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LOCAL GOVERNMENT ACT 1995

SHIRE OF HARVEY

**LOCAL LAW RELATING TO
SIGNS AND OTHER
ADVERTISING DEVICES 2007**

**EXTRACTIVE INDUSTRIES
LOCAL LAW 2007**

LOCAL GOVERNMENT ACT 1995**SHIRE OF HARVEY****LOCAL LAW RELATING TO SIGNS AND OTHER ADVERTISING
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LOCAL GOVERNMENT ACT 1995

SHIRE OF HARVEY

LOCAL LAW RELATING TO SIGNS AND OTHER ADVERTISING DEVICES 2007

Under the powers conferred on it by the *Local Government Act 1995* and by all other powers enabling it, the Council of the Shire of Harvey resolved on the, 10th July, 2007 to make the following local law.

PART I—CITATION AND INTERPRETATION

1. Citation and Purpose

1.1 This Local Law may be cited as “Shire of Harvey Local Law Relating to Signs and Other Advertising Devices 2007”.

1.2 This Local Law is made for the purpose of providing powers for and a system of regulation in relation to Advertising Devices used within the Shire taking into account the needs of the persons to be informed of the services available in the Shire, the commercial needs of businesses in the Shire as well as the desire to preserve the amenity of all areas within the Shire and to ensure some uniformity in the type of signs used in the Shire.

1.3 The Shire of Harvey By-laws Relating to Signs, Hoardings and Billposting published in the *Government Gazette* on 13 November 1987 are repealed.

1.4 In the clauses to follow this Local Law is referred to as “this Local Law”.

2. Interpretation

2.1 In this Local Law, unless the context otherwise requires—

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

“**Advertising Device**” means any object or structure on which any word, letter, number, symbol, figure, drawing, image or other representation whatsoever is written, placed, affixed, attached, painted, projected or otherwise displayed for the purpose of giving any message or direction or promoting or publicising any business, project, enterprise, or undertaking, or any function or event, or any person, body or group, or any product or article, or other thing whatsoever, and includes a Sign, a Hoarding, a Wall Panel, an airborne device anchored to any land, building or thing, and also includes any vehicle or trailer or other similar object placed or located so as to serve the purpose herein before referred to;

“**Banner Sign**” means a Portable Sign predominantly made of fabric, plastic or a similar flexible material;

“**Bill**” means any written, printed or illustrated message or matter on paper, plastic or similar material;

“**Bill Posting**” means the attaching, sticking, printing, or stenciling of any bill, poster, placard, advertisement on any building, wall, hoarding or structure whether erected upon private property or upon a public place and to “Post a Bill” has a corresponding meaning;

“**Building Surveyor**” means a building surveyor appointed by the Shire pursuant to the *Local Government (Miscellaneous Provisions) Act 1960*;

“**Building Code**” means the latest edition of the Building Code of Australia published from time to time, or on behalf of, the Australian Building Codes Board, as amended from time to time, but not including explanatory information published with that Code;

“**CEO**” means the chief executive officer of the Shire;

“**Commercial Area**” means an area zoned as tourist, business, restricted business or similar under the Town Planning Scheme and does not include any land coming within an Industrial Area;

“**Community Information Sign**” means a temporary sign relating to or giving directions to a charitable, cultural, educational, recreational, or other public or community function, exhibition, meeting, display, event or activity conducted by a community association other than for commercial gain;

“**Council**” means the Council of the Shire;

- “Development Sign”** means a sign erected on an area of land which land has been approved for—
- (i) subdivision or strata subdivision into a number of smaller lots and which advertises those lots as a whole for sale but upon which land construction has not commenced on any building since approval of the subdivision and at the time of first approval of the sign; or
 - (ii) development of a residential, tourist, commercial or business development consisting of more than 10 separate accommodation units or tenancy areas;
- “Directional Sign”** means a sign erected in a street, road reserve or public place to indicate the direction to another place but does not include any such sign erected or displayed by the Shire or the Commissioner of Main Roads or a road direction sign erected or displayed by the Shire or the Commissioner of Main Roads or a road direction sign erected or displayed by a duly incorporated association or union of motorists authorised in that regard by the Minister for the time being administering the *Road Traffic Act 1974*;
- “Display Home Sign”** means a sign erected on a lot on which a home is erected where the lot and house have been approved as meeting the Shire’s requirements for a display home;
- “District”** means the district of the Shire in accordance with the Act;
- “Election sign”** means a sign which encourages persons to vote for a candidate, political party, referenda or matter relating to any federal, state or local government election;
- “Free Standing Sign”** means an Advertising Device supported by some other structure which is erected for the primary purpose of supporting the Advertising Device and which is not attached to any part of a building and where this Local Law refers to a Free Standing Sign this includes both the sign itself and any structure supporting the sign as well as including a detached sign framework supported on one or more piers on which Sign Infill may be added and any Sign Infill;
- “Hire Site”** means a license and/or other approval issued under the Town Planning Scheme and/or the Shire’s Reserves and Foreshores Local Law for the hire of goods and services to the public from Reserves and/or Foreshore areas in the Shire;
- “Hoarding”** means a detached or detachable structure including a wall panel or illuminated panel, other than a pylon sign, that is erected for the sole purpose of displaying one or more signs or advertising devices but excludes hoardings referred to in the Miscellaneous Provisions Act;
- “Identification Sign”** means a sign not attached to a building or other structure that displays any or all of the names of, occupation of or business of the person or persons occupying the land on which it is located;
- “Illuminated Sign”** means a sign that is so arranged as to be capable of being lighted either from within or from without the sign by artificial light provided, or mainly provided, for that purpose;
- “Industrial Area”** means an area zoned industrial or light industrial under the Town Planning Scheme;
- “Information Panel”** means a panel used for displaying Government and Local Authority notices or announcements of a religious, educational, cultural, recreational or similar character which are for the benefit of the public generally or particular sections of the public;
- “Institutional Sign”** means a sign erected or placed on any private property, public place or building used for or in connection with a medical or dental surgery, clinic, hospital, rest home, home for the aged, or other institution or place of a similar nature;
- “Licence”** means a licence issued by the Shire under this Local Law;
- “Licensee”** means the holder of a licence issued by the Shire under this Local Law;
- “Miscellaneous Provisions Act”** means the *Local Government (Miscellaneous Provisions) Act 1960* or any replacement of this Act;
- “Planning Approval”** means approval by the responsible authority under any Town Planning Scheme controlling land development and use within the District;
- “Portable Sign”** means an Advertising Device not permanently attached to the ground or to a structure, wall, fence or building and including, but not limited to banners and also sandwich board signs consisting of two sign boards attached to each other at the top or elsewhere by hinges or other means;
- “Projection Sign”** means a sign that is made by the projection of light on a wall or other structure;
- “Pylon sign”** means a sign supported by one or more piers and not attached to a building and includes a detached sign framework supported on one or more piers to which sign infill may be added;
- “Residential Area”** means an area which is predominantly zoned residential, rural residential or special residential, or similar, under the Town Planning Scheme;
- “Roof Sign”** means a sign erected on the roof of a building and includes any structure erected for the purpose of supporting a Roof Sign;
- “Rural Area”** means an area which is predominantly zoned agriculture, viticulture and tourism, rural landscape or conservation or similar, under the Town Planning Scheme;

- “**Sale Sign**” means a sign indicating that the property or premises whereon the sign is affixed are for sale, for letting or to be auctioned;
- “**Sandwich Board Sign**” means a sign consisting of two sign boards attached to each other at the top or elsewhere by hinges or other means;
- “**Semaphore Sign**” means a sign attached or affixed to a structure or building which sign is affixed and supported at, or by, one of its ends only;
- “**Service Station Sign**” means a sign used solely for the purpose of advertising the price of petrol, diesel or motor fuel products sold from land used as a motor vehicle service station;
- “**Shire**” means the Shire of Harvey;
- “**Sign**” means an Advertising Device and includes a signboard or any message, direction or representation whatsoever displayed on a building or structure, a bunting sign, a clock other than a clock which is built into a wall and does not project beyond the face of the wall, or flags and bunting, whether they contain a written message or not, and every other type of sign defined or referred to in this Local Law;
- “**Sign Infil**” means a panel which can be fitted into a Free Standing Sign framework;
- “**Tower Sign**” means a sign affixed to or placed on a building or structure or a part of a building or structure that is used for a predominant purpose other than to support an Advertising Device including, but not limited to, a chimney stack or an open structural mast or tower;
- “**Town Planning Scheme**” means any Town Planning Scheme of the Shire made under the *Planning and Development Act 2005* and in force from time to time whereby the Shire or any part thereof is classified or zoned;
- “**Verandah**” for the purpose of this Local Law, includes cantilever awnings, cantilever verandahs and balconies whether in, or above a street, way, footpath, public place or private land;
- “**Verandah Sign**” means a sign attached to or otherwise displayed on, above or below a verandah or a verandah fascia;
- “**Wall Panel**” means a panel used for displaying a bill poster or painted advertisement which panel is attached or affixed to the wall of a business premises or which panel erected is in or about the forecourt of such business premises;
- “**Wall Sign**” means a sign attached to or otherwise displayed on a building or a structure no part of which projects further than 0.3m from that building or structure and which is not a Verandah Sign.

Where applicable any word or expression in this Local Law and not defined in this clause has the same meaning as given to it in the Act.

PART II—LICENSING OF SIGNS

3. Licences

3.1 A person shall not erect, attach, otherwise display or maintain an Advertising Device, and the owner and the occupier of any or any land shall not suffer or permit an Advertising Device to be erected, attached, otherwise displayed or maintained on or above that land, except in accordance with the requirements of this Local Law.

3.2 The following Advertising Devices are exempt from the requirements to obtain a Licence under this Local Law—

- (a) A Sale Sign or an Institutional Sign not exceeding 1.00m² in area, with a maximum width/length of 2.0 metres, provided that there are no more than 2 sale signs per lot and no more than 1 on each street frontage of a lot;
- (b) An Advertising Device not exceeding 0.2m² in area erected or affixed on the street alignment or between that alignment and the building line to indicate the name and occupation or profession of the occupier of the property;
- (c) Advertisements affixed inside or painted on a shop window by the occupier thereof and relating to the business carried on therein;
- (d) Advertising Devices which are not visible from a public place outside the property, unless such signs are deemed to be dangerous or unsightly by the Shire or contain offensive or objectionable words or representations;
- (e) Advertising Devices containing public notices or information not larger than 0.7m x 0.9m on advertising pillars or panels approved by or which have the consent of the Shire for the purpose of displaying public notices or information;
- (f) A Wall Sign on a residential flats or home unit building indicating the name of the building provided that the Advertising Device is made of letters and numbers only, and those letters and numbers do not exceed 300mm in height;
- (g) Advertising Devices, other than Portable Signs, used solely for the direction and/or control of people, animals and/or vehicles or to indicate the name, and/or street number of a premises, providing the area of any such Advertising Device does not exceed 0.2m² and the sign is located wholly within the boundaries of land owned by a person who erected or who maintains the sign;
- (h) Advertising Devices that are required by the Builders Registration Board or other Government or statutory bodies or authorities on building sites, providing the area of any such Advertising Device does not exceed 1.5m² and that any such Advertising Device is removed within 7 days of completion of the building works on the building site;

- (i) Advertising Devices erected by the Shire on land owned or managed by or under the care and control of the Shire;
- (j) An Advertising Device which is a heritage or memorial plaque not exceeding 1.00m² in area;
- (k) An Advertising Device, which does nothing other than indicate an exit or exits, warn of the existence of a hazard or indicate that smoking, is prohibited on particular premises and which does not exceed 0.5m² in area;
- (l) An advertising device placed within a road reserve or street verge, which advertises the fact that a home is open for inspection (a "Home Open Sign") or that there is a garage sale (a "Garage Sale Sign"), provided that—
 - (i) the advertising device is portable, has a maximum area of 0.2m² and has a maximum height above ground level of 600mm;
 - (ii) the advertising device is placed no earlier than 2 hours before the home is open for inspection or the garage sale commences and is removed immediately following the conclusion of the home open/garage sale, and in any event, the advertising device is displayed for no more than 24 hours in any seven-day period;
 - (iii) the advertising device is not placed on the median strip of a road open to use by vehicles, on the road surface itself, on a vehicle access way or on a pedestrian footpath or dual use path;
 - (iv) the advertising device is placed no closer than 1.0 metre from the edge of the paved road surface;
 - (v) the advertising device is securely fixed or fastened such that it does not fall or otherwise create a nuisance or hazard to public safety;
 - (vi) there is not more than 1 Home Open Sign or Garage Sale Sign at any road intersection and there is a maximum of 4 separate advertising devices which delineate no more than 2 alternative routes to the home open/garage sale;
- (m) An Information Panel erected by a tourist, recreational, cultural, religious or other community organisation that does not exceed 2.00m² in area or 1.5 metres in height;
- (n) A sandwich board sign not exceeding 1.00m² in area erected or affixed to indicate the name of a service on a property whilst the premises is open for business;
- (o) An election sign which is—
 - (i) erected on private property with the approval of the owner of that property, where such approval has been obtained prior to the erection of the election sign;
 - (ii) not in excess of 0.75m² in area per property, except a corner property which may display one sign facing each thoroughfare of the corner;
 - (iii) erected not more than 28 days prior to the date of the election to which it relates; and
 - (iv) removed within 7 days of the date of the election;
- (p) Election signs or posters erected at the place of an election rally, election meeting or polling place, provided they are—
 - (i) erected on the day of the election rally, election meeting or polling day and are removed on the same day or at the conclusion of the rally or meeting;
 - (ii) each, no greater than 0.75m² in area;
 - (iii) erected at the entrance to a polling place in locations approved by the Presiding Officer, or in the road reserve adjacent a polling place; and
 - (iv) not erected within a thoroughfare.

3.3 With the exception of those Advertising Devices referred to in clause 3.2(i), an Advertising Device shall not be exempt from the requirement to obtain a Licence if it is erected or affixed such that any part of the Advertising Device is higher than 1.5 metres above the ground surface area nearest to the Advertising Device.

3.4 A Licence is required for all other Advertising Devices erected, attached, affixed or maintained within the District.

3.5 A Licence can be issued subject to such conditions as the Shire thinks fit.

3.6 Subject to any contrary provisions of this Local Law and upon payment of the appropriate Licence fees as determined by Council from time to time, a Licence issued under this Local Law shall be valid for a period of 3 years following the date of approval of the Advertising Device under this Local Law.

4. Refusal of Applications

Notwithstanding that an Advertising Device otherwise complies with the provisions of this Local Law the Shire may refuse an application for that Advertising Device if in the opinion of the Shire approval of that particular Advertising Device would increase the number or variety of Advertising Devices in a particular locality or in the District generally so as to be injurious to the amenity or safety of the locality or the District generally or would be inconsistent with any policy adopted by the Council of the Shire and in force from time to time.

5. Advertising Devices on Land to Which It Relates

5.1 Except where otherwise specifically permitted under this Local Law an Advertising Device shall advertise goods or services which are produced, displayed or offered for sale on or which are otherwise relevant to the land or a use or activity which is being carried out on the land where the Advertising Device is erected, attached or otherwise displayed.

5.2 No person shall erect, attach, otherwise display or maintain and no owner or occupier of land shall allow to be erected, attached, affixed or maintained on their land any Advertising Device which does not comply with the requirements of clause 5.1.

6. Revocation of Licences

6.1 The Council may, without limiting its power to prosecute for any breach of this Local Law or to recover any penalty arising there from, by notice in writing to the Licensee revoke a Licence or other form of approval issued under any previous By-Law or Local Law in relation to Advertising Devices (the "Previous Licence") where anything purporting to be done pursuant to a previous law is not done in conformity with a Licence or a Previous Licence or with this Local Law or an Advertising Device the subject of a Licence or Previous Licence is so altered that, in the opinion of the Shire, it is objectionable or contravenes a clause or clauses of this Local Law or is no longer substantially the same as the Advertising Device for which approval was issued.

7. Inspection of Licences

7.1 A Licensee shall, on demand by an employee of the Council produce for inspection a copy of his, her or its Licence.

7.2 Every Advertising Device the subject of a Licence shall bear on its face clearly legible figures supplied by, or otherwise meeting the dimension requirements specified from time to time by the Shire, the number of the Licence applicable to the Advertising Device as provided by the Shire.

8. Application for Licences

8.1 An application to the Shire for a Licence shall be made in the form set out in the First Schedule and shall contain all of the information requested in the First Schedule and shall be accompanied by the application fee appropriate to the type of Advertising Device applied for as determined by the Council from time to time.

8.2 An application for the first issue of a Licence for an Advertising Device shall be accompanied by duplicate plans, drawn to a scale of not less than 1 to 50 showing the size, position, design and inscriptions to appear on the Advertising Device, the method of construction and fixing of the Advertising Device to a building or structure (if applicable), setbacks of the Advertising Device from a street, way, footpath or other public place boundaries (where applicable) together with such further information as may be specified or as the Shire may require.

8.3 An application for a Licence for a Roof Sign shall be accompanied by a certificate from a professional engineer as defined by the Building Code of Australia, certifying that the building and roof thereof upon which it is proposed to erect the Roof Sign is in all respects of sufficient strength to support the Roof Sign, under all conditions, and that the Roof Sign and the fixing of the Roof Sign to the roof is of structurally sound design.

8.4 Every applicant for a Licence shall furnish in writing such further particulars as to the Advertising Device the subject of the application as may reasonably be required by a Building Surveyor.

8.5 If so required by the Shire an applicant for a Licence in respect of an Illuminated Sign shall produce to the Shire a written consent to the erection of the Illuminated Sign, signed by or on behalf of the relevant person, authority or body having for the being the management of traffic control lights within the District.

8.6 If an application is approved, a Licence will be issued substantially in the form of the Second Schedule to this Local Law.

9. Licence Fees

9.1 A Licence shall only be issued and valid upon payment of the appropriate Licence fee as determined by Council from time to time and will only remain valid if any renewal or other periodical fee which is required is paid immediately when it falls due for payment.

PART III—GENERAL REQUIREMENTS FOR ADVERTISING DEVICES

10. Restrictions

10.1 No Advertising Device shall be erected or maintained—

- (a) So as to cause an unreasonable obstruction or impediment in the opinion of a Building Surveyor to all or part of the view which may be enjoyed from a street, way, footpath, public place or private property of a river, the sea or any other place or feature of natural beauty;
- (b) So as to obstruct or impede the sight lines required for the free and safe movement of traffic, including but not limited to vehicles, cyclists or pedestrians, in, to, or from any thoroughfare, way, footpath, public place or private property;
- (c) So as to be likely to be confused with or mistaken for an official traffic light or sign or so as to contravene the *Main Roads Act 1930* or the Regulations made there under;
- (d) Except with the approval of the Shire on any ornamental tower, spire, dome or similar architectural feature or on a plant room, bulkhead over stairs or other superstructure over the main roof of a building or structure;
- (e) On any land that is in a Residential Area or used for residential purposes other than—
 - (i) land on which there is approval for an existing non-residential land use and an Advertising Device not exceeding 0.6m² in area has been lawfully erected, in furtherance of that right prior to this Local Law coming into effect;

- (ii) where a particular Advertising Device or type of Advertising Device is specifically exempted under clause 3.2 from the need to obtain a licence under this Local Law;
 - (iii) where approval is granted under the Scheme for a non-residential land use and an Advertising Device not exceeding 0.6m² in area relating to that approved land use is permitted under this Local Law; and
 - (iv) where a Licence has been issued for a Display Home Sign not exceeding 2.00m² in area.
- (f) On or to any building or structure of which the stability of the building or structure is, in the opinion of the Building Surveyor, likely to be detrimentally affected by the sign or Advertising Device;
 - (g) As a portable sign except if specifically permitted under this Local Law;
 - (h) On a light or power pole without the approval of the relevant authority responsible for the erection of that pole;
 - (i) Upon or inside a vehicle adapted and exhibited primarily to facilitate advertising;
 - (j) In the form of balloons or blimps;
 - (k) So as to have all or any part thereof moving or rotating in a manner which, in the opinion of a Building Surveyor, is likely to cause danger to the public;
 - (l) Such that it is in front of, in line with, forms part of, or is attached or affixed to a fence or wall which is forward of the approved building line under the Town Planning Scheme for any lot in an Industrial Area;
 - (m) Within the visual truncation of a corner lot as defined in the Town Planning Scheme which is higher than 1 metre above the ground level immediately adjacent to it;
 - (n) That emits a flashing, intermittent or sequential light.

11. Application to Existing Advertising Devices

11.1 The provisions of this Local Law apply to all Advertising Devices in the District regardless if whether or not a particular Advertising Device was constructed, erected, attached or otherwise displayed before or after the date that this Local Law becomes operative.

11.2 No person shall acquire any right to retain an Advertising Device by reason of the existence of that Advertising Device prior to this Local Law becoming operative.

11.3 Subject to clause 11.5, where an Advertising Device in existence prior to this Local Law becoming operative fails to conform with a clause or clauses of this Local Law the Shire may give notice to the owner and/or occupier of the land on which the Advertising Device is situated which period of notice is not to be less than 21 days requiring the owner and/or occupier to do any or all of the following—

- (a) Remove the Advertising Device;
- (b) alter the Advertising Device such that it does comply with the requirements of this Local Law.

11.4 Any person receiving a notice given under clause 11.3 shall comply with all of the requirements of the notice.

11.5 Where a person can prove to the satisfaction of the Council that he has been issued with a Licence for an Advertising Device under a previous law of the Shire and that the Advertising Device has been maintained in accordance with all of the requirements of that approval and the previous law of the Shire, the Council may issue a Licence under this Local Law for the Advertising Device and allow the Advertising Device to remain, despite the fact that the Advertising Device does not comply with the requirements of this Local Law or of a Council Policy in relation to Advertising Devices.

12. Fixing of Signs

Every Advertising Device shall be securely fixed to the structure by which it is supported or otherwise structurally sound to the satisfaction of the Building Surveyor and shall be safely maintained.

13. Obstruction of Doors

An Advertising Device shall not be erected or maintained so as to obstruct access to or from any door, fire escape or window, other than a fixed window designed for the display of goods.

14. Glass in Signs

Glass shall not be used in any Advertising Device except for the purpose of illumination of an Illuminated Sign.

15. Readily Combustible Material

Except for posters neatly and securely affixed to a Wall Panel or Hoarding, Banner Signs or Advertising Devices affixed inside a shop window, readily combustible materials including, but not exclusively paper, cardboard or cloth shall not form part of or be attached to any Advertising Device.

16. Signs to be Kept Clean

Every Advertising Device shall be kept clean and free from unsightly matter and shall be maintained by the Licensee and/or owner or occupier of the land on which it is situated in good order and condition and to an overall standard which is acceptable to the Shire.

17. Bill Posting

A person shall not bill post within the district of the Shire except on a Hoarding, Information Panel or Wall Panel specifically approved for the purpose by the Shire.

18. Design Principles

18.1 Any Advertising Device or advertising device erected and maintained in the District shall—

- (a) Be kept clean and free from unsightly matter which shall include any offensive, racist or unlawful words, symbols, images or other representations;
- (b) In design, size, colour and location be sympathetic and harmonious with the surrounding street, way, footpath, public place or private property and environment and the building or structure to which it is attached or affixed or on which it is erected;
- (c) Be placed and constructed so as not to endanger public safety; and
- (d) Have all sign writing, design work, lettering and colouring carried out in a competent and professional manner.

18.2 In determining an application for a Licence for an Advertising Device under this Local Law the Council shall have regard to the following—

- (a) The design of the proposed Advertising Device and the suitability, compatibility and degree of integration of that design with the design of other Advertising Devices on or near the land as well as the design of any building or structure to which is proposed to affix or attach the Advertising Device or buildings and structures in the area surrounding the location of the proposed Advertising Device;
- (b) The suitability of the proposed Advertising Device having regard to the aesthetics and character of the area surrounding the location of the proposed Advertising Device generally;
- (c) The overall aims and objectives of the Council as contained in this Local Law with regard to Advertising Devices either in the District generally or in the location of the proposed Advertising Device; and
- (d) The contents of the Town Planning Scheme relevant to the application made by the Shire with regard to any of the matters referred to in this clause 18.2 or with regard to a particular type or category of Advertising Devices or with regard to Advertising Devices generally within the Shire or any part of the Shire.

18.3 The Council, in its absolute discretion, shall be entitled to refuse any application for an Advertising Device having regard to any of the factors referred to in clause 18.2, even if the Advertising Device applied for otherwise complies with the requirements of this Local Law.

19. Integrated Signage

19.1 The owner or the applicant for approval under the Scheme to develop any land on which it is proposed that there will be a development of a floor area greater than 1000m² containing more than one commercial and/or business premises shall ensure that, prior to occupation of a unit within the development, an application is made to and approved by the Council for the use of integrated Advertising Devices for the development.

19.2 In determining an application under clause 19.1 Council shall have regard to the design principles in clause 18 as well as the extent to which the integration of the Advertising Devices for the development has reduced the overall volume of Advertising Devices that would be contained on the land if each business/unit had separately applied for an Advertising Device.

19.3 Provision made for a particular business or unit as part of an integrated signage proposal under this clause shall be regarded as an Advertising Device on the land where that particular business or unit is situated for the purposes of clause 5 of this Local Law.

PART IV—RESERVES AND DIRECTIONAL SIGNS**20. Reserves and Land Under the Care and Control of Council**

20.1 Unless otherwise allowed under this Local Law or approved by Council, an Advertising Device shall not be permitted to be erected or maintained on a road reserve or public open space reserve or any other land owned or managed by or under the care and control of the Shire.

20.2 The Shire may only grant approval for the erection or display on a road reserve or open space reserve or on any land owned or managed by or under the care and control of the Shire of an Advertising Device of the following types—

- (a) A Directional Sign;
- (b) Banner Signs or similar types of Advertising Devices advertising a community message or event which are erected for no more than 8 weeks; and
- (c) An Advertising Device erected pursuant to a written agreement or arrangement entered into between the Shire and another person or body.

20.3 The Shire may impose any condition on or enter into any agreement with the owner and/or Licensee of an Advertising Device approved under clause 20.2 as it sees fit to ensure the proper control and maintenance of the Advertising Device.

21. Directional Signs

21.1 Where a business or other activity or use of land is deemed by the Shire to be of sufficient interest and importance to the travelling public the Shire may erect a Directional Sign which indicates the nature of the activity that may be located by following the direction indicated by the sign and the Directional Sign must comply with the requirements of the Shire's policy on Signs located within road reserves or any other requirements set by the Shire, by a resolution of its Council, from time to time.

21.2 All Directional Signs on road reserves under the care and control of the Shire must comply with this Local Law except where a road reserve is under the care and control of the Commissioner of Main Roads and *Main Roads (Control of Advertisements) Regulations 1996* specify different standards in which case the Signs must comply with those Regulations.

21.3 Unless otherwise approved by the Shire, all Directional Signs are to be erected by the Shire at the applicant's expense.

21.4 The licensee of a Directional Sign shall ensure that the sign is maintained in very good order and condition to the satisfaction of the Shire taking into account the prominent position that such a Sign occupies within the Shire.

21.5 The applicant shall pay on demand to the Shire the costs—

- (a) Of the application and any periodical licence fees set by the Shire from time to time with respect to Directional Signs;
- (b) To the Shire of erecting the directional sign, including administrative costs; and
- (c) Of any maintenance or other work which is in the Shire's opinion required to be carried out on the applicant's Directional Sign as a result of the applicant's failure to comply with its obligations to adequately maintain the Sign.

PART V—PARTICULAR TYPES OF SIGNS

22. Clocks

22.1 A clock shall—

- (a) If suspended under a Verandah or in a public place, have its centre coinciding with the centre line of the footway, access way or footpath and shall be erected in accordance with the following table—

Height of Bottom of Clock above Footway	Maximum diameter or Width of Clock Face and Depth of Clock including lettering
2.75m and under 4m	1.0m
4m and under 6m	1.5m
6m and under 12m	2.0m
12m and over	3.0m

- (b) Be attached either parallel or at right angles to the wall to which it is attached;
- (c) Not project from the wall to which it is attached—
 - (i) if parallel to the wall, more than 300mm; or
 - (ii) if at right angles to the wall, more than 1m.
- (d) Afford a minimum headway of 2.75m;
- (e) Be maintained as to show the correct time;
- (f) Not make any sound between 10.00pm and 7.00am.

23. Development Signs

23.1 A Development Sign shall—

- (a) Not exceed 12m² in area; and
- (b) Be removed from the land on the expiry of the Licence for the sign or no later than 1 month following completion of the sale of all of the subdivisional lots or the completion of the development (as appropriate) whichever is the sooner.

23.2 A Licence for a Development Sign shall be valid for a period of no longer than 2 years from the date of issue and can not be renewed for a period of more than 1 year.

23.3 No more than 2 development signs are permitted per lot, except in the case of subdivision or development in a residential area or commercial area or an industrial area, in which case no more than 1 development sign can be erected on each street frontage of the lot.

24. Display Home Signs

24.1 Display Home Signs shall—

- (a) Be provided in a ratio not exceeding 2.00m² per house on a particular lot with no individual sign exceeding 4m² in overall size;
- (b) Not be illuminated after 9.00pm;
- (c) Be approved by Council for a non renewable Licence period not exceeding twelve (12) months at any one time.

25. Hoardings

25.1 A Hoarding shall not—

- (a) Be erected in a Residential Area;
- (b) Except with the approval of Council, be erected within 15m of any thoroughfare, way or other public place and in any case not closer than its own height to a thoroughfare, way or other public place;
- (c) Be of greater overall area than 24m², unless otherwise determined by the Council on its merits.

25.2 A Licence issued in respect to a Hoarding will be valid for such period as determined by the Council but not exceeding 5 years.

25.3 Subject to the Act, the Council may in its absolute discretion grant or refuse a Licence for a Hoarding.

26. Wall Signs

26.1 A Wall Sign shall—

- (a) Be attached so as to afford a minimum headway of 2.75m if in the opinion of the Council or a Building Surveyor the Wall Sign could potentially be a danger to the safety of persons using any thoroughfare, footpath, way or other public place if not attached at that height;
- (b) Be attached parallel to the wall of the building or structure to which it is attached.

26.2 The total area of Wall Signs on any one wall shall not take up more than 20% of the area of the wall to which it or they are attached (including any window or openings).

26.3 There shall be no more than 20m² in total area of wall signs on any one wall, except in the case of multiple tenancy retail premises, in which case wall signs of a total area not greater than 20m² per individual shop front can be permitted.

26.4 A Wall Sign shall not project more than 200mm from the wall to which it is attached and shall not be within 300mm of either end of the wall to which it is attached, unless the end of the sign abuts against a brick, stone or cement corbel, pier or pilaster which is at least 25mm in front of and 75mm above and below the sign.

26.5 No Wall Sign shall project above the wall to which it is attached.

27. Illuminated Signs

27.1 Every Illuminated Sign shall—

- (a) Have any boxing or casing in which it is enclosed constructed of non combustible material;
- (b) Where containing glass have the glass protected to the satisfaction of the Shire so as to prevent its falling into a public place in the event of breakage;
- (c) Have its electrical installation constructed and maintained to the satisfaction of the appropriate electric supply authority and in accordance with the requirements from time to time of any applicable Australian Standard produced by Standards Australia;
- (d) Not have a light of such intensity or colour as to cause annoyance to the public or be a traffic hazard, and not to interfere with traffic control lights; and
- (e) Not to emit a flashing light which in the opinion of a Building Surveyor causes an annoyance or a danger to the safety of the public.

28. Portable Signs

28.1 A Portable Sign is prohibited in the District unless the particular Portable Sign is specifically permitted under this Local Law and then only if that Sign is erected and maintained in accordance with the requirements of this Local Law.

28.2 The Shire may issue approval to the licensee of an approved Hire Site for not more than 2 Portable Signs, not exceeding 0.6m² in area, and within a maximum height of 1.0 metre above ground level, to be placed within or in an approved position adjacent to an approved Hire Site area.

28.3 The Shire may issue a Licence for a Banner Sign on such conditions, including a limitation on the time period of the Licence, as the Shire sees fit.

28.4 An application for a Licence for a Banner Sign shall contain information to the reasonable satisfaction of the Council in relation to—

- (a) The nature and quality of the material to be used in the Banner Sign;
- (b) The precise location where it is proposed to erect the Banner Sign; and
- (c) The means by which the Banner Sign is to be attached or secured to the land, building or other structure (as appropriate).

28.5 A Licence for a Banner Sign will contain conditions relating to the matters referred to in clause 28.4 and all Banner Signs shall be maintained by the Licensee so as to strictly comply with those conditions.

28.6 The Licensee of a Banner Sign and the owner and occupier of the land on which a Banner Sign is erected shall not allow a Banner Sign to become torn, partially or wholly unattached, dishevelled or otherwise unsightly or poorly maintained, and shall ensure that the Banner Sign is either repaired or removed immediately if it is torn, partially or wholly unattached, dishevelled or otherwise unsightly or poorly maintained.

28.7 Notwithstanding clause 5.1 of this Local Law, Council may issue a Licence for a Banner Sign to be erected on land even though the Banner Sign does not relate to any use or activity being carried out on that land.

29. Projection Signs

29.1 No person shall project by light any sign being a photographic or other image which can be seen from any street, way, footpath, or other public place onto any building, screen or other structure without a Licence issued by the Shire, nor without the consent of the owner and any lawful occupier of the building or structure onto which the Sign is to be projected.

29.2 An application for a Licence for a Projection Sign shall contain details of the building, screen or other structure onto which it is proposed to project the sign or signs as well as evidence to the satisfaction of the Shire of the consent of the owner and any occupier of the building, screen or other structure to the application.

29.3 No Projection Sign shall project an image onto a building, screen or other structure larger than 12m².

29.4 Where it is proposed to project Projection Signs onto a building, screen or other structure in a series the Shire may issue one licence in respect of all the signs in that series provided that no sign or other image other than those in respect of which a licence has been issued shall be projected and all of the signs in the series comply with the requirements of this Local Law.

29.5 Where a Projection Sign Licence has been issued by the Shire the Licence shall specify any or all buildings, screens or other structures involved in the projection and the Projection Signs or Signs in respect of which the Licence has been issued shall not be projected onto any building, screen or structure not specified in the Licence.

29.6 The owner or occupier of any building, screen or other structure shall not permit any sign or signs to be projected onto the building, screen or structure unless a Licence has been issued pursuant to this Local Law.

30. Free Standing Signs

30.1 Free Standing Signs shall not exceed 7.5 metres in height from the ground level adjacent to the Sign and shall not be of a surface area greater than 6m² when viewed from a particular direction (that is viewed and measured from one elevation).

30.2 No Free Standing Sign shall project over any street, way or thoroughfare generally used by the public.

30.3 Every Free Standing Sign shall be adequately structurally supported and shall be accompanied by details and evidence to the satisfaction of the Shire of the measures taken to ensure the structural adequacy and support of the Sign including, where required by a Building Surveyor, the certification of an adequately qualified structural engineer which certifies as to the structural adequacy and soundness of the Sign to the satisfaction of a Building Surveyor.

30.4 Where a Free Standing Sign is constructed or erected such that there is an open space between part of the structure of the Sign and the ground, and in the opinion of a Building Surveyor the open space could cause a danger to the safety of a member of the public, then the open part of the structure shall be not less than 2.75m² above any street, footpath, way, thoroughfare or other public place.

30.5 No Free Standing Sign shall be constructed or erected so as to cause a danger, nuisance or annoyance to a person using a street, road reserve, way, thoroughfare or other public place in the District and, in particular, no Free Standing Sign shall be constructed or erected so as to block or interfere with the line of sight of a person in charge of a motor vehicle who is entering, exiting or using a thoroughfare, street or other road reserve in the Shire in such a manner that, in the opinion of a Building Surveyor, the Free Standing Sign could cause a danger to the safety of a member of the public.

30.6 No Free Standing Sign shall be within 3m of any boundary of the lot on which it is erected unless the boundary is common with a street or right of way, in which case the Shire in its absolute discretion may permit erection of a Sign at a lesser distance than 3m.

30.7 On all land zoned anything other than Rural no Free Standing Sign shall be erected or maintained less than 6m from any part of any other Free Standing Sign erected on the same lot or on land in the same certificate of title and there shall be a maximum of 2 signs on any given street frontage on the same lot or on land in the same certificate of title.

30.8 On land zoned Rural, there shall be no more than 2 Free Standing Signs on each frontage of land in the same certificate of title and no Free Standing Sign shall be erected or maintained less than 30 metres from any part of any other Free Standing Sign, except where Free Standing Signs are separated by a vehicle accessway in which case the signs must be a minimum of 6.0 metres apart.

30.9 Where it is proposed to erect more than 1 Free Standing Sign on a strata scheme or single lot development containing or which it is proposed will contain unit factories, offices, showrooms or shops or any combination of these, the Shire may, in the interests of integrated signage, approve an Advertising Device to be erected or constructed so as to comply with the following—

- (a) Approval can be given at the Shire's discretion to no more than 2 Free Standing Sign frameworks together with one or more Signs Infills; and notwithstanding clause 30.1, the height of the Free Standing Sign framework may be a maximum of 9 metres and the surface area a maximum of 13.5m²;
- (b) An application is to be submitted for a Licence for each additional Sign Infill and a Sign Infill cannot be included in the sign framework unless and until the approval of the Shire has been given to that Sign Infill;
- (c) All Sign Infills are to be of a size such that they are compatible in a manner to the satisfaction of the Shire, and space is to be provided in the Free Standing Sign Framework for one Sign Infill for each individual premises on the strata scheme or on the lot.

31. Roof Signs

31.1 Roof Signs shall—

- (a) Not at any point be within 3.7m of the ground;
- (b) Not extend laterally beyond the external walls of the building;

(c) Comply as regards height above ground and height of sign with the following table—

Height of main building above ground level at point where sign is to be fixed of sign	Maximum height of sign (inclusive of sign itself and any supporting framework)
3.7m and under 5m	1.00m
5m and under 6m	1.50m
6m and under 9m	2.00m
9m and above	3.00m

31.2 When ascertaining the height of the main building above ground level for the purpose of this Local Law, any part of the roof at the point where the Roof Sign is to be erected that is provided solely for the purpose of architectural decoration or design shall be disregarded.

31.3 If required by a Building Surveyor, an applicant for a licence for a Roof Sign shall provide a certificate of a suitably qualified structural engineer certifying to the satisfaction of the Building Surveyor that the roof on which it is proposed to erect the Roof Sign is structurally adequate to support the proposed Roof Sign and that the Roof and the proposed Roof Sign will withstand wind loads in accordance with the requirements of the current Australian Standard.

32. Sale Signs

32.1 A Sale Sign shall not be erected on any land other than the land to which the Sale Sign relates.

32.2 A Sale Sign shall—

- (a) Not exceed 4m² in area;
- (b) Not be erected or maintained, except in the case of a Sale Sign advertising an auction, for a period exceeding six months without the approval of the Shire;
- (c) not be erected until the land is legally able to be sold separately from any other;
- (d) Not be erected until the land has been zoned for the use for which it is being sold, let or auctioned.

32.3 A Sale Sign advertising an auction or tender shall not be erected more than 8 weeks before the proposed date of the auction or tender.

32.4 A Sale Sign must be removed no later than 30 days following the transfer of Title of the property to which the Sale Sign relates.

32.5 No more than 1 Sale Sign can be erected on a lot in an Industrial area, a Residential area or a Commercial area and no more than 2 Sale Signs can be erected at the same time on each road frontage of a lot in a Rural area.

33. Semaphore Signs

33.1 A Semaphore Sign shall—

- (a) Afford a minimum headway of 2.75m;
- (b) Be fixed at right angles to the wall to which it is attached;
- (c) Not project more than 900mm from the point of attachment nor be of greater area than 2.5m²;
- (d) Not be fixed under or over any verandah unless specific approval is granted by the Shire.

33.2 Not more than one Semaphore Sign shall be fixed on each frontage of a business or office or other premises or structure with a street, way, thoroughfare or other public place.

34. Service Station Signs

34.1 A maximum of two Service Station Signs are permitted on each service station.

34.2 A Service Station Sign shall—

- (a) Not exceed 3m² in area;
- (b) Be located wholly within the boundaries of the land used as the service station;
- (c) Be located so as not to cause a traffic or safety hazard nor in such a manner that it interferes with the use or enjoyment of any road reserve, street, way, thoroughfare or other public place by any person.

35. Tower Sign

35.1 A Tower Sign shall not—

- (a) Indicate or display any matter other than the name of the owner or occupier of the land or premises on which the mast, tower or chimney stack is erected;
- (b) If illuminated, emit any flashing or intermittent light;
- (c) Exceed in height, 20% of the height of the mast, tower or chimney stack on which it is displayed;
- (d) Exceed in width, the width or diameter of the mast, tower or chimney stack on which it is displayed; or
- (e) Extend laterally beyond any part of the mast, tower or chimney stack on which it is displayed.

36. Verandah Signs

36.1 No Advertising Device shall be erected on a verandah above the fascia of a verandah.

36.2 An Advertising Device fixed to the outer or return fascias of a verandah—

- (a) Shall not exceed 2.5m in length or 600mm in depth;
- (b) Shall not project beyond the outer frame or surround of the fascia;
- (c) If an illuminated sign shall not emit a flashing light.

36.3 An Advertising Device sign under a verandah shall—

- (a) Afford a minimum headway of at least 2.4m, unless otherwise determined by the Council;
- (b) Not exceed 2.4m in length or 500mm in depth;
- (c) Not weigh more than 50kg;
- (d) Not be within 3m of another sign under that verandah or within 1.5m of the side wall of the building on which it is situated;
- (e) Be fixed at right angles to the front wall of the building on which the verandah is situated except if situated on a corner of a building at a street intersection where the Verandah Sign may be placed at an angle with the wall so as to be visible from both streets;
- (f) Shall be otherwise attached to the verandah and located in a manner so as not to cause a nuisance or a danger to public safety.

PART VI—MISCELLANEOUS**37. Notice**

37.1 Without prejudice to its other powers under this Local Law the Shire may serve on—

- (a) The Licensee of any Advertising Device for which a Licence has been issued which does not comply with a condition of the Licence or a requirement of this Local Law; or
- (b) The owner or occupier of any land or structure on which any Advertising Device is erected or displayed contrary to this Local Law notice to remove the Advertising Device within such time as may be specified in the notice, and a person neglecting or failing to comply with the terms of a notice served pursuant to this clause commits an offence.

38. Public Places

38.1 The Shire or a person acting under the authority of the Shire may remove any Advertising Device placed on or erected on any street, way, footpath or other land managed by or under the care and control of the Shire without incurring any liability therefore and may dispose of any Advertising Device so removed, and reinstate the street, way, footpath or land managed by or under the care and control of the Shire at the expense of the person or persons responsible for the placing or erecting of the Advertising Device thereon or causing the injury thereto and may recover the costs and expenses of the removal, including administrative costs, from that person or persons in a Court of competent jurisdiction.

39. Delegation

39.1 The Council may delegate to the CEO the exercise of any of its powers or the discharge of any of its duties under this Local Law;

39.2 A delegation under this clause is to be in writing and may be general or as otherwise provided in the instrument of delegation.

40. Offences

40.1 Any person who erects an Advertising Device which does not comply with, or erects any Advertising Device in a manner contrary to the provisions of this Local Law commits an offence.

40.2 Where this Local Law requires that a person obtain a Licence to erect or maintain an Advertising Device any person who erects or maintains an Advertising Device without a Licence or in respect of which a Licence has expired or been cancelled commits an offence.

40.3 The owner and the occupier of any land or building who allows or permits an Advertising Device which does not comply in all respects with the requirements of this Local Law to remain on the land or building owned or occupied (as appropriate) by him or her commits an offence.

41. Penalties

41.1 (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 had continued.

42. Modified Penalties

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

The amount of the modified penalty for a prescribed offence is \$100.

42.2 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*.

Dated 10 July 2007

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

P. R. MONAGLE, President.
M. A. PARKER, Chief Executive Officer.

First Schedule (Clause 8.1)
APPLICATION FOR LICENCE

Application No:

I hereby apply for a licence for an Advertising Device to be erected subject to the Local Laws of the Shire of Harvey.

Applicant Name:

Address.....

.....Postcode.....

Telephone No:

Location of Advertising Device: Lot No: Street No:

Street Name:

Describe Position of Advertising Device on Property:.....

.....

Advertising Device Types

Free Standing Sign

Development Sign Direction Sign Information Panel

Institutional Sign Illuminated Signs Portable Sign

Projection Sign Sale Sign Roof Sign

Service Station Sign Sign Infill Tower Sign

Semaphore Sign

Verandah Sign—On Fascia

Below Fascia

Wall Panel

Wall Sign

Building Name

Hoarding

Other (Please specify)—

Election Sign

(NOTE: Indicate type of device applied for by circling one of the categories above).

Dimensions of Advertising Device

..... mm width mm height mm depth..... sqm area

Materials and Construction of Sign and supports:.....

.....

Inscription on Advertising Device (wording, motifs):.....

.....

Signature of Applicant

Date

Application form in duplicate to be attached to two (2) copies of—

- (i) Block plan with all site details clearly showing proposed location of Advertising Device on site.
- (ii) Plans and elevations of Advertising Device proposed including all dimensions and structural information.

**Second Schedule (Clause 8.6)
LICENCE FOR ADVERTISING DEVICE**

Licence No.:

This licence is granted to (Name-Person/Company):.....

of (address)

in respect of (type of device).....

on premises known as:

Lot No:Street No:Street:.....

for the limited licence period from..... to.....

In accordance with application number.....

subject to the following terms and conditions and subject to the Local Laws of the Shire of Harvey.

Issued on the day of 20.....

Signed:

Designation:

1. Unless a limited licence period is specified above, this licence shall be valid for a period of three (3) years from the date of issue, provided that there has not been a breach of a condition of the licence or this Local Law.
2. This licence is not valid unless accompanied by a receipt issued by the Shire of Harvey and current for that year.
3. This licence number is to be displayed on the Advertising Device to which it relates at all times.

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LOCAL GOVERNMENT ACT 1995

SHIRE OF HARVEY

EXTRACTIVE INDUSTRIES LOCAL LAW 2007

Under the powers conferred by the *Local Government Act 1995* and by all other powers enabling it, the Council of the Shire of Harvey resolved on 10th July, 2007 to make the following Local Law.

PART 1—PRELIMINARY

Definitions

1.1 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 Harvey;

“**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; and

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

Application

1.2 (1) The provisions of this Local Law—

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

(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;

(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; and

(f) do not apply to land alienated in fee simple from the Crown before 1 January 1899.

(2) 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).

Repeal

1.3 The Local Law of the Shire of Harvey Relating to Extractive Industries, published in the *Government Gazette* on 10 May 1996 and as amended on 21 September 1999 is repealed.

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

2.1 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.

Applicant to Advertise Proposal

2.2 (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 subclause (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.

Application for Licence

2.3 (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 shall 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) 3 copies of a plan of the excavation site to a scale of between 1:500 and 1:2000 showing—
 - (i) the existing and proposed land contours based on the Australian Height Datum and plotted at 1 metre contour intervals;
 - (ii) the land on which the excavation site is to be located;
 - (iii) the external surface dimensions of the land;
 - (iv) the location and depth of the existing and proposed excavation of the land;
 - (v) the location of existing and proposed thoroughfares or other means of vehicle access to and egress from the land and to public thoroughfares in the vicinity of the land;
 - (vi) the location of buildings, treatment plant, tanks and other improvements and developments existing on, approved for or proposed in respect of the land;
 - (vii) the location of existing power lines, telephone cables and any associated poles or pylons, sewers, pipelines, reserves, bridges, railway lines and registered grants of easement or other encumbrances over, on, under or adjacent to or in the vicinity of the land;
 - (viii) the location of all existing dams, 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) 3 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) 3 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;
 - (ii) whether restoration and reinstatement of the excavation site is to be undertaken progressively or upon completion of excavation operations;
 - (iii) how any face is to be made safe and batters sloped;
 - (iv) the method by which topsoil is to be replaced and revegetated;
 - (v) the numbers and types of trees and shrubs to be planted and other landscaping features to be developed;
 - (vi) how rehabilitated areas are to be maintained; and
 - (vii) the 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) documented evidence of approval from relevant government agencies relating to the application;
- (l) any other information that the local government may reasonably require; and
- (m) the licence application fee specified by the local government from time to time.
- (2) 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.
- (3) 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;
- 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

Determination of Application

3.1 (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 10 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 30 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.

Payment of Annual Licence Fee

3.2 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

Transfer of Licence

- 4.1 (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; and
 - (f) 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 refuse any part of the fees paid by the former licensee in respect of the transferred licence.

Cancellation of Licence

- 4.2 (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.

Renewal of Licence

- 4.3 (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 4.3(1)(d) or (e) 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.
- (3) 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

Security for Restoration and Reinstatement

5.1 (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,

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.

Use by the Local Government of Secured Sum

5.2 (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—
 - (i) 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
 - (ii) 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 PROIBITIONS**Limits on Excavation Near Boundary**

6.1 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;
- (d) 30 metres of any watercourse; or
- (e) the minimum clearance to the estimated water table stipulated by the Department of Environment or otherwise as adopted by the local government.

Obligations of the Licensee

6.2 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.

Prohibitions

6.3 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 Industry and Resources; 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.

Blasting

6.4 (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 subclause (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 Law 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.
- (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.

PART 7—MISCELLANEOUS PROVISIONS

Public Liability

7.1 (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 subclause (1), within 14 days following the issues of the license and shall provide to the local government evidence of renewal of that policy within 14 days of each renewal date of the license.

Mines Safety and Inspection Act 1994 and Environmental Protection Act 1986

7.2 (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.

Notice of Cessation of Operations

7.3 (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.

Works to be Carried Out on Cessation of Operations

7.4 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, and 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.

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 regulation 33 of the *Local Government (Functions and General) Regulations 1996* shall apply to that decision.

PART 9—OFFENCES AND PENALTIES

Offences

9.1 (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 had continued.

Prescribed Offences

9.2 (1) An offence against a clause specified in the Schedule is a prescribed offence for the purpose 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 the Schedule.

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

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

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(a)	Excavate without a licence	500
2.1(b)	Carry out an extractive industry not in accordance with terms and conditions	500
6.1	Excavate near boundary	500
6.2(a)	Failure to securely fence and / or keep gateways locked where required	500
6.2 (b)	Failure to erect and maintain warning signs as required	500
6.2 (c)	Failure to drain and keep drained any excavation to which the licence applies	500
6.2 (d)	Failure to restore and reinstate the excavation site in accordance with conditions of the licence	500
6.2 (f)	Failure to comply with conditions of licence imposed by the local government	500
6.3 (a)	Removal of trees or shrubs within 40 metres of the boundary of any thoroughfare reserve	500
6.3 (b)	Store or permit to store explosives or explosive devices without approval	500
6.3 (c)	Not fill or excavate, contrary to the terms and conditions of the licence	500
6.4(1)(a)	Carry out or permit to be carried out blasting without approval	500

Clause	Description	Modified Penalty \$
6.4 (1) (b)	Carry out or permit to be carried out blasting outside hours approved by the local government	500
6.4 (1) (c)	Failure to comply with conditions by the local government relating to blasting	500
6.4 (2)	Carry out or permit to be carried out any blasting on Saturday, Sunday or public holiday, without approval	500
7.4 (a)	Failure to cease excavating and undertake restoration and reinstatement as required	500
	Other offences not specified	300

Dated 10 July 2007

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

P. R. MONAGLE, President.
M. A. PARKER, Chief Executive Officer.
