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SHIRE OF GOOMALLING

LOCAL GOVERNMENT ACT 1995

EXTRACTIVE INDUSTRIES LOCAL LAW 2007

REFUSE DISPOSAL FACILITIES LOCAL LAW 2007

LOCAL GOVERNMENT PROPERTY LOCAL LAW 2007

REPEAL LOCAL LAW 2007

LOCAL GOVERNMENT ACT 1995

DIVIDING FENCES ACT 1961

LOCAL LAW RELATING TO FENCING 2007

CEMETERIES ACT 1986

**MANAGEMENT AND CONTROL OF
GOOMALLING CEMETERY LOCAL LAW 2007**

LOCAL GOVERNMENT ACT 1995**SHIRE OF GOOMALLING****EXTRACTIVE INDUSTRIES LOCAL LAW 2007**

Under the powers conferred by the *Local Government Act 1995* and by all other powers enabling it, the local government of the Shire of Goomalling resolved to make the following local laws on the 22 May 2007.

PART 1—PRELIMINARY**1.1 Citation**

This Local Law may be cited as the *Shire of Goomalling Extractive Industries Local Law 2007*.

1.2 Definitions

In this local law, unless the context otherwise requires—

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

“**carry on an extractive industry**” means quarrying and excavating for stone, gravel, sand, and other material;

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

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

“**excavation**” includes quarry;

“**land**”, unless the context otherwise requires, means the land on which the applicant proposes carrying on the extractive industry to which the licence application relates;

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

“**licensee**” means the person named in the licence as the licensee;

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

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

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

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

“**secured sum**” means the sum required to be paid or the amount of a bond, guarantee or other security under clause 5.1;

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

1.3 Application

(1) 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 apply to the carrying on of an extractive industry on land by the owner or occupier of that land for use on that land; and

(e) do not affect the validity of any licence issued under the local law repealed by clause 1.3 of this local law if that licence is currently in force at the date of gazettal of this local law. In subclause (1)(d) land includes adjoining lots or locations in the same occupation or ownership of the owner or occupier referred to in subclause (1)(d).

PART 2—LICENSING REQUIREMENTS FOR AN EXTRACTIVE INDUSTRY**2.1 Extractive Industries Prohibited Without Licence**

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.

Penalty \$5000 and a daily penalty not exceeding a fine of \$500 in respect of each day or part of a day during which an offence has continued.

2.2 Applicant to Advertise Proposal

(1) Unless the local government first approves otherwise, a person seeking the issue of a licence shall, before applying to the local government for a licence—

- (a) forward by registered mail a notice in the form determined by the local government from time to time 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 granting of a licence, advising of the application and specifying that they may, within 21 days from the date of service of the letter, object to or make representations in writing in respect of the issue of a licence by the local government.
 - (ii) every authority or person having control or jurisdiction over any of the things referred to in clause 2.3(1)(a)(vii) and (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; and
- (b) as soon as practicable after complying with the requirements of paragraph (a)—
 - (i) forward a copy of the notice to the CEO; and
 - (ii) publish the notice in a newspaper circulating in the area in which the proposed excavation is located.

(2) The local government may, within 14 days after receiving a copy of a notice referred to in sub-clause (1), cause to be displayed, or require the proposed applicant to display, in a prominent position on the land one or more notices—

- (a) in the form determined by the local government from time to time;
- (b) the content, size and construction of which have been approved by the CEO;
- (c) specifying particulars of the proposed excavation; and
- (d) inviting objections or comments within 21 days from the placement of the notice.

2.3 Application for Licence

(1) Subject to subclause (3), a person seeking the issue of a licence in respect of any land shall apply in the form determined by the local government from time to time and must forward the application duly completed and signed by each of the applicant, the owner of the land and any occupier of the land to the CEO together with—

- (a) three 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, 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; and
 - (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;
- (b) three copies of a works and excavation programme 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, water supply, 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 sand drift, dust nuisance, erosion, watercourse siltation and dangers to the general public;
- (xii) a description of the measures to be taken to comply with 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) three copies of a rehabilitation and decommissioning programme indicating—
 - (i) the objectives of the programme, having due regard to the nature of the surrounding area and the proposed end-use of the excavation site;
 - whether restoration and reinstatement of the excavation site is to be undertaken progressively or upon completion of excavation operations;
 - how any face is to be made safe and batters sloped;
 - (ii) the method by which topsoil is to be replaced and revegetated;
 - (iii) the numbers and types of trees and shrubs to be planted and other landscaping features to be developed;
 - (iv) how rehabilitated areas are to be maintained; and
 - (v) the programme 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 thoroughfare 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 2.2(1) and (2) have been carried out;
- (g) copies of all land use planning approvals required under any planning legislation;
- (h) copies of any environmental approval required under any environmental legislation;
- (i) copies of any geotechnical information relating to the excavation site;
- (j) the consent in writing to the application from the owner of the excavation site;
- (k) the licence application fee specified by the local government from time to time; and any other information that the local government may reasonably require.
- (l) All survey data supplied by an applicant for the purpose of sub clause (1) shall comply with Australian Height Datum and Australian Map Grid standards.
- (m) Where in relation to a proposed excavation—
 - (a) the surface area is not to exceed 2000m²; and
 - (b) the extracted material is not to exceed 2000m³;
- (n) the local government may exempt a person making application for a licence under subclause (1) from supplying any of the data specified in paragraphs (b), (d), (e) and (i) of subclause (1).

PART 3—DETERMINATION OF APPLICATION

3.1 Determination of Application

- (1) The local government may refuse to consider an application for a licence that does not comply with the requirements of clause 2.3, and in any event shall refuse an application for a licence where planning approval for an extractive industry use of the land has not first been obtained.
- (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 shall—
 - (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 determined by the local government from time to time.
- (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 of the annual licence fee to 30th June, determined by the local government from time to time;
 - (b) payment of the secured sum if any, imposed under clause 5.1;
 - (c) the documents, if any, executed to the satisfaction of the CEO, under clause 5.1; and
 - (d) a copy of the public liability insurance policy required under clause 7.1(1) shall issue the licence to the applicant.
- (5) Without limiting subclause (2), the local government may impose conditions in respect of 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) 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;
 - (g) the depths below which a person shall not excavate;
 - (h) distances from adjoining land or thoroughfares within which a person must not excavate;
 - (i) the safety of persons employed at or visiting the excavation site;
 - (j) the control of dust and wind-blown material;
 - (k) 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;
 - (l) the prevention of the spread of dieback or other disease;
 - (m) the drainage of the excavation site and the disposal of water;
 - (n) the restoration and reinstatement of the excavation site, the staging of such works, and the minimising of the destruction of vegetation;
 - (o) the provision of retaining walls to prevent subsidence of any portion of the excavation or of land abutting the excavation;
 - (p) 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 programme;
 - (q) 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;
 - (r) requiring the licensee to enter into an agreement with the local government in respect of any condition or conditions imposed under this local law; and
 - (s) any other matter for properly regulating the carrying on of an extractive industry.

3.2 Payment of Annual Licence Fee

On or before 30 June in each year, a licensee shall pay to the local government the annual licence fee determined by the local government from time to time.

PART 4—TRANSFER, CANCELLATION AND RENEWAL OF LICENCE

4.1 Transfer of Licence

- (1) An application for the transfer of a licence shall—
- (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) include any information that the local government may reasonably require;
 - (f) and be forwarded to the CEO together with the fee determined by the local government from time to time.
- (2) Upon receipt of any application for the transfer 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.

(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 determined by the local government from time to time, signed by the CEO.

(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.

4.2 Cancellation of Licence

(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; or
- (b) transferred or assigned or attempted to transfer or assign the licence without the consent of the local government;
- (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;
- (d) failed to pay the annual licence fee under clause 3.2; or
- (e) failed to have a current public liability insurance policy under clause 7.1(1) or failed to provide a copy of the policy or evidence of its renewal as the case may be, under clause 7.1(2).

(2) Where the local government cancels a licence under this clause—

- (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; and
- (c) the local government shall not be required to refund any part of the fees paid by the licensee in respect of the cancelled licence.

4.3 Renewal Of Licence

(1) A licensee who wishes to renew a licence must apply in writing to the local government at least 45 days before the date of expiry of the licence and shall submit with the application for renewal—

- (a) the fee determined by the local government from time to time;
- (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 2.3(1) (b) and (c); and
- (e) any other things referred to in clauses 2.3 and 3.1.

(2) The local government may waive any of the requirements specified in clause 4.2 (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 2.3 and 3.1.

(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.

PART 5—SECURED SUM AND APPLICATION THEREOF

5.1 Security for Restoration and Reinstatement

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

- (a) as a condition of a licence; or
- (b) before the issue of a licence,
- (c) the licensee shall 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 subclause (1) is to be paid into a fund established by the local government for the purposes of this clause.

5.2 Use by the Local Government of Secured Sum

(1) If a licensee fails to carry out or complete the restoration and reinstatement works required by the licence conditions either—

- (a) within the time specified in those conditions; or
- (b) where no such time has been specified, within 60 days of the completion of the excavation or portion of the excavation specified in the licence conditions, then; subject to the local government giving the licensee 14 days notice of its intention to do so;

- (c) 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
 - (d) the licensee shall pay to the local government on demand all costs incurred by the local government 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 5.1 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 5.1.

PART 6—LIMITATIONS, OBLIGATIONS OF THE LICENSEE AND PROHIBITIONS

6.1 Limits on Excavation Near Boundary

Subject to any licence conditions imposed by the local government, a person shall 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; or
- (d) 40 metres of any watercourse.

Penalty \$2,000

6.2 Obligations of the Licensee

A licensee shall—

- (a) 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;
- (b) 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”;
- (c) 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;
- (d) restore and reinstate the excavation site in accordance with the terms and conditions of the licence, the site plans and the works and excavation programme approved by the local government;
- (e) take all reasonable steps to prevent the emission of dust, noise, vibration and other forms of nuisance from the excavation site; and
- (f) otherwise comply with the conditions imposed by the local government in accordance with clause 3.1.

Penalty \$5,000 for each offence, and if an offence is of a continuing nature, to a daily penalty not exceeding a fine of \$500.00 in respect of each day or part of a day during which the offence has continued.

6.3 Prohibitions

A licensee shall not—

- (a) 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 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 3.1;
- (b) 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; or
- (c) fill or excavate, other than in accordance with the terms and conditions of the licence, the site plans and the works and excavation programme approved by the local government.

Penalty \$5,000 for each offence, and if an offence is of a continuing nature, to a daily penalty not exceeding a fine of \$500.00 in respect of each day or part of a day during which the offence has continued.

6.4 Blasting

(1) A person shall 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 8.00am 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; and
 - (iii) 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.

Penalty \$5,000.00 for each offence, and if the offence is of a continuing nature, to a daily penalty not exceeding a fine of \$500.00 in respect of each day or part of a day during which the offence has continued.

(2) A person shall 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.

Penalty \$2,000

PART 7—MISCELLANEOUS PROVISIONS

7.1 Public Liability

(1) A licensee shall 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 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.

7.2 Mines Safety and Inspection Act and Environmental Protection Act

(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 shall—

- (a) comply with all applicable provisions of that Act or those Acts; and
- (b) provide to the local government within 14 days full particulars of any inspection or report made under that Act or those Acts.

(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.

7.3 Notice of Cessation of Operations

(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 shall, as well as complying with clause 7.4, 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.

7.4 Works to be Carried Out on Cessation of Operations

Where the carrying on of an extractive industry on the site permanently ceases or on the expiration or cancellation of the licence applicable to the site, whichever first occurs, the licensee shall, as well as complying with the provisions of clause 7.3—

- (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 agree in writing with the licensee;
- (b) ensure that any face permitted to remain upon the excavation site is left safe 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 programme 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 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 where buildings, plant and equipment were erected or installed and all areas which were used for stockpiling unless otherwise specified under this local law.

Penalty \$5,000 for each offence, and if the offence is of a continuing nature, to a daily penalty not exceeding a fine of \$500.00 in respect of each day or part of a day during which the offence has continued.

PART 8—OBJECTIONS AND APPEALS

8.1 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 of the *Local Government (Functions and General) Regulations 1996* shall apply to that decision.

PART 9—MODIFIED PENALTIES

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

9.2 The amount of the modified penalty for a prescribed offence is that specified adjacent to the clause in the Schedule.

Forms

9.3 For the purposes of this local law—

- (a) the form of the infringement notice given under section 9.16 of the Act is that of Form 2 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*; and
- (b) the form of the notice sent under section 9.20 of the Act withdrawing an infringement notice is that of Form 3 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

Schedule

PRESCRIBED OFFENCES

Clause	Description	Modified Penalty \$
2.1	Carry on extractive Industry without licence or in breach of terms and conditions	350
6.1	Excavate near boundary	250
6.2(a)	Gateways not kept locked where required	350
6.2(b)	Warning signs not erected or maintained as required	350
6.2(c)	Excavation not drained as required	350
6.3(a)	Remove trees or shrubs near boundary without approval	300
6.3(b)	Store without required approval explosives or explosive devices	350
6.3(c)	Fill or excavate in breach of licence	350
6.4(1)(a)	Blasting without approval of the local government	250
6.4(1)(b)	Blasting outside times authorised	350
6.4(1)(d)	Blasting in breach of conditions imposed by the local government	350
6.4(2)	Blasting without approval on Saturday, Sunday or public holiday	250

Dated this 19th day of June 2007.

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

JOHN HERBERT BIRD, President.
CORNELIS CLEMENT JOHN KERP, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995**SHIRE OF GOOMALLING****REFUSE DISPOSAL FACILITIES LOCAL LAW 2007**

Under powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Goomalling resolved on the 22 May 2007 to make the following local law.

1.1 Citation

This local law may be cited as “*Shire of Goomalling Refuse Disposal Facilities Local Law 2007*”.

1.2 General Application

This local law shall apply to the whole of the district of the Shire of Goomalling unless otherwise stated.

DIVISION 1—PRELIMINARY**1.3 Definitions**

“**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 perform any of the functions of an authorised person under this local law. “**CEO**” means the Chief Executive Officer of the Council.

“**Council**” means the Council of the Shire of Goomalling.

“**Facility**” means the property and buildings at the Shire of Goomalling Refuse Disposal Sites at Reserve 4547 Dew Road, Konnongorring and Lot 3001 Reserve 31090 Waterhouse Way, Goomalling.

“**Fauna**” and “**flora**” have the meaning given to them in Section 6 of the *Wildlife Conservation Act 1950*.

“**To deposit Waste**” includes to dump, to dispose of or in any way to place or leave waste at the Facility.

“**Waste**” means all manner of material discarded as being no longer required by the person owning or in possession of that material.

DIVISION 2—USER OBLIGATIONS

2.1 Any person using, or on, the Facility shall comply with any lawful direction given to that person by an Authorised Person.

2.2 Each load of refuse is subject to the payment of a fee set by the Council under the annual schedule of fees.

2.3 No person shall deposit any waste at the Facility other than—

2.3.1 at a location designated by notice; or

2.3.2 as directed by an Authorised Officer.

2.4 No person shall remove any waste from the Facility without prior written authorisation from an Authorised Person.

2.5 No person shall deposit fencing wire.

2.6 No person shall deposit vehicle tyres unless shredded or crumbed.

2.7 No person shall deposit any liquid waste at the Facility unless authorised in writing by the CEO.

2.8 No person shall deposit at the Facility any waste which is toxic, poisonous or hazardous, or the depositing of which is regulated or prohibited by any statute.

2.9 Any person convicted of an offence against clauses 2.7 or 2.8 of this local law shall pay to the Council any penalty imposed and costs awarded by a court of competent jurisdiction.

DIVISION 3—CARE OF FACILITY

3.1 No person shall light a fire within the Facility unless authorised to do so by an Authorised Person.

3.2 No person shall remove from or otherwise damage flora on the Facility unless authorised by an Authorised Person.

3.3 No person shall trap, chase, worry or otherwise injure or maim any fauna at the Facility, unless authorised by an Authorised Person.

3.4 No person shall damage, deface or destroy any building, sign, plant or equipment or property of the Council situated in and on the Facility.

DIVISION 4—CONDUCT ON FACILITY

4.1 All persons entering the Facility shall be subject to this local law.

4.2 The drivers of all vehicles entering the Facility shall comply with any speed limit signs erected by the Council on the Facility.

DIVISION 5—COUNCIL EXEMPTION

5.1 The provisions of this local law requiring payment of fees, do not apply to the deposit of waste, owned by, or in the possession of Council.

DIVISION 6—OBJECTIONS AND APPEALS

6.1 When Council makes a decision under this local law as to whether it will—

(a) grant a person an authorisation; or

(b) renew, vary, or cancel an authorisation that a person has under this local law,

the provisions of Part 9 Division 1 of the Act and regulation 33 of the *Local Government (Functions and General) Regulations 1996* shall apply.

DIVISION 7—ENFORCEMENT OF LOCAL LAW

7.1 An Authorised Person appointed under Section 9.10 of the *Local Government Act 1995* for the purposes of performing particular functions under this local law and a person shall not hinder or interfere with an Authorised Person in the course of that person's duties.

7.2 An Authorised Person shall on demand show an identification of that person as such.

DIVISION 8—GENERAL OFFENCE AND PENALTY PROVISIONS

8.1 Any person failing to do any act directed to be done, or doing any act forbidden to be done by this local law, or any notice or order under this local law commits an offence.

8.2 Subject to clause 8.1 any person who commits an offence against this local law shall be liable to a penalty not exceeding a fine of \$5,000.00, and if the offence is of a continuing nature, to a daily penalty not exceeding a fine of \$500.00 in respect of each day or part of a day during which the offence has continued.

8.3 The offences and modified penalties prescribed, with respect to offences against this local law, shall be as specified in Schedule 1.

8.4 For the purposes of this local law—

(a) the form of the infringement notice given under section 9.16 of the Act is that of Form 2 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*; and

(b) the form of the notice sent under section 9.20 of the Act withdrawing an infringement notice is that of Form 3 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

Schedule 1

Item No.	Local Law	Offence	Modified Penalty \$
1	2.3	Depositing waste in undesignated location	100.00
2	2.7	Depositing Liquid Waste	350.00
3	2.8	Depositing toxic, poisonous, hazardous or prohibited waste	450.00
4	3.1	Lighting a fire	350.00
5		All other offences not specified	100.00

Dated this 19th day of June 2007.

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

JOHN HERBERT BIRD, President,
CORNELIS CLEMENT JOHN KERP, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995**SHIRE OF GOOMALLING****LOCAL GOVERNMENT PROPERTY LOCAL LAW 2007****PART 1—PRELIMINARY**

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- 1.2 Definitions
- 1.3 Interpretation
- 1.4 Application

PART 2—DETERMINATIONS IN RESPECT OF LOCAL GOVERNMENT PROPERTY*Division 1—Determinations*

- 2.1 Determinations as to use of local government property
- 2.2 Procedure for making a determination
- 2.3 Discretion to erect sign
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- 3.4 Conditions which may be imposed on a permit
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Division 6—Responsibilities of permit holder

3.16 Responsibilities of permit holder

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- 4.1 Behaviour which interferes with others
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- 5.1 When entry must be refused

Division 2—Fenced or closed property

- 5.2 No entry to fenced or closed local government property

Division 3—Toilet blocks and change rooms

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

PART 6—FEES FOR ENTRY ON TO LOCAL GOVERNMENT PROPERTY

- 6.1 No unauthorized entry to function

PART 7—OBJECTIONS AND APPEALS

- 7.1 Application of Division 1, Part 7 of the Act

PART 8—MISCELLANEOUS

- 8.1 Authorised person to be obeyed
- 8.2 Persons may be directed to leave local government property
- 8.3 Disposal of lost property
- 8.4 Liability for damage to local government property

PART 9—ENFORCEMENT*Division 1—Notices given under this local law*

- 9.1 Offence to fail to comply with notice
- 9.2 Local government may undertake requirements of notice

Division 2—Offences and penalties

Subdivision 1—General

- 9.3 Offences and general penalty

Subdivision 2—Infringement notices and modified penalties

- 9.4 Prescribed offences
- 9.5 Form of notices

Division 3—Evidence in legal proceedings

- 9.6 Evidence of a determination

SCHEDULE 1—PRESCRIBED OFFENCES**SCHEDULE 2—DETERMINATIONS**

Part 1 Preliminary

LOCAL GOVERNMENT ACT 1995

SHIRE OF GOOMALLING

LOCAL GOVERNMENT PROPERTY LOCAL LAW 2007

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Goomalling resolved on 22 May 2007 to make the following local law.

PART 1—PRELIMINARY

Citation

1.1 This local law may be cited as the *Shire of Goomalling Local Government Property Local Law 2007*.

Definitions

1.2 In this local law unless the context otherwise requires—

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

“**applicant**” means a person who applies for a permit under clause 3.2;

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

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

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

- (a) hall or room;
- (b) corridor, stairway or annexe of any hall or room; and
- (c) jetty;

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

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

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

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

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

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

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

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

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

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

“**local government property**” means anything except a thoroughfare—

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

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

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

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

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

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

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

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

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

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

“**vehicle**” includes—

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

but excludes—

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

Interpretation

1.2 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

1.3 (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.

PART 2—DETERMINATIONS IN RESPECT OF LOCAL GOVERNMENT PROPERTY

Division 1—Determinations

Determinations as to use of local government property

2.1 (1) The local government may make a determination in accordance with clause 2.2—

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

(2) The determinations in Schedule 2—

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

Procedure for making a determination

2.2 (1) The local government is to give local public notice of its intention to make a determination.

(2) The local public notice referred to in subclause (1) is to state that—

- (a) the local government intends to make a determination, the purpose and effect of which is summarised in the notice;
- (b) a copy of the proposed determination may be inspected and obtained from the offices of the local government; and
- (c) submissions in writing about the proposed determination may be lodged with the local government within 21 days after the date of publication.

(3) If no submissions are received in accordance with subclause (2)(c), the Council is to decide to—

- (a) give local public notice that the proposed determination has effect as a determination on and from the date of publication;

- (b) amend the proposed determination, in which case subclause (5) will apply; or
 - (c) not continue with the proposed determination.
- (4) If submissions are received in accordance with subclause (2)(c) the Council is to—
- (a) consider those submissions; and
 - (b) decide—
 - (i) whether or not to amend the proposed determination; or
 - (ii) not to continue with the proposed determination.
- (5) If the Council decides to amend the proposed determination, it is to give local public notice—
- (a) of the effect of the amendments; and
 - (b) that the proposed determination has effect as a determination on and from the date of publication.
- (6) If the Council decides not to amend the proposed determination, it is to give local public notice that the proposed determination has effect as a determination on and from the date of publication.
- (7) A proposed determination is to have effect as a determination on and from the date of publication of the local public notice referred to in subclauses (3), (5) and (6).
- (8) A decision under subclause (3) or (4) is not to be delegated by the Council.

Discretion to erect sign

2.2 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

2.3 A person shall comply with a determination.

Register of determinations

2.4 (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

2.5 (1) The Council may amend or revoke a determination.

(2) The provisions of clause 2.2 are to apply to an amendment of a determination as if the amendment were a proposed determination.

(3) If the Council revokes a determination it is to give local public notice of the revocation and the determination is to cease to have effect on the date of publication.

Division 2—Activities which may be pursued or prohibited under a determination

Activities which may be pursued on specified local government property

(1) A determination may provide that specified local government property is set aside as an area on which a person may—

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

(2) A determination may specify the extent to which and the manner in which an activity referred to in subclause (1) may be pursued and in particular—

- (a) the days and times during which the activity may be pursued;
- (b) that an activity may be pursued on a class of local government property, specified local government property or all local government property;

- (c) that an activity is to be taken to be prohibited on all local government property other than that specified in the determination;
- (d) may limit the activity to a class of vehicles, boats, equipment or things, or may extend it to all vehicles, boats, equipment or things;
- (e) may specify that the activity can be pursued by a class of persons or all persons; and
- (f) may distinguish between different classes of the activity.

Activities which may be prohibited on specified local government property

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

Division 3—Transitional

Signs taken to be determinations

- 2.8 (1) Where a sign erected on local government property has been erected under a local law of the local government repealed by this local law, then it is to be taken to be and have effect as a determination on and from the commencement day, except to the extent that the sign is inconsistent with any provision of this local law or any determination made under clause 2.1.
- (2) Clause 2.5 does not apply to a sign referred to in subclause (1).

PART 3—PERMITS

Division 1—Preliminary

Application of Part

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

Division 2—Applying for a permit

Application for permit

- 3.2 (1) Where a person is required to obtain a permit under this local law, that person shall apply for the permit in accordance with subclause (2).
- (2) An application for a permit under this local law shall—
- (a) be in the form determined by the local government;
 - (b) be signed by the applicant;
 - (c) provide the information required by the form; and
 - (d) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.
- (3) The local government may require an applicant to provide additional information reasonably related to an application before determining an application for a permit.

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

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

Decision on application for permit

3.3 (1) The local government may—

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

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

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

Division 3—Conditions

Conditions which may be imposed on a permit

3.4 (1) Without limiting the generality of clause 3.3(1)(a), the local government may approve an application for a permit subject to conditions relating to—

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

(2) Without limiting clause 3.3(1)(a) and subclause (1), the following paragraphs indicate the type and content of the conditions on which a permit to hire local government property may be issued—

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

Imposing conditions under a policy

3.5 (1) In this clause—

“**policy**” means a policy of the local government adopted by the Council containing conditions subject to which an application for a permit may be approved under clause 3.3(1)(a).

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

(3) The local government shall give a copy of the policy, or the part of the policy which is relevant to the application for a permit, with the form of permit referred to in clause 3.3(2).

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

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

Compliance with and variation of conditions

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

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

Division 4—General

Agreement for building

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

Duration of permit

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

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

Renewal of permit

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

(2) The provisions of this Part shall apply to an application for the renewal of a permit *mutatis mutandis*.

Transfer of permit

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

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

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

(3) Where the local government approves an application for the transfer of a permit, the transfer may be effected by an endorsement on the permit signed by the CEO.

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

Production of permit

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

Cancellation of permit

3.12 (1) Subject to clause 7.1, a permit may be cancelled by the local government if the permit holder has not complied with a—

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

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

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

Division 5—When a permit is required

Activities needing a permit

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

- (a) subject to subclause 3, hire local government property;
- (b) advertise anything by any means on local government property;
- (c) erect a structure for public amusement or for any performance, whether for gain or otherwise, on local government property;
- (d) teach, coach or train, for profit, any person in a pool area or an indoor recreation facility which is local government property;
- (e) plant any plant or sow any seeds on local government property;
- (f) carry on any trading on local government property unless the trading is conducted—
 - (i) with the consent of a person who holds a permit to conduct a function, and where the trading is carried on under and in accordance with the permit; or

- (ii) by a person who has a licence or permit to carry on trading on local government property under any written law;
 - (g) unless an employee of the local government in the course of her or his duties or on an area set aside for that purpose—
 - (i) drive or ride or take any vehicle on to local government property; or
 - (ii) park or stop any vehicle on local government property;
 - (h) conduct a function on local government property;
 - (i) charge any person for entry to local government property, unless the charge is for entry to land or a building hired by a voluntary non-profit organisation;
 - (j) light a fire on local government property except in a facility provided for that purpose;
 - (k) parachute, hang glide, abseil or base jump from or on to local government property;
 - (l) erect a building or a refuelling site on local government property;
 - (m) make any excavation on or erect or remove any fence on local government property;
 - (n) erect or install any structure above or below ground, which is local government property, for the purpose of supplying any water, power, sewer, communication, television or similar service to a person; or
 - (o) depasture any horse, sheep, cattle, goat, camel, ass or mule on local government property.
- (2) The local government may exempt a person from compliance with subclause (1) on the application of that person.
- (3) The local government may exempt specified local government property or a class of local government property from the application of subclause (1)(a).

Permit required to camp outside a facility

3.14 (1) In this clause—

“**facility**” has the same meaning as is given to it in section 5(1) of the *Caravan Parks and Camping Grounds Act 1995*.

- (2) This clause does not apply to a facility operated by the local government.
- (3) A person shall not without a permit—
 - (a) camp on, lodge at or occupy any structure at night for the purpose of sleeping on local government property; or
 - (b) erect any tent, camp, hut or similar structure on local government property other than a beach shade or windbreak erected for use during the hours of daylight and which is dismantled during those hours on the same day.
- (4) The maximum period for which the local government may approve an application for a permit in respect of paragraph (a) or (b) of subclause (3) is that provided in regulation 11(2)(a) of the *Caravan Parks and Camping Grounds Regulations 1997*.

Permit required for possession and consumption of liquor

3.15 (1) A person, on local government property, shall not consume any liquor or have in her or his possession or under her or his control any liquor, unless—

- (a) that is permitted under the *Liquor Control Act 1988*; and
 - (b) a permit has been obtained for that purpose.
- (2) Subclause (1) does not apply where the liquor is in a sealed container.

Division 6—Responsibilities of permit holder

Responsibilities of permit holder

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

PART 4—BEHAVIOUR ON ALL LOCAL GOVERNMENT PROPERTY

Division 1—Behaviour on and interference with local government property

Behaviour which interferes with others

- 4.1 A person shall not in or on any local government property behave in a manner which—
- (a) is likely to interfere with the enjoyment of a person who might use the property; or
 - (b) interferes with the enjoyment of a person using the property.

Behaviour detrimental to property

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

(2) In subclause (1)—

“detrimental to the property” includes—

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

Taking or injuring any fauna

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

(2) In this clause—

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

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

- (a) any class of animal or individual member;
- (b) the eggs or larvae; or
- (c) the carcass, skin, plumage or fur.

Intoxicated persons not to enter local government property

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

No prohibited drugs

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

*Division 2—Signs***Signs**

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

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

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

- (a) not to be inconsistent with any provision of this local law or any determination; and
- (b) to be for the purpose of giving notice of the effect of a provision of this local law.

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

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

- (a) in her or his opinion is—
 - (i) under the age of 10 years and who is unaccompanied by a responsible person over the age of 16 years;
 - (ii) suffering from any contagious, infectious or cutaneous disease or complaint, or is in an unclean condition; or
 - (iii) under the influence of liquor or a prohibited drug; or
- (b) is to be refused admission under and in accordance with a decision of the local government for breaching any clause of this local law.

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

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

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

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

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

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

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

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

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

PART 7—OBJECTIONS AND APPEALS**Application of Division 1, Part 7 of the Act**

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

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

the provisions of Division 1 of Part 9 of the Act and regulation 33 of the apply to that decision.

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

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

Persons may be directed to leave local government property

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

Disposal of lost property

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

Liability for damage to local government property

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

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

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

PART 9—ENFORCEMENT*Division 1—Notices given under this local law***Offence to fail to comply with notice**

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

Local government may undertake requirements of notice

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

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

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

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

Subdivision 2—Infringement notices and modified penalties

Prescribed offences

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

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

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

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

Form of notices

9.5 (1) For the purposes of this local law—

- (a) where a vehicle is involved in the commission of an offence, the form of the notice referred to in section 9.13 of the Act is that of Form 1 in Schedule 1 of the Regulations;
- (b) the form of the infringement notice given under section 9.16 of the Act is that of Form 2 in Schedule 1 of the Regulations; and
- (c) the form of the notice referred to in section 9.20 of the Act is that of Form 3 in Schedule 1 of the Regulations.

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

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

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

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

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

*Schedule 1***PRESCRIBED OFFENCES**

Clause	Description	Modified Penalty \$
2.4	Failure to comply with determination	125
3.6	Failure to comply with conditions of permit	125
3.13(1)	Failure to obtain a permit	125
3.14(3)	Failure to obtain permit to camp outside a facility	125
3.15(1)	Failure to obtain permit for liquor	125
3.16	Failure of permit holder to comply with responsibilities	125
4.2(1)	Behaviour detrimental to property	125
4.4	Under influence of liquor or prohibited drug	125
4.6(2)	Failure to comply with sign on local government property	125
5.2	Unauthorized entry to fenced or closed local government property	125
5.3	Gender not specified using entry of toilet block or change room	125
6.1(1)	Unauthorized entry to function on local government property	125
9.1	Failure to comply with notice	250

*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 Shire of Goomalling Local Government Property Local Law 2007 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.

Dated this 19th day of June 2007.

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

JOHN HERBERT BIRD, President,
CORNELIS CLEMENT JOHN KERP, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995

SHIRE OF GOOMALLING

REPEAL LOCAL LAW 2007

Under the powers conferred by the *Local Government Act 1995* and by all other powers enabling it the local government of the Shire of Goomalling resolved to make the following local law on the 22 May 2007.

1. Citation

This Local Law may be cited as the *Shire of Goomalling Repeal Local Law 2007*.

2. Operation

This Local Law comes into operation on the fourteenth day after the date of publication in the *Government Gazette*.

3. Repeal

The following Local Laws are repealed—

By-laws relating to—

- General, published in the *Government Gazette* on 19 September 1924;
- Building, published in the *Government Gazette* on the 28 October 1927;
- Dogs, published in the *Government Gazette* on the 21 March 1930;
- War Memorial Hall, published in the *Government Gazette* on the 7 December 1934;
- Heavy Traffic published in the *Government Gazette* on the 30 December 1938;
- Long Service Leave published in the *Government Gazette* on the 29 April 1949;
- Management of the Goomalling War Memorial Swimming Pool published in the *Government Gazette* on the 20 January 1959;
- TV masts and Antennae's published in the *Government Gazette* on the 10 June 1960;
- Numbering of Houses and Buildings published in the *Government Gazette* on the 1 August 1960;
- Removal of Refuse published in the *Government Gazette* on the 1 August 1960;
- Building—Goomalling Townsite published in the *Government Gazette* on the 18 August 1961;
- Goomalling Public Cemetery published in the *Government Gazette* on the 15 July 1970;
- Goomalling War Memorial Swimming Pool published in the *Government Gazette* on the 15 July 1970;
- Clearing of Land and Removal of Refuse, Rubbish and Disused Material published in the *Government Gazette* on the 15 July 1970;
- Goomalling War Memorial Swimming Pool published in the *Government Gazette* on the 23 November 1971;
- Long Service Leave amendment deleting By-law 7 published in the *Government Gazette* on the 25 October 1974;
- Long Service Leave amendment deleting By-law 8 published in the *Government Gazette* on the 25 October 1974;
- Goomalling War Memorial Swimming Pool amendment published in the *Government Gazette* on the 25 October 1974;
- Governing Long Service Leave amendment published in the *Government Gazette* on the 20 February 1976;
- Goomalling War Memorial Swimming Pool—fees published in the *Government Gazette* on the 24 December 1976;
- Management and Use of Goomalling Town Hall, Lesser Hall, Pavilion, Jenncubbine Hall and Konnogorring Hall published in the *Government Gazette* on the 18 February 1977;
- Management and Use of Goomalling Town Hall, Lesser Hall, Pavilion, Jenncubbine Hall and Konnogorring Hall amendment published in the *Government Gazette* on the 28 September 1979;

Swimming Pool amendment published in the *Government Gazette* on the 28 September 1979;
Removal and Disposal of Obstructing Animals and Vehicles—Draft Model No. 7 published in the *Government Gazette* on the 28 September 1979;
Draft Model Bylaws (Vehicle Wrecking) No. 17 published in the *Government Gazette* on the 26 June 1981 September 1980;
Pest Plants published in the *Government Gazette* on the 22 January 1982;
Goomalling Public Cemetery amendment published in the *Government Gazette* on the 26 February 1982;
Nuisances published in the *Government Gazette* on the 26 February 1982;
Draft Model Bylaws (Caravan Parks and Camping Grounds) No. 2 published in the *Government Gazette* on the 29 April 1988;
Management and Use of Halls and a Pavilion amendment published in the *Government Gazette* on the 2 September 1988;
Management and Use of Goomalling Town Hall, Lesser Hall, Pavilion, Jenncubbine Hall and Konnogorring Hall, published in the *Government Gazette* on 31 August 1990; and
Extractive Industries Draft Model No. 9 published in the *Government Gazette* on the 11 January 1991.

Dated this 22nd day of May 2007.

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

JOHN HERBERT BIRD, President.
CORNELIS CLEMENT JOHN KERP, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995
DIVIDING FENCES ACT 1961

SHIRE OF GOOMALLING

LOCAL LAW RELATING TO FENCING 2007

Under the powers conferred by the *Local Government Act 1995* and by all other powers, the Council of the Shire of Goomalling resolved to make the following Local Law on the 22 May 2007.

PART 1—PRELIMINARY

Citation

1.1 This Local Law may be cited as the *Shire of Goomalling Local Law Relating to Fencing 2007*.

Application

1.2 This Local Law applies throughout the district.

Operation

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

2. (1) Interpretation

In this Local Law unless the context otherwise requires—

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

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

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

“**Building Surveyor**” means a Building Surveyor of the Shire of Goomalling;

“**Chief Executive Officer**” means the Chief Executive Officer of the Shire of Goomalling;

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

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

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

- (a) an electrified fence other than a fence in respect of which a licence under Part 6 of this Local Law has been issued and is current;
- (b) a fence containing barbed wire other than a fence erected and maintained in accordance with this Local Law;
- (c) a fence containing exposed broken glass, asbestos fibre, razor wire or any other potentially harmful projection or material; or
- (d) a fence which is likely to collapse or fall, or part of which is likely to collapse or fall, from any cause;

“**district**” means the district of the Shire of Goomalling;

“**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 the lot abuts;

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

- (a) the top of the fence at any point; and
- (b) the ground level or, where the ground levels on 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;

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

“**notice of breach**” means a notice referred to in clause 15(1);

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

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

“**retaining wall**” means any structure which prevent the movement of soil in order to allow ground levels of different elevations to exist adjacent to one another;

“**Rural Lot**” means a lot where a rural use—

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

“**Schedule**” means a Schedule to this Local Law;

“**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 3; and

“**town planning scheme**” means a town planning scheme of the Shire of Goomalling made under the *Planning and Development Act 2005*.

PART 2—SUFFICIENT FENCES

Sufficient Fences

3. (1) A person shall not erect a dividing fence or a boundary fence that is not a sufficient fence.
- (2) Subject to sub-clauses (3) and (4), a sufficient fence—
- (a) on a Residential Lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of the First Schedule;
 - (b) on a Commercial Lot and on an Industrial Lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of the Second Schedule;
 - (c) on a Rural Lot and on a Special Rural Lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of the Third Schedule.
- (3) Where a fence is erected on or near the boundary between—
- (a) a Residential Lot and an Industrial Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of the First Schedule;
 - (b) a Residential Lot and a Commercial Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of the Second Schedule;
 - (c) a Residential Lot and a Rural Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of the Third Schedule;
 - (d) a Residential Lot and a Special Rural Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of the First Schedule; and
 - (e) a Special Rural Lot and a Rural Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of the Third Schedule.
- (4) Unless the Building Surveyor specifies otherwise, a sufficient fence on a boundary 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 this Local Law, a fence constructed of stone or concrete shall be sufficient fence only if it is designed by a structural engineer to comply with the Building Code of Australia where—
- (a) it is greater than 1800mm in height; or
 - (b) the Building Surveyor so requires.

PART 3—GENERAL

Dividing Fences

4. (1) In determining an application for a building licence in respect of a fence, the Building Surveyor may approve the erection of a fence of a height greater than 750mm in the front setback area of a Residential Lot only if the fence on each side of the driveway into the Lot across the front boundary is to be angled into the Lot for a distance of not less than 1500mm along the frontage to a distance of not less than 1500mm from the frontage in order to provide appropriate splayed lines of vision for a motorist using the driveway for access to a thoroughfare.

- (2) The provision of sub-clause (1) shall not apply to a fence—
- (a) of open construction that does not obscure the lines of vision of a motorist using the driveway for access to a thoroughfare; or
 - (b) that does not adjoin a footpath.

Fences Within Front Setback Areas

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

Fences on a Rural Lot

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

Maintenance of Fences

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

PART 4—FENCING MATERIALS

Fencing Materials

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

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

Barbed Wire and Broken Glass Fences

9. (1) This clause does not apply to a fence constructed wholly or partly of razor wire.

(2) An owner or occupier of a Residential Lot or a Commercial Lot shall not erect or affix to or allow to remain on or as part of any fence on such a lot any barbed wire or other material with spiked or jagged projections, unless prior written approval of the Building Surveyor has been obtained.

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

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

(5) An owner or occupier of a Rural Lot shall not place or affix barbed wire upon a fence on that Lot where the fence is adjacent to a thoroughfare or other public place unless the barbed wire is fixed to the side of the fence posts furthest from the thoroughfare or other public place.

PART 5—TENNIS COURT FENCING AND FLOODLIGHTING

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

(2) A person shall not erect or repair a fence around or partly around a tennis court on a lot unless—

- (a) the fence is not more than 3500mm in height;
- (b) the whole of the fence is at least 900mm from the boundary between the lot on which the tennis court is located and the adjoining lot or if it is less than 900mm, the owner of the adjoining lot has first been given the opportunity to make submissions to the Shire of Goomalling on the location of the fence;
- (c) all structural components to comply with the Building Code of Australia.

Tennis Court Floodlighting

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

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

- (a) the owner of each adjoining lot is given the opportunity to make submissions;
- (b) light fittings are not more than 3500mm above natural ground level;
- (c) light fittings used are of a type mounted horizontally or of a type approved by the Building Surveyor;
- (d) the level of light from the floodlights or external lights on any land more than 1000mm from the lot does not exceed 10 lumens; and
- (e) where required by the Building Surveyor, written approval to the erection of the lights or other exterior lights has been obtained from the Commissioner of Main Roads.

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

12. (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) have a fence constructed wholly or partly of razor wire on that lot without first obtaining a licence under subclause (3).
- (2) A licence to have and use an electrified fence shall not be issued—
- (a) in respect of a lot which is or which abuts a Residential Lot;
 - (b) unless the fence complies with AS/NZS 3016:2002: Electrical installations—Electric security fences; and
 - (c) unless provision is made so as to enable the fence to be rendered inoperable during the house of business operations, if any, on the lot where it is erected.
- (3) A licence to have a fence constructed wholly or partly of razor wire shall not be issued—
- (a) if the fence is within 3m of the boundary of the lot;
 - (b) where any razor wire used in the construction of the fence is less than 2000mm or more than 2400 mm above the ground level.
- (4) An application for a licence referred to in subclauses (2) or (3) shall be made by the owner of the lot on which the fence is or is to be erected, or by the occupier of the lot with the written consent of the owner.
- (5) An application for a licence referred to in subclauses (2) or (3) may be—
- (a) approved by the Shire of Goomalling;
 - (b) approved by the Shire of Goomalling subject to such conditions as it thinks fit; or
 - (c) refused by the Shire of Goomalling.

Transfer of a Licence

- 13 (1) The holder of a licence referred to in clause 12 may transfer that licence to another occupier or owner of the lot only with the written approval of the Shire of Goomalling.
- (2) The application for a transfer of a licence shall be—
- (a) made by the proposed transferee;
 - (b) in the form determined from time to time by the Shire of Goomalling;
 - (c) signed by the holder of the licence;
 - (d) accompanied by the fee determined by the Shire of Goomalling from time to time; and
 - (e) accompanied by such other information as the Shire of Goomalling may require to determine the application.
- (3) The Shire of Goomalling may—
- (a) approve the application for a transfer of the licence;
 - (b) approve the application for a transfer of the licence subject to such conditions as it thinks fit; or
 - (c) refuse to approve the application for a transfer of the licence.

Cancellation of a Licence

14. Subject to Division 1 Part 9 of the *Local Government Act 1995*, the Shire of Goomalling may cancel a licence issued under this Part if—
- (a) the fence no longer satisfies the requirements specified in clause 12(2) or 12(3) as the case may be; or
 - (b) the licence holder breaches any condition upon which the licence has been issued.

PART 7—NOTICES OF BREACH**Notices of Breach**

15. (1) Where a breach of any provision of this Local Law has occurred in relation to a fence on a lot, the Shire of Goomalling 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 this Local Law 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 Shire of Goomalling may by its employees, agents or contractors enter upon the lot to which the notice relates and remedy the breach, and may recover the expenses of so doing from the owner or occupier of the lot, as the case may be, in a court of competent jurisdiction.

PART 8—OFFENCES**Offences and Penalties**

16 (1) An owner or occupier who fails to comply with a notice of breach commits an offence and is liable upon conviction to a maximum penalty of \$5,000 and, if the offence is a continuing offence, a maximum daily penalty of \$500.

(2) A person who fails to comply with or who contravenes any provision of this Local Law commits an offence and is liable to a maximum penalty of \$5,000 and, if the offence is a continuing offence, a maximum daily penalty of \$500.

Modified Penalties

17 (1) An offence against any provision of this Local Law local 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 this Local Law is \$100.

Form of Notices

18. For the purposes of this Local Law:—

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

First Schedule

Clause 3(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 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 50mm weather cut and to be sunk at least 500mm into the ground;
- (e) rails to be 75mm x 50mm with each rail spanning two bays of fencing double railed or bolted to each post with joints staggered;
- (f) the fence to be covered with 75mm x 20mm sawn pickets, 1800mm in height placed 75mm apart and doubled nailed to each rail; and
- (g) the height of the fence to a maximum of 1800mm.

B. A fence constructed of corrugated fibre reinforced pressed cement sheeting, but in any case shall have a minimum in-ground depth of 500mm;

- (a) a minimum in-ground length of 25 per cent of the total length of the sheet, but in any case shall have a minimum in-ground depth of 500mm;
- (b) the total height and depth of the fence to consist of a single continuous fibre reinforced cement sheet;
- (c) the sheets to be lapped and capped with extruded “snap-fit” type capping in accordance with the manufacturers written instructions; and
- (d) the height of the fence to be a maximum of 1800mm.

C. A fence constructed of brick, stone or concrete, which satisfies the following specifications—

- (a) footings of minimum 225mm x 150mm concrete 15MPa or 300mm x 175mm brick laid in cement mortar;
- (b) fences to be offset a minimum of 200mm at maximum 3000mm centres or 225mm x 100mm engaged piers to be provided at maximum 3000mm centres;
- (c) expansion joints in accordance with the manufacturer’s written instructions; and
- (d) the height of the fence to be a maximum of 1800mm.

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

- (1) (a) brick piers of minimum 230mm x 230mm at 1800mm centres bonded to a minimum height base wall of 514mm;
- (b) each pier shall be reinforced with one R10 galvanised starting rod 1500mm high with a 250mm horizontal leg bedded into a 500mm x 200mm concrete footing and set 65mm above the base of the footing. The top of the footing shall be 1 course (85mm) below ground level;

- (c) the minimum ultimate strength of brickwork shall be 20MPA. Mortar shall be a mix of 1 part cement, 1 part lime and 6 parts sand;
 - (d) the ground under the footings is to be compacted to 6 blows per 300mm and checked with a standard falling eight penetrometer; and
 - (e) control joints in brickwork shall be provided with double piers at a maximum of 6 metre centres; or
- (2) (a) brick piers of a minimum 230mm x 350mm x 2700mm centres bonded to the base wall; and
- (b) each pier shall be reinforced with two R10 galvanised starting rods as previously specified.

Second Schedule

Clause 3(2)(b)

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

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

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

- (a) corner posts to be a minimum 50mm normal bore x 3.5mm and with footings of a 225mm diameter x 900mm;
- (b) intermediate posts to be minimum 37mm nominal bore x 3.15mm at maximum 3.5m centres and with footings of a 225mm diameter x 500mm;
- (c) struts to be minimum 30mm nominal bore x 3.15mm fitted at each gate and two at each corner post;
- (d) cables to be affixed to the top, centre and bottom of all posts and to consist of two or more 3.15mm wires twisted together;
- (e) rail-less link, chain or steel mesh is to be a height of 2000mm on top of which are to be three strands of barbed wire carrying the fence to a height of 2400mm; and
- (f) galvanised link mesh wire to be 2000mm in height and constructed of 50mm mesh 2.5mm galvanised iron wire and to be strained, neatly secured and 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.

B. A fence of fibre reinforced cement sheet constructed to the minimum specifications referred to in Item B of the First Schedule.

C. A fence constructed of painted or galvanised steel or aluminium sheeting provided that this is used behind the building line to maximum height of 2400mm when supported on posts and rails.

D. Fences of timber, brick, stone or concrete constructed to the minimum specifications referred to in the First Schedule.

Third Schedule

Clause 3(2)(c)

SPECIFICATIONS FOR A SUFFICIENT FENCE ON A RURAL LOT

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

- (a) wire shall be high tensile wire and not less than 2.5mm. a minimum of five wires shall be used, these to be spaced equally and threaded through 12mm holes in posts to all fences;
- (b) posts shall be indigenous timber or other suitable material including timber impregnated with a termite and fungicidal preservative cut not less than 1800mm long x 100mm diameter at small end if round or 125mm x 50mm if split or sawn. Posts to be set minimum 500mm in the ground and 1200mm above the ground; and
- (c) strainer posts shall be not less than 2250mm long and 150mm diameter at the small end and shall be cut from indigenous timber or other suitable material. These shall be placed a minimum of 1000mm in the ground.

Dated this 19th day of June 2007.

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

JOHN HERBERT BIRD, President.
CORNELIS CLEMENT JOHN KERP, Chief Executive Officer.

Form 1
 SHIRE OF GOOMALLING
**LICENCE TO HAVE AND USE AN ELECTRIFIED FENCE IN ACCORDANCE WITH AS/NZS
 3016:2002:**

Electrical installations—Electric security fences.

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

Chief Executive Officer,
 Shire of Goomalling.

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

- Display the licence in a prominent position on the land or premises on which the electrified fence has been erected.
- Upon request of a Building Surveyor produce to him or her the licence.
- Within 14 days of a change in the ownership or occupation of the land or premises in respect of which the licence has been granted, notify the Chief Executive Officer in writing of the details of that change or those changes.
- Obtain the written consent of the Shire of Goomalling prior to the commencement of any alteration, addition or other work relating to or affecting the electrified fence.
- Comply with AS/NZS 3016:2002: Electrical installations—Electric security fences.
- 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

Chief Executive Officer,
 Shire of Goomalling.

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

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

(address)

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

Chief Executive Officer,
 Shire of Goomalling.

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 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 Shire of Goomalling 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

Chief Executive Officer,
Shire of Goomalling.

CEMETERIES ACT 1986

SHIRE OF GOOMALLING

**MANAGEMENT AND CONTROL OF GOOMALLING CEMETERY
LOCAL LAW 2007**

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**CEMETERIES ACT 1986
LOCAL GOVERNMENT ACT 1995**

SHIRE OF GOOMALLING

**MANAGEMENT AND CONTROL OF GOOMALLING CEMETERY
LOCAL LAW 2007**

Under the powers conferred by the *Cemeteries Act 1986* and under all other powers enabling it, the Council of the Shire of Goomalling resolved on 22 May 2007 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This Local Law may be cited as the *Management and Control of Goomalling Cemetery Local Law 2007*.

1.2 Interpretation

In this Local Law unless the context otherwise requires—

“**Act**” means the *Cemeteries Act 1986*;

“**ashes**” means so much of the remains of a dead body after due processes of cremation as may be contained in a standard sized cremation urn;

“**authorised officer**” means an employee of the Board authorised by the Board for the purposes of performing any function or exercising any power conferred upon an authorised officer by this Local Law;

“**CEO**” means the chief executive officer for the time being, of the Board;

“**Funeral Director**” means a person holding a current funeral director’s licence;

“**Board**” means Shire of Goomalling;

“**monumental mason**” means a person holding a current monumental mason’s licence;

“**set fee**” refers to fees and charges set by a resolution of the Board at its annual budget meeting and published in the Government Gazette, under section 53 of the Act;

“**single funeral permit**” means a permit issued by the Board under section 20 or 21 of the Act which entitles the holder to conduct at the cemetery a funeral of a person named in the permit ; and

“**vault**” means a below ground lined grave with one or more sealed compartments constructed to specifications approved from time to time by the Board.

PART 2—ADMINISTRATION

2.1 Powers and Functions of CEO

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

PART 3—APPLICATION FOR FUNERALS

3.1 Application for Burial

(1) A person may apply for approval to bury a dead body in the cemetery in the form determined by the Board from time to time.

(2) An application under subclause (1) is to be accompanied by the set fee.

3.2 Applications to be Accompanied by Certificates etc

All applications referred to in clause 3.1 shall be accompanied by either a medical certificate or death or a Coroner’s order of burial, and a certificate issued under clause 3.3, in respect of the body.

3.3 Certificate of Identification

(1) After a dead body is placed in a coffin and prior to a dead body being removed to the cemetery, a person who personally knew the deceased shall identify the dead body and shall complete a certificate of identification in the form determined by the Board from time to time, unless—

- (a) in the opinion of the Funeral Director, the dead body is not in a fit state to be viewed; or
- (b) after reasonable effort the Funeral Director is unable to arrange for a person to identify the dead body.

(2) Where—

- (a) in the opinion of the Funeral Director, the dead body is not in a fit state to be viewed;
- or
- (b) after reasonable effort the Funeral Director is unable to arrange for a person to identify the dead body,

then the Funeral Director shall complete a certificate in the form determined by the Board from time to time.

3.4 Minimum Notice Required

All bookings to hold a funeral shall be made with the Board at least 24 hours prior to the time proposed for burial on the application, otherwise an extra charge may be made.

PART 4—FUNERAL DIRECTORS

4.1 Funeral Director's Licence Expiry

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

4.2 Single Funeral Permits

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

4.3 Application Refusal

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

PART 5—FUNERALS

Division 1—General

5.1 Requirements for Funerals and Coffins

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

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

5.2 Funeral Processions

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

5.3 Vehicle Entry Restricted

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

5.4 Vehicle Access and Speed Limitations

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

5.5 Offenders may be Expelled

A person committing an offence under clause 5.4 may be expelled from the cemetery by the CEO or an authorised officer.

5.6 Conduct of Funeral by Board

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

- (a) require a written request for it to conduct a funeral to be lodged with it;
- (b) in its absolute discretion, charge any person requesting it to conduct a funeral the set fee for the conduct of that funeral by it;

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

Division 2—Placement of Ashes

5.7 Disposal of Ashes

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

Niche Wall

Family Grave

Other memorials approved by the Board

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

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

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

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

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

PART 6—BURIALS

6.1 Depth of Graves

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

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

(b) in any circumstances less than 600mm.

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

PART 7—MEMORIALS AND OTHER WORK

Division 1—General

7.1 Application for Monumental Work

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

7.2 Placement of Monumental Work

Every memorial shall be placed on proper and substantial foundations.

7.3 Removal of Rubbish

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

7.4 Operation of Work

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

7.5 Removal of Sand, Soil or Loam

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

7.6 Hours of Work

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

7.7 Unfinished Work

Should any work by masons or others be not completed before 6.00pm on weekdays and noon on Saturdays, they shall be required to leave the work in a neat and safe condition to the satisfaction of the CEO or an authorised officer.

7.8 Use of Wood

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

7.9 Plants and Trees

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

7.10 Supervision

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

7.11 Australian War Graves

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

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

7.12 Placing of Glass Domes and Vases

A person shall not place glass domes, vases or other grave ornaments—

- (a) outside the perimeter of a grave in the cemetery as defined in the plans kept and maintained under section 40(2) of the Act; or
- (b) in an area set aside by the Board as a memorial plaque section.

*Division 2—Memorial Plaque Section***7.13 Requirements of a Memorial Plaque**

- (1) All memorial plaques placed in a memorial plaque section of the cemetery shall—
 - (a) be made of admiralty bronze or any other material approved by the Board; and
 - (b) not be less than the dimensions 380mm x 280mm, nor more than 560mm x 305mm.
- (2) All memorial plaques made of admiralty bronze shall—
 - (a) not exceed 20mm in thickness; and
 - (b) be placed upon a base mounting approved by the Board.
- (3) All memorial plaques made of stone shall—
 - (a) not exceed 50mm in thickness placed upon a base mounting approved by the Board; or
 - (b) not be less than 100mm in thickness if it is not to be placed upon a base mounting.

*Division 3—Licensing of Monumental Masons***7.14 Monumental Mason's Licence**

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

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

7.15 Expiry Date, Non-Transferability

A monumental mason's licence—

- (a) shall, subject to clause 7.18, be valid from the date specified therein until the 30th day of June next following; and
- (b) is not transferable.

7.16 Carrying out Monumental Work

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

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

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

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

7.18 Cancellation of a Monumental Mason's Licence

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

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

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

(3) An aggrieved person whose licence has been terminated under subclause (1) may appeal to the State Administrative Tribunal against a decision of the Board under this clause in the manner stated in section 19 of the Act.

PART 8—GENERAL

8.1 Animals

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

8.2 Guide Dogs

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

8.3 Damaging and Removing of Objects

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

8.4 Withered Flowers

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

8.5 Littering and Vandalism

A person shall not—

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

8.6 Advertising

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

8.7 Obeying Signs and Directions

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

8.8 Removal from the Cemetery

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

PART 9—OFFENCES AND MODIFIED PENALTIES

9.1 General

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

9.2 Modified Penalties

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

First Schedule

CEMETERIES ACT 1986

Shire of Goomalling*Management and Control of Goomalling Cemetery Local Law 2007***MODIFIED PENALTIES**

Item No.	Clause	Nature of Offence	Modified Penalty
1	5.4	Excessive speed	\$150.00
2	5.4	Unauthorised use—driving of vehicles	\$150.00
3	7.3	Placing and removal of rubbish and surplus materials	\$150.00
4	7.7	Leaving uncompleted works in an untidy or unsafe condition	\$150.00
5	8.1	Animal at large	\$150.00
6	8.5	Dumping of Rubbish	\$150.00
7	8.6	Unauthorised advertising, and/or trading	\$150.00
8	8.7	Disobeying sign or lawful direction	\$150.00

Second Schedule

CEMETERIES ACT 1986

Shire of Goomalling*Management and Control of Goomalling Cemetery Local Law 2007***INFRINGEMENT NOTICE**

TO:

(Name)

.....

(Address)

It is alleged that atam/pm on.....day

of.....20.....at.....

.....

you committed the offence indicated below by an (x) in breach of clause of the Management and Control of Goomalling Cemetery Local Law 2007.

.....

(Authorised Person)

Offence

Animal at large

Dumping rubbish

Excessive speed in vehicle

Leaving uncompleted works in an untidy or unsafe condition

Non removal of rubbish

Unauthorised advertising or trading

Unauthorised vehicle use

Disobeying sign or lawful direction

Other Offence

\$......

You may dispose of this matter—

By payment of the penalty as shown within 21 days of the date of this notice (or the date of the giving of this notice if that is a different date) to the Chief Executive Officer of the Shire of Goomalling at the corner Quinlan and Hoddy Streets, Goomalling, between the hours of 8.30am to 4.00pm Monday to Thursday and 8.30am to 4.30pm on Friday.

Please make cheques payable to Shire of Goomalling. Payments by mail should be addressed to—

The Chief Executive Officer

Shire of Goomalling

PO Box 118

GOOMALLING WA 6460

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

Third Schedule
CEMETERIES ACT 1986
Shire of Goomalling
Management and Control of Goomalling Cemetery Local Law 2007
WITHDRAWAL OF INFRINGEMENT NOTICE

No.

..... Date...../...../.....

To (1).....

Infringement Notice No_____dated___/___/___for the alleged offence of (2)

.....

Penalty (3) \$.....is withdrawn.
 (Delete whichever does not apply)
 *No further action will be taken.
 *It is proposed to institute court proceedings for the alleged offence.

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

.....
 (Authorised Person)

Dated this 19th day of June 2007.
 The Common Seal of the Shire of Goomalling Was affixed by authority of a resolution of the Council\In the presence of—

JOHN HERBERT BIRD, President.
 CORNELIS CLEMENT JOHN KERP, Chief Executive Officer.
