote by proxy, in order for the proxy to so vote, the brigade member or the proxy shall give a notice in the form of that appearing in this clause, to the Secretary or the person presiding at the meeting before the start of the meeting at which the proxy is to be used.

(2) A proxy is to be valid for the meeting for which it is given and for any adjournments of that meeting.

(3) A proxy shall be valid for the number of votes to which the brigade member is entitled.

(4) If the donor of the proxy does not give any indication of the manner in which the proxy is to vote, the proxy shall be entitled to vote or not vote as he or she thinks fit.

(5) A proxy shall be entitled to speak on behalf of the donor of the proxy.

(6) All forms appointing proxies deposited under subclause (1) are to be retained by the Secretary for not less than 28 days after the conclusion of the meeting to which they relate but if there is any objection to the validity of any vote at the meeting, they are to be retained until the determination of that objection.

(7) The form appointing a proxy shall be in writing and signed by the brigade member appointing the proxy and shall be in or substantially in the form set out below—

Form 1

PROXY VOTE

SHIRE OF WYNDHAM EAST KIMBERLEY BUSH FIRE BRIGADE

[ANNUAL] [EXTRAORDINARY] GENERAL MEETING

TO BE HELD ON [DATE]

I, \_\_\_\_\_, being a brigade member appoint—  
\_\_\_\_\_ to be my proxy and vote on my behalf at the meeting of the bush fire brigade to be held on [insert date] and at any adjournment of it. The proxy shall vote as follows—

MOTION FOR AGAINST ABSTAIN

- 1. ....
- 2. ....

If there is no instruction to the proxy as to the way to vote, the proxy shall exercise her or his discretion as to how to vote or whether to vote at all. In respect of any vote taken at the meeting on a matter which does not appear on the agenda, the proxy shall exercise her or his discretion as to the way he or she casts the vote or whether it is cast at all.

Date: \_\_\_\_\_

Signed: \_\_\_\_\_

NOTE: To be valid this proxy must be completed and returned to the Secretary of the bush fire brigade (or the presiding member) prior to the commencement of the meeting for which the proxy is valid.

Dated this      day of                      20 . . . . .

APPENDIX I

APPLICATION FOR MEMBERSHIP—FIRE FIGHTING MEMBER

I make application to be a fire fighting member of the Shire of Wyndham East Kimberley Bush Fire Brigade.

Applicant's Name .....

My private address is .....

My business address is .....

Usual Occupation.....

I can be contacted on—

Telephone No: ..... (Home) ..... (Work) ..... Mobile

Fax No: ..... (Home) ..... (Work) .....

CB Radio ..... Channel ..... Call Sign.....

If needed, I can provide my own transport to the scene of any outbreak. (This line to be struck out if not applicable)

I hold a current driver's licence No. .... Classes .....

I declare that I am at least 16 years of age and in good health with no known medical conditions which might limit my capacity to fight fires.

I give these undertakings—

- (1) to promote the objects of the bush fire brigade as far as is in my power;
(2) to be governed by the provisions of the Bush Fires Act 1954 and the Regulations made under that Act, and the local law and policies of the Shire of Wyndham East Kimberley relevant to fire control and bush fire brigades;
(3) to use my best endeavours to give assistance in fire fighting measures when called upon and on such occasions to obey all orders and instructions issued by duly authorised officers of the bush fire brigade or the local government;
(4) to comply with the Rules of the bush fire brigade.

Date .....

Applicant's signature .....

Please list here any fire fighting equipment owned by you.

- 1. ....
2. ....
3. ....

BUSH FIRE BRIGADE USE ONLY:
APPROVED / DECLINED
Signed: .....
Brigade Captain

APPENDIX II

APPLICATION FOR MEMBERSHIP—ASSOCIATE MEMBER

I make application to be an associate member of the Shire of Wyndham East Kimberley Bush Fire Brigade.

(a) I am prepared to offer to transport fire fighting members and/or equipment to the scene of any outbreak when called upon. I have a motor vehicle of the following type ..... available for such purpose.

MDL No: ..... Classes: .....

(b) I am prepared to offer my services in the following capacity—

.....

.....

(paragraph (a) or (b) above may be struck out if not applicable)

Applicant's Name .....

My private address is .....

.....

My business address is .....

I can be contacted on—

Telephone No:.....(Home) ..... (Work) ..... Mobile

Fax No: .....(Home) .....(Work).....

CB Radio:.....Channel ..... Call Sign.....

I give these undertakings—

- (1) to promote the objects of the bush fire brigade as far as is in my power;
- (2) to be governed by the provisions of the *Bush Fires Act 1954* and any Regulations made under the Act and the local law and policies of the [insert name of local government] relevant to fire control and bush fire brigades;
- (3) to use my best endeavours to assist in normal bush fire brigade activities as an associate member when called upon;
- (4) to comply with the Rules of the bush fire brigade.

Date .....

Applicant's signature

**BUSH FIRE BRIGADE USE ONLY:**

APPROVED / DECLINED

Signed: .....  
Brigade Captain

APPENDIX III

**APPLICATION FOR MEMBERSHIP—CADET MEMBER**

I make application to be a cadet member of the Shire of Wyndham East Kimberley Bush Fire Brigade.

Applicant's Name .....

My private address is.....

I can be contacted on—

Telephone No:.....(Home) ..... (Work)

Fax No: .....(Home)

CB Radio:.....Channel ..... Call Sign.....

I declare that I am ..... years of age and in good health.

Date of Birth: .....

I give these undertakings—

- (1) to promote the objects of the bush fire brigade as far as is in my power;
- (2) to be governed by the provisions of the *Bush Fires Act 1954* and the Regulations made under that Act, and the local law and policies of the *Shire of Wyndham East Kimberley* relevant to the activities of cadet members;
- (3) to obey all orders and instructions issued by duly authorised officers of the bush fire brigade or the local government;
- (4) to comply with the Rules of the bush fire brigade.

Date .....

Applicant's signature

**PARENT / GUARDIAN CONSENT—**

I ..... being the parent/guardian of the above applicant, consent to him/her being a cadet member of the Shire of Wyndham East Kimberley Bush Fire Brigade, in accordance with the rules applicable to cadet membership.

Signed .....

**BUSH FIRE BRIGADE USE ONLY:**

APPROVED / DECLINED

Signed: .....  
Brigade Captain

Dated: 31 January 2017.

The Common Seal of the *Shire of Wyndham East Kimberley* was affixed by authority of a resolution of the Council in the presence of—

RON YURYEVICH, Commissioner.  
CARL ASKEW, Chief Executive Officer.



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

SHIRE OF WYNDHAM EAST KIMBERLEY

**FENCING LOCAL LAW 2017**

**Contents**

**PART 1—PRELIMINARY**

- 1.1 Citation
- 1.2 Commencement
- 1.3 Purpose and effect
- 1.4 Application
- 1.5 Repeal
- 1.6 Definitions
- 1.7 Licence fees and charges

**PART 2—FENCES**

- 2.1 Sufficient fences
- 2.2 Fences within front setback areas
- 2.3 Gates in fences
- 2.4 Depositing fencing material on public place
- 2.5 Fences on a Rural Lot
- 2.6 Maintenance of fences
- 2.7 Fences across rights-of-way, public access ways or thoroughfares
- 2.8 General discretion of the local government
- 2.9 Pre-used fencing materials
- 2.10 Barbed wire fences and spiked or jagged materials
- 2.11 Electrified and razor wire fences
- 2.12 Prohibited fencing materials

**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—OFFENCES AND MODIFIED PENALTIES****SCHEDULE 2—SPECIFICATIONS FOR A SUFFICIENT FENCE ON A RESIDENTIAL LOT****SCHEDULE 3—SPECIFICATIONS FOR A SUFFICIENT FENCE ON A COMMERCIAL LOT  
OR AN INDUSTRIAL LOT****SCHEDULE 4—SPECIFICATIONS FOR A SUFFICIENT FENCE ON A RURAL LOT OR  
SPECIAL RURAL LOT****SCHEDULE 5—LICENCE FOR APPROVED ELECTRIFIED FENCE****SCHEDULE 6—LICENCE FOR APPROVED RAZOR WIRE FENCE**

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

SHIRE OF WYNDHAM EAST KIMBERLEY

**FENCING LOCAL LAW 2017**

Under the powers conferred by the *Local Government Act 1995* and all other powers enabling it, the *Shire of Wyndham East Kimberley* resolved on 28 January 2017 to make the following local law.

**PART 1—PRELIMINARY**

**1.1 Citation**

This local law is the *Shire of Wyndham East Kimberley Fencing Local Law 2017*.

**1.2 Commencement**

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

**1.3 Purpose and effect**

(1) The purpose of this local law is to prescribe a sufficient fence and the standard for the construction of fences throughout the district.

(2) The effect of this local law is to establish the minimum requirements for fencing within the district.

**1.4 Application**

This local law applies throughout the district.

**1.5 Repeal**

The *Shire of Wyndham East Kimberley Local Laws relating to Fencing 2003* published in the *Government Gazette* on 3 December 2003 is repealed.

**1.6 Definitions**

In this local law—

**Act** means the *Dividing Fences Act 1961*;

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

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

**Barbed wire fence** means a wire or strand of wires having small pieces of sharply pointed wire twisted around it at short intervals;

**boundary fence** has the meaning given to it by the Act;

**Building Surveyor** means a Building Surveyor of the local government;

**CEO** means the Chief Executive Officer of the local government;

**Commercial Lot** means a lot where a commercial use—

- (a) is or may be permitted under the district 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;

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

**dividing fence** has the meaning given to it by the Act;

**electrified fence** means a fence carrying or designed to carry an electric charge;

**fence** means any structure, not including a retaining wall, 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 1 thoroughfare, the boundary line between the lot and the primary thoroughfare;

**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 district planning scheme; and
- (b) is or will be the predominant use of the lot;

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

**local government** means the *Shire of Wyndham East Kimberley*;

**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” under section 3.53 of the *Local Government Act 1995*;

**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 *Local Government Act 1995*;

**owner** has the meaning given to it in the *Local Government Act 1995*;

**razor wire fence** means a coiled strong wire with pieces of sharp cutting edges set across it at close intervals;

**Residential Lot** means a lot where a residential use—

- (a) is or may be permitted under the district 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 Lot** means a lot where a rural use—

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

**Structural engineer** means a qualified engineer trained to understand and calculate the stability, strength and rigidity of built structures for buildings and non-building structures;

**sufficient fence** means a fence described in clause 2.1;

**thoroughfare** has the meaning given to it by the *Local Government Act 1995*, but does not include a private thoroughfare which is not under the management or control of the local government.

## 1.7 Licence fees and charges

All licence fees and charges applicable under this local law shall be determined by the local government from time to time in accordance with section 6.16 of the *Local Government Act 1995*.

## 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) Subject to subclauses (3) and (4), 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 and on an Industrial Lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of Schedule 3; and
  - (c) on a Rural Lot and 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 4.
- (3) Where a fence is erected on or near the boundary between—
- (a) a Residential Lot and an Industrial Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of Schedule 2;
  - (b) a Residential Lot and a Commercial Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of Schedule 3;
  - (c) a Residential Lot and a Rural Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of Schedule 4;
  - (d) a Residential Lot and a Special Rural Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of Schedule 4; and
  - (e) a Special Rural Lot and a Rural Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of Schedule 4.
- (4) An application must be made to the local government for grant of consent to any variation to the specifications in Schedules 2, 3 and 4.
- (5) Unless an authorised person determines otherwise, a sufficient fence on a boundary between lots other than those specified in subclause (3) is a dividing fence constructed in accordance with the specifications and requirements of Schedule 2.
- (6) Notwithstanding any other provision 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 mm in height; or
  - (b) the Building Surveyor so requires.
- (7) Notwithstanding any other provision in this local law, a dividing fence or boundary fence shall not exceed 1 800 mm in height unless the approval of the local government has been obtained for such a fence.

#### *Division 2—General*

##### **2.2 Fences within front setback areas**

- (1) A person shall not, without the written consent of the Building Surveyor, erect a freestanding fence greater than 1 200 mm in height, within the front setback area of a Residential Lot within the district.
- (2) The Building Surveyor may approve the erection of a fence of a height greater than 1 200 mm in the front setback area of a Residential Lot only if the fence on each side of the driveway into the lot across the front boundary is to be angled into the lot for a distance of not less than 1 500 mm along the frontage to a distance of not less than 1 500 mm from the frontage in order to provide appropriate splayed lines of vision for a motorist using the driveway for access to a thoroughfare.
- (3) The provision of subclause (2) shall not apply to a fence, of open construction, that does not obscure the lines of vision of a motorist using the driveway for access to a thoroughfare.

##### **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 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 Fences on a Rural Lot**

A person shall not, without the written consent of the Building Surveyor, erect a fence on a Rural Lot of a height exceeding 1,500 mm.

##### **2.6 Maintenance of fences**

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 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.

##### **2.8 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 if all of the owners of the lots to be separated by the dividing fence makes 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 retention 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*

### **2.9 Pre-used fencing materials**

Where required by the Building Surveyor, fencing designs are to be certified by a practicing structural engineer as being suitable for wind loadings found in Region B and C areas in accordance with the current edition of AS/NZS 1170.0:2002 Structural design actions—General principles.

- (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 directed by the Building Surveyor.

### **2.10 Barbed wire fences and spiked or jagged materials**

- (1) This clause does not apply to a fence constructed wholly or partly of razor wire.
- (2) An owner or occupier of a Residential Lot or a Commercial Lot shall not erect, affix or allow to remain on any fence on such a lot any barbed wire or other material with spiked or jagged projections, unless the prior written approval of the local government has been obtained.
- (3) An owner or occupier of an Industrial Lot 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 the wire or other materials are carried on posts at an angle of 45 degrees, and unless the bottom row of wire or other materials is setback 150mm from the face of the fence and is not nearer than 2000mm from the ground level.
- (4) If the posts which carry the barbed wire or other materials referred to in subclause (3) are angled towards the outside of the lot bounded by the fence, the face of the fence must be set back from the lot boundary a sufficient distance to ensure that the angled posts, barbed wire or other materials do not encroach on adjoining land.
- (5) An owner or occupier of a lot shall not erect, affix or allow to remain as part of any fence or wall, whether internal or external, on that lot any broken glass.
- (6) An owner or occupier of a Rural Lot shall not erect, affix or allow to remain any barbed wire upon a fence on that lot where the fence is adjacent to a thoroughfare or other public place unless the barbed wire is fixed to the side of the fence posts furthest from the thoroughfare or other public place.

### **2.11 Electrified and razor wire fences**

- (1) An owner or occupier of a lot shall not—
  - (a) construct or use an electrified fence on that lot without obtaining the approval of the local government in the form prescribed in Schedule 5; or
  - (b) construct a fence wholly or partly of razor wire on that lot without obtaining the approval of the local government in the form prescribed in Schedule 6.
- (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 electrified 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 mm of the boundary of the lot; or
  - (b) where any razor wire used in the construction of the fence is less than 2 000 mm or more than 2 400 mm above the ground level.
- (4) An application for approval for the purpose of subclauses (1)(a) or (1)(b) 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.

### **2.12 Prohibited fencing materials**

A person shall not affix or use broken glass in the construction of any 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 and in accordance with sections 6.19 of the *Local Government Act 1995*.
- (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 or 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—

- (a) runs with the lot to which it relates;
- (b) may be relied upon by any subsequent occupier or owner of the lot; and
- (c) may be enforced by the local government against a subsequent occupier or owner of the lot.

## **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 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) 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 of the lot in a court of competent jurisdiction.
- (4) The provisions of this clause are subject to section 3.25 and item 12 of Division 1 of Schedule 3.1 of the *Local Government Act 1995* and any entry on to land will be in accordance with Part 3, Division 3 of that 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 any provision of this local law is a prescribed offence for the purposes of section 9.16(1) of the *Local Government Act 1995*.

(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 *Local Government Act 1995* is to be in the form of Form 2 of 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 *Local Government Act 1995* 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 this local law as to whether it will—

- (a) grant or refuse to grant a person an approval;
- (b) cancel an approval; or
- (c) give a person notice under clause 5.1.

The provision of Part 9 Division 1 of the *Local Government Act 1995*, and regulation 33 of the *Local Government (Functions and General) Regulations 1996*, apply to that decision.

### Schedule 1

#### OFFENCES AND MODIFIED PENALTIES

[clause 6.2(2)]

Item No.	Clause No.	Nature of offence	Modified penalties \$
1	2.1(1)	Erect a fence that is not a sufficient fence	250
2	2.2	Erect a fence greater than 1 200mm in height within a front setback area of a Residential Lot without the written consent of the Building Surveyor	250
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 a fence	200
5	2.6	Failure to maintain a fence in good condition to prevent the fence becoming dangerous, dilapidated or unsightly	250
6	2.7	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
7	2.9(1)	Construct a dividing fence on a Residential, Commercial or Industrial Lot from pre-used materials without written approval	250
8	2.10(2)	Erect a fence using barbed wire or material with spiked or jagged projections in the fence construction without approval	250
9	2.11(1)	Construct, erect or use razor wire in a fence or electrify a fence without approval	250
10	2.12	Affix, or use, any broken glass in a fence	250
11	3.3	Failure to comply with terms or conditions of approval	250
12	6.1	Failure to comply with notice of breach	250



**Schedule 2**  
**SPECIFICATIONS FOR A SUFFICIENT FENCE ON A RESIDENTIAL LOT**

[clause 2.1(2)(a)]

Each of the identified categories in this Schedule is a sufficient fence on a Residential Lot and the fence design being certified by a practicing structural engineer as being suitable for wind loadings found in Region D Category 2 areas in accordance with AS/NZS 1170.0:2002 Structural design actions—General principles.

**Timber fence**

- (a) corner posts to be 125mm x 125mm x 2 400mm and intermediate posts to be 125mm x 75mm x 2 400mm spaced at 2 400mm centres;
- (b) corner posts to be strutted 2 ways with 100mm x 50mm x 450mm sole plates and 75mm x 50mm struts;
- (c) intermediate posts to be doubled yankee strutted with 150mm x 25mm x 450mm struts;
- (d) all posts to have tops with a 60mm weather cut and to be sunk at least 600mm into the ground;
- (e) rails to be 75mm x 50mm with each rail spanning 2 bays of fencing double railed or bolted to each post with joints staggered;
- (f) the fence to be covered with 75mm x 20mm sawn pickets, 1 800mm in height placed 75mm apart and affixed securely to each rail; and
- (g) the height of the fence to be 1 800mm except with respect to the front set back area for which there is no minimum height but which is subject to clause 7.

**Corrugated fence**

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

- (a) a minimum in-ground length of 25 per cent of the total length of the sheet, but in any case shall have a minimum in-ground depth of 600mm;
- (b) the total height and depth of the fence to consist of a single continuous fibre reinforced cement or steel sheet;
- (c) the sheets to be lapped and capped with extruded "snap-fit" type capping in accordance with the manufacturers written instructions; and
- (d) the height of the fence to be 1 800mm except with respect to the front set back area for which there is no minimum height but which is subject to clause 7.

**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 AS 2870-2011 Residential slabs and footings as amended;
- (b) the footing is to be designed in accordance with AS 2870-2011 Residential slabs and footings as amended;
- (c) footings of minimum 225mm x 150mm concrete 15MPa or 300mm x 175mm brick laid in cement mortar;
- (d) fences to be offset a minimum of 200mm at maximum 3 000mm centres or 225mm x 100mm engaged piers to be provided at maximum 3 000mm centres;
- (e) expansion joints in accordance with the manufacturer's written instructions; and
- (f) the height of the fence to be 1,800mm except with respect to the front set back area for which there is no minimum height but which is subject to clause 2.2.

**Composite fence**

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

- (1) (a) brick piers of minimum 345mm x 345mm at 1 800mm centres bonded to a minimum height base wall of 514mm;
  - (b) each pier shall be reinforced with 1 R10 galvanised starting rod 1 500mm high with a 250mm horizontal leg bedded into a 500mm x 200mm concrete footing and set 65mm above the base of the footing. The top of the footing shall be 1 course (85mm) below ground level;
  - (c) the minimum ultimate strength of brickwork shall be 20MPa. Mortar shall be a mix of 1 part cement, 1 part lime and 6 parts sand;
  - (d) the ground under the footings is to be compacted to 6 blows per 300mm and checked with a standard falling weight penetrometer; and
  - (e) control joints in brickwork shall be provided with double piers at a maximum of 6 metre centres;
- or
- (2) (a) brick piers of a minimum 345mm x 345mm x 2 700mm centres bonded to the base wall; and
  - (b) each pier shall be reinforced with 2 R10 galvanised starting rods as previously specified.

**Schedule 3**  
**SPECIFICATIONS FOR A SUFFICIENT FENCE ON A COMMERCIAL LOT OR AN INDUSTRIAL LOT**

[clause 2.1(2)(b)]

Each of the identified categories in this Schedule, with minimum and maximum specifications where stated, is a sufficient fence on a Commercial Lot or an Industrial Lot and the fence design being certified by a practicing structural engineer as being suitable for wind loadings found in Region D Category 2 areas in accordance with the current edition of AS/NZS 1170.0:2002 Structural design actions—General principles.

**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 50mm nominal bore x 3.5mm and with footings of a 225mm diameter x 900mm;
- (b) intermediate posts to be minimum 37mm nominal bore x 3.15mm at maximum 3.5m centres and with footings of a 225mm diameter x 600mm;
- (c) struts to be minimum 30mm nominal bore x 3.15mm fitted at each gate and 2 at each corner post and with footings 225mm x 600mm;
- (d) cables to be affixed to the top, centre and bottom of all posts and to consist of 2 or more 3.15mm wires twisted together or single 4mm wire;
- (e) non-rail link, chain or steel mesh is to be to a height of 2 000mm on top of which are to be 3 strands of barbed wire carrying the fence to a height of 2 400mm in accordance with the requirements and standards of the local planning schemes; and
- (f) galvanised link mesh wire to be 2 000mm in height and constructed of 50mm mesh 2.5mm galvanised iron wire and to be strained, neatly secured and laced to the posts and affixed to cables. Vehicle entry gates shall provide an opening of not less than 3.6m and shall be constructed of 25mm tubular framework with 1 horizontal and 1 vertical stay constructed of 20mm piping and shall be covered with 50mm x 2.5mm galvanised link mesh strained to framework. Gates shall be fixed with a drop bolt and locking attachment.

**Other fences**

- (a) a fence of cement sheet or steel sheeting constructed to the minimum specifications referred to in Schedule 2;
- (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 800mm but no greater than 2 400mm; or
- (c) a fence of timber, brick, stone or concrete constructed to the minimum specifications referred to in Schedule 2.

**Schedule 4**  
**SPECIFICATIONS FOR A SUFFICIENT FENCE ON A RURAL LOT OR SPECIAL RURAL LOT**

[clause 2.1(2)(e)]

Each of the identified categories in this Schedule, with minimum and maximum specifications where stated is a sufficient fence on a Rural Lot or a Special Rural Lot and the fence design being certified by a practicing structural engineer as being suitable for wind loadings found in Region D Category 2 areas in accordance with the current edition of AS/NZS 1170.0:2002 Structural design actions—General principles.

**Non-electrified fence**

- (a) wire shall be high tensile wire and not less than 2.5mm. A minimum of 5 wires shall 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.
- (b) posts shall 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;
- (c) cut not less than 1 800mm long x 50mm diameter at small end if round or 125mm x 60mm if split or sawn.
- (d) posts to be set minimum 600mm in the ground and 1 200mm above the ground; and
- (e) strainer posts shall be not less than 2 250mm long and 150mm diameter at the small end (tubular steel to be 50mm in diameter) and shall be cut from indigenous timber or other suitable material. These shall be placed a minimum of 1 000mm in the ground.

**Electrified fence**

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

**Schedule 5  
LICENCE FOR APPROVED ELECTRIFIED FENCE**

[clause 2.11(1)(a)]

This is to certify that (1) .....  
of (2) .....  
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 this ..... day of ..... 20.....

.....  
Chief Executive Officer,  
*Shire of Wyndham East Kimberley*

**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 erected;
- (b) upon the request of a Building Surveyor produce to him or her the 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; and
- (e) comply with AS/NZS 3016:2002 Electrical installations—Electric security fences.

**Transfer by Endorsement**

This licence is transferred to (3) .....  
of (4) .....  
.....  
from and including the date of this endorsement.  
Dated this ..... day of ..... 20.....

.....  
Chief Executive Officer,  
*Shire of Wyndham East Kimberley.*

- (1) Name
- (2) Address
- (3) Name
- (4) Address

**Schedule 6  
LICENCE FOR APPROVED RAZOR WIRE FENCE**

[clause 2.11(1)(b)]

This is to certify that (1) .....  
of (2) .....  
is licensed, subject to the conditions set out below, to have a fence constructed wholly or partially of razor wire at  
.....  
(address)  
From ..... 20..... and until this licence is transferred or cancelled.  
Dated this ..... day of ..... 20.....

Chief Executive Officer,  
*Shire of Wyndham East Kimberley*

**Conditions of licence—**

- (a) display the licence in a prominent position on the land or premises on which the fence has been erected;
- (b) upon the request of a Building Surveyor produce to him or her the 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 local government 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 (3) .....  
of (4) .....  
from and including the date of this endorsement.

Dated this ..... day of ..... 20.....

.....  
Chief Executive Officer  
*Shire of Wyndham East Kimberley*

- (1) Name
- (2) Address
- (3) Name
- (4) Address

\_\_\_\_\_

Dated: 31 January 2017.

The Common Seal of the *Shire of Wyndham East Kimberley* was affixed by authority of a resolution of the Council in the presence of—

RON YURYEVICH, Commissioner.  
CARL ASKEW, Chief Executive Officer.

\_\_\_\_\_