

**G** WESTERN  
AUSTRALIAN  
GOVERNMENT  
**Gazette**

4629



PERTH, WEDNESDAY, 9 AUGUST 2000 No. 166 SPECIAL

PUBLISHED BY AUTHORITY JOHN A. STRIJK, GOVERNMENT PRINTER AT 3.45 PM

LOCAL GOVERNMENT ACT 1995

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**CITY OF GOSNELLS**

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**LOCAL LAWS RELATING TO FENCING  
2000**

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**LOCAL GOVERNMENT PROPERTY  
LOCAL LAW 2000**

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**EXTRACTIVE INDUSTRIES LOCAL LAW  
2000**

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**PARKING AND PARKING FACILITIES  
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**LOCAL GOVERNMENT ACT 1995**

## CITY OF GOSNELLS

**LOCAL LAWS RELATING TO FENCING 2000**

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**LOCAL GOVERNMENT ACT 1995**

## CITY OF GOSNELLS

**LOCAL LAWS RELATING TO FENCING 2000**

Under the powers conferred by the Local Government Act 1995 and by all other powers the Council of the City of Gosnells resolved to make the following local laws on the 13th day of June 2000.

**PART 1—PRELIMINARY****Citation**

1. These Local Laws may be cited as the *City of Gosnells Local Laws Relating to Fencing 2000*.

**Repeal**

2. The City of Gosnells By-laws *Relating to Fencing and Obstructions at Intersections* published in the Government Gazette of 2nd April 1982 and subsequent amendments dated 22nd December 1987, 4th March 1988 and 24th October 1989, are repealed.

**Application of Local Laws**

3. These Local Laws apply throughout the district.

**Interpretation**

4. In these Local Laws, unless the context requires otherwise—

“**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 the Building Surveyor of the local government who has delegated authority to act on these local laws.

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

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

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

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

“**corner**” (bend) means a change in direction of a road, way or street whether or not it is caused by the intersection of two roads and with the angle created by the projection of the lot frontages not being greater than 135°.

“**Council**” means the Council of the City of Gosnells;

“**dangerous**” in relation to any fence means—

(a) an electrified fence other than a fence in respect of which a licence under Part 5 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 local government;

“**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 an 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 that 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 each side of the fence are not the same, the higher ground level, immediately below that point;

“**Industrial Lot**” means a lot where an industrial use—

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

“**Local Government**” means the City of Gosnells;

“**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 16 (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 prevents 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 6; and

“**town planning scheme**” means a town planning scheme of the local government made under the Town Planning and Development Act 1928.

#### **Licence Fees & Charges**

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

### **PART 2—SUFFICIENT FENCES**

#### **Sufficient Fences**

6. (1) Unless by agreement between the owners of adjoining properties, 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; and
- (c) on a Rural Lot and on a Special Rural Lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of 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 First 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 Third 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 between 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 a 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**

7. (1) A person shall not erect a dividing fence greater than 2000mm in height on a residential lot without having first made application to and obtained the written consent of the Building Surveyor.

(2) A person shall not, without the written consent of the Building Surveyor, permit or cause a dividing fence to be used as a retaining wall.

#### **Fences Within Front Setback Areas**

8. (1) A person shall not, without the written consent of the Building Surveyor, erect a free-standing fence greater than 1200mm in height, within the front set-back area of a Residential Lot within the district.

(2) The Building Surveyor may approve the erection of a fence of a height greater than 1200mm 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.

(3) The provision of sub-clause (2) shall not apply to a fence of open construction that does not obscure the lines of vision of a motorist using the driveway for access to a thoroughfare.

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

(5) A person shall not, with out the written consent of the Building Surveyor erect or repair a fence greater than 750mm in height within 8.0m of a corner or bend of any road, way or street.

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

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

(2) A person shall not without the written consent of the Building Surveyor erect on a rural lot an electric fence or electrify an existing fence upon or near the boundary of any land abutting upon a roadway or street within the district and in any event, the Building Surveyor's consent shall only be given where a separate boundary fence exists or is to be erected and the proposed fence to be electrified is not less than 3.0m inside the boundary fence.

#### **Maintenance of Fences**

10. 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 or unsightly.

#### **General Discretion of the Local Government**

11. (1) Notwithstanding clause 6, the local government may consent to the erection or repair of a fence which does not comply with the requirements of these Local Laws.

(2) In determining whether to grant its consent to the erection or repair of any fence, the local government may consider, in addition to any other matter that it is authorized to consider, whether the erection or retention of the fence would have an adverse effect on—

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

### **PART 4—FENCING MATERIALS**

#### **Fencing Materials**

12. (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.

(3) A person shall not erect a fence with sheet metal unless adequately capped.

#### **Barbed Wire and Broken Glass Fences**

13. (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 shall not erect or affix to or allow to remain on any fence on such a lot any barbed wire or other material with spiked or jagged projections.

(3) An owner or occupier of an Industrial or Commercial Lot shall not erect or affix on 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 and unless the bottom row of wire is not nearer than 2000mm from the ground level.

(4) If the posts which carry the barbed wire or other materials referred to in subclause (3) are angled towards the outside of the lot bounded by the fence the face of the fence must be set back from the lot boundary a sufficient distance to ensure that the angled posts, barbed wire or other materials do not encroach on adjoining land.

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

(6) An owner or occupier of a Rural Lot shall not 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—ELECTRIFIED AND RAZOR WIRE FENCES****Requirement for a Licence**

14. (1) An owner or occupier of a lot, other than a Rural Lot, shall not—
- (a) have and use an electrified fence on that lot without first obtaining a licence under subclause (2); or
  - (b) construct a fence 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—
- (a) in respect of a lot which is or which abuts a Residential Lot;
  - (b) unless the fence complies with AS/NZS 3016:1994; and
  - (c) unless provision is made so as to enable the fence to be rendered inoperable during the hours of business operations, if any, on the lot where it is erected.
- (3) 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 2400mm 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**

15. A licence referred to in Clause 14 shall transfer with the land to any new occupier or owner of the Lot.

**Cancellation of a Licence**

16. 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 6—NOTICES OF BREACH****Notices of Breach**

17. (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 7—OFFENCES****Offences and Penalties**

18. (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 \$5000 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 \$5000 and, if the offence is a continuing offence, a maximum daily penalty of \$500.

**Modified Penalties**

19. (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**

20. 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*.

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**First Schedule**

Clause 6(2)(a)

**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 and intermediate posts to be 125mm x 75mm 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 affixed securely to each rail; and
- (g) the height of the fence to be 1800mm except with respect to the front setback area for which there is no minimum height but which is subject to clause 8.

B. A fence constructed of corrugated fibre reinforced pressed cement sheeting which satisfies the following specifications—

- (a) a minimum in-ground length of 25 per cent of the total length of the sheet. An 1800mm high fence requires a 2400mm long sheet with 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 except with respect to the front setback area for which there is no minimum height but which is subject to clause 8.
- (e) Fence heights in excess of 1800mm, but not exceeding 2000mm maximum, are to be supported with posts and rails.
- (f) Freestanding corrugated fibre reinforced pressed cement sheet fencing must not have more than 150mm difference in ground levels on each side of the fence.
- (g) Fencing trenches to be backfilled with sand.

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**Second Schedule**

Clause 6(2)(b)

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

A “sufficient fence” on a Commercial Lot and An Industrial Lot is a fence constructed of galvanised or PVC coated rail-less link mesh, chain mesh or steel mesh which satisfies the following specifications—

- (a) corner posts to be 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 or single 4mm wire;
- (e) rail-less link, chain or steel mesh is to be to a height of 2000mm on top of which are to be three strands of barbed wire carrying the fence to a height of 2400mm in accordance with clause 13(3) of these Local Laws; 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 laced to the posts and affixed to cables. Vehicle entry gates shall provide an opening of not less than 3.6m and shall be constructed of 25mm tubular framework with 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.

**Third Schedule**

Clause 6(2)(c)

**SPECIFICATIONS FOR A SUFFICIENT FENCE ON A RURAL LOT**

- (1) In the case of a non-electrified fence, 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, generally with the lower wires spaced closer together than the higher wires so as to prevent smaller stock passing through, and connected to posts in all cases;
  - (b) posts shall be of indigenous timber, or other suitable material including—
    - timber impregnated with a termite and fungicidal preservative;
    - standard iron star pickets; or
    - concrete;
 cut not less than 1800mm long x 50mm 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, spaced not more than 3.5m apart; and
  - (c) strainer posts shall be not less than 2250mm long and 50mm diameter at the small end (tubular steel to be 50mm in diameter) and shall be cut from indigenous timber or other suitable material. These shall be placed a minimum of 1000mm in the ground and set at all corners, gateways and fenceline angles.
- (2) An electrified fence having four wires only is a sufficient fence if constructed generally in accordance with (1) but which is subject to clause 9(2).

**Form 1**

City of Gosnells

**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 ..... 20..... and until this licence is transferred or cancelled.  
 Dated this ..... day of ..... 20

.....  
Delegated Officer  
City of Gosnells

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 the 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 comply 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 ..... 20

.....  
Delegated Officer  
City of Gosnells

**Form 2**

City of Gosnells

**LICENCE TO HAVE 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 ..... 20..... and until this licence is transferred or cancelled.

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

.....  
Delegated Officer  
City of Gosnells

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 fence has been  
erected.

Upon the 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 ..... 20

.....  
Delegated Officer  
City of Gosnells

Dated this 27th day of June 2000

The Common Seal of the City of Gosnells was affixed in the presence of—

P. M. MORRIS, JP, Mayor.  
T. M. PERKINS, Acting Chief Executive Officer.

**LOCAL GOVERNMENT ACT 1995**

CITY OF GOSNELLS

**LOCAL GOVERNMENT PROPERTY LOCAL LAW 2000**

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**LOCAL GOVERNMENT ACT 1995**

## CITY OF GOSNELLS

**LOCAL GOVERNMENT PROPERTY LOCAL LAW 2000**

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the City of Gosnells resolved on the 13<sup>th</sup> day of June 2000 to make the following local law.

**PART 1—PRELIMINARY****Citation**

1.1 This local law may be cited as the *City of Gosnells Local Government Property Local Law 2000*.

**Purpose and Effect**

1.2 (1) The purpose of this local law is to provide for the regulation, control and management of activities and facilities on all local government property, with the exception of thoroughfares, within the district.

(2) The effect of this local law is to establish the requirements with which any person using or being on all local government property within the district, must comply.

**Definitions**

1.3 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;

“**application**” means the completed form lodged by an applicant as required by this local law;

“**article**” in respect of lost property, includes money;

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

“**boat**” means any structure, ship or vessel, capable of being used in navigation by water, however propelled or moved;

“**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 includes all plumbing, electrical installations, fixtures, fittings, furniture and other contents, owned or under the care, control and management of the local government; and

(c) a 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;

“**decency**” means wearing of proper and adequate clothing for the occasion, so as to prevent indecent exposure;

“**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 places;

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

“**local government**” means the City of Gosnells;

“**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/gymnasium 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;

“**toilet block**” means a toilet block, with or without change room facilities which is local government property;

“**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;
  - (d) a pram, a stroller or a similar device; and
  - (e) a boat.

### **Interpretation**

1.4 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**

1.5 (1) This local law applies throughout the district.

(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.

### **Repeal**

1.6 (1) The following local laws are repealed—

Relating to the Management and Control of Thornlie Swimming Centre published in the Government Gazette 31 October 1968;

Relating to Parks and Public Reserves published in the Government Gazette on 24 October 1980.

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

(3) The local government may resolve that notwithstanding subclause (2), specified policies continue to have effect on and from the commencement day.

## **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 and to the extent and in the manner specified in that clause;
- (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 local government is to decide to either—
- (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 local government 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 local government 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 local government 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 local government 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 local government 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 local government property on conditions**

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;
- (c) use a children's playground provided that the person is under an age specified in the determination, but the determination is not to apply to a person having the charge of a person under the specified age;
- (d) launch, beach or leave a boat;
- (e) take or use a boat, or a particular class of boat;
- (f) deposit refuse, rubbish or liquid waste, whether or not of particular classes, and whether or not in specified areas of that local government property;



- (g) 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;
- (h) ride a bicycle, skateboard, rollerblades, sandboard or a similar device; and
- (i) 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 are 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) bring, ride or drive an animal;
- (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) use, launch or fly motorised model aeroplanes, gliders or rockets that are propelled by mechanical, hydraulic, combustion or pyrotechnic means;
- (f) taking or using a boat, or a particular class of a boat;
- (g) 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;
- (h) riding a bicycle, skateboard, rollerblades, a sandboard or similar device;
- (i) the playing or practice of any ball game which may cause detriment to local government property or any fauna or flora on that property;
- (j) the traversing of land which is local government property and which in the opinion of the local government has environmental value warranting such protection, either absolutely or except by paths provided for that purpose;
- (k) swimming, diving, wading and fishing; and
- (l) harmful or detrimental feeding of fauna.

(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 or an authorised person 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 subclause 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) the purpose for which the local government property may be used;
- (c) payment of a bond against possible damage or cleaning expenses or both;
- (d) restrictions on the erection of material or external decorations;
- (e) rules about the use of furniture, plant and effects;
- (f) limitations on the number of persons who may attend any function in or on local government property;
- (g) the duration of the hire;
- (h) 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;
- (i) 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*;

- (j) the prohibition on the conduct of gaming unless a gaming approval has been obtained under the *Gaming Act 1987*;
- (k) whether or not the hire is for the exclusive use of the local government property;
- (l) the amplification of, or any noise complies at all times with the *Environmental Protection (Noise) Regulations 1997*;
- (m) 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
- (n) 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 (1) In this clause—

“**other structure**” means anything built or constructed and includes—

- (a) fixed seating;
- (b) a grandstand or stadium;
- (c) fencing;
- (d) a scoreboard and the like; and
- (e) hoardings.

(2) Where a person applies for a permit to erect a building or other structure 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 or other structure.

#### **Duration of permit**

3.8 Subject to clause 3.12, a permit remains valid until—

- (a) the expiration date and time detailed in the permit is reached;
- (b) the activity or function for which the permit was issued is changed to the extent that it is no longer consistent with the original purpose or intent for which the permit was given;
- (c) the approval is cancelled by the local government; or
- (d) the public liability/indemnity insurance required as a condition of a permit lapses, is cancelled or is no longer current.

#### **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 authorised person her or his permit immediately upon being required to do so by that authorised person.

#### **Cancellation of permit**

- 3.12 (1) Subject to clause 9.2, a permit may be cancelled by the local government if the permit holder—
- (a) has not complied with a condition of the permit;
  - (b) has not complied with a determination or a provision of any written law which may relate to the activity regulated by the permit; or
  - (c) is convicted of an offence against this local law.
- (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 permit**

- 3.13 (1) A person shall not without a permit—
- (a) subject to subclause 3, hire local government property;
  - (b) conduct controlled events, competitions or swim-meets;
  - (c) advertise anything by any means on local government property;
  - (d) erect a structure for public amusement or for any performance, whether for gain or otherwise, on local government property;
  - (e) teach, coach instruct or train, for profit, any person in a pool area or an indoor recreation facility which is local government property;
  - (f) plant any plant or sow any seeds on local government property;
  - (g) carry on any trading on local government property unless the trading is conducted -
    - (i) with the consent of a person who holds a permit to conduct a function, and where the trading is carried on under and in accordance with the permit; or
    - (ii) by a person who has a licence or permit to carry on trading on local government property under any written law;
  - (h) unless an employee of the local government in the course of her or his duties or on an area set aside for that purpose—
    - (i) drive or ride or take any vehicle on to local government property; or
    - (ii) park or stand any vehicle on local government property;
  - (i) conduct a function on local government property;
  - (j) charge any person for entry to local government property, unless the charge is for entry to land or a building hired by a voluntary non-profit organisation;
  - (k) light a fire on local government property except in a facility provided for that purpose;
  - (l) light or set alight any fireworks or conduct a fireworks display on local government property;
  - (m) land or take off in a balloon, parachute, hang glide, abseil, base jump, rock climb, enter caves, from or on to local government property;
  - (n) erect a building or other structure or a refuelling site on local government property;
  - (o) make any excavation on or erect or remove any fence on local government property;
  - (p) operate any broadcasting or public address system or noise amplification apparatus on local government property;
  - (q) erect or install any structure above or below the ground for the purpose of supplying any water, power, sewer, communication, television or similar service in or on local government property;
  - (r) depasture any horse, sheep, cattle, goat, camel, ass or mule on local government property;
  - (s) train, for profit or reward, any animal on local government property; or
  - (t) carry out any activity in a determination that requires a permit to specify a particular 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;
- (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 regulations 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) maintain law and order and decent behaviour by all in attendance at any function for which the local government property has been hired;
- (b) ensure that an authorised person has unobstructed access to the local government property for the purpose of inspecting the property or enforcing any provision of this local law;
- (c) prevent overcrowding;
- (d) leave the local government property in a clean and tidy condition after its use;
- (e) report any damage, loss or defacement of the local government property to the local government;
- (f) prevent the consumption of any liquor on the local government property unless a licence has been obtained under the *Liquor Licensing Act 1988* for that purpose; and
- (g) ensure compliance with conditions upon which the permit was issued.

**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 interrupt, disturb or interfere with the enjoyment of a person in or on the property;
- (b) interrupts, disturbs or interferes with the enjoyment of a person in or on the property; or
- (c) interrupts, disturbs or interferes with the work practices of a local government employee working in or on 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 fixtures, fittings, chattels or things from the local government property provided for the safety, enjoyment or use of any person; and
- (b) destroying, defacing, damaging or interfering with in any way, any fixtures, fittings, chattels or things on the local government property, provided for the safety, enjoyment or use of any person.

(3) Subclauses (1) and (2) do not apply to—

- (a) an authorised person or local government appointed contractor carrying out their normal duties; or
- (b) a person using lifesaving or fire fighting equipment, and acting in an emergency or where permitted or directed to do so by an authorised person.

**Taking or injuring any fauna or flora**

4.3 (1) A person shall not, cause harm, take, injure or kill or attempt to take, injure or kill any fauna or remove or damage, or attempt to remove or damage all or a part of any indigenous or cultivated flora which is on or above any local government property, unless that person is authorised under a written law or by the local government to do so.



(2) In this clause—

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

“**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; and

“**flora**” means all vascular plants.

#### **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.

#### **Decency and adequate clothing**

4.6 (1) A person over the age of 6 years shall not on or in any local government property—

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

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

#### *Division 2—Signs*

#### **Signs**

4.7 (1) A local government may erect a sign on local government property specifying the 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/Gymnasium areas*

#### **Directions of Manager to be observed**

5.1 Every person, coach and spectator at a swimming pool/gymnasium, shall at all times observe any reasonable direction by the Manager or an authorised person.

#### **When entry must be refused**

5.2 (1) A Manager or an authorised person shall refuse admission to, may direct to leave or shall remove or cause to be removed from a pool/gymnasium area any person who—

- (a) in her or his opinion is—
  - (i) under the age of 10 years and is not accompanied and actively supervised by a responsible person over the age of 16 years;
  - (ii) apparently suffering from any contagious, infectious or cutaneous disease or complaint, or is in an unclean condition; or
  - (iii) under, or apparently under the influence of liquor or a prohibited drug;
  - (iv) not wearing appropriate bathing/workout attire or footwear so as to meet safety requirements when in or around any pool/gymnasium area or using any fitness equipment; 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.

(2) A person shall on being requested by the Manager or authorised person to leave a swimming pool/gymnasium area, quietly and peaceably, do so immediately.

(3) The Manager or authorised person may temporarily suspend admission to, or remove from a swimming pool/gymnasium area or any part thereof, all or any person or persons, if in their opinion, such action is necessary or desirable.

(4) At the discretion of the Manager or authorised person, the swimming pool/gymnasium area or any part thereof, may at any time be set aside for the use of certain persons to the exclusion of others.

#### **Swimming carnivals**

5.3 A person, club, organisation or association conducting a carnival or event at a swimming pool shall be responsible for the conduct of the competitors and spectators during the carnival or event and shall take reasonable steps to prevent overcrowding and ensure that no damage is done to the buildings or fencing or any other portion of the swimming pool/gymnasium areas and that these local laws are observed by all competitors, officials and spectators attending the carnival or event.

#### **Responsibilities of swimming pool users**

5.4 A person while in the swimming pool/gymnasium areas shall not—

- (a) consume foodstuffs or drinks in any specific area in which food consumption is prohibited;
- (b) climb up or upon any roof, fence, wall or partition on the swimming pool/gymnasium area; or
- (c) whilst suffering from a contagious, infectious or cutaneous disease or whilst in an unclean condition, enter or use or attempt to enter or use the swimming pool, spa or pool/gymnasium areas.

#### *Division 2—Fenced or closed property*

#### **No entry to fenced or closed local government property**

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

### **PART 6—FEES FOR AND USE OF LOCAL GOVERNMENT PROPERTY**

#### **No unauthorised entry**

6.1 A person, other than an authorised person or contractor appointed by the local government carrying out their normal duties, shall not—

- (a) enter or leave any local government property other than by the public entrance or exit ways, except in an emergency; and
- (b) enter or remain on local government property except on those days and during those times when access is available to the public.

#### **Payment of applicable fees**

6.2 Where a fee or charge applies to the entry to or participation in any activity on or in any local government property, a person shall not enter that property without first paying the applicable fee or charge, unless that person has been exempted by the local government from paying that fee or charge.

#### **No refund of fees**

6.3 A person will not be entitled to a refund of any fees paid for—

- (a) entry into or participation in any activity on or in any local government property;
- (b) where a booking for the use of local government property is cancelled by the hirer;

provided that in special circumstances the local government may authorise repayment of a part or all of the amount paid.

### **PART 7—OBJECTIONS AND APPEALS**

#### **Application of Division 1, Part 9 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 authorised person and shall not in any way obstruct or hinder an authorised 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 any person on local government property to—

- (a) stop doing anything which they are in the process of doing, which is contrary to this local law or any other local law applying in the district;
- (b) leave that property; and
- (c) assist the authorised person or another person in the case of an emergency.

#### **Disposal of lost property**

8.3 (1) 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 lawful manner.



(2) Neither the local government nor a Manager or any authorised person shall in any way be responsible for any articles lost, stolen, damaged or destroyed whilst on or in any local government property.

#### **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 shall be deemed 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.

#### **Substance seizure**

8.5 (1) An authorised person or member of the WA Police Service, may seize for testing any substance thought to be liquor in an unsealed container or a prohibited drug, where the authorised person or member of the police service reasonably suspects that a breach of this local law has occurred.

(2) Where a person fails to surrender any substance requested by an authorised person in accordance with subclause (1), that person commits an offence.

#### **False or misleading statement**

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

### **PART 9—ENFORCEMENT**

#### *Division 1—Notices given under this local law*

##### **Issue of notice**

9.1 Where the local government requires works to be done to rectify a breach of any condition of permit, or to maintain public safety, the local government may give notice in writing to the permit holder

- (a) advising details of the breach of the local law or works required; and
- (b) requiring the permit holder to remedy the breach or do the works required within the time specified in the notice.

##### **Offence to fail to comply with notice**

9.2 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**

9.3 Where a person fails to comply with a notice referred to in clause 9.2, 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**

9.4 (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**

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

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

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

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

**Form of notices**

9.6 (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**

9.7 (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
4.1	Behaviour which interrupts, disturbs or interferes with enjoyment of other persons or employee	100
4.2(1)	Behaviour causing relatively minor detriment to property	100
4.3	Kill, injure, take or interfere with any fauna or flora	100
4.4	Be under the influence of liquor or prohibited drug	100
4.6(1)(a)	Failure to secure decency in public	100
4.6(1)(c)	Without consent of occupier, enter or attempt to enter a dressing room already occupied	100
4.6(1)(d)	Gender not specified using toilet block	100
4.7(2)	Failure to comply with sign on local government property	100
5.2(2)	Fail to leave pool premises quietly and peaceably when requested to do so	50
5.3	Failure to meet responsibilities of swimming pool/gymnasium users	100
5.4	Unauthorised entry to fenced or closed local government property	100
6.1	Enter or leave any local government property or building other than by the public entrance or exit ways	50
6.1(b)	Enter or remain on any local government property or building except during times access is available to the public	50
6.2	Enter local government property or building without first paying the applicable fee or charge	50
8.1	Failure to comply with any lawful direction of an authorised person	100
8.5(2)	Failure to surrender any substance requested by an authorised person	100
9.2	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.

**Application****1.3 Smoking**

A person shall not smoke on premises owned by the local government or under the care and control of the local government.

**1.4 Taking or driving a vehicle**

A person shall not take or drive a vehicle on any reserve owned or vested in the local government except upon an area specified by a sign erected on the local government property.

**1.5 Speed of Vehicles**

A person shall not drive a vehicle on local government property at a speed exceeding 35 kilometres an hour except that—

- (a) on any land marked by a sign as a parking area, a person shall not drive a vehicle at a speed exceeding 8 kilometres an hour; and
- (b) on accessways within any reserve vested in council. A person shall not drive a vehicle at a speed exceeding 20 kilometres an hour.

**1.6 Using a Boat**

A person shall not use a boat or any particular class of boat on or in any reserve containing a water body owned or vested in the local government.

**1.7 Golf, archery, pistol shooting or rifle shooting**

A person shall not play at or practice golf on any local government property except where a permit specifies a particular local government property;

A person shall not aim, shoot or throw an arrow or similar projectile on any local government property except where a permit specifies a particular local government property;

A person shall not have in their possession any gun or rifle or means of discharging any projectile that may cause injury or damage to a person or property on any local government property except where a permit specifies a particular local government property;

**1.8 Ball Games**

In this determination 'fauna' and 'flora' means the same as that in clause 4.3(2) of this local law.

A person shall not play or practice at any ball game which may cause detriment to the property or any fauna or flora on any reserve owned or vested in the local government.

**1.9 Model Aircraft**

A person shall not use, launch or fly a motorised aeroplane, glider or rocket that is propelled by mechanical, hydraulic, combustion or pyrotechnic means on or from any local government property except where a sign erected on the local government property sets aside an area designated for all or any such uses.

**1.10 Swimming, diving, wading and fishing**

A person shall not swim, dive, wade or fish in any reserve containing a water body owned or vested in the local government except where a Manager has authorised swimming, diving or wading in swimming pool areas.

**1.11 Harmful feeding of fauna**

In this determination 'fauna' means the same as that in clause 4.3(2) of this local law.

A person shall not feed fauna so as to cause harm or be detrimental to the health of the fauna on any local government property.

**1.12 Bring, ride or drive an animal**

A person shall not tether any animal to any tree, shrub, tree guard, wall or fence, or permit any animal to enter upon or into any local government property except where a permit or determination specifies a particular local government property.

This clause does not apply to a guide dog used for the assistance of visually impaired persons.

**1.13 Rubbish**

A person shall not deposit or leave on any local government property any rubbish, refuse, clothing, paper, glass, timber, stone, bricks, sand, gravel, scrap metal or liquid waste whether the same kind or not, other than in a receptacle provided for the purpose or on local government property where a sign permits this activity.

Dated this 27<sup>th</sup> Day of June 2000.

The Common Seal of the City of Gosnells was affixed by authority of a resolution of the Council in the presence of—

P. M. MORRIS JP, Mayor.  
T. M. PERKINS, Acting Chief Executive Officer.

**LOCAL GOVERNMENT ACT 1995**

## CITY OF GOSNELLS

**EXTRACTIVE INDUSTRIES LOCAL LAW 2000**

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**FIRST SCHEDULE**

**LOCAL GOVERNMENT ACT 1995**

## CITY OF GOSNELLS

**EXTRACTIVE INDUSTRIES LOCAL LAW 2000**

Under the powers of the *Local Government Act 1995* and by all other powers, the Council of the City of Gosnells resolved to make the following local law on the 25th day of July 2000.

**PART 1—PRELIMINARY****Title**

1. This local law may be cited to as the City of Gosnells Extractive Industries Local Law 2000.

**Repeal**

2. The local law of the City of Gosnells relating to extractive industries published in the *Government Gazette* on 11 November 1988, is repealed on the day this local law comes into operation.

**Definitions**

3. In this local law, unless the context otherwise requires—

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

“authorised person” means a person authorised by the local government under section 9.10 of the Act, to carry into effect the provisions of this local law;

“carry on an extractive industry” means quarrying and excavating for stone, gravel, sand and other material and without limiting the generality includes stripping vegetation and top soil, stockpiling, excavating and earthworks, loading of trucks and vehicle movements associated with an extractive industry, blasting rehabilitation and includes all of the time from commencement to the satisfactory completion of the works as required by a condition of a licence or as directed by the local government;

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

“district” means the district of the local government;

“excavation” includes quarry;

“licence” means a licence issued under this local law;

“licensee” means the person or company named in the licence as the licensee;

“local government” means the City of Gosnells;

“person” means any person, company, employer and includes the owner, licensee and previous licensee;

“secured sum” means the sum required to be paid or the amount of a bond, guarantee or other security under clause 13;

“site” means the land specified by the local government in a licence;

“Stop Work Order” means an order issued under clause 21.

**Application of this Local Law**

4. The provisions of this local law—

(a) subject to paragraphs (b), (c), (d) and (e);

(i) apply and have force and effect throughout the whole of the district; and

(ii) apply to every excavation whether commenced prior to or following the coming into operation of this local law;

(b) do not apply to the extraction of minerals under the *Mining Act 1978*;

(c) do not apply to the carrying on of an extractive industry on Crown land;

(d) do not affect the validity of any licence issued under the local law repealed by clause 2 if that licence is currently in force at the date of gazettal of this local law; and

(e) do not apply where the works are approved by and carried out in accordance with—

(i) a condition of a subdivision approved by the Western Australian Planning Commission;

(ii) a development approval issued by the local government under a town planning scheme and the works are incidental to that approval;

(iii) building licence issued by the local government under the *Local Government (Miscellaneous Provisions) Act 1960*.

**PART 2—LICENSING REQUIREMENTS FOR AN EXTRACTIVE INDUSTRY****Extractive Industries Prohibited Without Licence**

5. A person must not carry on an extractive industry—

- (a) unless the person is the holder of a valid and current licence; and
- (b) otherwise than in accordance with any terms and conditions set out in, or applying in respect of, the licence.

**Application for Licence**

6. (1) A person seeking the issue of a licence in respect of any land must apply on the form provided or approved by the local government for the purpose and must forward the application duly completed and signed by both the applicant and the owner of the land to the CEO together with—

- (a) 3 copies of a plan of the excavation site to a scale of between 1:500 and 1:2000 showing:
  - (i) the existing and proposed land contours based on the Australian Height Datum and plotted at 1 metre contour intervals;
  - (ii) the land on which the excavation site is to be located;
  - (iii) the external surface dimensions of the land;
  - (iv) the location and depth of the existing and proposed excavation of the land;
  - (v) the location of existing and proposed thoroughfares or other means of vehicle access to and egress from the land and to public thoroughfares in the vicinity of the land;
  - (vi) the location of buildings, treatment plant, tanks and other improvements and developments existing on, approved for or proposed in respect of the land;
  - (vii) the location of existing power lines, telephone cables and any associated poles or pylons, sewers, pipelines, reserves, bridges, railway lines and registered grants of easement or other encumbrances over, on, under or adjacent to or in the vicinity of the land;
  - (viii) the location of all existing dams, swamps, lakes, watercourses, drains or sumps on or adjacent to the land;
  - (ix) the location and description of existing and proposed fences, gates and warning signs around the land;
  - (x) the location of the areas proposed to be used for stockpiling excavated material, treated material, overburden and soil storage on the land and elsewhere;
  - (xi) brief description of uses of adjoining and nearby land;
  - (xii) other details as the local government may require.
- (b) 3 copies of a works and excavation program containing—
  - (i) the nature and estimated duration of the proposed excavation for which the licence is applied;
  - (ii) the stages and the timing of the stages in which it is proposed to carry out the excavation;
  - (iii) details of the methods to be employed in the proposed excavation and a description of any on-site processing works;
  - (iv) details of the depth and extent of the existing and proposed excavation of the site;
  - (v) an estimate of the depth of and description of the nature and quantity of the overburden to be removed;
  - (vi) a description of the methods by which existing vegetation is to be cleared and topsoil and overburden removed or stockpiled;
  - (vii) a description of the means of access to the excavation site and the types of thoroughfares to be constructed;
  - (viii) details of the proposed number and size of trucks entering and leaving the site each day and the route or routes to be taken by those vehicles;
  - (ix) a description of any proposed buildings, treatment plant, tanks and other improvements;
  - (x) details of drainage conditions applicable to the land and methods by which the excavation site is to be kept drained;
  - (xi) a description of the measures to be taken to minimise dust nuisance, erosion, watercourse siltation and dangers to the general public;
  - (xii) a report of an acoustic consultant verifying that the various plant, machinery and operational noise levels will comply with the requirements of the *Environmental Protection (Noise) Regulations 1997*;
  - (xiii) a description of the existing site environment and a report on the anticipated effect that the proposed excavation will have on the environment in the vicinity of the land;
  - (xiv) details of the nature of existing vegetation, shrubs and trees and a description of measures to be taken to minimise the destruction of existing vegetation; and
  - (xv) a description of the measures to be taken in screening the excavation site, or otherwise minimising adverse visual impacts, from nearby thoroughfares or other areas;
- (c) 3 copies of a rehabilitation and decommissioning program indicating—
  - (i) the objectives of the program, having due regard to the nature of the surrounding area and the proposed end-use of the excavation site;
  - (ii) whether restoration and reinstatement of the excavation site is to be undertaken progressively or upon completion of excavation operations;



- (iii) how each face is to be made safe and batters sloped;
  - (iv) the method by which topsoil is to be replaced and revegetated;
  - (v) the numbers and types of trees and shrubs to be planted and other landscaping features to be developed;
  - (vi) how rehabilitated areas are to be maintained; and
  - (vii) the program for the removal of buildings, plant, waste and final site clean up.
- (d) evidence that a datum peg has been established on the land related to a point approved by the local government on the surface of a constructed public thoroughfares or such other land in the vicinity;
- (e) a certificate from a licensed surveyor certifying the correctness of—
- (i) the plan referred to in paragraph (a); and
  - (ii) the datum peg and related point referred to in paragraph (d);
- (f) evidence that the requirements of clause 7(a) and (b) have been carried out;
- (g) copies of all land use planning approvals required under any planning legislation;
- (h) the consent in writing to the application from the owner of the excavation site;
- (i) an overall staging and management plan and report which by a matrix indicates the progressive stages of construction, excavation, rehabilitation, landscaping and the like together with obvious milestones of progress upon which the staging and management of the extractive industry can be measured and reviewed prior to renewal or at other nominated times;
- (j) evidence that a notice of clearing has been given to the Commissioner of Soil and Land Conservation if that is required under regulation 4 of the *Soil and Land Conservation Regulations 1992*.

(2) All survey data supplied by an applicant for the purpose of sub clause (1) must comply with Australian Height Datum and Australian Map Grid standards.

#### **Applicant to Advertise Proposal**

7. (1) A person or company seeking the issue of a licence shall within 60 days after having complied with clause 6, advertise and give notice of their intention, as follows—

- (a) forward by registered mail a notice and summary of the proposal in the form provided or approved by the local government for the purpose, to—
  - (i) the owners and occupiers of all land adjoining the land upon which it is proposed to excavate, or within an area determined by the local government as likely to be affected by the
  - (ii) every relevant statutory authority including, but not limited to, the Water & Rivers Commission, the Department of Environmental Protection, the Department of Minerals & Energy and person having control or jurisdiction over any of the things referred to in clause 6(1)(a)(vii) or (viii) within 500 metres from the boundaries of the land, or within an area determined by the local government as likely to be affected by the granting of a licence;
  - (iii) the CEO; and
- (b) publish a notice [notice to be in the form provided or approved by the local government for the purpose], in a newspaper circulating in the area in which the proposed excavation is located;
- (c) display, in a prominent position on the land one or more notices—
  - (i) in the form provided or approved by the local government for the purpose;
  - (ii) the content, size and construction of which have been approved by the CEO;
  - (iii) specifying particulars of the proposed excavation; and inviting objections or comments within 21 days from the placement of the notice.

(2) All notices referred to in clause 7(1) must advise that the proposal may be inspected at the office of the local government and that submissions on the proposal may be lodged with the local government for a period of 21 days from the date of the last notice.

### **PART 3—DETERMINATION OF APPLICATION**

#### **Determination of Application**

8. (1) The local government may refuse an application for a licence—
- (a) that does not comply with the requirements of clause 6;
  - (b) for which the processes required by clause 7 have not been completed;
  - (c) after considering any submissions received within the specified period in accordance with clause 7(2);
  - (d) where planning approval for an extractive industry use of the land has not first been obtained under any relevant town planning scheme.
- (2) the local government may, in respect of an application for a licence—
- (a) refuse the application; or
  - (b) approve the application;
    - (i) over the whole or part of the land in respect of which the application is made; and
    - (ii) on such terms and conditions, if any, as it sees fit.



- (3) Where the local government approves an application for a licence, it must—
- (a) determine the licence period, not exceeding 21 years from the date of issue; and
  - (b) approve the issue of a licence in the form provided or approved by the local government for the purpose;
- (4) Where the local government approves the issue of a licence, the CEO upon receipt by the local government of—
- (a) payment of the annual licence fee, or the relevant proportion thereof of the annual licence fee;
  - (b) the payment of any outstanding licence or administration fees;
  - (c) payment of the secured sum if any, imposed under clause 13; and
  - (d) the documents, if any, executed to the satisfaction of the CEO, under clause 13, shall issue the licence to the applicant.
- (5) Without limiting sub clause (2), the local government may impose conditions, including the following matters—
- (a) the orientation of the excavation to reduce visibility from other land;
  - (b) the appropriate siting of access thoroughfares, buildings and plant;
  - (c) the stockpiling of material;
  - (d) the hours during which any excavation work may be carried out;
  - (e) the hours during which any processing plant associated with, or located on, the site may be operated;
  - (f) the hours during which trucks may enter or leave the site and equipment may operate;
  - (g) requiring all crushing and treatment plant to be enclosed within suitable buildings to minimise the emission of noise, dust, vapour and general nuisance to the satisfaction of the local government;
  - (h) the depths below which a person must not excavate;
  - (i) distances from adjoining land or thoroughfares within which a person must not excavate;
  - (j) the safety of persons employed at or visiting the excavation site;
  - (k) the control of dust and wind-blown material;
  - (l) requiring the excavation, plant and equipment and thoroughfares to be bunded, screened and landscaped prior to any excavation or construction works commencing or continuing;
  - (m) the planting, care and maintenance of trees, shrubs and other landscaping features during the time in which the extractive industry is carried out in order to effectively screen the area to be excavated and to provide for progressive rehabilitation;
  - (n) the prevention of the spread of dieback or other disease;
  - (o) the drainage of the excavation site and the disposal of water;
  - (p) the restoration and reinstatement of the excavation site, the staging of such works, and the minimising of the destruction of vegetation;
  - (q) the provision of retaining walls to prevent subsidence of any portion of the excavation or of land abutting the excavation;
  - (r) requiring the licensee to furnish to the local government a surveyor's certificate each year, prior to the renewal fee being payable, to certify the quantity of material extracted and that material has not been excavated below the final contour levels outlined within the approved excavation program;
  - (s) requiring the licensee to enter into an agreement with the local government by which it agrees to pay any extraordinary expenses incurred by the local government in repairing damage caused to thoroughfares in the district by heavy or extraordinary traffic conducted by or on behalf of the licensee under the licence;
  - (t) requiring the licensee to pay a secured sum in accordance with clause 13; and
  - (u) any other matter for properly regulating the carrying on of an extractive industry.

#### **Fees**

9. (1) A licensee must pay to the local government the licence fee.
- (2) Where an extractive industry is being carried on and the local government has not issued a licence, the owner shall pay to the local government the administration fee.
- (3) An application for the transfer of a licence shall incur a fee to be paid to the local government.
- (4) The fees to be paid shall be as determined by the local government in accordance with the fees and charges approved from time to time.

#### **PART 4—TRANSFER, CANCELLATION AND RENEWAL OF LICENCE**

##### **Transfer of Licence**

10. (1) An application for the transfer of a licence must—
- (a) be made in writing;
  - (b) be signed by the licensee and the proposed transferee of the licence;
  - (c) be accompanied by the current licence;
  - (d) be accompanied by the consent in writing to the transfer from the owner of the excavation site;

- (e) be accompanied by a stamped copy of a deed of agreement between the owner, transferor and transferee detailing the terms and conditions relating to the transfer of responsibility for the state of the excavation, the level of compliance with any conditions, that may have been imposed on the licence the subject of the transfer, and any rehabilitation works which may be necessary to remedy the situation.
  - (f) include any information that the local government may reasonably require; and
  - (g) be forwarded to the CEO with the transfer fee together with any outstanding administration and licence fees.
- (2) Upon receipt of any application for the transfer of a licence, and the transfer fee, the local government may—
- (a) refuse the application; or
  - (b) approve the application on such terms and conditions, if any, as it sees fit.
- (3) Where the local government approves an application for the transfer of a licence; the local government shall transfer the licence by an endorsement on the licence in the form provided or approved by the local government for the purpose.
- (4) Where the local government approves the transfer of a licence it shall not be required to refund any part of the fees paid by the former licensee in respect of the transferred licence.
- (5) The local government may refuse to transfer a licence until all outstanding fees and charges have been paid.

### **Cancellation of Licence**

11. (1) The local government may cancel a licence where the licensee has—
- (a) been convicted of an offence against—
    - (i) this local law; or
    - (ii) any other law relating to carrying on an extractive industry;
  - (b) transferred or assigned or attempted to transfer or assign the licence without the consent of the local government; or
  - (c) permitted another person to carry on an extractive industry otherwise than in accordance with the terms and conditions of the licence and of the provisions of this local law.
- (2) Where the local government cancels a licence under clause 11(1)—
- (a) the local government shall advise the licensee in writing of the cancellation;
  - (b) the cancellation takes effect on and from the day on which the licensee is served with the cancellation advice;
- (3) The licence shall lapse where the licensee has—
- (a) failed to pay the annual licence fee under clause 9; or
  - (b) failed to have a current public liability insurance policy under clause 16(1) or failed to provide a copy of the policy or evidence of its renewal as the case may be, under clause 16(2);
- (4) The local government shall not be required to refund any part of the fees paid by the licensee in respect of the cancelled licence.

### **Renewal of Licence**

12. (1) A licensee who wishes to renew a licence must apply in writing to the local government at least 42 days before the date of expiry of the licence and must submit with the application for renewal—
- (a) the fee determined by the local government;
  - (b) a copy of the current licence;
  - (c) a plan showing the contours of the excavation carried out to the date of that application;
  - (d) details of the works, excavation and rehabilitation stages reached and of any changes or proposed changes with respect to any of the things referred to in clauses 6(1) (b) and (c); and
  - (e) any other things referred to in clauses 6 and 8.
- (2) The local government may waive any of the requirements specified in clause 12(1) (d) or (e).
- (3) If—
- (a) an application to renew a licence is in relation to land in respect of which the current licence was issued less than 12 months prior to the date from which the new licence if granted would apply; and
  - (b) the methods to be employed in the proposed land excavation are identical to those being employed at the date of the application,
- then the applicant shall not be obliged, unless otherwise required by the local government to submit details of any of the things referred to in clauses 6 and 8.
- (4) Upon receipt of an application for the renewal of a licence, the local government may—
- (a) refuse the application; or
  - (b) approve the application on such terms and conditions, if any, as it sees fit; and
  - (c) may require the proposal to be advertised in the manner set out in clause 7.

**PART 5—SECURED SUM****Security for Restoration and Reinstatement**

13. (1) For the purpose of ensuring that an excavation site is properly restored or reinstated, the local government may require that—

- (a) the licensee—
  - (i) as a condition of a licence; or
  - (ii) before the issue of a licence; or
  - (iii) before the renewal of a licence; or
- (b) the owner when required by the local government;

must give to the local government a bond, bank guarantee or other security, of a kind and in a form acceptable to the local government, in or for a sum determined by the local government from time to time.

(2) A bond required under sub clause (1) is to be paid into an account established by the local government for the purposes of this clause.

**Use by the Local Government of Secured Sum**

14. (1) If a person fails to carry out or complete the restoration and reinstatement works required by the licence conditions or by a notice served by the local government; either—

- (a) within the time specified in those conditions;
- (b) where no such time has been specified, a reasonable period of time from the completion of the excavation or portion of the excavation specified in the licence conditions; or
- (c) within 60 days of a notice given by the local government to the licensee or owner—  
then—
- (d) the local government may carry out or cause to be carried out the required restoration and reinstatement work or so much of that work as remains undone; and
- (e) the licensee must pay to the local government on demand all administrative, legal, contractor and other costs, estimated or incurred by the local government, to rehabilitate the site or which the local government may be required to pay under this clause.

(2) The local government may apply the proceeds of any bond, bank guarantee or other security provided by the licensee under clause 13 towards its costs under this clause.

(3) The liability of a licensee to pay the local government's costs under this clause is not limited to the amount, if any, secured under clause 13.

(4) A person, owner, occupier or licensee is not entitled to make any claim by way of damages or otherwise, against an authorised person, local government employee, local government appointed sub-contractor or other person authorised by the local government, to enter the land and carry out all or part of the works and do all things necessary that the owner, occupier or licensee was required to do to comply with this local law.

**PART 6—PROHIBITIONS****Prohibitions**

15. Subject to any licence conditions imposed by the local government with respect to carrying on an extractive industry, a person—

- (1) must not without the written approval of the local government, excavate within—
  - (a) 20 metres of the boundary of any land on which the excavation site is located;
  - (b) 20 metres of any land affected by a registered grant of easement;
  - (c) 40 metres of any thoroughfare;
  - (d) 50 metres of any watercourse, wetland, swamp or other water reserve; or
  - (e) 3 metres of the estimated maximum water table level as determined from time to time by the Water & Rivers Commission or otherwise as adopted by the local government.
- (2) must—
  - (a) not remove any trees or shrubs within 40 metres (or such lesser distance as may be allowed, in writing, by the local government) of the boundary of any thoroughfare reserve on land in respect of which a licence has been granted, except for the purpose of constructing access thoroughfares, erecting buildings or installing plant for use in connection with the excavation and then only with the express approval of the local government and subject to any conditions which the local government may impose in accordance with clause 8;
  - (b) where the local government so requires, securely fence the excavation to a standard determined by the local government and keep the gateways locked when not actually in use in order to prevent unauthorised entry;
  - (c) erect and maintain warning signs along each of the boundaries of the area excavated under the licence so that each sign—
    - (i) is not more than 200 metres apart;
    - (ii) is not less than 1.8 metres high and not less than 1 metre wide; and
    - (iii) bears the words "DANGER EXCAVATIONS—KEEP OUT";

- (d) except where the local government approves otherwise, drain and keep drained to the local government's satisfaction any excavation to which the licence applies so as to prevent the accumulation of water;
  - (e) not store, or permit to be stored, any explosives or explosive devices on the site to which the licence applies other than with the approval of the local government and the Department of Minerals and Energy;
  - (f) not fill or excavate, other than in accordance with the terms and conditions of the licence, the site plans and the works and excavation program approved by the local government;
  - (g) restore and reinstate the excavation site in accordance with the terms and conditions of the licence, the site plans and the works and excavation program approved by the local government;
  - (h) take all reasonable steps to prevent the emission of dust, noise, vibration and other forms of nuisance from the excavation site;
  - (i) otherwise comply with the conditions imposed by the local government in accordance with clause 8; and
  - (j) cease excavating and undertake the restoration and reinstatement of the site and comply with notices issued by the local government.
- (3) must not carry out or permit to be carried out any blasting in the course of excavating unless—
- (a) the local government has otherwise given approval in respect of blasting generally or in the case of each blast;
  - (b) subject to sub-clause (2), the blasting takes place only between the hours of 8.00 am and 5.00pm, or as determined by the local government, on Mondays to Fridays inclusive;
  - (c) the blasting is carried out in strict accordance with the *AS2187 SAA Explosives Code*, the *Mines Safety and Inspection Act 1994*, the *Environmental Protection Act 1986*, and all relevant local laws of the local government; and
  - (d) in compliance with any other conditions imposed by the local government concerning—
    - (i) the time and duration of blasting;
    - (ii) the purposes for which the blasting may be used;
    - (iii) the methods of detonation and blasting;
    - (iv) the types of explosives to be used; and
    - (v) such other matters as the local government may reasonably require in the interests of the safety and protection of members of the public and of property within the district.
- (4) must not carry out or permit to be carried out any blasting on a Saturday, Sunday or public holiday except with the prior approval of the local government.

## PART 7—MISCELLANEOUS PROVISIONS

### Public Liability

16. (1) A licensee must have at all times a current public liability insurance policy taken out in the joint names of the licensee and the local government indemnifying the licensee and the local government for a sum of not less than \$10,000,000 or such other sum as is approved by the local government in respect of any one claim relating to any of the excavation operations;

(2) The licensee shall provide to the local government a copy of the policy taken out under sub-clause (1), within 14 days after the issue of that policy and shall provide to the local government evidence of renewal within 14 days of each renewal date.

### Mines Safety and Inspection Act and Environmental Protection Act

17. (1) In any case where the *Mines Safety and Inspection Act 1994* or the *Environmental Protection Act 1986* applies to any excavation carried on or proposed to be carried on at a site, the licensee in respect of that site must comply with all applicable provisions of that Act or those Acts; and

(2) In this clause, the *Mines Safety and Inspection Act 1994* and the *Environmental Protection Act 1986* include all subsidiary legislation made under those Acts.

### Notice of Cessation of Operations

18. (1) Where a licensee intends to cease carrying on an extractive industry—

- (a) temporarily for a period in excess of 12 months; or
- (b) permanently;

the licensee must, as well as complying with clause 19 give the local government written notice of the cessation not later than 1 week after those operations have ceased.

(2) Where a licensee has given written notice to the local government of the intention to permanently cease carrying on an extractive industry on the site to which the licence applies the licence is deemed to have expired on the date such cessation is so notified.

(3) The temporary or permanent cessation of the carrying on of an extractive industry on a site or the deemed expiration or cancellation of a licence does not entitle the licensee to any refund of any licence fee.

**Works to be Carried out prior to Cessation of Operation**

19. (1) Where the carrying on of an extractive industry on the site is proposed to permanently cease or on the expiration or cancellation of the licence applicable to the site, whichever first occurs, the licensee or the owner must, as well as complying with the provisions of clause 18—

- (a) restore and reinstate the excavated site in accordance with the proposals approved by the local government or in such other manner as the local government may subsequently in writing require;
- (b) ensure that any face permitted to remain upon the excavation site is left in a safe condition with all loose materials removed and where the excavation site is—
  - (i) sand, the sides are sloped to a batter of not more than 1:3 (vertical:horizontal); and
  - (ii) limestone or material other than sand, the sides are sloped to a batter which, in the opinion of the local government, would enable the site to be left in a stable condition;
- (c) ensure that the agreed floor level of the excavation is graded to an even surface or is otherwise in accordance with the rehabilitation and decommissioning program approved by the local government;
- (d) ensure that all stockpiles or dumps of stone, sand or other materials are left so that no portion of that material can escape onto land not owned or occupied by the licensee nor into any stream, watercourse, lake, wetland or drain that is not wholly situated within the land owned or occupied by the licensee;
- (e) erect retaining walls where necessary to prevent subsidence of land in the vicinity of any excavation;
- (f) remove from the site all buildings, plant and equipment erected, installed or used for or in relation to the carrying on of an extractive industry on the site and fill all holes remaining after such removal to the level of the surrounding ground and compact such filled holes sufficiently to prevent settling; and
- (g) break up, scarify, cover with topsoil and plant with grass, trees and shrubs all parts of the site used for the extractive industry where buildings, plant and equipment were erected or installed and all areas which were used for stockpiling unless otherwise specified under this local law.

(2) Notwithstanding any other provision of this local law where a licensee is required to comply with this local law or a condition of a licence and that licence has been cancelled, not renewed, or expired the aforementioned obligations become the responsibility jointly and severally of the owner and the previous licensee notwithstanding that he is not or is no longer the licensee.

**PART 8—OBJECTIONS AND APPEALS****Appeal**

20. When the local government makes a decision as to whether it will—

- (a) grant a person a licence under this local law; or
- (b) renew, vary, or cancel a licence 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 *Local Government (Functions and General) Regulations 1996* shall apply to that decision.

**PART 9—ENFORCEMENT AND PENALTIES****Stop Work Orders**

21. (1) Where a person is carrying on an extractive industry in contravention of this local law, the local government may issue an order to stop all work specified in the notice as being done in contravention of this local law—in this Part referred to as “Stop Work Order”.

(2) Where a copy of a Stop Work Order—

- (a) is affixed in a prominent position on the place to which it relates; or
- (b) is served on a person carrying on the extractive industry, or causing to be carried on, at that place any works or other activity,  
a person who carries on, or authorises, causes or permits to be carried on, in relation to that place the extractive industry commits an offence.

Penalty: \$5,000

Daily Penalty: \$500

**Stop Work Orders Not To Affect Certain Works**

22. It shall be a defence in proceedings for a contravention of a provision of a Stop Work Order to show that any works, being works appropriate to the purpose—

- (a) were urgently necessary—
  - (i) to avoid an imminent danger to life or health; or
  - (ii) for the immediate preservation of a building or the prevention of immediately impending damage to neighbouring property,

whether or not those works were the subject of a specific prohibition contained in a Stop Work Order, where notice in writing of the proposed carrying out of the works was given, as soon as practicable after the necessity for the works arose, to the local government and no written objection was served by the local government on the person so giving notice prior to the carrying out of the work; or



- (b) were required by an Act or law, and were of such a degree of urgency that prior reference to the local government and the application for and issue of a licence under this local law would not have been practicable.

#### **Offences**

23. (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 under clauses 5, 9 and 15 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 \$5,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$500.00 for each day or part of a day during which the offence has continued.

#### **Offences By Bodies Corporate, Defences Etc**

24. (1) Where a contravention of this local law which has been committed by a body corporate is proved—

(a) to have been committed with the consent or connivance of; or

(b) to be attributable to any failure to take all reasonable precautions to secure that this local law should not be contravened by the body corporate on the part of,

any director, manager, executive officer, secretary or other person concerned in the management of the body corporate, or any person purporting to act in that capacity, that person as well as the body corporate is guilty of the contravention.

(2) Where the affairs of a body corporate are managed by its members, subclause (1) applies in relation to the acts and defaults of a member in connection with the functions of management of that member as if the member were a director of the body corporate.

(3) Where proceedings are taken against a person under this local law it is no defence for that person to prove—

(a) that the person was the agent or employee of any other person; or

(b) that the person was acting in pursuance of an order or direction given by any other person, unless the court is satisfied that the person had acted without the knowledge, and could not reasonably be expected to have known, that this local law would be contravened.

(4) Where the employee or agent of a person is found liable in respect of a contravention of this local law, each person who, at the time of the commission of the contravention, was the employer of that employee or the principal of that agent is also liable in respect of the contravention, unless that employer or principal proves that he or she could not by the exercise of reasonable diligence have prevented the commission of the contravention by the employee or agent.

(5) Subject to this clause, it shall be a defence for any person who would otherwise be liable under this local law to prove that—

(a) the contravention occurred without the consent or connivance of that person;

(b) the person had taken all reasonable precautions to secure that this local law should not be contravened; and

(c) that the person could not by the exercise of reasonable diligence have prevented the contravention.

(6) Where, in proceedings under this local law, it is necessary to establish the state of mind of a body corporate, it is sufficient to show that a director, employee or agent of the body corporate, being a director, employee or agent by whom the conduct was engaged in within the scope of the person's actual or apparent authority, had that state of mind.

(7) Any conduct engaged in on behalf of a body corporate—

(a) by a director, employee or agent of the body corporate within the scope of the person's actual or apparent authority; or

(b) by any other person at the direction or with the consent or agreement (whether express or implied) of a director, employee or agent of the body corporate, if the giving of the direction, consent or agreement is within the scope of the actual or apparent authority of the director, employee or agent,

shall be deemed, for the purposes of this local law, to have been engaged in also by the body corporate.

(8) Where, in proceedings under this local law, it is necessary to establish the state of mind of a person other than a body corporate, it is sufficient to show that an employee or agent by whom the conduct was engaged in within the scope of the employee's or agent's actual or apparent authority, had that state of mind.

(9) Conduct engaged in on behalf of a person other than a body corporate—

(a) by an employee or agent of the person, within the scope of the actual or apparent authority of the employee or agent; or

(b) by any other person, at the direction or with the consent or agreement (whether express or implied) of any employee or agent of the first-mentioned person, if the giving of the direction, consent or agreement is within the scope of the actual or apparent authority of the employee or agent,

shall be deemed, for the purposes of this local law, to have been engaged in also by the first-mentioned person.

(10) A reference in this clause to the state of mind of a person includes a reference to the knowledge, intention, opinion, belief or purpose of the person and the person's reasons for that intention, opinion, belief or purpose.

(11) If a defence to proceedings under this local law involves an allegation that a contravention was due to reliance on information supplied by another person or to the act or default of another person, the defendant is not, without leave of the court, entitled to rely on that defence unless the defendant has, not later than 7 days before the day on which the hearing of the proceeding commences, served on the person by whom the proceeding was instituted a notice in writing giving such information that would identify or assist in the identification of the other person as was then in the defendant's possession.

#### **Infringement and Infringement Withdrawal Notices**

25. For the purposes of this local law—

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

#### **Offence Description and Modified Penalty**

26. The amount appearing in the final column of the First Schedule directly opposite an offence described in that Schedule is the modified penalty for that offence.

#### **Prosecution for Offences**

27. A penalty for an offence against this local law (not being a modified penalty) may be recovered by the local government by taking proceedings against the alleged offender in a Court of Petty Sessions.

#### **Records to be Kept**

28. The local government shall cause adequate records to be kept of all infringement notices served and modified penalties received.

City of Gosnells  
EXTRACTIVE INDUSTRIES LOCAL LAW 2000  
*First Schedule*  
**OFFENCES AND MODIFIED PENALTIES**

Clause No	Nature of Offence	Modified Penalty \$
5(a)	Excavate without a licence	500
5(b)	Carry on an extractive industry not in accordance with conditions	500
9(2)	Failure to pay the administration fee	400
15(1)(a)	Excavate without approval, within 20 metres of adjacent property boundary	400
15(1)(b)	Excavate without approval, within 20 metres of any land affected by a registered grant of easement	400
15(1)(c)	Excavate without approval, within 40 metres of any thoroughfare	400
15(1)(d)	Excavate without approval within 50 metres of any watercourse, wetland, swamp or other water reserve	400
15(1)(e)	Excavate without approval, within 3 metres of the estimated maximum water table level	400
15(2)(a)	Removal of trees or shrubs within 40 metres of the boundary of any thoroughfare reserve	400
15(2)(b)	Failure to securely fence and/or keep gateways locked	400
15(2)(c)	Failure erect and maintain warning signs	400
15(2)(d)	Failure to drain and keep drained any excavation to which the licence applies	400
15(2)(e)	Store or permit to store explosives or explosive devices without approval	400
15(2)(f)	Not fill or excavate, contrary to the terms and conditions of the licence	400
15(2)(g)	Failure to restore and reinstate the excavation site in accordance with conditions of the licence	400
15(2)(h)	Failure to take all reasonable steps to prevent the emission of dust, noise, vibration, and other forms of nuisance from the excavation site	400
15(2)(i)	failure to comply with conditions of licence imposed by the local government	400
15(2)(j)	Failure to cease excavating and undertake restoration and reinstatement as required by notice issued by the local government	500
15(3)(a)	Carry out or permit to be carried out blasting without approval	400
15(3)(b)	Carry out or permit to be carried out blasting outside hours approved by the local government	400



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Clause No	Nature of Offence	Modified Penalty \$
15(3)(d)	Failure to comply with conditions imposed by the local government relating to blasting	400
15(4)	Carry out or permit to be carried out any blasting on Saturday, Sunday or Public Holiday, without approval	400
	Other offences not specified	200

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Dated this 28th day of July 2000.

The Common Seal of the City of Gosnells was affixed by authority of a resolution of the Council in the presence of—

P. M. MORRIS JP, Mayor.  
S. HOLTBY, Chief Executive Officer.

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**LOCAL GOVERNMENT ACT 1995**

## CITY OF GOSNELLS

**PARKING AND PARKING FACILITIES LOCAL LAW 2000**

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**LOCAL GOVERNMENT ACT 1995**

## CITY OF GOSNELLS

**PARKING AND PARKING FACILITIES LOCAL LAW 2000**

Under the powers conferred by the *Local Government Act 1995* and under all other powers, the Council of the City of Gosnells resolved to make the following Local Law on the 13th day of June 2000.

**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 Repeal**

The City of Gosnells By-Laws Relating to Parking Facilities published in the *Government Gazette* on 24<sup>th</sup> October 1991 and amended on the 21<sup>st</sup> January 1993 and 29<sup>th</sup> October 1993 is repealed.

**1.3 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 City of Gosnells;

- “median strip” has the meaning given to it in the Code;
- “metered space” means a section or part of a metered zone that is adjacent to a parking meter and that is marked or defined by painted lines or by metallic studs or similar devices for the purpose of indicating where a vehicle may be parked on payment of a fee or charge;
- “metered zone” means any thoroughfare or reserve, or part of any thoroughfare or reserve, in which parking meters regulate the parking of vehicles;
- “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;
- “no standing area” means a portion of a carriageway that lie—
- (a) between two consecutive signs inscribed with the words “No Standing” or with the 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 Standing” or the 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 attended 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;
  - (c) immediately taking up or setting down persons or goods;
- “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, metered zones, metered spaces, parking stalls and other facilities open to the public generally for the parking of vehicles with or without charge, and signs, notices and facilities used in connection with the parking of vehicles;
- “parking meter” includes the stand on which the meter is erected and a ticket-issuing machine;
- “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, but does not include a metered space;
- “parking station” means any land, or structure provided for the purpose of accommodating vehicles with or without charge, but does not include a metered zone or metered space;
- “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;

“stand” in relation to a vehicle, means to stop the vehicle and permit it to remain stationary, except for the purpose of avoiding conflict with other traffic or of complying with the provisions of any law;

“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;

“ticket issuing machine” means a parking meter which issues, as a result of money being inserted in the machine or such other form of payment as may be permitted to be made, a ticket showing the period during which it shall be lawful to remain parked in a metered space to which the machine is referable;

“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” “no standing area” “parking area” and “standing 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.

#### **1.4 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.

#### **1.5 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.

#### **1.6 Part of thoroughfare to which sign applies**

Where under this Local Law the standing or 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—METERED ZONES****2.1 Determination of metered zones**

(1) The local government may by resolution constitute, determine and vary and also indicate by signs, metered spaces and metered zones.

(2) In respect of metered spaces and metered zones the local government may by resolution determine, and may indicate by signs—

- (a) permitted times and conditions of parking depending on and varying with the locality;
- (b) classes of vehicles, which are permitted to park;
- (c) the amount payable for parking; and
- (d) the manner of parking.

**2.2 Parking fee to be paid**

Subject to clause 2.5, a person shall not park a vehicle in a metered space unless the appropriate fee as indicated by a sign on the parking meter referable to the space is inserted into the parking meter.

**2.3 Limitation on parking in metered space**

The payment of a fee under clause 2.2 shall entitle a person to park the vehicle in a metered space for the period shown on the parking meter, but does not authorize the parking of the vehicle during any time when parking in that space may be prohibited in accordance with this Local Law.

**2.4 No parking when meter is expired**

Subject to clause 2.5, a person shall not leave or permit a vehicle to remain parked in a metered space during the hours when a fee is payable to park the vehicle in the space when the parking meter referable to that space exhibits the sign “Expired” or a negative time.

**2.5 Suspension of requirement to pay fee**

The local government may from time to time by a resolution declare that the provisions of clauses 2.2 and 2.4 shall not apply during the periods and days specified in the resolution.

**2.6 Vehicles to be within metered space**

A person shall not park a vehicle in a metered space in a thoroughfare otherwise than parallel to and as close to the kerb as practicable and wholly within the space, provided that where a metered space is set out otherwise than parallel to the kerb the vehicle need only park wholly within the space.

**2.7 Permitted insertions in parking meters**

(1) A person shall not insert into a parking meter anything other than the designations of coin or banknote or such other permitted form of payment indicated by a sign on the parking meter.

(2) The insertion of a coin or banknote into any parking meter or the making of payment in such other form as may be permitted shall be effected only in accordance with the instructions printed on that particular meter.

**2.8 Parking ticket to be clearly visible**

A driver of a vehicle left parked in a metered zone which is regulated by a ticket issuing machine shall on purchasing a ticket from the machine for a period of parking, place the ticket inside the vehicle in such a position that the ticket is clearly visible to and the expiry time or time for which the ticket remains valid is able to be read by an Authorized Person examining the ticket from outside the vehicle.

**2.9 One vehicle per metered space**

A person shall not park or attempt to park a vehicle in a metered space in which another vehicle is parking.

**2.10 No parking when hood on meter**

Notwithstanding any other provision of this Local Law and notwithstanding any other sign or notice, a person shall not park a vehicle in a metered space if the parking meter referable to such metered space has a hood marked “No Parking”, “Reserved Parking” or “Temporary Bus Stand” or equivalent symbols depicting these purposes except with the permission of the local government or an Authorized Person.

**PART 3—PARKING STALLS AND PARKING STATIONS****3.1 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.

**3.2 Vehicles to be within parking stall on thoroughfare**

(1) Subject to subclause (2), a person shall not stand 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.

### **3.3 Payment of fee to park in parking station**

A person shall not stand a vehicle or permit a vehicle to remain standing in any parking station during any period for which a fee is payable unless—

- (a) in the case of a parking station having an Authorized Person on duty, the appropriate fee is paid when demanded; or
- (b) in the case of a parking station equipped with parking meters, the appropriate fee is inserted in the meter or the required payment is made in such other form as may be permitted.

### **3.4 Suspension of parking station restrictions**

The local government may by resolution declare that the provisions of clause 3.3 do not apply during periods on particular days in relation to particular parking stations as specified in such resolution.

### **3.5 Vehicle not to be removed until fee paid**

A person shall not remove a vehicle, which has been parked in a parking station until there has been paid the appropriate fee for the period for which the vehicle has been parked.

### **3.6 Entitlement to receipt**

A person paying a fee at a parking station is to be entitled to receive a receipt on demand showing the period of parking covered by such payment.

### **3.7 Parking ticket to be clearly visible**

A driver of a vehicle in a parking station which is equipped with a ticket issuing machine shall on purchasing a ticket from the machine for a period of parking, place the ticket inside the vehicle in such a position that the ticket is clearly visible to and the expiry time or time for which the ticket remains valid is able to be read by an Authorized Person examining the ticket from outside the vehicle.

### **3.8 Vehicles to be within parking stall in parking station**

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

### **3.9 Standing or Parking prohibitions and restrictions**

(1) A person shall not—

- (a) park or stand 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 or stand a vehicle on any part of a parking station contrary to a sign referable to that part;
- (c) permit a vehicle to park or stand on any part of a parking station, if an Authorized Person directs the driver of such vehicle to move the vehicle; or
- (d) park, stand or attempt to park or stand 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 4—PARKING GENERALLY**

### **4.1 Prohibition and regulation of standing or parking by signs**

The local government may by resolution prohibit or regulate by signs or otherwise the parking or standing 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.

### **4.2 Restrictions on parking and standing in particular areas**

(1) A person shall not park or stand 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 or standing of vehicles is prohibited by a sign.

(2) A person shall not stand a vehicle—

- (a) in a no standing 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) Stand or 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 0.17m<sup>3</sup>.

#### **4.3 Parking vehicle on a carriageway**

A person standing a vehicle on a carriageway shall stand 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 cause undue obstruction on the carriageway; and
- (f) so that it is entirely within the confines of any parking stall marked on the carriageway.

#### **4.4 Vehicle to be wholly within parking area**

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

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

#### **4.6 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 standing a vehicle in the area shall stand 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.

#### **4.7 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 fireplug, or of any sign or mark indicating the existence of a fire hydrant or fireplug;
  - (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.
  - (m) A person shall not stand or drive a vehicle so that any portion of the vehicle obstructs the use of an Emergency Exit Ramp set aside for the stopping of vehicles/commercial vehicles during an emergency
- (3) A person shall not stand 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 stand 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.

#### **4.8 Standing on verges**

- (1) A person shall not—
- (a) stand a vehicle or;
  - (b) stand a commercial vehicle or bus, or a trailer or caravan unattached to a motor vehicle; or
  - (c) stand a vehicle during any period when the standing of vehicles on that verge is prohibited by a sign adjacent and referable to that verge,

so that any portion of it is on a verge.

(2) Subclause 1(a) does not apply to the person if he or she is the owner or occupier of the premises adjacent to that verge, or is a person authorised by the occupier of those premises to stand the vehicle so that any portion of it is on the verge.

(3) Subclause 1(b) 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 standing, provided no obstruction is caused to the passage of any vehicle or person using a carriageway or a footpath.

#### **4.9 Limitation on standing of vehicles with tare in excess of 2,000 kgs on carriageway**

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

#### **4.10 Limitation on standing of over length vehicles on carriageway**

A person shall not stand 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.

#### **4.11 Authorized person may order vehicle on thoroughfare to be moved**

The driver of a vehicle shall not stand 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.

#### **4.12 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.

#### **4.13 No movement of vehicles to avoid time limitation**

(1) Where the parking or standing 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 or standing exceeds the maximum time allowed for parking or standing in the parking facility, unless the vehicle has first been removed from the parking facility for at least two hours.

(2) Where the parking or standing 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 or standing exceeds the maximum time permitted, unless the vehicle has first been removed from the thoroughfare for at least two hours.

#### **4.14 No parking of vehicles exposed for sale and in other circumstances**

A person shall not stand 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.

#### **4.15 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.

#### **4.16 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 stand a vehicle upon or over any portion of a reserve other than upon an area specifically set aside for that purpose.

#### **4.17 Suspension of parking limitations for urgent, essential or official duties**

- (1) Where by a sign the parking or standing 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 5—RESIDENTIAL PARKING PERMITS**

#### **5.1 Residential parking permit**

- (1) A person may apply for a permit to park a vehicle on a thoroughfare if the person is—
- (a) an occupier of a lot fronting the thoroughfare;
  - (b) the holder of the requisite vehicle licence under the Road Traffic Act for the vehicle; and
  - (c) subject to subclause (2), described on the vehicle licence as residing at the lot.
- (2) An applicant for a permit who is not described in accordance with subclause (1)(c), may apply for a temporary permit by stating (by way of statutory declaration) on an application for such that he or she resides at that lot.
- (3) An application for a permit shall be made in the form determined by the local government.
- (4) The local government may in respect of an application for a permit for the purpose of subclause (1) or (2)—
- (a) approve it;
  - (b) approve it subject to such conditions as the local government considers appropriate; or
  - (c) refuse to approve it.
- (5) Where the local government makes a decision under paragraph (a) or (b) of subclause (4), it shall issue a permit in the form determined by it to the person who applied for the permit.
- (6) A temporary permit issued for the purpose of subclause (2)—
- (a) will expire 3 months after it is issued; and
  - (b) is not renewable.
- (7) A permit issued for the purpose of subclause (1) may be either—
- (a) an annual permit, issued for a period not exceeding one year and expiring on 31 December in the year of issue; or
  - (b) a temporary permit, issued for a period not exceeding 6 months from the date of issue.
- (8) Every permit issued for the purpose of subclause (1) is to specify—
- (a) a permit number;
  - (b) the registration number of the vehicle;
  - (c) the name of the thoroughfare to which the exemption granted by clause 5.2 applies; and
  - (d) the date on which it expires.



### **5.2 Conditions of exemption for residential parking permits**

Where parking of a vehicle on any part of a thoroughfare within the district is prohibited for more than a specified time, or without an unexpired parking ticket being displayed within the vehicle, the holder of a permit issued under clause 5.1 is exempted from such prohibitions if—

- (a) the vehicle is parked on a thoroughfare specified in the permit, but not adjacent to retail premises where the parking of all vehicles is subject to a time restriction;
- (b) the permit is affixed to the windscreen of the vehicle in a prominent position;
- (c) the period in respect of which the permit was issued has not expired; and
- (d) if the holder of the permit at the time of parking the vehicle still resides at the lot in respect of which the permit was issued.

### **5.3 Removal and cancellation of residential parking permit**

The holder of a permit issued under clause 5.1 who changes residence shall remove the permit from the vehicle to which it is affixed, and the permit shall be deemed to be cancelled on and from the date the holder changes residence.

## **PART 6—MISCELLANEOUS**

### **6.1 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.

### **6.2 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.

### **6.3 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.

### **6.4 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.

### **6.5 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, stand, 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, stand, or park the vehicle at any place, at any time.

### **6.6 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 7—PENALTIES**

### **7.1 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.



**7.2 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.

**7.3 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	2.2	Failure to pay fee for metered space	50
2	2.4	Parking when meter has expired	50
3	2.8	Failure to display ticket clearly in metered zoned	45
4	2.10	Parking contrary to a meter hood	70
5	3.3	Failure to pay parking station fee	50
6	3.5	Leaving without paying parking station fee	70
7	3.7	Failure to display ticket clearly in parking station	45
8	3.9 (1) (a)	Causing obstruction in parking station	70
9	3.9 (1) (b)	Standing contrary to sign in parking station	70
10	3.9 (1) (c)	Standing contrary to directions of Authorized Person	80
11	4.2 (1) (a)	Standing wrong class of vehicle	40
12	4.2 (1) (b)	Standing by persons of a different class	40
13	4.2 (1) (c)	Standing during prohibited period	70
14	4.2 (2) (a)	Standing in no Standing area	70
15	4.2 (2) (b)	Standing contrary to signs or limitations	50
16	4.2 (2) (c)	Standing vehicle in motor cycle only area	50
17	4.2(3)	Parking motor cycle in stall not marked "M/C"	50
18	4.2 (5) (a)	Standing in Loading Zone	50
19	4.3 (a)	Fail to park on the left of two-way carriageway	70
20	4.3 (b)	Fail to park on boundary of one-way carriageway	70
21	4.3 (a)+(b)	Standing against the flow of traffic	70
22	4.3 (c)	Standing when distance from farther boundary less than 3 metres	60
23	4.3 (e)	Causing obstruction	70
24	4.7 (2) (a)	Double parking	70
25	4.7 (2) (c)	Denying access to private drive or right of way	50
26	4.7 (2) (d)	Parking beside excavation or obstruction so as to obstruct traffic	50
27	4.7 (2) (f)	Parking on footpath/pedestrian crossing	70
28	4.7 (2) (g)	Standing on bridge or in tunnel	70
29	4.7 (2) (i)	Standing on intersection	70
30	4.7 (2) (l)	Standing within 6 metres of intersection	60

Item No.	Clause No.	Nature of Offence	Modified Penalty \$
31	4.7 (2) (m)	Standing or Driving in the Emergency Exit Ramp	80
32	4.7 (3) (a)	Standing vehicle within 9 metres of departure side of bus stop	50
33	4.7 (4) (a)	Standing vehicle within 18 metres of approach side of bus stop	50
34	4.7 (4) (b)	Standing vehicle within 18 metres of approach side of pedestrian/children's crossing	60
35	4.8 (1) (b)	Standing commercial vehicle, bus or caravan on verge	70
36	4.8 (1) (c)	Standing on verge contrary to sign	70
37	4.9	Standing vehicle with tare of over 2000kgs for over 2 hours	50
38	4.10	Standing over length vehicle in excess of 2 hours	50
39	4.11	Standing contrary to direction of Authorized Person	80
40	4.14 (c)	Standing a trailer/caravan on a thoroughfare	50
41	4.15 (2)	Parking on land that is not a parking facility without consent	50
42	4.15 (3)	Parking on land not in accordance with consent	40
43	4.16	Driving or Standing on reserve	50
44	6.6 (1)	Leaving vehicle so as to obstruct a public place	70
45		All other offences not specified	40

**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**

(1) Metro at Maddington Shopping Centre, Lot 5 Attfield Street and Lot Pt. 155 Attfield Street, Maddington.

**Hours of operation**

Monday to Friday 6.00 am to 9 pm

Saturdays 6.00 am to 6.00pm

(2) South East Metropolitan college of TAFE, Reserve Number 37585, Burslem Drive, Thornlie

**Hours of operation**

Monday to Friday 8.00am to 10.30pm

(3) Thornlie Square Shopping Centre, Canning Location 17, Street Number 318/328 (lot 1) Spencer Road, Thornlie

**Hours of operation**

Monday to Friday 8.00am to 6.00pm excepting Thursdays which will be 8.00am to 9.00pm

Saturdays 8.00am to 5.00pm.

Dated this 28th day of July 2000.

The Common Seal of the City of Gosnells was affixed in the presence of—

P. M. MORRIS, JP, Mayor.  
S. HOLTBY, Chief Executive Officer.









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