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LOCAL GOVERNMENT ACT 1995

SHIRE OF DALWALLINU

LOCAL LAW RELATING TO FENCING

**LOCAL GOVERNMENT PROPERTY
LOCAL LAW**

**PARKING AND PARKING FACILITIES
LOCAL LAW**

**LOCAL LAW RELATING TO THE
REPEAL OF LOCAL LAWS**

LOCAL GOVERNMENT ACT 1995

SHIRE OF DALWALLINU

LOCAL LAW RELATING TO FENCING

Under the powers conferred by the Local Government Act 1995 and by all other powers, the Council of the Shire of Dalwallinu resolved to make the following Local Law on the 26th day of October 1999.

PART 1—DEFINITION AND OPERATION

1. This Local Law will come into operation on the fourteenth day after the day on which it is published in the *Government Gazette*.

Repeal

2. The Shire of Dalwallinu Local Law Relating to Fencing published in the *Government Gazette* on 7th day of November 1980 is repealed.

Interpretation

3. (1) In this Local Law unless the context otherwise requires—

“Act” means the Dividing Fences Act 1961;

“AS” means an Australian Standard published by the Standards Association of Australia;

“boundary fence” has the meaning given to it for the purposes of the Act;

“Building Surveyor” means a Building Surveyor of the Shire of Dalwallinu;

“Chief Executive Officer” means the Chief Executive Officer of the Shire of Dalwallinu;

“Commercial Lot” means a lot where a commercial use—

(a) is or may be permitted under the town 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 in respect of which a licence under Part 6 of these Local Laws has been issued and is current;

(b) a fence containing barbed wire other than a fence erected and maintained in accordance with these Local Laws;

(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 Shire of Dalwallinu

“dividing fence: has the meaning given to it in and for the purposes of the Act;

“electrified fence” means a fence carrying or designed to carry and electric charge;

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

“frontage” means the boundary line between a lot and the thoroughfare upon which the lot abuts;

“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 either 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 town planning scheme; and

(b) is or will be the predominant use of the lot;

“lot” has the meaning given to it in and for the purposes of the Town Planning and Development Act 1928;

“notice of breach” means a notice referred to in clause 17(1);

“Residential Lot” means a lot where a residential use—

(a) is or may be permitted under the town planning scheme; and

(b) is or will be the predominant use of the lot;

“retaining wall” means any structure which prevent the movement of soil 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 these Local Laws;

“setback area” has the meaning given to it for the purposes of the town planning scheme;

“Special Rural Lot” means a lot where a special 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;

“sufficient fence” means a fence described in clause 7; and

“town planning scheme” means a town planning scheme of the Shire of Dalwallinu made under the Town Planning and Development Act 1928.

PART 2—SUFFICIENT FENCES

Sufficient Fences

4. (1) A person shall not erect a dividing fence or a boundary fence that is not a sufficient fence.
- (2) Subject to sub-clauses (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 the First Schedule;
 - (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 the Second Schedule;
 - (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 the Third Schedule;
- (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 the First Schedule;
 - (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 the Second Schedule;
 - (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 the Third Schedule;
 - (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 the First Schedule; 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 the Third Schedule;
- (4) Unless the Building Surveyor specifies otherwise, a sufficient fence on a boundary lots other than those specified in subclause (3) is a dividing fence constructed in accordance with the specifications and requirements of the Second Schedule;
- (5) Notwithstanding any other provisions in these Local Laws, a fence constructed of stone or concrete shall be sufficient fence only if it is designed by a structural engineer where—
- (a) it is greater than 1800mm in height; or
 - (b) the Building Surveyor so requires.

PART 3—GENERAL

Dividing Fences

5. (1) In determining an application for a building licence in respect of a fence, the Building Surveyor may approve the erection of a fence of a height greater than 750mm 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 1500mm along the frontage to a distance of not less than 1500mm from the frontage in order to provide appropriate splayed lines of vision for a motorist using the driveway for access to a thoroughfare.

(2) The provision of sub-clause (1) shall not apply to a fence—

- (a) of open construction that does not obscure the lines of vision of a motorist using the driveway for access to a thoroughfare; or
- (b) that does not adjoin a footpath.

Fences Within Front Setback Areas

6. A person shall not, without the written consent of the Building Surveyor erect, or repair a freestanding fence constructed of corrugated fibre reinforced cement sheeting within the front set-back area of a lot within the district.

Fences on a Rural Lot

7. A person shall not without the written consent of the Building Surveyor, erect a fence on a Rural Lot, within 7.5 m of a thoroughfare of a height exceeding 1500mm.

Maintenance of Fences

8. An owner and occupier of a lot on which a fence is erected shall maintain the fence in good condition and so as to prevent it from becoming dangerous, dilapidated, unsightly or prejudicial to the amenity of the locality.

General Discretion of the Local Government

9. (1) A person shall construct a fence on a Residential Lot, a Commercial Lot or an Industrial Lot from only brick, stone, concrete, wrought iron, tubular steel framed, link mesh, timber, plastic coated or galvanised link mesh, corrugated fibre reinforced cement sheeting, colour bonded metal or a material approved by the Building Surveyor.

(2) Where the Building Surveyor approves the use of pre-used materials in the construction of a fence under subclause (1), that approval shall be conditional on the applicant for approval painting or treating the pre-used material as directed by the Building Surveyor.

Barbed Wire and Broken Glass Fences

10. (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 or affix to or allow to remain on or as part of any fence on such a lot any barbed wire or other material with spiked or jagged projections, unless prior written approval of the Building Surveyor has been obtained.

(3) An owner or occupier of an Industrial Lot shall not erect or affix or allow to remain as part of any fence bounding that Lot any barbed wire or other materials with spiked or jagged projections unless the wire or materials are carried on posts bent back into the lot from the boundary at an angle of 45 degrees, and unless the bottom row of wire or other materials is set back 150mm from the face of the fence and is not nearer than 2000mm from the ground level.

(4) An owner or occupier of a lot shall not affix or allow to remain as part of any fence or wall, whether internal or external, on that lot any broken glass.

(5) An owner or occupier of a Rural Lot shall not place or affix 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.

PART 5—TENNIS COURT FENCING AND FLOODLIGHTING

11. (1) This clause does not apply to a Rural Lot.

- (2) A person shall not erect or repair a fence around or partly around a tennis court on a lot unless—
- the fence is not more than 3600mm in height;
 - the whole of the fence is at least 900mm from the boundary between the lot on which the tennis court is located and the adjoining lot or if it is less than 900mm, the owner of the adjoining lot has first been given the opportunity to make submissions to the local government on the location of the fence;
 - the corner posts are at least 50mm nominal bore galvanised 3.6mm gauge pipe set into 750mm x 230mm diameter concrete bases;
 - the intermediate fence posts are of not less than 40mm nominal bore galvanised 3.2mm gauge pipe set into 600mm x 230mm diameter concrete bases and are not more than 3000mm apart;
 - corner stays are at least 40mm nominal bore galvanised 3.2 mm gauge pipe concreted into the ground and secured to corner posts by clamp on fittings;
 - the chain link fabric mesh is not more than 2600mm in height and is 50mm x 2.5mm poly-vinyl chloride coated or galvanised; and
 - the supporting cables are double twisted 3.15mm poly-vinyl chloride coated wire and are fixed 75mm from the top and bottom of mesh and 1530mm from the ground level.

Tennis Court Floodlighting

12. (1) This clause does not apply to a Rural Lot.

(2) In determining an application for a building licence or planning consent in respect of the erection or use of floodlights or other exterior lights for illumination of a tennis court on a lot the local government shall not approve the application unless—

- the owner of each adjoining lot is given the opportunity to make submissions;
- light fittings are not more than 3600mm above natural ground level;
- light fittings used are of a type mounted horizontally or of a type approved by the Building Surveyor;
- the level of light from the floodlights or external lights on any land more than 1000mm from the lot does not exceed 10 lumens; and
- where required by the Building Surveyor, written approval to the erection of the lights or other exterior lights has been obtained from the Commissioner of Main Roads.

PART 6—ELECTRIFIED AND RAZOR WIRE FENCES**Requirement for a Licence**

13. (1) An owner or occupier of a lot, other than a Rural Lot, shall not—

- have and use an electrified fence on that lot without first obtaining a licence under subclause (2); or
- have a fence constructed wholly or partly of razor wire on that lot without first obtaining a licence under subclause (3).

(2) A licence to have and use an electrified fence shall not be issued—

- in respect of a lot which is or which abuts a Residential Lot;

- (b) unless the fence complies with AS/NZA3016:1994; and
 - (c) unless provision is made so as to enable the fence to be rendered inoperable during the house of business operations, if any, on the lot where it is erected.
- (3) A licence to have a fence constructed wholly or partly of razor wire shall not be issued—
- (a) if the fence is within 3m of the boundary of the lot;
 - (b) where any razor wire used in the construction of the fence is less than 2000mm or more than 2400 mm above the ground level.
- (4) An application for a licence referred to in subclauses (2) or (3) 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) An application for a licence referred to in subclauses (2) or (3) may be—
- (a) approved by the local government;
 - (b) approved by the local government subject to such conditions as it thinks fit; or
 - (c) refused by the local government.

Transfer of a Licence

- 14.** (1) The holder of a licence referred to in clause 14 may transfer that licence to another occupier or owner of the lot only with the written approval of the local government.
- (2) The application for a transfer of a licence shall be—
- (a) made by the proposed transferee;
 - (b) in the form determined from time to time by the local government;
 - (c) signed by the holder of the licence;
 - (d) accompanied by the fee determined by the local government from time to time; and
 - (e) accompanied by such other information as the local government may require to determine the application.
- (3) The local government may—
- (a) approve the application for a transfer of the licence;
 - (b) approve the application for a transfer of the licence subject to such conditions as it thinks fit; or
 - (c) refuse to approve the application for a transfer of the licence.

Cancellation of a Licence

- 15.** Subject to Division 1 Part 9 of the *Local Government Act 1995*, the local government may cancel a licence issued under this Part if—
- (a) the fence no longer satisfies the requirements specified in clause 14(2) or 14(3) as the case may be; or
 - (b) the licence holder breaches any condition upon which the licence has been issued.

PART 7—NOTICES OF BREACH

Notices of Breach

- 16.** (1) Where a breach of any provision of these Local Laws has occurred in relation to a fence on a lot, the local government may give a notice in writing to the owner or occupier of that lot ('notice of breach').
- (2) A notice of breach shall—
- (a) specify the provision of these Local Laws which has been breached;
 - (b) specify the particulars of the breach; and
 - (c) state that the owner or occupier of the lot is required to remedy the breach within 28 days from the giving of the notice.
- (3) Should an owner or occupier 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.

PART 8—OFFENCES

Offences and Penalties

- 17.** (1) An owner or occupier who fails to comply with a notice of breach commits an offence and is liable upon conviction to a maximum penalty of \$5,000 and, if the offence is a continuing offence, a maximum daily penalty of \$500.
- (2) A person who fails to comply with or who contravenes any provision of these Local Laws commits an offence and is liable to a maximum penalty of \$5,000 and, if the offence is a continuing offence, a maximum daily penalty of \$500.

Modified Penalties

- 18.** (1) An offence against any provision of these local laws is a prescribed offence for the purposes of section 9.16 (1) of the *Local Government Act 1995*.
- (2) Unless otherwise specified, the amount of the modified penalty for an offence against any provision of these local laws is \$100.

Form of Notices

19. For the purposes of these local laws—

- (a) the form of the infringement notice referred to in section 9.17 of the *Local Government Act 1995* is to be in or substantially in the form of Form 2 of Schedule 1 of the Local Government (Functions and General) Regulations 1996;
- (b) the form of the notice referred to in section 9.20 of the *Local Government Act 1995* is to be in or substantially in the form of Form 3 in Schedule 1 of the Local Government (Functions and General) Regulations 1996.

First Schedule

SPECIFICATIONS FOR A SUFFICIENT FENCE ON A RESIDENTIAL LOT

Each of the following is a "sufficient fence" on a Residential Lot—

- A. A picket timber fence which satisfied the following specifications—
 - (a) corner posts to be 125mm x 125mm x 2400mm spaced at 2400mm centres;
 - (b) corner posts to be strutted two 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 two 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, 1800mm in height placed 75mm apart and doubled nailed to each rail; and
 - (g) the height of the fence to a minimum of 1800mm.
- B. A fence constructed of corrugated fibre reinforced pressed cement sheeting, but in any case shall have a minimum in-ground depth of 600mm—
 - (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 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 a minimum of 1800mm.
- C. A fence constructed of brick, stone or concrete, which satisfies the following specifications—
 - (a) footings of minimum 225mm x 150mm concrete 15MPa or 300mm x 175mm brick laid in cement mortar;
 - (b) fences to be offset a minimum of 200mm at maximum 3000mm centres or 225mm x 100mm engaged piers to be provided at maximum 3000mm centres;
 - (c) expansion joints in accordance with the manufacturer's written instructions; and
 - (d) the height of the fence to be a minimum of 1800mm.
- D. A composite fence which satisfies the following specifications for the brick construction—
 - (1)
 - (a) brick piers of minimum 230mm x 230mm at 1800mm centres bonded to a minimum height base wall of 514mm;
 - (b) each pier shall be reinforced with one R10 galvanised starting rod 1500mm 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 eight 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 230mm x 350mm x 2700mm centres bonded to the base wall; and
 - (b) each pier shall be reinforced with two R10 galvanised starting rods as previously specified.

Second Schedule

Clause 4(2)(b)

SPECIFICATIONS FOR A SUFFICIENT FENCE ON A COMMERCIAL LOT AND AN INDUSTRIAL LOT

Each of the following is a "sufficient fence" on a Commercial Lot and an Industrial Lot—

- A. A fence constructed of galvanised or PVC coated rail-less link mesh, chain mesh which satisfies the following specifications—
 - (a) corner posts to be a minimum 50mm normal 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 two at each corner post;
 - (d) cables to be affixed to the top, centre and bottom of all posts and to consist of two or more 3.15mm wires twisted together;
 - (e) rail-less link, chain or steel mesh is to be a height of 2000mm on top of which are to be three strands of barbed wire carrying the fence to a height of 2400mm; and
 - (f) galvanised link mesh wire to be 2000mm in height and constructed of 50mm mesh 2.5mm galvanised iron wire and to be strained, neatly secured and aced 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 one horizontal and one 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.
- B. A fence of fibre reinforced cement sheet constructed to the minimum specifications referred to in Item B of the First Schedule.
- C. A fence constructed of painted or galvanised steel or aluminium sheeting provided that this is used behind the building line to maximum height of 2400mm when supported on posts and rails.
- D. Fences of timber, brick, stone or concrete constructed to the minimum specifications referred to in the First Schedule.

Third Schedule

Clause 4(2)(c)

SPECIFICATIONS FOR A SUFFICIENT FENCE ON A RURAL LOT

A sufficient fence on a Rural Lot is a fence of posts and wire construction, the minimum specifications for which are—

- a) wire shall be high tensile wire and not less than 2.5mm. a minimum of five wires shall be used, these to be spaced equally and threaded through 12mm holes in posts to all fences;
- b) posts shall be indigenous timber or other suitable material including timber impregnated with a termite and fungicidal preservative cut not less than 1800mm long x 100mm diameter at small end if round or 125mm x 60mm if split or sawn. Posts to be set minimum 600mm in the ground and 1200mm above the ground; and
- c) strainer posts shall be not less than 2250mm long and 150mm diameter at the small end and shall be cut from indigenous timber or other suitable material. These shall be placed a minimum of 1000mm in the ground.

Dated this 26th day of October 1999.

The Common Seal of the Shire Dalwallinu was affixed in the presence of—

R. T. ALLAN J.P., President.
W. T. ATKINSON, Chief Executive Officer.

Form 1

SHIRE OF DALWALLINU

LICENCE TO HAVE AND USE AN ELECTRIFIED FENCE IN ACCORDANCE WITH AS/NZS 3016:1994

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

Dated this.....day of.....19..... .

.....
Chief Executive Officer,
Shire of Dalwallinu.

This licence is issued upon and subject to the following conditions, namely that the holder of the licence shall:

Display the licence in a prominent position on the land or premises on which the electrified fence has been erected.

Upon request of a Building Surveyor produce to him or her the licence.

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.

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.

Comply with AS/NZS 3016:1994.

Following erection of the fence, lodge with Western Power a certificate of installation from a qualified electrician and company with any requirements of Western Power regarding the erection of the fence.

.....
.....
Transfer by Endorsement

This licence is transferred to.....

of

from and including the date of this endorsement.

Dated this.....day of.....19..... .

.....
Chief Executive Officer,
Shire of Dalwallinu.

Form 2
SHIRE OF DALWALLINU
LICENCE TO HAVE AND A FENCE CONSTRUCTED WHOLLY OR PARTIALLY OF
RAZOR WIRE

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 19 and until this licence is transferred or cancelled.

Dated this.....day of.....19..... .

.....
Chief Executive Officer,
Shire of Dalwallinu.

This licence is issued upon and subject to the following conditions, namely that the holder of the licence shall:

Display the licence in a prominent position on the land or premises on which the electrified fence has been erected.

Upon request of a Building Surveyor produce to him or her the licence.

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.

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

of

from and including the date of this endorsement.

Dated this.....day of.....19..... .

.....
**Chief Executive Officer,
Shire of Dalwallinu.**

LOCAL GOVERNMENT ACT 1995

SHIRE OF DALWALLINU

LOCAL GOVERNMENT PROPERTY LOCAL LAW**PART 1—PRELIMINARY**

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LOCAL GOVERNMENT ACT 1995

SHIRE OF DALWALLINU

LOCAL GOVERNMENT PROPERTY LOCAL LAW

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Dalwallinu resolved on 21st September 1999 to make the following local law.

PART 1—PRELIMINARY**Citation**

1.1 This local law may be cited as the Shire of Dalwallinu Local Government Property Local Law.

Definitions

1.2 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;

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

“**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; and
- (c) jetty;

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

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

“**Council**” means the council of the local government;

“**date of publication**” means, where local public notice is required to be given of a matter under this local law, the date on which notice of the matter is published in a newspaper circulating generally throughout the district;

“**determination**” means a determination made under clause 2.1;

“**district**” means the district of the local government;

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

- (a) formal organisation and preparation;
- (b) its occurrence is generally advertised or notified in writing to particular persons;
- (c) organisation 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;

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

“**local government**” means the Shire of Dalwallinu;

“**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;

“**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;

“**permit**” means a permit issued under this local law;

“**permit holder**” means a person who holds a valid permit;

“**person**” does not include the local government;

“**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;

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

“**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; and

“**vehicle**” includes—

- (a) every conveyance and every object capable of being propelled or drawn on wheels, tracks or otherwise; and
 - (b) an animal being ridden or driven,
- but excludes—
- (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; and
 - (e) a boat.

Interpretation

1.3 In this local law unless the context otherwise requires a reference to local government property includes a reference to any part of that local government property.

Application

1.4 (1) This local law applies throughout the district and in the sea adjoining the district for a distance of 200 metres seawards from the low water mark at ordinary spring tides.

(2) Notwithstanding 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

Determinations as to use of local government property

2.1 (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;
- (c) as to the matters in clauses 2.7(2) and 2.8(2); and
- (d) as to any matter ancillary or necessary to give effect to a determination.

(2) The determinations in Schedule 2—

- (a) are to be taken to have been made in accordance with clause 2.2;
- (b) may be amended or revoked in accordance with clause 2.6; and
- (c) have effect on the commencement day.

Procedure for making a determination

2.2 (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.

Discretion to erect sign

2.3 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.

Determination to be complied with

2.4 A person shall comply with a determination.

Register of determinations

2.5 (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.

Amendment or revocation of a determination

2.6 (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

Activities which may be pursued on specified local government property

2.7 (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) fly or use a motorised model aeroplane;
 - (d) 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;
 - (e) launch, beach or leave a boat;
 - (f) take or use a boat, or a particular class of boat;
 - (g) deposit refuse, rubbish or liquid waste, whether or not of particular classes, and whether or not in specified areas of that local government property;
 - (h) play or practice—
 - (i) golf or archery;
 - (ii) pistol or rifle shooting, but subject to the compliance of that person with the *Firearms Act 1973*; or
 - (iii) a similar activity, specified in the determination, involving the use of a projectile which, in the opinion of the local government may cause injury or damage to a person or property;
 - (i) ride a bicycle, a skateboard, rollerblades, a sandboard or a similar device; and
 - (j) wear no clothing.
- (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.

Activities which may be prohibited on specified local government property

2.8 (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—
 - (i) golf, archery, pistol shooting or rifle shooting; or
 - (ii) a similar activity, specified in the determination, involving the use of a projectile which, in the opinion of the local government may cause injury or damage to a person or property;
- (g) the playing or practice of any ball game which may cause detriment to the property or any fauna on the property; and
- (h) 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, but not an open space such as a park or a playing field.

*Division 3—Transitional***Signs taken to be determinations**

2.9 (1) 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.

(2) Clause 2.5 does not apply to a sign referred to in subclause (1).

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

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

*Division 2—Applying for a permit***Application for permit**

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

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

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

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

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

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

Decision on application for permit

3.3 (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.

*Division 3—Conditions***Conditions which may be imposed on a permit**

3.4 (1) Without limiting the generality of clause 3.3(1)(a), the local government may approve an application for a permit subject to 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) Without limiting clause 3.3(1)(a) and subclause (1), the following paragraphs indicate 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 Licensing 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.

Imposing conditions under a policy

3.5 (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 shall 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 be deemed not to have been approved subject to the conditions contained in a policy until the local government gives the permit holder a copy of the policy or the part of the policy which is relevant to the application.
- (5) Sections 5.94 and 5.95 of the Act shall apply to a policy and for that purpose a policy shall be deemed to be information within section 5.94(u)(i) of the Act.

Compliance with and variation of conditions

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

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

*Division 4—General***Agreement for building**

3.7 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.

Duration of permit

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

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

Renewal of permit

3.9 (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 *mutatis mutandis*.

Transfer of permit

3.10 (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.

Production of permit

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

Cancellation of permit

3.12 (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) 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.

*Division 5—When a permit is required***Activities needing a permit**

3.13 (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 a structure for public amusement or for any performance, whether for gain or otherwise, on local government property;
- (d) teach, coach or train, for profit, any person in a pool area or an indoor recreation facility which is local government property;
- (e) plant any plant or sow any seeds on local government property;
- (f) 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;
- (g) 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 stand any vehicle on local government property;
- (h) conduct a function on local government property;

- (i) 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;
 - (j) light a fire on local government property except in a facility provided for that purpose;
 - (k) parachute, hang glide, abseil or base jump from or on to local government property;
 - (l) erect a building or a refuelling site on local government property;
 - (m) make any excavation on or erect or remove any fence on local government property;
 - (n) 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; or
 - (o) depasture any horse, sheep, cattle, goat, camel, ass or mule 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).

Permit required to camp outside a facility

3.14 (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) A person shall not without a permit—

- (a) camp on, lodge at or occupy any structure at night for the purpose of sleeping on local government property; 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 of paragraph (a) or (b) of subclause (3) is that provided in regulation 11(2)(a) of the *Caravan Parks and Camping Grounds Regulations 1997*.

Permit required for possession and consumption of liquor

3.15 (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 is permitted under the *Liquor Licensing 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.

Division 6—Responsibilities of permit holder

Responsibilities of permit holder

3.16 A holder of a permit shall in respect of local government property to which the permit relates—

- (a) ensure that an authorized 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 Licensing Act 1988* for that purpose.

PART 4—BEHAVIOUR ON ALL LOCAL GOVERNMENT PROPERTY

Division 1—Behaviour on and interference with local government property

Behaviour which interferes with others

4.1 A person shall not in or on any local government property behave in a manner which—

- (a) is likely to interfere with the enjoyment of a person who might use the property; or
- (b) interferes with the enjoyment of a person using the property.

Behaviour detrimental to property

4.2 (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 any thing 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 any thing on the local government property, such as a plant, a seat provided for the use of any person or a building.

Taking or injuring any fauna

4.3 (1) A person shall not, take, injure or kill or attempt to take, injure or kill any fauna which is on or above any local government property, unless that person is authorized under a written law to do so.

(2) In this clause—

“**animal**” means any living thing that is not a human being or plant; and

“**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;
- (b) the eggs or larvae; or
- (c) the carcass, skin, plumage or fur.

Intoxicated persons not to enter local government property

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

No prohibited drugs

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

*Division 2—Signs***Signs**

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

(2) A person shall comply with a sign erected under subclause (1).

(3) A condition of use specified on a sign erected under subclause (1) is—

- (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 a provision of this local law.

PART 5—MATTERS RELATING TO PARTICULAR LOCAL GOVERNMENT PROPERTY*Division 1—Swimming pool areas***When entry must be refused**

5.1 A Manager or an authorized person shall refuse admission to, may direct to leave or shall remove or cause to be removed from a pool area any person who—

- (a) in her or his opinion is—
 - (i) under the age of 6 years and who is unaccompanied by a responsible person over the age of 14 years;
 - (ii) suffering from any contagious, infectious or cutaneous disease or complaint, or is in an unclean condition; or
 - (iii) under the influence of liquor or a prohibited drug; or
- (b) is to be refused admission under and in accordance with a decision of the local government for breaching any clause of this local law.

*Division 2—Fenced or closed property***No entry to fenced or closed local government property**

5.2 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 authorized to do so by the local government.

*Division 3—Toilet blocks and change rooms***Only specified gender to use entry of toilet block or change room**

5.3 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 shall not use that entry of the toilet block or change room; or
- (b) males, then a person of the female gender shall not use that entry of the toilet block or change room.

*Division 4—Aerodrome (airport)***Access of animals restricted**

5.4 (1) A person shall not bring an animal on to an aerodrome unless—

- (a) the person is a person referred to in section 8 of the *Dog Act 1976* acting in accordance with that provision;
- (b) the animal is being air freighted from the aerodrome;

- (c) the animal has been air freighted to the aerodrome; or
 - (d) the person is authorized to do so by the local government.
- (2) A person in charge of an animal shall keep the animal under control and shall not allow it to wander at large on the aerodrome.
- (3) If an animal is at any time on an aerodrome in contravention of subclause (2), in addition to the person specified in that subclause, the owner of the animal at that time commits an offence against subclause (2).

PART 6—FEES FOR ENTRY ON TO LOCAL GOVERNMENT PROPERTY

No unauthorized entry to function

- 6.1 (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 authorized, 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 APPEALS

Application of Division 1, Part 7 of the Act

- 7.1 When the local government makes a decision as to whether it will—
- (a) grant a person a permit or consent under this local law; or
 - (b) renew, vary, or cancel a permit or consent that a person has under this local law,
- the provisions of Division 1 of Part 9 of the Act and regulations 33 and 34 of the Regulations apply to that decision.

PART 8—MISCELLANEOUS

Authorised person to be obeyed

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

Persons may be directed to leave local government property

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

Disposal of lost property

8.3 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.

Liability for damage to local government property

- 8.4 (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) Unless there is proof to the contrary, a person is to be taken to have damaged local government property within subclause (1) where—
- (a) a vehicle or a boat caused the damage, the person was the person responsible, at the time the damage occurred, for the control of the vehicle or the boat; or
 - (b) the damage occurred under a permit, the person is the permit holder in relation to that permit.
- (3) 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

Division 1—Notices given under this local law

Offence to fail to comply with notice

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

Local government may undertake requirements of notice

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

*Division 2—Offences and penalties**Subdivision 1—General***Offences and general penalty**

9.3 (1) Any person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.

(2) Any person who commits an offence under this local law is liable, upon conviction, to a penalty not exceeding \$5,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

*Subdivision 2—Infringement notices and modified penalties***Prescribed offences**

9.4 (1) An offence against a clause specified in Schedule 1 is a prescribed offence for the purposes of section 9.16(1) of the Act.

(2) The amount of the modified penalty for a prescribed offence is that specified adjacent to the clause in Schedule 1.

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

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

Form of notices

9.5 (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 Regulations;
- (b) the form of the infringement notice given under section 9.16 of the Act is that of Form 2 in Schedule 1 of the Regulations; and
- (c) the form of the notice referred to in section 9.20 of the Act is that of Form 3 in Schedule 1 of the Regulations.

(2) Where an infringement notice is given under section 9.16 of the Act in respect of an alleged offence against clause 2.4, the notice is to contain a description of the alleged offence.

*Division 3—Evidence in legal proceedings***Evidence of a determination**

9.6 (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**PRESCRIBED OFFENCES**

Clause	Description	Modified Penalty \$
2.4	Failure to comply with determination	100
3.6	Failure to comply with conditions of permit	100
3.13(1)	Failure to obtain a permit	100
3.14(3)	Failure to obtain permit to camp outside a facility	100
3.15(1)	Failure to obtain permit for liquor	100
3.16	Failure of permit holder to comply with responsibilities	100
4.2(1)	Behaviour detrimental to property	100
4.4	Under influence of liquor or prohibited drug	100
4.6(2)	Failure to comply with sign on local government property	100
5.2	Unauthorized entry to fenced or closed local government property	100
5.3	Gender not specified using entry of toilet block or change room	100
5.4(1)	Unauthorized presence of animal on aerodrome	300
5.4(2)	Animal wandering at large on aerodrome—person in charge	300
5.4(3)	Animal wandering at large on aerodrome—owner	300
6.1(1)	Unauthorized entry to function on local government property	100
9.1	Failure to comply with notice	200

**Schedule 2
DETERMINATIONS**

The following determinations are to be taken to have been made by the local government under clause 2.1.

PART 1—PRELIMINARY

Definitions

1.1 In these determinations unless the context otherwise requires—

“**local law**” means the *Local Government Property Local Law* made by the local government;

Interpretation

1.2 Unless the context otherwise requires, where a term is used but not defined in a determination and that term is defined in the local law then the term shall have the meaning given to it in the local law.

PART 2—DOG EXERCISE AREA

Interpretation

2.1 In this determination—

“**Animal**” includes a dog; and

“**animal exercise area**” means the portion of land within Reserve 15242, Lot 105 Myers Street Dalwallinu comprising the western portion of the reserve west of the external basketball courts

Animals restricted to animal exercise areas

2.2 A person shall not bring, ride or drive and animal on local government property that is not an animal exercise area.

Animals to be controlled

2.3 A person shall not ride or drive an animal on an animal exercise area in a manner which—

- (a) endangers any person or animal
- (b) unreasonably disturbs or interrupts the reasonable use of the animal exercise area by any person or animal

2.4 A person bringing an animal on to an animal exercise area shall keep that animal under control so that it does not—

- (a) Endanger and person or animal; or
- (b) Unreasonably disturb or interrupt the reasonable use of the animal exercise area by any other person or animal.”



**Form 1
SHIRE OF DALWALLINU
Local Government Property Local Law
APPLICATION FOR HIRE OF LOCAL GOVERNMENT PROPERTY**

Applicant

For and on behalf of

Personal Address of Applicant

.....

Phone (H) (W).....

Property to be hired

on (insert date)

During the hours to.....

Purpose of Hire

And I agree to comply with all provisions of the Shire of Dalwallinu Local Government Property Local Law and other written laws pertaining to the proposed use, including any condition which may be imposed on the permit of hire requiring me to indemnify the local government in respect of any injury to any person or any damages to any property which may occur in connection with the hire of local government property.

Signed

Date

Form 2
 SHIRE OF DALWALLINU
Local Government Property Local Law
APPLICATION FOR A PERMIT TO HOLD A FUNCTION

I/We
 (Full Name(s))

Of
 (Address)

hereby apply for a permit to hold a function namely (describe the function)

 on the Reserve or part thereof known as

.....

 situated at

.....
 for the hours of; Start AM/PM Finish AM/PM
 on the following date(s)

And I agree to comply with all provisions of the Shire of Dalwallinu Local Government Property Local Law and other written laws pertaining to the holding of the function, the subject of this application, including any condition which may be imposed on the permit to indemnify the local government in respect of any injury to any person or any damage to any property which may occur in connection with the holding of the function the subject of this application.

Signature

Form 3
 SHIRE OF DALWALLINU
Local Government Property Local Law
PERMIT TO HOLD A FUNCTION

To
 (name)

of
 (address)

you are hereby authorised to organise and hold a function namely—

 on the Reserve or part thereof known as

.....
 situated at
 for the hours of; Start AM/PM Finish AM/PM

on the following date(s)
 under the following conditions—

This permit is issued subject to a condition requiring the permit holder to indemnify the local government in respect of any injury to any person or any damage to any property which may occur in connection with the holding of the function the subject of this permit.

Hire Charges Applicable \$.....

Signature

Chief Executive Officer.

Form 4
 SHIRE OF DALWALLINU
Local Government Property Local Law
RESERVE FUNCTION PERMIT—APPLICATION

Name of Organisation

Please provide names and addresses of two (2) persons as representatives:- Please print clearly

1. Name: Phone (H) (W)

Address:

2. Name: Phone (H) (W)

Address:

Reserve Required

*Social Booking—

Activity Date.....

From a.m. / p.m. to a.m. / p.m. Ground Hire Charge \$

*Seasonal Booking—

Activity

Day/s	Purpose: (Training/Competition)	From: am/pm	To: am/pm
Monday			
Tuesday			
Wednesday			
Thursday			
Friday			
Saturday			
Sunday			

Number of Teams/Players: Jnr: Snr:

Number of Playing Fields:

Ground Required—From: To:

Ground Hire Charge \$

Liquor Permit: Yes/No Charge: \$

Quantity of Alcohol: Litres/B.Y.O.

Number in Party: Adults Children

I accept responsibility for ensuring compliance with the Local Government Property Local Law on behalf of the abovenamed organisation, and with the authority of the organisation I agree on behalf of the organisation that the organisation will indemnify the local government in respect of any injury to any person or any damage to any property which may occur in connection with the activity on the Reserve which is the subject of this application.

Applicant's Signature Date.....

Office Use Only—

Shire of Dalwallinu Received

Authorised Officer

Permit: Approved/Not Approved Date

.....
 Chief Executive Officer.

Form 5
 SHIRE OF DALWALLINU
Local Government Property Local Law
PERMIT TO HIRE OR SELL

To:
 (full name)

of:
 (address)

You are authorised to *hire or sell—

.....

(describe goods, merchandise, equipment, etc.)

in the public reserve known as

and more particularly described as Reserve No

..... or

which part is shown on the plan attached to this permit for a period of months from the date of this permit and under the following conditions—

.....

.....

.....

.....

.....

Fee payable \$.....

.....

Chief Executive Officer

Dated this 21st day of September 1999.

The Common Seal of the Shire of Dalwallinu was affixed in the presence of—

R. T. ALLAN J.P., President.
W. T. ATKINSON, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995

SHIRE OF DALWALLINU

PARKING AND PARKING FACILITIES LOCAL LAW

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FORM 2

FORM 3

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SCHEDULE 4—DEEMED PARKING STATIONS

LOCAL GOVERNMENT ACT 1995

SHIRE OF DALWALLINU

PARKING AND PARKING FACILITIES LOCAL LAW

Under the powers conferred by the *Local Government Act 1995* and under all other powers, the Council of the Shire of Dalwallinu resolved to make the following Local Law on the 21st day of September 1999.

PART 1—DEFINITION AND OPERATION**1.1 Commencement**

This Local Law will come into operation on the fourteenth day after the day on which it is published in the *Government Gazette*.

1.2 Interpretation

(1) In this Local Law unless the context otherwise requires—

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

“Authorized Person” means a person authorized by the local government under section 9.10 of the Act, to perform any of the functions of an Authorized Person under this Local Law;

“authorized vehicle” means a vehicle authorized by the local government, Chief Executive Officer, Authorized Person or by any written law to park on a thoroughfare or parking facility;

“bicycle” means any wheeled vehicle that is designed to be propelled solely by human power;

“bus” means an omnibus as defined by the Road Traffic Act;

“bus embayment” has the meaning given to it in the Code;

“caravan” means a vehicle that is fitted or designed to allow human habitation and which is drawn by another vehicle, or which is capable of self-propulsion;

“carriageway” means a portion of thoroughfare that is improved, designed or ordinarily used for vehicles and includes the shoulders and areas including embayments at the side or centre of the carriageway, used for the parking of vehicles; and where a thoroughfare has two or more of those portions divided by a median strip, the expression means each of those portions, separately;

“centre” in relation to a carriageway, means a line or a series of lines, marks or other indications placed at, or near, the middle of the carriageway or, in the absence of any such lines, marks or other indications, the middle of the main travelled portion of the carriageway;

“children’s crossing” has the meaning given to it in the Code;

“CEO” means the Chief Executive Officer of the local government;

“Code” means the *Road Traffic Code 1975*;

“commercial vehicle” means a motor vehicle constructed for the conveyance of goods or merchandise, or for the conveyance of materials used in any trade, business, industry or work whatsoever, other than a motor vehicle for the conveyance of passengers, and includes any motor vehicle that is designed primarily for the carriage of persons, but which has been fitted or adapted for the conveyance of the goods, merchandise or materials referred to, and is in fact used for that purpose;

“district” means the district of the local government;

“driver” means any person driving or in control of a vehicle;

“emergency vehicle” has the meaning given to it in the Code;

“footpath” includes every footpath, pedestrian access way or other place—

(a) intended for the use of pedestrians only, or in the case of a dual use path, for the use of pedestrians and bicyclists only; or

(b) habitually used by pedestrians and not by vehicles or, in the case of a dual use path, by pedestrians and bicyclists and not by vehicles other than bicycles;

“Loading Zone” means a parking stall which is set aside for use by commercial vehicles if there is a sign referable to that stall marked ‘Loading Zone’;

“local government” means the Shire of Dalwallinu;

“median strip” has the meaning given to it in the Code;

“motorcycle” means a motor vehicle that has two wheels or, where a sidecar is attached, three wheels;

“motor vehicle” means a self-propelled vehicle that is not operated on rails; and the expression includes a trailer, semi-trailer or caravan while attached to a motor vehicle, but does not include a power assisted pedal cycle;

“no parking area” means a portion of a carriageway that lie—

- (a) between two consecutive signs inscribed with the words “No Parking” or with an equivalent symbol depicting this purpose and each with an arrow pointing generally towards the other of them; or
- (b) between a sign inscribed with the words “No Parking” or with an equivalent symbol depicting this purpose, and the end of the carriageway or an area in which parking is prohibited and that lies in the general direction indicated by an arrow inscribed on the sign;

“occupier” has the meaning given to it in the Act;

“owner” where used in relation to a vehicle, means a person who is the registered holder of the requisite vehicle licence under the Road Traffic Act in respect of that vehicle, or if the vehicle is not licensed under that Act, the person who owns the vehicle or is entitled to its possession; and where used in relation to land has the meaning given to it by the Act;

“park”, in relation to a vehicle, means to permit a vehicle, whether occupied or not by any person, to remain stationary for any period of time except for the purpose of –

- (a) avoiding conflict with other traffic; or
- (b) complying with the provisions of any law when the vehicle is being driven;

“parking area” means a portion of a carriageway -

- (a) between two consecutive signs inscribed with the word “Parking” or with an equivalent symbol depicting this purpose and each with an arrow pointing generally towards the other of them; or
- (b) extending from a sign inscribed with the word “Parking” or with an equivalent symbol depicting this purpose in the general direction indicated by the arrow inscribed on the sign, to any other sign inscribed with the words “No Parking” or with an equivalent symbol depicting this purpose, or to the end of the carriageway or an area in which the parking of vehicles is prohibited,

and is on that side of the carriageway of the thoroughfare nearest the sign;

“parking facilities” includes land, buildings, shelters, parking stalls and other facilities open to the public generally for the parking of vehicles, and signs, notices and facilities used in connection with the parking of vehicles;

“parking region” means the area described in the First Schedule;

“parking stall” means a section or part of a thoroughfare or of a parking station which is marked or defined by painted lines, metallic studs, coloured bricks or pavers or similar devices for the purpose of indicating where a vehicle may be parked,

“parking station” means any land, or structure provided for the purpose of accommodating vehicles;

“pedestrian crossing” has the meaning given to it in the Code;

“public place” means any place to which the public has access whether or not that place is on private property;

“reserve” means any land—

- (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;

“Road Traffic Act” means the *Road Traffic Act 1974*;

“Schedule” means a Schedule to this Local Law;

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

“special purpose vehicle” means a public utility service truck, a tow truck, a vehicle being used for official duties by a member of the Police Service, a motor breakdown service vehicle or a vehicle being used by a government authority or a local government in connection with its functions, but does not include an emergency vehicle;

“symbol” includes any symbol specified by Australian Standard 1742.11-1989 and any symbol specified from time to time by Standards Australia for use in the regulation of parking and any reference to the wording of any sign in this Local Law shall be also deemed to include a reference to the corresponding symbol;

“taxi” has the same meaning as “taxi-car” in section 47Z of the *Transport Co-ordination Act 1966*;

“thoroughfare” has the meaning given to it in the Act;

“trailer” means any vehicle without motive power of its own, designed for attachment to a motor vehicle for the purpose of being towed, but does not include the rear portion of an articulated vehicle, or a side car;

“vehicle” includes every conveyance not being a train, vessel or aircraft, and every object capable of being propelled or drawn on wheels by any means; and

“verge” means the portion of a thoroughfare which lies between the boundary of a carriageway and the adjacent property line but does not include a footpath.

(2) For the purposes of the application of the definitions “no parking area” and “parking area” an arrow inscribed on a traffic sign erected at an angle to the boundary of the carriageway is deemed to be pointing in the direction in which it would point, if the signs were turned at an angle of less than 90 degrees until parallel with the boundary.

(3) Unless the context otherwise requires, where a term is used, but not defined, in this Local Law, and that term is defined in the Road Traffic Act or in the Code, then the term shall have the meaning given to it in that Act or the Code.

1.3 Application and pre-existing signs

(1) Subject to subclause (2), this Local Law applies to the parking region.

(2) This Local Law does not apply to a parking facility or a parking station that is not occupied by the local government, unless the local government and the owner or occupier of that facility or station have agreed in writing that this Local Law will apply to that facility or station.

(3) The agreement referred to in subclause (2) may be made on such terms and conditions as the parties may agree.

(4) Where a parking facility or a parking station is identified in the Fourth Schedule, then the facility or station shall be deemed to be a parking station to which this Local law applies and it shall not be necessary to prove that it is the subject of an agreement referred to in subclause (2).

(5) A sign that—

(a) was erected by the local government or the Commissioner of Main Roads prior to the coming into operation of this Local Law; and

(b) relates to the parking of vehicles within the parking region,

shall be deemed for the purposes of this Local Law to have been erected by the local government under the authority of this Local Law.

(6) An inscription or symbol on a sign referred to in subclause (5) operates and has effect according to its tenor, and where the inscription or symbol relates to the standing of vehicles, it shall be deemed for the purposes of this Local Law to operate and have effect as if it related to the parking of vehicles.

1.4 Classes of vehicles

For the purpose of this Local Law, vehicles are divided into classes as follows—

(a) buses;

(b) commercial vehicles;

(c) motorcycles and bicycles;

(d) taxis; and

(e) all other vehicles.

1.5 Part of thoroughfare to which sign applies

Where under this Local Law the parking of vehicles in a thoroughfare is controlled by a sign, the sign shall be read as applying to that part of the thoroughfare which—

(a) lies beyond the sign;

(b) lies between the sign and the next sign beyond that sign; and

(c) is on that side of the thoroughfare nearest to the sign.

PART 2—PARKING STALLS AND PARKING STATIONS

2.1 Determination of parking stalls and parking stations

The local government may by resolution constitute, determine and vary and also indicate by signs—

(a) parking stalls;

(b) parking stations;

(c) permitted time and conditions of parking in parking stalls and parking stations which may vary with the locality;

(d) permitted classes of vehicles which may park in parking stalls and parking stations;

(e) permitted classes of persons who may park in specified parking stalls or parking stations; and

(f) the manner of parking in parking stalls and parking stations.

2.2 Vehicles to be within parking stall on thoroughfare

(1) Subject to subclause (2), a person shall not park a vehicle in a parking stall in a thoroughfare otherwise than—

(a) parallel to and as close to the kerb as is practicable;

(b) wholly within the stall; and

(c) headed in the direction of the movement of traffic on the side of the thoroughfare in which the stall is situated.

(2) Where a parking stall in a thoroughfare is set out otherwise than parallel to the kerb, then a person must park a vehicle in that stall wholly within it.

2.3 Vehicles to be within parking stall in parking station

Unless otherwise directed by an Authorized Person, a person shall not park a vehicle in a parking station otherwise than wholly within a parking stall.

2.4 Parking prohibitions and restrictions

(1) A person shall not—

- (a) park a vehicle so as to obstruct an entrance to, or an exit from a parking station, or an access way within a parking station;
- (b) except with the permission of the local government or an Authorized Person park a vehicle on any part of a parking station contrary to a sign referable to that part;
- (c) permit a vehicle to park on any part of a parking station, if an Authorized Person directs the driver of such vehicle to move the vehicle; or
- (d) park or attempt to park a vehicle in a parking stall in which another vehicle is parked but this paragraph does not prevent the parking of a motorcycle and a bicycle together in a stall marked "M/C", if the bicycle is parked in accordance with subclause (2).

(2) No person shall park any bicycle—

- (a) in a parking stall other than in a stall marked "M/C"; and
- (b) in such stall other than against the kerb.

PART 3—PARKING GENERALLY**3.1 Prohibition and regulation of parking by signs**

The local government may by resolution prohibit or regulate by signs or otherwise the parking of any vehicle or class of vehicles in any part of the parking region but must do so consistently with the provisions of this Local Law.

3.2 Restrictions on parking in particular areas

(1) A person shall not park a vehicle in a thoroughfare or part of a thoroughfare, or part of a parking station—

- (a) if by a sign it is set apart for the parking of vehicles of a different class;
- (b) if by a sign it is set apart for the parking of vehicles by persons of a different class; or
- (c) during any period when the parking of vehicles is prohibited by a sign.

(2) A person shall not park a vehicle—

- (a) in a no parking area;
- (b) in a parking area, except in accordance with both the signs associated with the parking area and with this Local Law;
- (c) in a stall marked "M/C" unless it is a motorcycle without a sidecar or a trailer, or it is a bicycle.

(3) A person shall not park a motorcycle without a sidecar or a trailer, or a bicycle in a parking stall unless the stall is marked "M/C".

(4) A person shall not, without the prior permission of the local government, the CEO, or an Authorized Person, park a vehicle in an area designated by a sign stating "Authorized Vehicles Only".

(5) In a Loading Zone, a person shall not—

- (a) park a vehicle other than a commercial vehicle which is being loaded or unloaded with goods; or
- (b) park a commercial vehicle which is being loaded or unloaded with goods for more than 30 minutes.

(6) In paragraph (b) of subclause (5) "goods" means an article or collection of articles weighing at least 13.6kg and of which the cubic measurement is not less than 0.17m³.

3.3 Parking vehicle on a carriageway

A person parking a vehicle on a carriageway shall park it—

- (a) in the case of a two-way carriageway, so that it is as near as practicable to and parallel with, the left boundary of the carriageway and headed in the direction of the movement of traffic on the side of the thoroughfare on which the vehicle is parked;
- (b) in the case of a one-way carriageway, so that it is as near as practicable to and parallel with either boundary of the carriageway and headed in the direction of the movement of traffic on the side of the thoroughfare on which the vehicle is parked;
- (c) so that at least 3 metres of the width of the carriageway lies between the vehicle and the farther boundary of the carriageway, or between the vehicle and a vehicle parked on the farther side of the carriageway;
- (d) so that it is not less than 1.2 metres from any other vehicle, except a motorcycle without a trailer, or a bicycle parked in accordance with this Local Law;
- (e) so that it does not obstruct any vehicle on the carriageway; and
- (f) so that it is entirely within the confines of any parking stall marked on the carriageway.

3.4 Vehicle to be wholly within parking area

A person shall not park a vehicle partly within and partly outside a parking area.

3.5 When parallel and right-angled parking apply

Where a traffic sign associated with a parking area is not inscribed with the words “angle parking” (or with an equivalent symbol depicting this purpose), then unless a sign associated with the parking area indicates or marks on the carriageway indicate that vehicles have to park in a different position where the parking area is—

- (a) adjacent to the boundary of a carriageway, a person parking a vehicle in the parking area shall park it as near as practicable to and parallel with that boundary; and
- (b) at or near the centre of the carriageway, a person parking a vehicle in that parking area shall park it at approximately right angles to the centre of the carriageway.

3.6 When angle parking applies

(1) This clause does not apply to—

- (a) a passenger vehicle or a commercial vehicle with a mass including any load, of over three tonnes; or
- (b) a person parking either a motor cycle without a trailer or a bicycle.

(2) Where a sign associated with a parking area is inscribed with the words “angle parking” (or with an equivalent symbol depicting this purpose), a person parking a vehicle in the area shall park the vehicle at an angle of approximately 45 degrees to the centre of the carriageway unless otherwise indicated by the inscription on the parking sign or by marks on the carriageway.

3.7 General prohibitions on parking

(1) (a) This clause does not apply to a vehicle parked in a metered space or a parking stall nor to a bicycle in a bicycle rack.

- (b) Paragraphs (c), (e) and (g) of subclause (2) do not apply to a vehicle which parks in a bus embayment.

(2) A person shall not park a vehicle so that any portion of the vehicle is—

- (a) between any other stationary vehicles and the centre of the carriageway;
- (b) on or adjacent to a median strip;
- (c) obstructing a right of way, private drive or carriageway or so close as to deny a vehicle reasonable access to or egress from the right of way, private drive or carriageway;
- (d) alongside or opposite any excavation, works, hoarding, scaffolding or obstruction on the carriageway, if the vehicle would obstruct traffic;
- (e) on or within 9 metres of any portion of a carriageway bounded by a traffic island;
- (f) on any footpath or pedestrian crossing;
- (g) on a bridge or other elevated structure or within a tunnel or underpass;
- (h) between the boundaries of a carriageway and any double longitudinal line consisting of two continuous lines or between a double longitudinal line consisting of a continuous line and a broken or dotted line and the boundary of a carriageway nearer to the continuous line, unless there is a distance of at least 3 metres clear between the vehicle and the double longitudinal line;
- (i) on an intersection, except adjacent to a carriageway boundary that is not broken by an intersecting carriageway;
- (j) within 1 metre of a fire hydrant or fire plug, or of any sign or mark indicating the existence of a fire hydrant or fire plug;
- (k) within 3 metres of a public letter pillar box, unless the vehicle is being used for the purposes of collecting postal articles from the pillar box; or
- (l) within 6 metres of the nearer property line of any thoroughfare intersecting the thoroughfare on the side on which the vehicle is parked.

(3) A person shall not park a vehicle so that any portion of the vehicle is within 9 metres of the departure side of—

- (a) a sign inscribed with the words “Bus Stop” or “Hail Bus Here” (or with equivalent symbols depicting these purposes) unless the vehicle is a bus stopped to take up or set down passengers;
- (b) a children’s crossing established on a two-way carriageway; or
- (c) the nearest rail of a railway level crossing.

(4) A person shall not park a vehicle so that any portion of the vehicle is within 18 metres of the approach side of—

- (a) a sign inscribed with the words “Bus Stop” or “Hail Bus Here” (or with equivalent symbols depicting these purposes) unless the vehicle is a bus stopped to take up or set down passengers;
- (b) a pedestrian crossing or children’s crossing; or
- (c) the nearest rail of a railway level crossing.

3.8 Parking on verges

(1) This clause does not apply to a commercial vehicle when it is being loaded or unloaded with reasonable expedition with goods, merchandise or materials, collected from or delivered to the premises adjacent to the portion of the verge on which the commercial vehicle is parked, but the commercial vehicle, by parking on the verge must not obstruct the passage of any vehicle or person.

(2) A person shall not park a—

- (a) commercial vehicle or bus so that any portion of it is on the verge; or
- (b) vehicle so that any portion of that vehicle is on a verge during any period when the parking of vehicles on that verge is prohibited by a sign adjacent and referable to that verge.

(3) Subject to subclause (2), a person shall not park a vehicle if any portion of the vehicle is on the verge unless he or she is the owner or occupier of the premises adjacent to that verge, or is a person authorized by the occupier of those premises to do so.

3.9 Limitation on parking of vehicles with tare in excess of 2,000 kgs on carriageway

A person shall not park a vehicle having a tare in excess of 2,000 kgs on a carriageway for more than two hours consecutively.

3.10 Limitation on parking of over length vehicles on carriageway

A person shall not park a vehicle or any combination of vehicles that together with anything in or on that vehicle is more than 8 metres in length, on a carriageway for more than two hours consecutively.

3.11 Authorized person may order vehicle on thoroughfare to be moved

The driver of a vehicle shall not park that vehicle on any part of a thoroughfare in contravention of this Local Law after an Authorized Person has directed the driver to move it.

3.12 Authorized person may mark tyres

- (1) An Authorized Person may mark the tyres of a vehicle parked in a parking facility with chalk or any other non-indelible substance for a purpose connected with or arising out of his or her duties or powers.
- (2) A person shall not remove a mark made by an Authorized Person so that the purpose of the affixing of such a mark is defeated or likely to be defeated.

3.13 No movement of vehicles to avoid time limitation

(1) Where the parking of vehicles in a parking facility is permitted for a limited time, a person shall not move a vehicle within the parking facility so that the total time of parking exceeds the maximum time allowed for parking in the parking facility.

(2) Where the parking of vehicles in a thoroughfare is permitted for a limited time, a person shall not move a vehicle along that thoroughfare so that the total time of parking exceeds the maximum time permitted, unless the vehicle has first been removed from the thoroughfare for at least two hours.

3.14 No parking of vehicles exposed for sale and in other circumstances

A person shall not park a vehicle on any portion of a thoroughfare—

- (a) for the purpose of exposing it for sale;
- (b) if that vehicle is not licensed under the Road Traffic Act;
- (c) if that vehicle is a trailer or a caravan unattached to a motor vehicle; or
- (d) for the purpose of effecting repairs to it, other than the minimum repairs necessary to enable the vehicle to be moved to a place other than a thoroughfare.

3.15 Parking on private land

(1) In this clause a reference to “land” does not include land—

- (a) which belongs to the local government;
- (b) of which the local government is the management body under the *Land Administration Act 1997*;
- (c) which is an “otherwise unvested facility” within section 3.53 of the Act;
- (d) which is the subject of an agreement referred to in clause 1.4 (2); or
- (e) which is identified in the Fourth Schedule.

(2) A person shall not park a vehicle on land without the consent of the owner or occupier of the land on which the vehicle is parked.

(3) Where the owner or occupier of the land, by a sign referable to that land or otherwise, consents to the parking of vehicles of a specified class or classes on the land for a limited period, a person shall not park a vehicle on the land otherwise than in accordance with the consent.

3.16 Parking on reserves

No person other than an employee of the local government in the course of his or her duties or a person authorized by the local government shall drive or park a vehicle upon or over any portion of a reserve other than upon an area specifically set aside for that purpose.

3.17 Suspension of parking limitations for urgent, essential or official duties

(1) Where by a sign the parking of vehicles is permitted for a limited time on a portion of a thoroughfare or parking facility, the local government, the CEO or an Authorized Person may, subject to the Code, permit a person to park a vehicle in that portion of the thoroughfare or parking facility for longer than the permitted time in order that the person may carry out urgent, essential or official duties.

(2) Where permission is granted under subclause (1), the local government, the CEO or an Authorized Person may prohibit the use by any other vehicle of that portion of the thoroughfare or parking facility to which the permission relates, for the duration of that permission.

PART 4—MISCELLANEOUS

4.1 Removal of notices on vehicle

A person, other than the driver of the vehicle or a person acting under the direction of the driver of the vehicle, shall not remove from the vehicle any notice put on the vehicle by an Authorized Person.

4.2 Unauthorized signs and defacing of signs

A person shall not without the authority of the local government—

- (a) mark, set up or exhibit a sign purporting to be or resembling a sign marked, set up or exhibited by the local government under this Local Law;
- (b) remove, deface or misuse a sign or property, set up or exhibited by the local government under this Local Law or attempt to do any such act; or
- (c) affix a board, sign, placard, notice or other thing to or paint or write upon any part of a sign set up or exhibited by the local government under this Local Law.

4.3 Signs must be complied with

An inscription or symbol on a sign operates and has effect according to its tenor and a person contravening the direction on a sign commits an offence under this Local Law.

4.4 General provisions about signs

(1) A sign marked, erected, set up, established or displayed on or near a thoroughfare is, in the absence of evidence to the contrary presumed to be a sign marked, erected, set up, established or displayed under the authority of this Local Law.

(2) The first three letters of any day of the week when used on a sign indicate that day of the week.

4.5 Special purpose and emergency vehicles

Notwithstanding anything to the contrary in this Local Law, the driver of—

- (a) a special purpose vehicle may, only in the course of his or her duties and when it is expedient and safe to do so, stop, or park the vehicle in any place, at any time; and
- (b) an emergency vehicle may, in the course of his or her duties and when it is expedient and safe to do so or where he or she honestly and reasonably believes that it is expedient and safe to do so, stop, or park the vehicle at any place, at any time.

4.6 Vehicles not to obstruct a public place

(1) A person shall not leave a vehicle, or any part of a vehicle, in a public place so that it obstructs the use of any part of that public place without the permission of the local government or unless authorized under any written law.

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

PART 5—PENALTIES

5.1 Offences and penalties

(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) An offence against any provision of this Local Law is a prescribed offence for the purposes of section 9.16(1) of the Act.

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

(4) The amount appearing in the final column of the Second Schedule directly opposite a clause specified in that Schedule is the modified penalty for an offence against that clause.

5.2 Averment on complaint as to clause 1.4 (2) agreement

An averment on a complaint that this Local Law applies to a parking facility or a parking station under an agreement referred to in clause 1.4 (2), shall be sufficient proof that this Local Law applies to that facility or station, unless there is proof to the contrary that such an agreement does not exist.

5.3 Form of notices

For the purposes of this Local Law—

- (a) the form of the notice referred to in section 9.13 of the Act is that of Form 1 in the Third Schedule;
- (b) the form of the infringement notice referred to in section 9.17 of the Act is that of Form 2 in the Third Schedule;
- (c) the form of the infringement notice referred to in section 9.17 of the Act which incorporates the notice referred to in section 9.13 of the Act, is that of Form 3 in the Third Schedule; and
- (d) the form of the notice referred to in section 9.20 of the Act is that of Form 4 in the Third Schedule.

First Schedule**PARKING REGION**

The parking region is the whole of the district, but excludes the following portions of the district—

- (a) the approach and departure prohibition areas of all existing and future traffic control signal installations as determined by the Commissioner of Main Roads;
- (b) prohibition areas applicable to all existing and future bridges and subways as determined by the Commissioner of Main Roads; and
- (c) any thoroughfare which comes under the control of the Commissioner of Main Roads unless the control of parking and parking facilities on that thoroughfare has been delegated by the Commissioner of Main Roads to the local government.

Second Schedule*Parking And Parking Facilities Local Law***PRESCRIBED OFFENCES**

Item No.	Clause No.	Nature of Offence	Modified Penalty \$
1	2.4 (1) (a)	Causing obstruction in parking station	45
2	2.4 (1) (b)	Parking contrary to sign in parking station	45
3	2.4 (1) (c)	Parking contrary to directions of Authorized Person	45
4	3.2 (1) (a)	Parking wrong class of vehicle	35
5	3.2 (1) (b)	Parking by persons of a different class	40
6	3.2 (1) (c)	Parking during prohibited period	40
7	3.2 (2) (a)	Parking in no parking area	45
8	3.2 (2) (b)	Parking contrary to signs or limitations	35
9	3.2 (2) (c)	Parking vehicle in motor cycle only area	35
10	3.2(3)	Parking motor cycle in stall not marked "M/C"	35
11	3.2 (5) (a)	Parking in Loading Zone	40
12	3.3 (a)	Fail to park on the left of two-way carriageway	35
13	3.3 (b)	Fail to park on boundary of one-way carriageway	35
14	3.3 (a)+(b)	Parking against the flow of traffic	40
15	3.3 (c)	Parking when distance from farther boundary less than 3 metres	40
16	3.3 (e)	Causing obstruction	45
17	3.7 (2) (a)	Double parking	40
18	3.7 (2) (c)	Denying access to private drive or right of way	40
19	3.7 (2) (d)	Parking beside excavation or obstruction so as to obstruct traffic	45
20	3.7 (2) (e)	Parking within 9 metres of traffic island	40
21	3.7 (2) (f)	Parking on footpath/pedestrian crossing	45
22	3.7 (2) (g)	Parking on bridge or in tunnel	40
23	3.7 (2) (i)	Parking on intersection	40
24	3.7 (2) (l)	Parking within 6 metres of intersection	40
25	3.7 (3) (a)	Parking vehicle within 9 metres of departure side of bus stop	45
26	3.7 (4) (a)	Parking vehicle within 18 metres of approach side of bus stop	45
27	4.7 (4) (b)	Parking vehicle within 18 metres of approach side of pedestrian / children's crossing	45
28	3.8 (2) (a)	Parking commercial vehicle, bus or caravan on verge	35
29	3.8 (2) (b)	Parking on verge contrary to sign	35
30	3.9	Parking vehicle with tare of over 2000kgs for over 2 hours	50
31	3.10	Parking over length vehicle in excess of 2 hours	50
32	3.11	Parking contrary to direction of Authorized Person	45
33	3.14 (c)	Parking a trailer/caravan on a thoroughfare	35
34	3.15 (2)	Parking on land that is not a parking facility without consent	50
35	3.15 (3)	Parking on land not in accordance with consent	35
36	3.16	Driving or parking on reserve	35
37	4.6 (1)	Leaving vehicle so as to obstruct a public place	45
38		All other offences not specified	30

Third Schedule

LOCAL GOVERNMENT ACT 1995

Form 1

Parking And Parking Facilities Local Law

NOTICE TO OWNER OF VEHICLE INVOLVED IN OFFENCE

Date / /

To: (1)

of: (2)

It is alleged that on / / at (3)

at (4) your vehicle:

make: ;

model: ;

registration:,

was involved in the commission of the following offence—.....

.....

.....

contrary to clause of the **Parking and Parking Facilities Local Law**.

You are required under section 9.13 of the *Local Government Act 1995* to identify the person who was the driver or person in charge of the vehicle at the time when the offence is alleged to have been committed.

If you do not prove otherwise, you will be deemed to have committed the offence unless—

(a) within 28 days after being served with this notice;

(i) you inform the Chief Executive Officer or another authorized officer of the local government as to the identity and address of the person who was the driver or person in charge of the vehicle at the time the offence is alleged to have been committed; and

(ii) you satisfy the Chief Executive Officer that the vehicle had been stolen, or was being unlawfully used, at the time the offence is alleged to have been committed;

or

(b) you were given an infringement notice for the alleged offence and the modified penalty specified in it is paid within 28 days after the notice was given or such further time as is allowed.

(5)

(6)

Insert—

(1) Name of owner or “the owner”

(2) Address of owner (not required if owner not named)

(3) Time of alleged offence

(4) Location of alleged offence

(5) Signature of authorized person

(6) Name and title of authorized person giving notice

Third Schedule

LOCAL GOVERNMENT ACT 1995

Form 2

Parking And Parking Facilities Local Law

INFRINGEMENT NOTICE

Serial No

Date / /

To: (1)

of: (2)

It is alleged that on / / at (3)

at (4)

in respect of vehicle:

make:;

model:;

registration:,

you committed the following offence—

contrary to clause of the **Parking and Parking Facilities Local Law**.

The modified penalty for the offence is \$

If you do not wish to have a complaint of the alleged offence heard and determined by a court, the amount of the modified penalty may be paid to an authorized person at (5) within a period of 28 days after the giving of this notice.

If you take no action this infringement notice may be registered with the Fines Enforcement Registry after which your driver's licence or any vehicle licence held by you may be suspended. If the matter is registered with the Registry additional costs will also be payable.

If the above address is not your current address, or if you change your address, it is important that you advise us immediately. Failure to do so may result in your driver's licence or any vehicle licence you hold being suspended without your knowledge.

(6)
(7)

Insert—

- (1) Name of alleged offender or "the owner"
- (2) Address of alleged offender
- (3) Time of alleged offence
- (4) Location of alleged offence
- (5) Place where modified penalty may be paid
- (6) Signature of authorized person
- (7) Name and title of authorized person giving notice

Third Schedule
 LOCAL GOVERNMENT ACT 1995
Form 3
Parking And Parking Facilities Local Law
INFRINGEMENT NOTICE

Serial No

Date / /

To (1)

of: (2)

It is alleged that on / / at (3)

at (4)

in respect of vehicle:

make:

model:

registration:

you committed the following offence—

.....

.....

.....

contrary to clause of the **Parking and Parking Facilities Local Law**.

The modified penalty for the offence is \$

If you do not wish to have a complaint of the alleged offence heard and determined by a court, the amount of the modified penalty may be paid to an authorized person at (5) within a period of 28 days after the giving of this notice.

Unless within 28 days after being served with this notice—

- (a) you pay the modified penalty; or
- (b) you—
 - (i) inform the Chief Executive Officer or another authorized officer of the local government as to the identity and address of the person who was the driver or person in charge of the above vehicle at the time the offence is alleged to have been committed; or
 - (ii) satisfy the Chief Executive Officer that the above vehicle had been stolen or was being unlawfully used at the time the offence is alleged to have been committed,

you will, in the absence of proof to the contrary, be deemed to have committed the above offence and court proceedings may be instituted against you.

If you take no action this infringement notice may be registered with the Fines Enforcement Registry after which your driver's licence or any vehicle licence held by you may be suspended. If the matter is registered with the Registry additional costs will also be payable.

If the above address is not your current address, or if you change your address, it is important that you advise us immediately. Failure to do so may result in your driver's licence or any vehicle licence you hold being suspended without your knowledge.

- (6)
- (7)

Insert—

- (1) Name of owner or "the owner"
- (2) Address of owner (not required if owner not named)
- (3) Time of alleged offence
- (4) Location of alleged offence
- (5) Place where modified penalty may be paid
- (6) Signature of authorized person
- (7) Name and title of authorized person giving notice

Third Schedule

LOCAL GOVERNMENT ACT 1995

Form 4

Parking And Parking Facilities Local Law

WITHDRAWAL OF INFRINGEMENT NOTICE

Serial No

Date / /

To: (1)

of: (2)

Infringement Notice No. dated / /

in respect of vehicle:

make:

model:

registration:

for the alleged offence of

.....

.....

.....

has been withdrawn.

The modified penalty of \$

*has been paid and a refund is enclosed.

*has not been paid and should not be paid.

*delete as appropriate.

(3)

(4)

Insert—

- (1) Name of alleged offender to whom infringement notice was given or "the owner".
- (2) Address of alleged offender.
- (3) Signature of authorized person
- (4) Name and title of authorized person giving notice

Fourth Schedule
Parking And Parking Facilities Local Law
DEEMED PARKING STATIONS

—

Dated this 21st day of September 1999.

The Common Seal of the Shire of Dalwallinu was affixed in the presence of—

R. T. ALLAN J.P., President.
W. T. ATKINSON, Chief Executive Officer.

—

LOCAL GOVERNMENT ACT 1995

SHIRE OF DALWALLINU

LOCAL LAW RELATING TO THE REPEAL OF LOCAL LAWS

In pursuance of the powers conferred upon it by the abovementioned Act and all other powers enabling it, the Council of the Shire of Dalwallinu hereby records having resolved on the 26th day of October 1999 to make the abovementioned local law for the repeal of the following local laws—

Name of Local Law	Date Gazetted
Management and Regulation of the Dalwallinu Greater Sports Ground	25/2/38
Dalwallinu Public Cemetery	7/8/36
Cemetery Amend Fees	23/10/81
Control and Management of Halls	24/12/54
Description of Boundaries of the Dalwallinu Sewerage Scheme Prescribed Area	24/4/70
Dalwallinu Public Swimming Pool	17/8/64
	9/12/64
Speed of Vehicles Driven on Land which is vested in the Shire of Dalwallinu	24/3/69
Verandahs—Removal	19/6/63
Pipes under Roads	11/12/53
Refuse, Rubbish & Disused Materials	19/11/82
Fencing	7/11/80
Adopt Model Local Law 7 Animals and Vehicles	19/6/63
Standing Orders	12/12/61
Amends to General local laws	25/10/40
Numbering of Houses & Buildings	19/6/63
Cemeteries Act—Local Laws Dalwallinu Public Cemetery	7/8/36

Passed at a meeting of the Council of the Shire Of Dalwallinu held on the 26th day of October 1999.

Dated this 26th day of October 1999.

The Common Seal of the Shire of Dalwallinu was affixed in the presence of—

R. T. ALLAN J.P., President.
W. T. ATKINSON, Chief Executive Officer.

