

EXPLANATORY MEMORANDUM

1. ADMINISTERING AUTHORITY

Shire of Wyndham East Kimberley

2. PUBLICATION OF LOCAL LAW

WA Government Gazette dated 15 February 2017 No. 42

3. TITLE OF LOCAL LAW

Fencing Local Law 2017

4. SECTION(S) OF ENABLING ACT(S)

This local law was made under –

Local Government Act 1995
Dividing Fences Act 1961

5. PURPOSE, EFFECT AND JUSTIFICATION

Purpose of the local law:

To prescribe a sufficient fence and the standard for construction of fences throughout the district.

Effect of the local law:

To establish the minimum requirements for fencing within the district.

Justification for the local law:

The Shire of Wyndham East Kimberley has a Fencing Local Law that is well out of date. The Fencing Local Law 2017 will replace the existing local law.

6. ADDITIONAL INFORMATION

This local law is based on the pro forma from the WALGA Local Laws Manual.

- (i) The name of the pro forma local law is: Fencing Local Law;
- (ii) The page numbers from the local law are unknown;
- (iii) The pro forma edition used is current;
- (iv) The local law differs from the text contained in the pro forma model in very minor changes, primarily grammatical, as suggested by the Department of Local Government;
- (v) The minor changes made were the preferences of Councillors considered to suit the needs of this local government.

7. UNUSUAL OR CONTROVERSIAL PROVISIONS

Nil

8. CONSULTATIONS, SUBMISSIONS AND RESPONSES

At the Council Meeting held 26 June 2016, Council resolved to undertake a review of this local law. The WALGA model Fencing Local Law was used and has been reviewed by both staff and Council.

As required by the *Local Government Act 1995*, the community was invited to comment on the Council's proposed Fencing Local Law. Public consultation was undertaken as part of the advertising process required by Section 3.12(3), for a minimum of 42 days. The review was advertised on 24 August 2016 (state-wide in the *West Australian*) and 25 August 2016 (locally in the *Kimberley Echo*) with a closing date for submissions on 14 October 2016.

No submissions were received in response to the Shire's public notice about the local law.

In line with the legislated requirements, the proposed Fencing Local Law was submitted to the Legislation Section of the Department of Local Government and Communities for review, to ensure legislative compliance.

A number of minor changes relating to document formatting were suggested by the Department of Local Government and Communities and these have been incorporated into the final document attached to this item.

In line with the legislated requirements, the proposed Fencing Local Law was also submitted to the Minister for Commerce.

9. FEES AND CHARGES, PENALTIES AND MODIFIED PENALTIES

Fees and charges:

Nil

Reason for new fees and charges or any increase in fees and charges:

N/A

Penalties and modified penalties:

TYPE OF PENALTY	DATE LAST UPDATED INCREASE/DECREASE	OLD	NEW	INCREASE/DECREASE (%)
4.1(1)	2003	\$5,000		
Contravenes any provision	2003	\$5,000		
Modified Penalty – any provision	2003		\$100	
Clause 2.1(1)	2017		\$250	
Clause 2.2	2017		\$250	
Clause 2.3(a)	2017		\$200	
Clause 2.3(b)	2017		\$200	
Clause 2.6	2017		\$250	
Clause 2.7	2017		\$250	
Clause 2.9(1)	2017		\$250	
Clause 2.10(2)	2017		\$250	
Clause 2.11(1)	2017		\$250	
Clause 2.12	2017		\$250	
Clause 3.3	2017		\$250	

Clause 6.1	2017		\$250	
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Reason for new penalties or any increase in penalties or modified penalties:

The WALGA Model includes the penalties listed above.

10. STATUTORY PROCEDURES CHECKLIST

The completed and signed Statutory Procedures Checklist is attached.

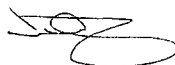
11. DISCLAIMER

The Explanatory Memorandum is produced only as an aid to understanding the abovementioned local law and must not be substituted for the local law or gazetted or made available to the public in any manner or circumstance.

12. CONTACT PERSON

The local government's authorised officer for any enquiries about the local law is –

Full Name: Lisa Hannagan
 Position Title: Senior Governance & Risk Officer
 E-mail address: lisa.hannagan@swek.wa.gov.au
 Telephone No.: (08) 9168 4100
 Facsimile No.: (08) 1968 1798
 Mobile No. (if applicable): 0403 204 660




13.

Signature: _____
 PRINTED NAME: **RON YURYEVICH**
 Public Office: Commissioner
 Administering Authority: Shire of Wyndham East Kimberley

CARL ASKEW
 Chief Executive Officer

STATUTORY PROCEDURES CHECKLIST

Procedures for making a valid Local Law: In accordance with *Local Government Act 1995* and *Ministerial Directions*

Please tick ✓ the 2nd column, where applicable, to indicate the procedural steps completed. Insert 'N/A' if the step is not applicable.

Only Box A is to be checked, not Box C, when the CEO of DEC has directed a local government.

A. Waste Avoidance and Resource Recovery Act 2007 and Local Government Act 1995		
61(1)(b)	X	Under s. 61(1)(b) of the WARR Act the CEO of DEC <u>directed</u> a local government to adopt or amend or repeal a waste-related local law– CEO of DEC's letter of direction: [Insert date of letter]
3.12(2)	X	Presiding person gave notice to the meeting of the purpose and effect of the proposed local law in the prescribed manner: (a) in the agenda of that meeting; and (b) in the minutes of that meeting. Date of Council meeting: [Insert meeting date and item number]
3.12(5)	X	Published the adopted local law in the <i>Government Gazette</i> . Date of Gazette: [Insert date] No. [Insert number] and Sent copy of adopted/gazetted local law to the Ministers: Sent to Minister for Local Government: [Insert date of letter] Sent to Minister for Environment: [Insert date of letter]
3.12(6)	X	Local public notice: (refer s.1.7 under the LG Act) Published in newspaper circulating generally throughout the State. Name of newspaper: [Insert text] Date of publication: [Insert date] Page No.: [Insert number] <i>(copy of newspaper notice attached)</i>
3.12(7)	X	Appeared on Notice Boards (local government offices and every library): From: [Insert date] To: [Insert date]
3.12(8)	X	Sent EM material to the Joint Standing Committee on Delegated Legislation. Hard copies sent to JSCDL: [Insert date of letter] And either: • Electronic copies sent by e-mail to JSCDL: [Insert date of e-mail] or • Copies on CD included with hard copies to JSCDL: [YES / NO] If applicable: This local law is an amendment local law which amends the text of the principal local law. or This local law is a repeal local law .

Procedure in Box B must be completed before the commencement of 3.12 procedures of the LG Act.

B. Local Government Act 1995 Section 3.6 Places outside the district (eg: shoreline on public beach)		
3.6(1)	X	Governor's approval was first obtained for a local government to make a local law that applies outside its district. Local government's request for approval: [Insert date and Ref No.]

	X	Notice in Government Gazette of Governor's approval: Date of Gazette: [Insert date] No. [Insert] Page No.: [Insert number]
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C. Local Government Act 1995 <i>Section 3.12 Procedure for making local laws</i>		
3.12(2)		Presiding person gave notice to the meeting of the purpose and effect of the proposed local law in the prescribed manner ¹ : (a) in the agenda of that meeting; and (b) in the minutes of that meeting. Date of Council meeting: 28 June 2016, Item 12.02.3, Minute 11394 <i>(copy of Council minutes attached)</i>
3.12(3)(a)		State-wide public notice: (refer s.1.8 under this Act) Published in newspaper circulating generally throughout the State. Name of newspaper: West Australian Date of publication: 24 August 2016 Page No.: 92 <i>(copy of actual newspaper notice attached)</i>
3.12(3a)		Local public notice: (refer s.1.7 under this Act) Published in a newspaper circulating generally throughout the State, and exhibited on a notice board of the local government's offices and every library in the district. Name of newspaper: Kimberley Echo Date of publication: 25 August 2016 Page No.: 16 <i>(If a different newspaper, copy of actual newspaper notice attached)</i> Appeared on Notice Boards (local government offices and every library): From: 19 August 2016 To: 8 October 2016
3.12(3)(b)	Y	<u>Immediately after State-wide local public notice is published:</u> Sent copy of <ul style="list-style-type: none"> • the proposed local law (in gazette-ready format) and • a copy of the State-wide public notice, to the Minister for Local Government ² . Sent to Minister for Local Government: 13 September 2016 and, where applicable, same copies sent to another Minister: <ul style="list-style-type: none"> • Minister for Commerce³, administering the <i>Dividing Fences Act 1961</i> (for fencing local law) or • Minister for Emergency Services, administering the <i>Bush Fires Act 1954</i> (for bush fire brigade or fire-break local law) or • Minister for Environment, administering the <i>Waste Avoidance and Resource Recovery Act 2007</i> (for waste local law) or • Minister for Health, administering the <i>Health Act 1911</i> (for health local law and cremation-related cemetery local law) or • Minister for Agriculture and Food, administering the <i>Agriculture and Related Resources Protection Act 1976</i> (for pest plant local law) or

¹ Refer to regulation 3 in the *Local Government (Functions and General) Regulations 1996*.

² The Minister for Local Government administers the *Cemeteries Act 1986* (for cemetery local laws), the *Dog Act 1976* (for dog local laws) and the *Local Government Act 1995* (for standing orders, local government property, public places, public parking, activities on thoroughfares local laws, etc).

³ The Minister for Commerce also administers the *Local Government (Miscellaneous Provisions) Act 1960* (Parts VIII, IX & XV only) but no local laws are required these Parts.

C. Local Government Act 1995 Section 3.12 Procedure for making local laws		
	Y	<ul style="list-style-type: none"> Minister for Commerce, administering the <i>Dividing Fences Act 1961</i>, (for Fencing local law) <p>Sent to other Minister for [Insert text]: [Insert date of letter]</p>

C. Local Government Act 1995 Section 3.12 Procedure for making local laws (continued)		
3.12(4)	N/A	<p>Relevant to: WARR Act and Health Act - procedures prior to adoption: After last day for submissions, <u>consideration</u> at Council meeting of –</p> <ul style="list-style-type: none"> submissions received <p>and</p> <ul style="list-style-type: none"> whether to make the local law as proposed (by absolute majority) <p>or</p> <ul style="list-style-type: none"> whether to make a local law that was not significantly different from what was proposed (by absolute majority). <p>Council meeting date: [Insert meeting date & item number] <i>(copy of Council minutes attached)</i></p> <p>and</p> <ul style="list-style-type: none"> gave copy of <u>final</u> version of proposed local law for consent under – <p>WARR Act: Consent of CEO of DEC: [Insert date] Health Act: Consent of Exec. Director of Public Health: [Insert date] <i>(Consent is required prior to local government's actual adoption.)</i></p>
3.12(4)	Y	<p>LG Act - final procedure for actual adoption: After close of public consultation period of minimum⁴ 6 weeks, considered any submissions made about the proposed local law –</p> <p>and adopted the local law as proposed (by absolute majority)</p> <p>or adopted a local law that was considered not significantly different from what was proposed (by absolute majority).</p> <p>Council meeting date: 31 January 2017, Item 12.2.2, Minute 11585 <i>(copy of Council minutes attached)</i></p>
3.12(5)	Y	<p>Published the adopted local law in the <i>Government Gazette</i>. Date of Gazette: 15 February 2017 No. 42</p> <p><u>After</u> the adopted local law was published in the <i>Government Gazette</i>, sent a signed and sealed copy of the adopted local law to the Minister for Local Government. Sent to Minister for Local Government: 16 February 2017</p> <p>and where local law was made under legislation other than the <i>Local Government Act 1995</i>, sent to the relevant Minister:</p> <ul style="list-style-type: none"> Minister for Commerce, administering the <i>Dividing Fences Act 1961</i> (for fencing local law) <p>or</p> <ul style="list-style-type: none"> Minister for Emergency Services, administering the <i>Bush Fires Act 1954</i> (for bush fire brigade and fire-break local law) <p>or</p> <ul style="list-style-type: none"> Minister for Environment, administering the <i>Waste Avoidance and Resource Recovery Act 2007</i> (for waste local law) <p>or</p> <ul style="list-style-type: none"> Minister for Health, administering the <i>Health Act 1911</i> (for health local law and cremation-related cemetery local law)

⁴ The local government cannot adopt the local law before the public consultation period (minimum 6 weeks) has closed. Section 61(f) of the *Interpretation Act 1984* determines the method for calculating the consultation period. Guidance is provided in the *Local Government Operational Guidelines No. 16 on Local Laws*, downloadable from the Department of Local Government's website: www.dlg.wa.gov.au.

	<p>or</p> <ul style="list-style-type: none"> Minister for Agriculture and Food, administering the <i>Agriculture and Related Resources Protection Act 1976</i> (for pest plant local law) <p>or</p> <ul style="list-style-type: none"> Minister for [Insert text], administering the [Insert Act], (for [Insert text] local law) <p>Sent to other Minister for Commerce: 16 February 2017</p>
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Cont/...

C. Local Government Act 1995 Section 3.12 Procedure for making local laws (continued)	
3.12(6)	<p><u>After</u> the local law was published in the Gazette and <u>after</u> a signed and sealed copy of the local law was given to the Minister(s): gave local public notice of gazettal (refer s.1.7 of this Act)</p> <p>Published in a newspaper circulating generally throughout the District, and exhibited on a notice board of the local government's offices and every library in the district.</p> <p>Name of newspaper: Kimberley Echo Date of publication: 23 February 2017 Page No.: 20 <i>(copy of Newspaper notice attached)</i></p> <p>Appeared on Notice Boards (local government offices and every library): From: 23 February 2017 To: 3 March 2017</p>
3.12(7)	<p><u>Within 10 working days of the Gazettal date:</u> supplied copies of the local law, Explanatory Memorandum, Statutory Procedures Checklist and other supporting material in accordance with Ministerial Directions, to the WA Parliament's Joint Standing Committee on Delegated Legislation (JSCDL):</p> <p>Hard copies sent to JSCDL: [Insert date of letter] And either:</p> <ul style="list-style-type: none"> Electronic copies sent by e-mail to JSCDL: 24 February 2017 <p><u>or</u></p> <ul style="list-style-type: none"> Copies on CD included with hard copies to JSCDL: [YES / NO]
3.12(8)	<p>This local law is an amendment local law which amends the text of the principal local law.</p> <p><u>or</u></p> <p>This local law is a repeal local law.</p>




Signature:
 PRINTED NAME: _____
 Public Office: _____
 Administering Authority: Shire of Wyndham East Kimberley

 RON YURYEVICH
 Commissioner

 CARL ASKEW
 Chief Executive Officer

12.02.3. Fencing Local Law 2016

DATE:	28 June 2016
AUTHOR:	Lisa Hannagan, Senior Governance & Risk Officer
RESPONSIBLE OFFICER:	Carl Askew, Chief Executive Officer
DISCLOSURE OF INTERESTS:	Nil

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council, pursuant to Section 3.12 of the *Local Government Act 1995*, give state-wide public notice that intends to make the Shire of Wyndham East Kimberley Fencing Local Law 2016 as contained in the attachment to this item, the purpose of which is to prescribe a sufficient fence and the standard for the construction of fences throughout the district. The effect of this Local Law is to establish the minimum requirements for fencing within the district.

COUNCIL DECISION

Minute No: 11394

Moved: Cr K Wright

Seconded: Cr S Cooke

That Council, pursuant to Section 3.12 of the *Local Government Act 1995*, give state-wide public notice that intends to make the Shire of Wyndham East Kimberley Fencing Local Law 2016 as contained in the attachment to this item, the purpose of which is to prescribe a sufficient fence and the standard for the construction of fences throughout the district. The effect of this Local Law is to establish the minimum requirements for fencing within the district.

Carried 9/0

PURPOSE

Section 3.5 of the *Local Government Act 1995 (LGA)* provides the power for local government to make Local Laws and prescribing all matters that are required or permitted to be prescribed by a Local Law, or are necessary or convenient for it to perform any of its functions.

The purpose of the Fencing Local Law 2016 is to prescribe a sufficient fence and the

standard for the construction of fences throughout the district. The effect of this Local Law is to establish the minimum requirements for fencing within the district.

NATURE OF COUNCIL'S ROLE IN THE MATTER

Leader - plan and provide direction through policy and practices

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

The Fencing Local Law 2003 was gazetted on 3 December 2003. The purpose of the local law is to make provisions about fencing in the district.

The proposed Fencing Local Law 2016 is based on a WALGA model and therefore ensures that there will be no inconsistencies with any other legislation.

STATUTORY IMPLICATIONS

Section 3.12 of the *Local Government Act 1995* specified the procedures to be followed when making a Local Law. Section 3.12 states:

3.12 Procedure for making a Local Law

- (1) *In making a Local Law a local government is to follow the procedure described in this section, in sequence in which it is described.*
- (2) *At a council meeting the person presiding is to give notice to the meeting of the purpose and effect of the proposed Local Law in the prescribed manner.*
- (3) *The local government is to:*
 - (a) *give statewide public notice stating that -*
 - (i) *the local government proposes to make a Local Law, the purpose and effect of which is summarised in the notice;*
 - (ii) *a copy of the proposed Local Law may be inspected or obtained at any place specified in the notice; and*
 - (iii) *submissions about the proposed Local Law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is being given.*
 - (b) *As soon as the notice is given, give a copy of the proposed Local Law and a copy of the notice to the Minister and, if another Minister administers the Act under which a Local Law is proposed to be made, to that other Minister; and*
 - (c) *provide a copy of the proposed Local Law, in accordance with the notice, to any person requesting it.*
- (3a) *A notice under sub-section (3) is also to be published and exhibited as if it were a local public notice.*

POLICY IMPLICATIONS

There are no identified policy implications in relation to this matter.

FINANCIAL IMPLICATIONS

Statutory advertising of the proposed Local Law will incur costs estimated at \$1,000.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2012-2022

Goal 3: Protection and enhancement of lifestyle values, community facilities and the environment to provide safe and inviting communities.

Objective 1.4: Business innovation, efficiency and improved services

Strategy 1.4.1 : Ensure legislative compliance and follow best practice principles in planning and service delivery

RISK IMPLICATIONS

Failure to comply with legislative requirements leading to damage of reputation.

COMMUNITY ENGAGEMENT

Engagement will take place in accordance with the Shire's Community Engagement Guidelines and will include:

- Local and state-wide notice of the Proposed Local Law;
- A submission period of 42 days allowed, not including the first day of advertising or the last day of advertising;
- Consideration of any submissions made during the period; and
- The Shire has developed a page on its website with information about Local Laws, access to the proposed Local Law and additional information on how to make a submission.

COMMENTS

Council have reviewed the proposed Fencing Local Law 2016 at the briefing held 14 June 2016.

No changes were suggested to the proposed Fencing Local Law 2016 and the attached document is the proposed Local Law.

ATTACHMENTS - Item 12.02.3

Attachment 1 - Proposed Fencing Local Law 2016

Attachment 2 - Notice for proposed Fencing Local Law 2016

CLASSIFIEDS THE WEST AUSTRALIAN

92 - WEDNESDAY, AUGUST 24, 2016

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Invitation to bid

Farmlands Goldfields and Agricultural region banding CK Main

Bid Invitation Number - 7000009616

Opening Date: 2:30 pm WST Wednesday, 24 August 2016

Closing Date: 2:30 pm WST Tuesday, 13 September 2016

Water Corporation is inviting organisations with suitable experience, capability and capacity to submit a Bid for banding of specified corrosion rusted spots on water ripelines along the Goldfields and Agricultural region CK main resulting from the pipe mark up and inspection program.

The Bid Documents may be accessed on Wednesday, 24 August 2016 by companies registered as Water Corporation suppliers or bidders via the Supplier Portal.

If you are not a registered Water Corporation supplier or bidder, please complete the online Supplier Registration form available at watercorporation.com.au/suppliers. Please be aware, this may take up to five working days to process.

It is mandatory that all bidders are granted Water Corporation Health Safety and Environment (HSE) Prequalification, at the level nominated in the bid invitation, before contract award. This application can be lodged via our website.

Enquiries should be directed to: Kelley Payne on (08) 9420 2870 or Kelley.Payne@watercorporation.com.au

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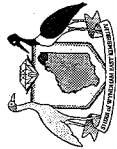
Bush Fire Brigades Local Law 2016

The Shire of Wyndham East Kimberley has resolved to make a local law relating to Bush Fire Brigades. The purpose of this local law is to make provisions about the organisation, establishment, maintenance and equipment of bush fire brigades. The effect of this Local Law is to align existing local laws with changes in law and operational processes.

A copy of the proposed law may be inspected at or obtained from the Shire of Wyndham East Kimberley administration offices at 20 Coolibah Drive Kununurra or at Koolama Street Wyndham between the hours of 0900 and 1600, Monday to Friday. The proposed law is also available on the Shire's website — www.swek.wa.gov.au under "Publications", "Local Laws".

Submissions regarding the proposed law may be submitted to the Shire of Wyndham East Kimberley, PO Box 614, KUNUNURRA WA 6743 or by email to: mail@swek.wa.gov.au by 7 October 2016.

Carl Askew
CEO



SHIRE OF WYNDHAM | EAST KIMBERLEY

Fencing Local Law 2016

The Shire of Wyndham East Kimberley has resolved to make a local law relating to fencing. The purpose of this local law is to prescribe a sufficient fence and the standard for the construction of fences throughout the district. The effect of this Local Law is to establish the minimum requirements for fencing within the district.

A copy of the proposed law may be inspected at or obtained from the Shire of Wyndham East Kimberley administration offices at 20 Coolibah Drive Kununurra or at Koolama Street Wyndham between the hours of 0900 and 1600, Monday to Friday. The proposed law is also available on the Shire's website — www.swek.wa.gov.au under "Publications", "Local Laws".

Submissions regarding the proposed law may be submitted to the Shire of Wyndham East Kimberley, PO Box 614, Kununurra, WA 6743 or by email to: mail@swek.wa.gov.au by 14 October 2016.

Carl Askew
CEO

PUBLIC NOTICE

FENCING LOCAL LAW 2016

The Shire of Wyndham East Kimberley has resolved to make a local law relating to fencing. The purpose of this local law is to prescribe a sufficient fence and the standard for the construction of fences throughout the district. The effect of this Local Law is to establish the minimum requirements for fencing within the district.

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Submissions regarding the proposed law may be submitted to the Shire of Wyndham East Kimberley, PO Box 614, Kununurra, WA 6743 or by email to: mail@swek.wa.gov.au by 7 October 2016.



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PO Box 614 Kununurra 6743
20 Coolibah Drive KUNUNURRA
Koolama Street WYNDHAM
8.00am - 4.00pm MON - FRI



Ref: LE.08.2
Enquiries: Carl Askew

13 September 2016

Hon Tony Simpson MLA
Level 8, Dumas House
2 Havelock Street
WEST PERTH WA 6005

Dear Minister Simpson

**SHIRE OF WYNDHAM EAST KIMBERLEY
FENCING LOCAL LAW 2016**

The Shire of Wyndham East Kimberley has undertaken a review of their Fencing Local Law.

The proposed Fencing Local Law 2016 is currently being advertised for public comment as per Section 3.12 (3)(a) of the *Local Government Act 1995*.

As per Section 3.1 (3)(b) of the *Local Government Act 1995*, please find attached:

1. Copy of the Proposed Local Law – Fencing Local Law 2016;
2. Completed NCP Form, noting that this Local Law does not contain any restrictions on competition contained in the legislation;
3. Copies of the public notices that have been placed in both local and statewide advertising.

The Minister for Commerce, administering the *Dividing Fences Act 1961* (for fencing local law) has been sent a copy of this correspondence.

Please contact Lisa Hannagan, Senior Governance & Risk Officer on 9168 4100 if you require any further information.

Yours Sincerely

Carl Askew
CHIEF EXECUTIVE OFFICER

NATIONAL COMPETITION POLICY – CLAUSE 7
LOCAL LAW REVIEW EXECUTIVE SUMMARY

LOCAL GOVERNMENT:

TITLE: Fencing Local Law 2016		
NEW LOCAL LAW <input type="checkbox"/>	REPEAL OF LOCAL LAW <input type="checkbox"/>	AMENDMENT TO IMPLEMENT NCP <input type="checkbox"/>
OTHER AMENDMENT TO LOCAL LAW <input checked="" type="checkbox"/>		NO AMENDMENT TO LOCAL LAW <input type="checkbox"/>
<p><i>Review Conduct</i> A review of the Fencing Local Law was completed by Council and Officers of the Shire of Wyndham East Kimberley. Public Comment was sought during 3.12 advertising.</p>		
<p><i>Restrictions on Competition</i> There are not restrictions on competition contained in the proposed Fencing Local Law 2016.</p>		
<p><i>Effects of the Restrictions</i> N/A</p>		
<p><i>Assessing the Benefits and Costs of the Restrictions</i> N/A</p>		
<p><i>Alternative Means of Achieving Desired Outcome</i> N/A</p>		
<p><i>Overall Conclusion and Recommendations</i> N/A</p>		
<p><i>Implementing Recommendations</i> N/A</p>		

LOCAL GOVERNMENT ACT 1995

[SHIRE OF WYNDHAM EAST KIMBERLEY]

FENCING LOCAL LAW 2016

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

PART 1—PRELIMINARY

1.1 Citation

This local law is the *Shire of Wyndham East Kimberley Fencing Local Law 2016*.

1.2 Application of Local Laws has been moved to 1.4 in this model

1.2 Commencement

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

1.3 Interpretation has been removed and is covered in “1.6 Definitions” of this model

1.3 Purpose and effect

- (1) The purpose of this local law is to prescribe a sufficient fence and the standard for the construction of fences throughout the district.
- (2) The effect of this local law is to establish the minimum requirements for fencing within the district.

1.4 Objectives has been removed

1.4 Application

This local law applies throughout the district.

1.5 Licence fees and charges has been moved to 1.7 in this model

1.5 Repeal

The *Shire of Wyndham East Kimberley Local Laws relating to Fencing 2003* published in the *Government Gazette* on [insert date] is repealed.

1.6 Definitions

In this local law —

Act means the *Dividing Fences Act 1961*;

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

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

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

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

“Boundary” has been removed

Building Surveyor means a Building Surveyor of the local government;

CEO means the Chief Executive Officer of the local government;

Commercial Lot means a lot where a commercial use—

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

dangerous in relation to any fence means—

- (a) an electrified fence other than a fence approved by the local government under this local law;
- (b) a fence containing barbed wire other than a fence erected and maintained in accordance with this local law;
- (c) a fence containing exposed broken glass, asbestos fibre, razor wire or any other potentially harmful projection or material; or
- (d) a fence which is likely to collapse or fall, or part of which is likely to collapse or fall, from any cause;

district means the district of the local government;

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

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

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

fence means any structure, not including a retaining wall, used or functioning as a barrier, irrespective of where it is located and includes any gate;

front boundary means the boundary line between a lot and the thoroughfare upon which that lot abuts, or in the case of a lot abutting on more than one thoroughfare, the boundary line between the lot and the primary thoroughfare;

front fence means a fence erected on the front boundary of a lot or on a line adjacent to the front boundary;

front setback area means the area between the building line of a lot and the front boundary of that lot;

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

- (a) the top of the fence at any point; and
- (b) the ground level or, where the ground levels on each side of the fence are not the same, the higher ground level, immediately below that point;

“Industrial and Commercial Zone” has been removed

Industrial Lot means a lot where an industrial use—

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

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

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

local government property means anything except a thoroughfare—

- (a) which belongs to the local government;

- (b) of which the local government is the management body under the *Land Administration Act 1997*; or
- (c) which is an “otherwise unvested facility” under section 3.53 of the *Local Government Act 1995*;

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

notice of breach means a notice referred to in clause 5.1;

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

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

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

“Residential Zone” has been removed

Residential Lot means a lot where a residential use—

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

retaining wall means any structure which prevents the movement of soil or retains soil or structures in order to allow ground levels of different elevations to exist adjacent to one another;

Rural Lot means a lot where a rural use—

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

“Rural Zone” has been removed

Schedule means a Schedule to this local law;

“Sheet” has been removed

Special Rural Lot means a lot where a special rural use—

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

sufficient fence means a fence described in clause 2.1

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

“Thoroughfare Alignment” has been removed

Town Planning Scheme” has been removed

1.7 Licence fees and charges

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

PART 2—FENCES

Division 1—Sufficient fences

2.1 Sufficient fences

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

Division 2—General

2.2 Fences within front setback areas

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

2.3 Gates in fences

- (1) A person shall not erect a gate in a fence which does not—
 - (a) open into the lot; or
 - (b) open by sliding parallel and on the inside of the fence, which it forms part of, when closed.

2.4 Depositing fencing material on public place

A person shall not deposit or permit the deposit of any materials whatsoever used in the construction or maintenance of any fence, on any thoroughfare, public place or local government property unless the approval of the local government has been obtained.

2.5 Fences on a Rural Lot

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

2.6 Maintenance of fences

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

2.7 Fences across rights-of-way, public access ways or thoroughfares

A person must not, without the approval of the local government, erect or maintain a fence or obstruction of a temporary or permanent nature across any right-of-way, public access way or thoroughfare so as to impede or prevent use of those facilities in the manner for which they are intended and constructed.

2.8 General discretion of the local government

- (1) Notwithstanding the provisions of clause 2.1, the local government may approve the erection or repair of a dividing fence which is not a sufficient fence where all of the owners of the lots to be separated by the dividing fence make an application for approval for that purpose.
- (2) In determining whether to grant its approval under subclause (1), the local government may consider whether the erection or retention of the fence would have an adverse effect on—
 - (a) the safe or convenient use of any land;
 - (b) the safety or convenience of any person; or
 - (c) the visual amenity of the locality.

Division 3—Fencing materials

Where required by the Building Surveyor, fencing designs are to be certified by a practicing structural engineer as being suitable for wind loadings found in Region D Category 2 areas in accordance with the current edition of AS/NZS 1170.0:2002 Structural design actions - General principles.

2.9 Pre-used fencing materials

- (1) Notwithstanding clause 2.1, a person shall not construct a fence on a Residential Lot, a Commercial Lot or an Industrial Lot from pre-used materials without the approval of the local government.
- (2) Where the local government approves the use of pre-used materials in the construction of a fence under subclause (1), that approval shall be conditional on the applicant painting or treating the pre-used material as directed by the Building Surveyor.

2.10 Barbed wire fences and spiked or jagged materials

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

2.11 Electrified and razor wire fences

- (1) An owner or occupier of a lot shall not—
 - (a) construct or use an electrified fence on that lot without obtaining the approval of the local government in the form prescribed in Schedule 5; or
 - (b) construct a fence wholly or partly of razor wire on that lot without obtaining the approval of the local government in the form prescribed in Schedule 6.
- (2) The local government shall not approve an application for the purpose of subclause (1)(a)—
 - (a) in respect of a lot which is or which abuts a Residential Lot;
 - (b) unless the prohibited fence complies with “AS/NZS 3016:2002 Electrical installations—Electricity security fences”; and
 - (c) unless provision is made so as to enable the fence to be rendered inoperable during the hours of business operations, if any, on the lot where it is erected.
- (3) The local government shall not approve an application for the purpose of subclause (1)(b)—
 - (a) if the fence is within 3 000 millimetres of the boundary of the lot; or
 - (b) where any razor wire used in the construction of the fence is less than 2 000 millimetres or more than 2 400 millimetres above the ground level.
- (4) An application for approval for the purpose of subclauses (1)(a) or (1)(b) shall be made by the owner of the lot on which the fence is or is to be erected, or by the occupier of the lot with the written consent of the owner.

2.12 Prohibited fencing materials

A person shall not affix or use broken glass in the construction of any fence.

PART 3—APPROVALS

3.1 Application for approval

- (1) Where a person is required to obtain the approval of the local government under this local law, that person shall apply for approval in accordance with subclause (2).
- (2) An application for approval under this local law shall—
 - (a) be in the form determined by the local government;
 - (b) be signed by the applicant and the owner of the lot;
 - (c) provide the information required by the form; and
 - (d) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.19 of the *Local Government Act 1995*.
- (3) The local government may require an applicant to provide additional information reasonably related to an application before determining an application for approval.
- (4) The local government may refuse to consider an application for approval which is not in accordance with subclauses (2) and (3).

3.2 Decision on application for approval

- (1) The local government may—
 - (a) approve an application for approval unconditionally or subject to any conditions; or
 - (b) refuse to approve an application for approval.
- (2) If the local government approves an application for approval, it is to issue to the applicant an approval in the form determined by the local government.
- (3) If the local government refuses to approve an application for approval, it is to give written notice of that refusal to the applicant.
- (4) Where a clause of this local law refers to conditions which may be imposed on an approval or which are to be taken to be imposed on an approval, the clause does not limit the power of the local government to impose other conditions on the approval under subclause (1)(a).

3.3 Compliance with approval

Where an application for approval has been approved, the applicant and the owner or occupier of the lot to which the approval relates, shall comply with the terms and any conditions of that approval.

3.4 Duration of approval

Unless otherwise stated in the form of approval, an approval granted under this local law—

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

PART 4—MISCELLANEOUS

4.1 False or misleading statement

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

PART 5—NOTICES OF BREACH

5.1 Notices of breach

- (1) Where a breach of any provision of this local law has occurred in relation to a fence on a lot, the local government may give a notice in writing to the owner of that lot.
- (2) A notice of breach shall—
 - (a) specify the provision of this local law which has been breached;
 - (b) specify the particulars of the breach; and
 - (c) state that the owner is required to remedy the breach within the time specified in the notice.

- (3) Should an owner fail to comply with a notice of breach, the local government may, by its employees, agents or contractors enter upon the lot to which the notice relates and remedy the breach, and may recover the expenses of so doing from the owner of the lot in a court of competent jurisdiction.
- (4) The provisions of this clause are subject to section 3.25 and item 12 of Division 1 of Schedule 3.1 of the *Local Government Act 1995* and any entry on to land will be in accordance with Part 3, Division 3 of that Act.

PART 6—OFFENCES

6.1 Offences and penalties

- (1) A person who fails to comply with a notice of breach commits an offence and is liable upon conviction to a penalty of not less than \$250 and not exceeding \$5 000 and, if the offence is a continuing offence, to a maximum daily penalty of \$500.
- (2) A person who fails to comply with or who contravenes any provision of this local law commits an offence and is liable on conviction to a penalty of not less than \$250 and not exceeding \$5 000 and, if the offence is a continuing offence, to a maximum daily penalty of \$500.

6.2 Modified penalties

- (1) An offence against any provision of this local law is a prescribed offence for the purposes of section 9.16(1) of the *Local Government Act 1995*.
- (2) The amount appearing in the final column of Schedule 1, directly opposite a prescribed offence in that Schedule, is the modified penalty for that prescribed offence.
- (3) For the purpose of guidance only, before giving an infringement notice to a person in respect of the commission of a prescribed offence, an authorised person should be satisfied that—
 - (a) commission of the prescribed offence is a relatively minor matter; and
 - (b) only straightforward issues of law and fact are involved in determining whether the prescribed offence was committed, and the facts in issue are readily ascertainable.

6.3 Form of notices

For the purposes of this local law—

- (a) the form of the infringement notice referred to in sections 9.16 and 9.17 of the *Local Government Act 1995* is to be in the form of Form 2 of Schedule 1 of the *Local Government (Functions and General) Regulations 1996*; and
- (b) the form of the withdrawal of infringement notice referred to in section 9.20 of the *Local Government Act 1995* is to be in the form of Form 3 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

PART 7—OBJECTIONS AND REVIEW

7.1 Objections and review

When the local government makes a decision under clause 3.2, the provision of Part 9 Division 1 of the *Local Government Act 1995*, and regulation 33 of the *Local Government (Functions and General) Regulations 1996*, apply to that decision.

Schedule 1
OFFENCES AND MODIFIED PENALTIES

[clause 6.2(2)]

Item No	Clause No.	Nature of offence	Modified penalties \$
1	2.1(1)	Erect a fence which is not a sufficient fence	250
2	2.2	Erect a fence greater than 1 200mm in height within a front setback area without the written consent of the Building Surveyor	250
3	2.3(a)	Erect a gate in a fence not opening into the lot	200
4	2.3(b)	Erect a gate in a fence not sliding parallel and inside a fence	200
5	2.6	Failure to maintain a fence in good condition to prevent the fence becoming dangerous, dilapidated or unsightly	250
6	2.7	Erect or maintain a fence or obstruction of temporary or permanent nature across a right-of way, public access way or thoroughfare without approval	250
7	2.9(1)	Construct a dividing fence on a Residential, Commercial or Industrial Lot from pre-used materials without written approval	250
8	2.10(2)	Erect a fence using barbed wire or material with spiked or jagged projections in the fence construction without approval	250
9	2.11(1)	Construct, erect or use razor wire in a fence or electrify a fence without approval	250
10	2.12	Affix, or use, any broken glass in a fence	250
11	3.3	Failure to comply with terms or conditions of approval	250
12	6.1	Failure to comply with notice of breach	250

Schedule 2

SPECIFICATIONS FOR A SUFFICIENT FENCE ON A RESIDENTIAL LOT

[clause 2.1(2)(a)]

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

Timber fence

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

Corrugated fence

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

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

Brick, stone or concrete fence

A fence constructed of brick, stone or concrete, which satisfies the following requirements and specifications—

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

Composite fence

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

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

or

 - (2)
 - (a) brick piers of a minimum 345mm x 345mm x 2 700mm centres bonded to the base wall; and
 - (b) each pier shall be reinforced with two R10 galvanised starting rods as previously specified.
-

Schedule 3

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

[clause 2.1(2)(b)]

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

Galvanised or PVC fence and gate

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

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

Other fences

- (a) a fence of cement sheet or steel sheeting constructed to the minimum specifications referred to in Schedule 2;
- (b) a fence constructed of aluminium sheeting when supported on posts and rails provided that it is used behind a building line and is of a minimum height of 1 800mm but no greater than 2 400mm; or
- (c) a fence of timber, brick, stone or concrete constructed to the minimum specifications referred to in Schedule 2.

Schedule 4

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

[clause 2.1(2)(c)]

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

Non-electrified fence

- (a) wire shall be high tensile wire and not less than 2.5mm. A minimum of 5 wires shall be used, generally with the lower wires spaced closer together than the higher wires so as to prevent smaller stock passing through, and connected to posts in all cases.
- (b) posts shall be of indigenous timber or other suitable material including—
 - (i) timber impregnated with a termite and fungicidal preservative;
 - (ii) standard iron star pickets; or
 - (iii) concrete;
- (c) cut not less than 1 800mm long x 50mm diameter at small end if round or 125mm x 60mm if split or sawn.
- (d) posts to be set minimum 600mm in the ground and 1 200mm above the ground; and
- (e) strainer posts shall be not less than 2 250mm long and 150mm diameter at the small end (tubular steel to be 50mm in diameter) and shall be cut from indigenous timber or other suitable material. These shall be placed a minimum of 1 000mm in the ground.

Electrified fence

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

Schedule 5

LICENCE FOR APPROVED ELECTRIFIED FENCE

[clause 2.11(1)(a)]

This is to certify that

(1) _____

of (2)

_____ is licensed, subject to the conditions set out below, to have and use an electrified fence on

_____ (address)

from _____ 20 _____ and until this licence is transferred or cancelled.

Dated this _____ day of _____ 20 _____

Chief Executive Officer,
[insert name of local government].

Conditions of Licence—

The holder of the licence must—

- (a) display the licence in a prominent position on the land or premises on which the electrified fence has been erected;
- (b) upon the request of a Building Surveyor produce to him or her the licence;
- (c) within 14 days of a change in the ownership or occupation of the land or premises in respect of which the licence has been granted, notify the Chief Executive Officer in writing of the details of that change or those changes;
- (d) obtain the written consent of the local government prior to the commencement of any alteration, addition or other work relating to or affecting the electrified fence; and
- (e) comply with AS/NZS 3016:2002 Electrical installations - Electric security fences.

Transfer by Endorsement

This licence is transferred to (3)

_____ of (4)

_____ from and including the date of this endorsement.

Dated this _____ day of _____ 20 _____

Chief Executive Officer,
[insert name of local government].

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

Schedule 6

LICENCE FOR APPROVED RAZOR WIRE FENCE

[clause 2.11(1)(b)]

This is to certify that (1)

of (2)

is licensed, subject to the conditions set out below, to have a fence constructed wholly or partially of razor wire at

(address)

From _____ 20__ and until this licence is transferred or cancelled.

Dated this _____ day of _____ 20__

Chief Executive Officer,
[insert name of local government]

Conditions of licence—

- (a) display the licence in a prominent position on the land or premises on which the fence has been erected;
- (b) upon the request of a Building Surveyor produce to him or her the licence;
- (c) within 14 days of a change in the ownership or occupation of the land or premises in respect of which the licence has been granted, notify the Chief Executive Officer in writing of the details of that change or those changes; and
- (d) obtain the written consent of the local government prior to the commencement of any alteration, addition or other work relating to or affecting the fence.

Transfer by Endorsement

This licence is transferred to (3)

of (4)

from and including the date of this endorsement.

Dated this _____ day of _____ 20__

Chief Executive Officer,
[insert name of local government]

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

Dated: *[insert date]*

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

Mayor/President

Chief Executive Officer

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SHIRE OF WYNDHAM | EAST KIMBERLEY

Bush Fire Brigades Local Law 2016

The Shire of Wyndham East Kimberley has resolved to make a local law relating to Bush Fire Brigades. The purpose of this local law is to make provisions about the organisation, establishment, maintenance and equipment of bush fire brigades. The effect of this Local Law is to align existing local laws with changes in law and operational processes.

A copy of the proposed law may be inspected at or obtained from the Shire of Wyndham East Kimberley administration offices at 20 Coolibah Drive Kununurra or at Koolama Street Wyndham between the hours of 0900 and 1600, Monday to Friday. The proposed law is also available on the Shire's website - www.swek.wa.gov.au under "Publications" "Local Laws".

Submissions regarding the proposed law may be submitted to the Shire of Wyndham East Kimberley, PO Box 614, KUNUNURRA WA 6743 or by email to: mail@swek.wa.gov.au by 7 October 2016.

Carl Askew
CEO



SHIRE OF WYNDHAM | EAST KIMBERLEY

Fencing Local Law 2016

The Shire of Wyndham East Kimberley has resolved to make a local law relating to fencing. The purpose of this local law is to prescribe a sufficient fence and the standard for the construction of fences throughout the district. The effect of this Local Law is to establish the minimum requirements for fencing within the district.

A copy of the proposed law may be inspected at or obtained from the Shire of Wyndham East Kimberley administration offices at 20 Coolibah Drive Kununurra or at Koolama Street Wyndham between the hours of 0900 and 1600, Monday to Friday. The proposed law is also available on the Shire's website - www.swek.wa.gov.au under "Publications" "Local Laws".

Submissions regarding the proposed law may be submitted to the Shire of Wyndham East Kimberley, PO Box 614, Kununurra, WA 6743 or by email to: mail@swek.wa.gov.au by 14 October 2016.

Carl Askew
CEO



Ref: LE.08.2
Enquiries: Carl Askew

13 September 2016

Hon Michael Mischin, MLC
Minister for Commerce
Level 10, Dumas House
2 Havelock Street
WEST PERTH WA 6005

Dear Minister Mischin

**SHIRE OF WYNDHAM EAST KIMBERLEY
FENCING LOCAL LAW 2016**

The Shire of Wyndham East Kimberley has undertaken a review of their Fencing Local Law.

The proposed Fencing Local Law 2016 is currently being advertised for public comment as per Section 3.12 (3)(a) of the *Local Government Act 1995*.

As per Section 3.1 (3)(b) of the *Local Government Act 1995*, please find attached:

1. Copy of the Proposed Local Law – Fencing Local Law 2016;
2. Completed NCP Form, noting that this Local Law does not contain any restrictions on competition contained in the legislation;
3. Copies of the public notices that have been placed in both local and statewide advertising.

The Minister for Local Government has been sent a copy of this correspondence.

Please contact Lisa Hannagan, Senior Governance & Risk Officer on 9168 4100 if you require any further information.

Yours Sincerely

Carl Askew
CHIEF EXECUTIVE OFFICER

NATIONAL COMPETITION POLICY – CLAUSE 7
LOCAL LAW REVIEW EXECUTIVE SUMMARY

LOCAL GOVERNMENT:

TITLE: Fencing Local Law 2016		
NEW LOCAL LAW <input type="checkbox"/>	REPEAL OF LOCAL LAW <input type="checkbox"/>	AMENDMENT TO IMPLEMENT NCP <input type="checkbox"/>
OTHER AMENDMENT TO LOCAL LAW <input checked="" type="checkbox"/>		NO AMENDMENT TO LOCAL LAW <input type="checkbox"/>
<p>Review Conduct A review of the Fencing Local Law was completed by Council and Officers of the Shire of Wyndham East Kimberley. Public Comment was sought during 3.12 advertising.</p>		
<p>Restrictions on Competition There are not restrictions on competition contained in the proposed Fencing Local Law 2016.</p>		
<p>Effects of the Restrictions N/A</p>		
<p>Assessing the Benefits and Costs of the Restrictions N/A</p>		
<p>Alternative Means of Achieving Desired Outcome N/A</p>		
<p>Overall Conclusion and Recommendations N/A</p>		
<p>Implementing Recommendations N/A</p>		

LOCAL GOVERNMENT ACT 1995

[SHIRE OF WYNDHAM EAST KIMBERLEY]

FENCING LOCAL LAW 2016

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

PART 1—PRELIMINARY

1.1 Citation

This local law is the *Shire of Wyndham East Kimberley Fencing Local Law 2016*.

1.2 Application of Local Laws has been moved to 1.4 in this model

1.2 Commencement

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

1.3 Interpretation has been removed and is covered in "1.6 Definitions" of this model

1.3 Purpose and effect

- (1) The purpose of this local law is to prescribe a sufficient fence and the standard for the construction of fences throughout the district.
- (2) The effect of this local law is to establish the minimum requirements for fencing within the district.

1.4 Objectives has been removed

1.4 Application

This local law applies throughout the district.

1.5 Licence fees and charges has been moved to 1.7 in this model

1.5 Repeal

The *Shire of Wyndham East Kimberley Local Laws relating to Fencing 2003* published in the *Government Gazette* on [insert date] is repealed.

1.6 Definitions

In this local law —

Act means the *Dividing Fences Act 1961*;

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

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

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

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

"Boundary" has been removed

Building Surveyor means a Building Surveyor of the local government;

CEO means the Chief Executive Officer of the local government;

Commercial Lot means a lot where a commercial use—

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

dangerous in relation to any fence means—

- (a) an electrified fence other than a fence approved by the local government under this local law;
- (b) a fence containing barbed wire other than a fence erected and maintained in accordance with this local law;
- (c) a fence containing exposed broken glass, asbestos fibre, razor wire or any other potentially harmful projection or material; or
- (d) a fence which is likely to collapse or fall, or part of which is likely to collapse or fall, from any cause;

district means the district of the local government;

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

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

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

fence means any structure, not including a retaining wall, used or functioning as a barrier, irrespective of where it is located and includes any gate;

front boundary means the boundary line between a lot and the thoroughfare upon which that lot abuts, or in the case of a lot abutting on more than one thoroughfare, the boundary line between the lot and the primary thoroughfare;

front fence means a fence erected on the front boundary of a lot or on a line adjacent to the front boundary;

front setback area means the area between the building line of a lot and the front boundary of that lot;

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

- (a) the top of the fence at any point; and
- (b) the ground level or, where the ground levels on each side of the fence are not the same, the higher ground level, immediately below that point;

“Industrial and Commercial Zone” has been removed

Industrial Lot means a lot where an industrial use—

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

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

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

local government property means anything except a thoroughfare—

- (a) which belongs to the local government;

- (b) of which the local government is the management body under the *Land Administration Act 1997*; or
- (c) which is an “otherwise unvested facility” under section 3.53 of the *Local Government Act 1995*;

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

notice of breach means a notice referred to in clause 5.1;

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

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

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

“Residential Zone” has been removed

Residential Lot means a lot where a residential use—

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

retaining wall means any structure which prevents the movement of soil or retains soil or structures in order to allow ground levels of different elevations to exist adjacent to one another;

Rural Lot means a lot where a rural use—

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

“Rural Zone” has been removed

Schedule means a Schedule to this local law;

“Sheet” has been removed

Special Rural Lot means a lot where a special rural use—

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

sufficient fence means a fence described in clause 2.1

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

“Thoroughfare Alignment” has been removed

Town Planning Scheme” has been removed

1.7 Licence fees and charges

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

PART 2—FENCES

Division 1—Sufficient fences

2.1 Sufficient fences

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

Division 2—General

2.2 Fences within front setback areas

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

2.3 Gates in fences

- (1) A person shall not erect a gate in a fence which does not—
 - (a) open into the lot; or
 - (b) open by sliding parallel and on the inside of the fence, which it forms part of, when closed.

2.4 Depositing fencing material on public place

A person shall not deposit or permit the deposit of any materials whatsoever used in the construction or maintenance of any fence, on any thoroughfare, public place or local government property unless the approval of the local government has been obtained.

2.5 Fences on a Rural Lot

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

2.6 Maintenance of fences

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

2.7 Fences across rights-of-way, public access ways or thoroughfares

A person must not, without the approval of the local government, erect or maintain a fence or obstruction of a temporary or permanent nature across any right-of-way, public access way or thoroughfare so as to impede or prevent use of those facilities in the manner for which they are intended and constructed.

2.8 General discretion of the local government

- (1) Notwithstanding the provisions of clause 2.1, the local government may approve the erection or repair of a dividing fence which is not a sufficient fence where all of the owners of the lots to be separated by the dividing fence make an application for approval for that purpose.
- (2) In determining whether to grant its approval under subclause (1), the local government may consider whether the erection or retention of the fence would have an adverse effect on—
 - (a) the safe or convenient use of any land;
 - (b) the safety or convenience of any person; or
 - (c) the visual amenity of the locality.

Division 3—Fencing materials

Where required by the Building Surveyor, fencing designs are to be certified by a practicing structural engineer as being suitable for wind loadings found in Region D Category 2 areas in accordance with the current edition of AS/NZS 1170.0:2002 Structural design actions - General principles.

2.9 Pre-used fencing materials

- (1) Notwithstanding clause 2.1, a person shall not construct a fence on a Residential Lot, a Commercial Lot or an Industrial Lot from pre-used materials without the approval of the local government.
- (2) Where the local government approves the use of pre-used materials in the construction of a fence under subclause (1), that approval shall be conditional on the applicant painting or treating the pre-used material as directed by the Building Surveyor.

2.10 Barbed wire fences and spiked or jagged materials

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

2.11 Electrified and razor wire fences

- (1) An owner or occupier of a lot shall not—
 - (a) construct or use an electrified fence on that lot without obtaining the approval of the local government in the form prescribed in Schedule 5; or
 - (b) construct a fence wholly or partly of razor wire on that lot without obtaining the approval of the local government in the form prescribed in Schedule 6.
- (2) The local government shall not approve an application for the purpose of subclause (1)(a)—
 - (a) in respect of a lot which is or which abuts a Residential Lot;
 - (b) unless the prohibited fence complies with “AS/NZS 3016:2002 Electrical installations—Electricity security fences”; and
 - (c) unless provision is made so as to enable the fence to be rendered inoperable during the hours of business operations, if any, on the lot where it is erected.
- (3) The local government shall not approve an application for the purpose of subclause (1)(b)—
 - (a) if the fence is within 3 000 millimetres of the boundary of the lot; or
 - (b) where any razor wire used in the construction of the fence is less than 2 000 millimetres or more than 2 400 millimetres above the ground level.
- (4) An application for approval for the purpose of subclauses (1)(a) or (1)(b) shall be made by the owner of the lot on which the fence is or is to be erected, or by the occupier of the lot with the written consent of the owner.

2.12 Prohibited fencing materials

A person shall not affix or use broken glass in the construction of any fence.

PART 3—APPROVALS

3.1 Application for approval

- (1) Where a person is required to obtain the approval of the local government under this local law, that person shall apply for approval in accordance with subclause (2).
- (2) An application for approval under this local law shall—
 - (a) be in the form determined by the local government;
 - (b) be signed by the applicant and the owner of the lot;
 - (c) provide the information required by the form; and
 - (d) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.19 of the *Local Government Act 1995*.
- (3) The local government may require an applicant to provide additional information reasonably related to an application before determining an application for approval.
- (4) The local government may refuse to consider an application for approval which is not in accordance with subclauses (2) and (3).

3.2 Decision on application for approval

- (1) The local government may—
 - (a) approve an application for approval unconditionally or subject to any conditions; or
 - (b) refuse to approve an application for approval.
- (2) If the local government approves an application for approval, it is to issue to the applicant an approval in the form determined by the local government.
- (3) If the local government refuses to approve an application for approval, it is to give written notice of that refusal to the applicant.
- (4) Where a clause of this local law refers to conditions which may be imposed on an approval or which are to be taken to be imposed on an approval, the clause does not limit the power of the local government to impose other conditions on the approval under subclause (1)(a).

3.3 Compliance with approval

Where an application for approval has been approved, the applicant and the owner or occupier of the lot to which the approval relates, shall comply with the terms and any conditions of that approval.

3.4 Duration of approval

Unless otherwise stated in the form of approval, an approval granted under this local law—

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

PART 4—MISCELLANEOUS

4.1 False or misleading statement

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

PART 5—NOTICES OF BREACH

5.1 Notices of breach

- (1) Where a breach of any provision of this local law has occurred in relation to a fence on a lot, the local government may give a notice in writing to the owner of that lot.
- (2) A notice of breach shall—
 - (a) specify the provision of this local law which has been breached;
 - (b) specify the particulars of the breach; and
 - (c) state that the owner is required to remedy the breach within the time specified in the notice.

- (3) Should an owner fail to comply with a notice of breach, the local government may, by its employees, agents or contractors enter upon the lot to which the notice relates and remedy the breach, and may recover the expenses of so doing from the owner of the lot in a court of competent jurisdiction.
- (4) The provisions of this clause are subject to section 3.25 and item 12 of Division 1 of Schedule 3.1 of the *Local Government Act 1995* and any entry on to land will be in accordance with Part 3, Division 3 of that Act.

PART 6—OFFENCES

6.1 Offences and penalties

- (1) A person who fails to comply with a notice of breach commits an offence and is liable upon conviction to a penalty of not less than \$250 and not exceeding \$5 000 and, if the offence is a continuing offence, to a maximum daily penalty of \$500.
- (2) A person who fails to comply with or who contravenes any provision of this local law commits an offence and is liable on conviction to a penalty of not less than \$250 and not exceeding \$5 000 and, if the offence is a continuing offence, to a maximum daily penalty of \$500.

6.2 Modified penalties

- (1) An offence against any provision of this local law is a prescribed offence for the purposes of section 9.16(1) of the *Local Government Act 1995*.
- (2) The amount appearing in the final column of Schedule 1, directly opposite a prescribed offence in that Schedule, is the modified penalty for that prescribed offence.
- (3) For the purpose of guidance only, before giving an infringement notice to a person in respect of the commission of a prescribed offence, an authorised person should be satisfied that—
 - (a) commission of the prescribed offence is a relatively minor matter; and
 - (b) only straightforward issues of law and fact are involved in determining whether the prescribed offence was committed, and the facts in issue are readily ascertainable.

6.3 Form of notices

For the purposes of this local law—

- (a) the form of the infringement notice referred to in sections 9.16 and 9.17 of the *Local Government Act 1995* is to be in the form of Form 2 of Schedule 1 of the *Local Government (Functions and General) Regulations 1996*; and
- (b) the form of the withdrawal of infringement notice referred to in section 9.20 of the *Local Government Act 1995* is to be in the form of Form 3 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

PART 7—OBJECTIONS AND REVIEW

7.1 Objections and review

When the local government makes a decision under clause 3.2, the provision of Part 9 Division 1 of the *Local Government Act 1995*, and regulation 33 of the *Local Government (Functions and General) Regulations 1996*, apply to that decision.

Schedule 1

OFFENCES AND MODIFIED PENALTIES

[clause 6.2(2)]

Item No	Clause No.	Nature of offence	Modified penalties \$
1	2.1(1)	Erect a fence which is not a sufficient fence	250
2	2.2	Erect a fence greater than 1 200mm in height within a front setback area without the written consent of the Building Surveyor	250
3	2.3(a)	Erect a gate in a fence not opening into the lot	200
4	2.3(b)	Erect a gate in a fence not sliding parallel and inside a fence	200
5	2.6	Failure to maintain a fence in good condition to prevent the fence becoming dangerous, dilapidated or unsightly	250
6	2.7	Erect or maintain a fence or obstruction of temporary or permanent nature across a right-of way, public access way or thoroughfare without approval	250
7	2.9(1)	Construct a dividing fence on a Residential, Commercial or Industrial Lot from pre-used materials without written approval	250
8	2.10(2)	Erect a fence using barbed wire or material with spiked or jagged projections in the fence construction without approval	250
9	2.11(1)	Construct, erect or use razor wire in a fence or electrify a fence without approval	250
10	2.12	Affix, or use, any broken glass in a fence	250
11	3.3	Failure to comply with terms or conditions of approval	250
12	6.1	Failure to comply with notice of breach	250

Schedule 2

SPECIFICATIONS FOR A SUFFICIENT FENCE ON A RESIDENTIAL LOT

[clause 2.1(2)(a)]

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

Timber fence

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

Corrugated fence

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

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

Brick, stone or concrete fence

A fence constructed of brick, stone or concrete, which satisfies the following requirements and specifications—

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

Composite fence

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

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

or

 - (2)
 - (a) brick piers of a minimum 345mm x 345mm x 2 700mm centres bonded to the base wall; and
 - (b) each pier shall be reinforced with two R10 galvanised starting rods as previously specified.
-

Schedule 3

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

[clause 2.1(2)(b)]

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

Galvanised or PVC fence and gate

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

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

Other fences

- (a) a fence of cement sheet or steel sheeting constructed to the minimum specifications referred to in Schedule 2;
- (b) a fence constructed of aluminium sheeting when supported on posts and rails provided that it is used behind a building line and is of a minimum height of 1 800mm but no greater than 2 400mm; or
- (c) a fence of timber, brick, stone or concrete constructed to the minimum specifications referred to in Schedule 2.

Schedule 4

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

[clause 2.1(2)(c)]

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

Non-electrified fence

- (a) wire shall be high tensile wire and not less than 2.5mm. A minimum of 5 wires shall be used, generally with the lower wires spaced closer together than the higher wires so as to prevent smaller stock passing through, and connected to posts in all cases.
- (b) posts shall be of indigenous timber or other suitable material including—
 - (i) timber impregnated with a termite and fungicidal preservative;
 - (ii) standard iron star pickets; or
 - (iii) concrete;
- (c) cut not less than 1 800mm long x 50mm diameter at small end if round or 125mm x 60mm if split or sawn.
- (d) posts to be set minimum 600mm in the ground and 1 200mm above the ground; and
- (e) strainer posts shall be not less than 2 250mm long and 150mm diameter at the small end (tubular steel to be 50mm in diameter) and shall be cut from indigenous timber or other suitable material. These shall be placed a minimum of 1 000mm in the ground.

Electrified fence

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

Schedule 5

LICENCE FOR APPROVED ELECTRIFIED FENCE

[clause 2.11(1)(a)]

This is to certify that

(1) _____

of (2)

_____ is licensed, subject to the conditions set out below, to have and use an electrified fence on

(address)

from _____ 20 _____ and until this licence is transferred or cancelled.

Dated this _____ day of _____ 20 _____

Chief Executive Officer,
[insert name of local government].

Conditions of Licence—

The holder of the licence must—

- (a) display the licence in a prominent position on the land or premises on which the electrified fence has been erected;
- (b) upon the request of a Building Surveyor produce to him or her the licence;
- (c) within 14 days of a change in the ownership or occupation of the land or premises in respect of which the licence has been granted, notify the Chief Executive Officer in writing of the details of that change or those changes;
- (d) obtain the written consent of the local government prior to the commencement of any alteration, addition or other work relating to or affecting the electrified fence; and
- (e) comply with AS/NZS 3016:2002 Electrical installations - Electric security fences.

Transfer by Endorsement

This licence is transferred to (3)

_____ of (4)

from and including the date of this endorsement.

Dated this _____ day of _____ 20 _____

Chief Executive Officer,
[insert name of local government].

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

Schedule 6

LICENCE FOR APPROVED RAZOR WIRE FENCE

[clause 2.11(1)(b)]

This is to certify that (1)

of (2)

is licensed, subject to the conditions set out below, to have a fence constructed wholly or partially of razor wire at

(address)

From _____ 20__ and until this licence is transferred or cancelled.

Dated this _____ day of _____ 20__

Chief Executive Officer,
[insert name of local government]

Conditions of licence—

- (a) display the licence in a prominent position on the land or premises on which the fence has been erected;
- (b) upon the request of a Building Surveyor produce to him or her the licence;
- (c) within 14 days of a change in the ownership or occupation of the land or premises in respect of which the licence has been granted, notify the Chief Executive Officer in writing of the details of that change or those changes; and
- (d) obtain the written consent of the local government prior to the commencement of any alteration, addition or other work relating to or affecting the fence.

Transfer by Endorsement

This licence is transferred to (3)

of (4)

from and including the date of this endorsement.

Dated this _____ day of _____ 20__

Chief Executive Officer,
[insert name of local government]

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

Dated: [insert date]

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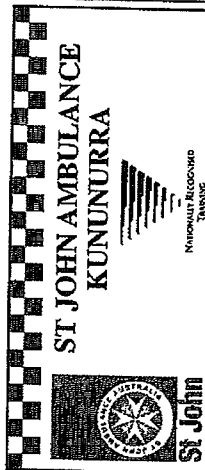
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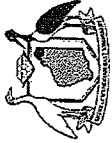
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Bush Fire Brigades

Local Law 2016

The Shire of Wyndham East Kimberley has resolved to make a local law relating to Bush Fire Brigades. The purpose of this local law is to make provisions about the organisation, establishment, maintenance and equipment of bush fire brigades. The effect of this Local Law is to align existing local laws with changes in law and operational processes.

A copy of the proposed law may be inspected at or obtained from the Shire of Wyndham East Kimberley administration offices at 20 Coolibah Drive Kununurra or at Koolama Street Wyndham between the hours of 0900 and 1600, Monday to Friday. The proposed law is also available on the Shire's website - www.swek.wa.gov.au under "Publications", "Local Laws".

Submissions regarding the proposed law may be submitted to the Shire of Wyndham East Kimberley, PO Box 614, KUNUNURRA WA 6743 or by email to: mail@swek.wa.gov.au by 7 October 2016.

Carl Askew
CEO



SHIRE OF WYNDHAM | EAST KIMBERLEY

Fencing Local Law 2016

The Shire of Wyndham East Kimberley has resolved to make a local law relating to fencing. The purpose of this local law is to prescribe a sufficient fence and the standard for the construction of fences throughout the district. The effect of this Local Law is to establish the minimum requirements for fencing within the district.

A copy of the proposed law may be inspected at or obtained from the Shire of Wyndham East Kimberley administration offices at 20 Coolibah Drive Kununurra or at Koolama Street Wyndham between the hours of 0900 and 1600, Monday to Friday. The proposed law is also available on the Shire's website - www.swek.wa.gov.au under "Publications", "Local Laws".

Submissions regarding the proposed law may be submitted to the Shire of Wyndham East Kimberley, PO Box 614, Kununurra, WA 6743 or by email to: mail@swek.wa.gov.au by 14 October 2016.

Carl Askew
CEO

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12.2.2. Fencing Local Law 2017

DATE:	31 January 2017
AUTHOR:	Senior Governance and Risk Officer
RESPONSIBLE OFFICER:	Carl Askew, Chief Executive Officer
FILE NO:	LE.08
DISCLOSURE OF INTERESTS:	Nil

VOTING REQUIREMENT

Absolute Majority

OFFICER'S RECOMMENDATION

That Council gives state-wide public notice that it intends to make the Shire of Wyndham East Kimberley Fencing Local Law 2017, as attached, noting that:

- 1. The purpose of this local law is to prescribe a sufficient fence and the standard for the construction of fences throughout the district.**
- 2. The effect of this local law is to establish the minimum requirements for fencing within the district.**

COUNCIL DECISION

Minute No: 31/01/2017-11585

Commissioner resolved:

That Council gives state-wide public notice that it intends to make the Shire of Wyndham East Kimberley Fencing Local Law 2017, as attached, noting that:

- 1. The purpose of this local law is to prescribe a sufficient fence and the standard for the construction of fences throughout the district.**
- 2. The effect of this local law is to establish the minimum requirements for fencing within the district.**

Carried 1/0

PURPOSE

Section 3.5 of the *Local Government Act 1995* provides the power for local governments to make local laws and prescribing all matters that are required or permitted to be prescribed by the local law, or are necessary and convenient for it to perform any of its functions.

The Shire of Wyndham East Kimberley Fencing Local Law 2017 prescribe laws relating to fencing requirements in the Shire. The Shire of Wyndham East Kimberley Fencing Local Law 2017 is subsidiary legislation to several Acts (*Local Government Act 1995 and Dividing Fences Act 1961*) and contains enforceable procedures.

NATURE OF COUNCIL'S ROLE IN THE MATTER

Leader - plan and provide direction through policy and practices

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

The Fencing Local Law 2003 was adopted by Council on 21 October 2003 and Gazetted 3 December 2003.

The purpose of the Fencing Local Law is to prescribe a sufficient fence and the standard for the construction of fences throughout the district. The effect of this local law is to establish the minimum requirements for fencing within the district. In its current format from 2003, this local law contains inconsistencies with the *Local Government Act 1995* and therefore requires change.

At the Council Meeting held 26 April 2016, Council resolved to undertake a review of this (and all other) local laws. The WALGA model Fencing Local Law was used and has been reviewed by both staff and Council.

As required by the *Local Government Act 1995*, the community was invited to comment on the Council's proposed Fencing Local Law. Public consultation was undertaken as part of the advertising process required by Section 3.12(3), for a minimum of 42 days. The review was advertised on 24 August 2016 (state-wide in the *West Australian*) and 25 August 2016 (locally in the *Kimberley Echo*) with a closing date for submissions on 7 October 2016. No public submissions were received.

In line with the legislated requirement, the proposed Fencing Local Law 2017 was also submitted to the Legislation Section of the Department of Local Government and Communities for review, to ensure legislative compliance.

Further, the proposed Fencing Local Law 2017 was submitted to the Department of Commerce for review.

A number of minor changes were suggested by the Department of Local Government and Communities and these have been incorporated into the final document attached to this item. These minor changes do not necessitate the need for re-advertising.

STATUTORY IMPLICATIONS

Section 3.12 of the *Local Government Act 1995* specifies the procedures to be followed when making a local law. Section 3.12 states:

3.12 Procedure for making a local law

- (1) *In making a local law a local government is to follow the procedure described in this section, in the sequence in which it is described.*
- (2) *At a council meeting the person presiding is to give notice to the meeting the purpose and effect of the proposed local law in the prescribed manner.*
- (3) *The local government is to:*
 - (a) *Give state-wide public notice stating that;*
 - (i) *The local government proposes to make a local law, the purpose and effect of which is summarised in the notice;*
 - (ii) *A copy of the proposed local law may be inspected or obtained at any place specified in the notice; and*
 - (iii) *Submissions about the proposed local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;*
 - (b) *As soon as the notice is given, give a copy of the proposed local law and a copy of the notice to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that Minister; and*
 - (c) *Provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.*
- (3a) *A notice under subsection (3) is also to be published and exhibited as if it were a local public notice.*
- (4) *After the last day for submissions, the local government is to consider any submissions made and may make the local law* as proposed to make a local law* that is not significantly different from what was proposed.*

** Absolute majority required.*
- (5) *After making the local law, the local government is to publish it in the Gazette and give a copy of it to the Minister, and if another Minister administers the Act under which the local law is proposed to be made, to that other Minister.*
- (6) *After the local law has been published in the Gazette the local government is to give local public notice -*
 - (a) *stating the title of the local law;*
 - (b) *summarising the purpose and effect of the local law (specifying the day it comes into operation); and*

(c) *advising that copies of the local law may be inspected or obtained from the local government's office.*

(7) *The Minister may give directions to the local government requiring them to provide to the Parliament copies of the local laws they have made and any explanatory or other material relating to them.*

(8) *In this section -
Making in relation to a local law, includes to amend the text of, or repeal, a local law.*

POLICY IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Advertising costs for state-wide notice and gazettal.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2012-2022

Goal 1: Strong leadership and governance that underpins a more strategic approach to community engagement, regional development and organisational sustainability

Objective 1.4: Business innovation, efficiency and improved services

Strategy 1.4.1 : Ensure legislative compliance and follow best practice principles in planning and service delivery

RISK IMPLICATIONS

Failure to comply with legislative requirements leading to damage of reputation and/or financial loss.

COMMUNITY ENGAGEMENT

Engagement has taken place in accordance with Section 3.12(3) of the *Local Government Act 1995* with both state-wide and local advertising and a public submission period open for a minimum of 42 days.

The review was advertised on 24 August 2016 (state-wide in the *West Australian*) and 25 August 2016 (locally in the *Kimberley Echo*) with a closing date for submissions on 7 October 2016. No public submissions were received.

COMMENTS

The purpose of the Fencing Local Law is to prescribe a sufficient fence and the standard for the construction of fences throughout the district. The effect of this local law is to establish the minimum requirements for fencing within the district.

Up to date and relevant local laws are an important cornerstone of good governance. Local Government has a statutory and moral obligation to ensure that the regulation of local matters is conducted in a fair, efficient and reasonable manner. To comply with the provision of Section 3.12 of the *Local Government Act 1995*, when proposing to make a local law, the presiding person is required to give notice of the purpose and effect of the proposed local law at the Council meeting where the local law is being considered.

This is achieved by:

- (a) Ensuring that the purpose and effect of the local law is included in the agenda for that meeting; and
- (b) Ensuring that the minutes of the meeting of the council include the purpose and effect of the proposed local law.

ATTACHMENTS - Item 12.2.2

Attachment 1 - Shire of Wyndham East Kimberley Fencing Local Law 2017.



Our Ref: LE.08.2
Enquiries: Lisa Hannagan

16 February 2017

Hon Paul Miles
Minister for Local Government & Communities
Level 8, Dumas House
2 Havelock Street
WEST PERTH WA 6005

Dear Minister Miles

**SHIRE OF WYNDHAM EAST KIMBERLEY
FENCING LOCAL LAW 2017**

Council resolved to make the Shire of Wyndham East Kimberley Fencing Local Law 2017 at the Ordinary Council Meeting held 31 January 2017.

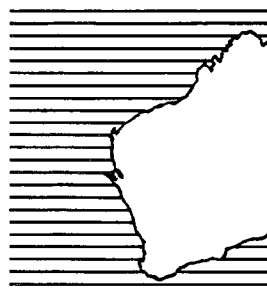
The Shire of Wyndham East Kimberley Fencing Local Law 2017 was published in the Government Gazette on Wednesday 15 February 2017.

As per Section 3.12(5) of the *Local Government Act 1995*, please find attached copy of the gazetted law.

Please contact Lisa Hannagan, Senior Governance & Risk Officer on 9168 4100 if you require any further information.

Yours sincerely

Carl Askew
Chief Executive Officer



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**SHIRE OF WYNDHAM
EAST KIMBERLEY**

BUSH FIRES ACT 1954
LOCAL GOVERNMENT ACT 1995

**BUSH FIRE BRIGADES
LOCAL LAW 2017**

LOCAL GOVERNMENT ACT 1995
DIVIDING FENCES ACT 1961

FENCING LOCAL LAW 2017

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

SHIRE OF WYNDHAM EAST KIMBERLEY

BUSH FIRE BRIGADES LOCAL LAW 2017

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

SHIRE OF WYNDHAM EAST KIMBERLEY

BUSH FIRE BRIGADES LOCAL LAW 2017

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

PART 1—PRELIMINARY

1.1 Citation

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

1.2 Commencement

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

1.3 Definitions

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

Act means the *Bush Fires Act 1954*;

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

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

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

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

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

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

cadet member is defined at 4.4 of this local law;

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

Council means the Council of the local government;

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

district means the district of the local government;

fire fighting member is defined in clause 4.2;

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

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

Regulations means Regulations made under the Act; and

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

Schedule means the Schedule included in this local law;

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

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

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

(a) a Captain;

(b) a First Lieutenant;

(c) a Second Lieutenant;

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

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

1.4 Repeal

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

1.5 Application

This local law applies throughout the district.

PART 2—ESTABLISHMENT OF BUSH FIRE BRIGADES

Division 1—Establishment of a bush fire brigade

2.1 Establishment of a bush fire brigade

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

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

2.2 Name and officers of bush fire brigade

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

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

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

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

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

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

Division 2—Command at a fire

2.3 Ranks within the bush fire brigade

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

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

Division 3—Application of Rules to a bush fire brigade

2.4 Rules

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

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

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

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

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

(2) In this clause—

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

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

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

2.7 New arrangement after dissolution

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

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

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

3.2 Officers to be supplied with Act

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

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

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

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

3.4 Chief Bush Fire Control Officer may attend meetings

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

3.5 Duties of Chief Bush Fire Control Officer

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

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

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

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

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

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

3.8 Nomination of bush fire control officer to the local government

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

3.9 Minutes to be tabled before the Bush Fire Advisory Committee

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

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

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

*Division 4—Bush Fire Advisory Committee***3.10 Functions of Advisory Committee**

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

3.11 Advisory Committee to nominate bush fire control officers

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

3.12 Local government to have regard to nominees

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

3.13 Advisory Committee to consider bush fire brigade motions

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

PART 4—TYPES OF BUSH FIRE BRIGADE MEMBERSHIP**4.1 Types of membership of bush fire brigade**

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

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

4.2 Fire fighting members

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

4.3 Associate members

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

4.4 Cadet members

Cadet members are—

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

4.5 Honorary life member

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

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

4.6 Notification of membership

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

PART 5—APPOINTMENT, DISMISSAL AND MANAGEMENT OF MEMBERS

5.1 Rules to govern

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

PART 6—EQUIPMENT OF BUSH FIRE BRIGADES

6.1 Policies of local government

The local government may make policies under which it—

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

6.2 Equipment in brigade area

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

6.3 Funding from local government budget

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

6.4 Consideration in the local government budget

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

SCHEDULE 1—RULES GOVERNING THE OPERATION OF BUSH FIRE BRIGADES

[Clause 2.4]

PART 1—PRELIMINARY

1.1 Interpretation

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

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

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

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

Committee means the Committee of the bush fire brigade;

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

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

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

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

PART 2—OBJECTS AND MEMBERSHIP OF BUSH FIRE BRIGADE

2.1 Objects of bush fire brigade

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

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

2.2 Committee to determine applications

Applications for membership are to be determined by the Committee.

2.3 Conditions of membership

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

- (a) the qualifications required;

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

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

2.4 Applications for membership

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

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

2.5 Decision on application for membership

(1) The Committee may—

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

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

2.6 Department to be notified of registrations

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

2.7 Termination of membership

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

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

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

2.8 Suspension of membership

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

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

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

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

2.9 Existing liabilities to continue

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

2.10 Member has right of defence

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

2.11 Objection Rights

A person whose—

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

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

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

PART 3—FUNCTIONS OF BRIGADE OFFICERS

3.1 Chain of command during fire fighting activities

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

3.2 Duties of Captain

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

3.3 Secretary

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

3.4 Treasurer

The Treasurer is to—

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

3.5 Equipment Officer

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

3.6 Storage of equipment

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

3.7 Equipment Officer to report

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

PART 4—COMMITTEE

4.1 Management of bush fire brigade

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

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

4.2 Constitution of Committee

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

PART 5—MEETINGS OF BUSH FIRE BRIGADE

5.1 Ordinary meetings

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

5.2 Special meetings

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

5.3 Annual general meeting

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

5.4 Quorum

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

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

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

(a) close the meeting; or

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

5.5 Voting

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

5.6 Auditor

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

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

PART 6—MEETINGS OF COMMITTEE

6.1 Meetings of Committee

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

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

6.2 Quorum

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

6.3 Voting

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

PART 7—GENERAL ADMINISTRATION MATTERS

7.1 Fees

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

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

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

7.2 Funds

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

7.3 Financial year

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

7.4 Banking

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

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

7.5 Disclosure of interests

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

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

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

7.6 Disagreements

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

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

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

PART 8—NOTICES AND PROXIES

8.1 Notices

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

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

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

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

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

8.2 Proxies

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

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

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

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

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

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

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

Form 1

PROXY VOTE

SHIRE OF WYNDHAM EAST KIMBERLEY BUSH FIRE BRIGADE
[ANNUAL] [EXTRAORDINARY] GENERAL MEETING
TO BE HELD ON [DATE]

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

MOTION FOR AGAINST ABSTAIN

- 1.
- 2.

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

Date: _____

Signed: _____

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

Dated this day of 20

APPENDIX I

APPLICATION FOR MEMBERSHIP—FIRE FIGHTING MEMBER

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

Applicant's Name.....

My private address is

My business address is

Usual Occupation.....

I can be contacted on—

Telephone No: (Home) (Work) Mobile

Fax No: (Home) (Work)

CB Radio Channel Call Sign.....

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

I hold a current driver's licence No. Classes

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

I give these undertakings—

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

Date Applicant's signature

Please list here any fire fighting equipment owned by you.

- 1.
2.
3.

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

APPENDIX II

APPLICATION FOR MEMBERSHIP—ASSOCIATE MEMBER

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

- (a) I am prepared to offer to transport fire fighting members and/or equipment to the scene of any outbreak when called upon. I have a motor vehicle of the following type available for such purpose.
MDL No: Classes:

- (b) I am prepared to offer my services in the following capacity—
(paragraph (a) or (b) above may be struck out if not applicable)

Applicant's Name.....

My private address is

My business address is

I can be contacted on—

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

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

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

I give these undertakings—

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

Date

Applicant's signature

BUSH FIRE BRIGADE USE ONLY:

APPROVED / DECLINED

Signed:
Brigade Captain

APPENDIX III

APPLICATION FOR MEMBERSHIP—CADET MEMBER

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

Applicant's Name

My private address is.....

I can be contacted on—

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

Fax No:(Home)

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

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

Date of Birth:

I give these undertakings—

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

Date

Applicant's signature

PARENT / GUARDIAN CONSENT—

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

Signed

BUSH FIRE BRIGADE USE ONLY:

APPROVED / DECLINED

Signed:
Brigade Captain

Dated: 31 January 2017.

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

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

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

SHIRE OF WYNDHAM EAST KIMBERLEY

FENCING LOCAL LAW 2017

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

SHIRE OF WYNDHAM EAST KIMBERLEY

FENCING LOCAL LAW 2017

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

PART 1—PRELIMINARY

1.1 Citation

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

1.2 Commencement

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

1.3 Purpose and effect

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

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

1.4 Application

This local law applies throughout the district.

1.5 Repeal

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

1.6 Definitions

In this local law—

Act means the *Dividing Fences Act 1961*;

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

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

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

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

Building Surveyor means a Building Surveyor of the local government;

CEO means the Chief Executive Officer of the local government;

Commercial Lot means a lot where a commercial use—

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

dangerous in relation to any fence means—

- (a) an electrified fence other than a fence approved by the local government under this local law;
- (b) a fence containing barbed wire other than a fence erected and maintained in accordance with this local law;
- (c) a fence containing exposed broken glass, asbestos fibre, razor wire or any other potentially harmful projection or material; or
- (d) a fence which is likely to collapse or fall, or part of which is likely to collapse or fall, from any cause;

district means the district of the local government;

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

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

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

fence means any structure, not including a retaining wall, used or functioning as a barrier, irrespective of where it is located and includes any gate;

front boundary means the boundary line between a lot and the thoroughfare upon which that lot abuts, or in the case of a lot abutting on more than 1 thoroughfare, the boundary line between the lot and the primary thoroughfare;

front setback area means the area between the building line of a lot and the front boundary of that lot;

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

- (a) the top of the fence at any point; and
- (b) the ground level or, where the ground levels on each side of the fence are not the same, the higher ground level, immediately below that point;

Industrial Lot means a lot where an industrial use—

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

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

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

local government property means anything except a thoroughfare—

- (a) which belongs to the local government;
- (b) of which the local government is the management body under the *Land Administration Act 1997*; or
- (c) which is an “otherwise unvested facility” under section 3.53 of the *Local Government Act 1995*;

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

notice of breach means a notice referred to in clause 5.1;

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

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

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

Residential Lot means a lot where a residential use—

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

retaining wall means any structure which prevents the movement of soil or retains soil or structures in order to allow ground levels of different elevations to exist adjacent to one another;

Rural Lot means a lot where a rural use—

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

Schedule means a Schedule to this local law;

Special Rural Lot means a lot where a special rural use—

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

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

sufficient fence means a fence described in clause 2.1;

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

1.7 Licence fees and charges

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

PART 2—FENCES

Division 1—Sufficient fences

2.1 Sufficient fences

- (1) A person shall not erect a dividing fence or a boundary fence that is not a sufficient fence.
- (2) Subject to subclauses (3) and (4), a sufficient fence—
 - (a) on a Residential Lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of Schedule 2;

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

Division 2—General

2.2 Fences within front setback areas

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

2.3 Gates in fences

A person shall not erect a gate in a fence, which does not—

- (a) open into the lot; or
- (b) open by sliding parallel and on the inside of the fence, which it forms part of, when closed.

2.4 Depositing fencing material on public place

A person shall not deposit or permit the deposit of any materials used in the construction or maintenance of any fence, on any thoroughfare, public place or local government property unless the approval of the local government has been obtained.

2.5 Fences on a Rural Lot

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

2.6 Maintenance of fences

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

2.7 Fences across rights-of-way, public access ways or thoroughfares

A person must not, without the approval of the local government, erect or maintain a fence or obstruction of a temporary or permanent nature across any right-of-way, public access way or thoroughfare so as to impede or prevent use of those facilities in the manner for which they are intended and constructed.

2.8 General discretion of the local government

- (1) Notwithstanding the provisions of clause 2.1, the local government may approve the erection or repair of a dividing fence, which is not a sufficient fence if all of the owners of the lots to be separated by the dividing fence makes an application for approval for that purpose.

(2) In determining whether to grant its approval under subclause (1), the local government may consider whether the erection or retention of the fence would have an adverse effect on—

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

Division 3—Fencing materials

2.9 Pre-used fencing materials

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

- (1) Notwithstanding clause 2.1, a person shall not construct a fence on a Residential Lot, a Commercial Lot or an Industrial Lot from pre-used materials without the approval of the local government.
- (2) Where the local government approves the use of pre-used materials in the construction of a fence under subclause (1), that approval shall be conditional on the applicant painting or treating the pre-used material as directed by the Building Surveyor.

2.10 Barbed wire fences and spiked or jagged materials

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

2.11 Electrified and razor wire fences

- (1) An owner or occupier of a lot shall not—
 - (a) construct or use an electrified fence on that lot without obtaining the approval of the local government in the form prescribed in Schedule 5; or
 - (b) construct a fence wholly or partly of razor wire on that lot without obtaining the approval of the local government in the form prescribed in Schedule 6.
- (2) The local government shall not approve an application for the purpose of subclause (1)(a)—
 - (a) in respect of a lot which is or which abuts a Residential Lot;
 - (b) unless the electrified fence complies with AS/NZS 3016:2002 Electrical installations—Electricity security fences; and
 - (c) unless provision is made so as to enable the fence to be rendered inoperable during the hours of business operations, if any, on the lot where it is erected.
- (3) The local government shall not approve an application for the purpose of subclause (1)(b)—
 - (a) if the fence is within 3 000 mm of the boundary of the lot; or
 - (b) where any razor wire used in the construction of the fence is less than 2 000 mm or more than 2 400 mm above the ground level.
- (4) An application for approval for the purpose of subclauses (1)(a) or (1)(b) shall be made by the owner of the lot on which the fence is or is to be erected, or by the occupier of the lot with the written consent of the owner.

2.12 Prohibited fencing materials

A person shall not affix or use broken glass in the construction of any fence.

PART 3—APPROVALS

3.1 Application for approval

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

- (2) An application for approval under this local law shall—
- (a) be in the form determined by the local government;
 - (b) be signed by the applicant and the owner of the lot;
 - (c) provide the information required by the form; and
 - (d) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.19 of the *Local Government Act 1995*.
- (3) The local government may require an applicant to provide additional information reasonably related to an application before determining an application for approval.
- (4) The local government may refuse to consider an application for approval which is not in accordance with subclauses (2) and (3).

3.2 Decision on application for approval

- (1) The local government may—
- (a) approve an application for approval unconditionally or subject to any conditions; or
 - (b) refuse to approve an application for approval.
- (2) If the local government approves an application for approval, it is to issue to the applicant an approval in the form determined by the local government.
- (3) If the local government refuses to approve an application for approval, it is to give written notice of that refusal to the applicant.
- (4) Where a clause of this local law refers to conditions which may be imposed on an approval or which are to be taken to be imposed on an approval, the clause does not limit the power of the local government to impose other conditions on the approval under subclause (1)(a).

3.3 Compliance with approval

Where an application for approval has been approved, the applicant and the owner or occupier of the lot to which the approval relates, shall comply with the terms and any conditions of that approval.

3.4 Duration of approval

Unless otherwise stated in the form of approval, an approval granted under this local law—

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

PART 4—MISCELLANEOUS

4.1 False or misleading statement

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

PART 5—NOTICES OF BREACH

5.1 Notices of breach

- (1) Where a breach of any provision of this local law has occurred in relation to a fence on a lot, the local government may give a notice in writing to the owner of that lot.
- (2) A notice of breach shall—
- (a) specify the provision of this local law which has been breached;
 - (b) specify the particulars of the breach; and
 - (c) state that the owner is required to remedy the breach within the time specified in the notice.
- (3) Should an owner fail to comply with a notice of breach, the local government may, by its employees, agents or contractors enter upon the lot to which the notice relates and remedy the breach, and may recover the expenses of so doing from the owner of the lot in a court of competent jurisdiction.
- (4) The provisions of this clause are subject to section 3.25 and item 12 of Division 1 of Schedule 3.1 of the *Local Government Act 1995* and any entry on to land will be in accordance with Part 3, Division 3 of that Act.

PART 6—OFFENCES

6.1 Offences and penalties

- (1) A person who fails to comply with a notice of breach commits an offence and is liable upon conviction to a penalty of not less than \$250 and not exceeding \$5 000 and, if the offence is a continuing offence, to a maximum daily penalty of \$500.
- (2) A person who fails to comply with or who contravenes any provision of this local law commits an offence and is liable on conviction to a penalty of not less than \$250 and not exceeding \$5 000 and, if the offence is a continuing offence, to a maximum daily penalty of \$500.

6.2 Modified penalties

- (1) An offence against any provision of this local law is a prescribed offence for the purposes of section 9.16(1) of the *Local Government Act 1995*.
- (2) The amount appearing in the final column of Schedule 1, directly opposite a prescribed offence in that Schedule, is the modified penalty for that prescribed offence.
- (3) For the purpose of guidance only, before giving an infringement notice to a person in respect of the commission of a prescribed offence, an authorised person should be satisfied that—
- commission of the prescribed offence is a relatively minor matter; and
 - only straightforward issues of law and fact are involved in determining whether the prescribed offence was committed, and the facts in issue are readily ascertainable.

6.3 Form of notices

For the purposes of this local law—

- the form of the infringement notice referred to in sections 9.16 and 9.17 of the *Local Government Act 1995* is to be in the form of Form 2 of Schedule 1 of the *Local Government (Functions and General) Regulations 1996*; and
- the form of the withdrawal of infringement notice referred to in section 9.20 of the *Local Government Act 1995* is to be in the form of Form 3 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

PART 7—OBJECTIONS AND REVIEW**7.1 Objections and review**

When the local government makes a decision under this local law as to whether it will—

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

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

Schedule 1
OFFENCES AND MODIFIED PENALTIES

[clause 6.2(2)]

Item No.	Clause No.	Nature of offence	Modified penalties \$
1	2.1(1)	Erect a fence that is not a sufficient fence	250
2	2.2	Erect a fence greater than 1 200mm in height within a front setback area of a Residential Lot without the written consent of the Building Surveyor	250
3	2.3(a)	Erect a gate in a fence not opening into the lot	200
4	2.3(b)	Erect a gate in a fence not sliding parallel and inside a fence	200
5	2.6	Failure to maintain a fence in good condition to prevent the fence becoming dangerous, dilapidated or unsightly	250
6	2.7	Erect or maintain a fence or obstruction of temporary or permanent nature across a right-of way, public access way or thoroughfare without approval	250
7	2.9(1)	Construct a dividing fence on a Residential, Commercial or Industrial Lot from pre-used materials without written approval	250
8	2.10(2)	Erect a fence using barbed wire or material with spiked or jagged projections in the fence construction without approval	250
9	2.11(1)	Construct, erect or use razor wire in a fence or electrify a fence without approval	250
10	2.12	Affix, or use, any broken glass in a fence	250
11	3.3	Failure to comply with terms or conditions of approval	250
12	6.1	Failure to comply with notice of breach	250

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

[clause 2.1(2)(a)]

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

Timber fence

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

Corrugated fence

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

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

Brick, stone or concrete fence

A fence constructed of brick, stone or concrete, which satisfies the following requirements and specifications—

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

Composite fence

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

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

or

- (2)
 - (a) brick piers of a minimum 345mm x 345mm x 2 700mm centres bonded to the base wall; and
 - (b) each pier shall be reinforced with 2 R10 galvanised starting rods as previously specified.

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

[clause 2.1(2)(b)]

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

Galvanised or PVC fence and gate

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

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

Other fences

- (a) a fence of cement sheet or steel sheeting constructed to the minimum specifications referred to in Schedule 2;
- (b) a fence constructed of aluminium sheeting when supported on posts and rails provided that it is used behind a building line and is of a minimum height of 1 800mm but no greater than 2 400mm; or
- (c) a fence of timber, brick, stone or concrete constructed to the minimum specifications referred to in Schedule 2.

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

[clause 2.1(2)(c)]

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

Non-electrified fence

- (a) wire shall be high tensile wire and not less than 2.5mm. A minimum of 5 wires shall be used, generally with the lower wires spaced closer together than the higher wires so as to prevent smaller stock passing through, and connected to posts in all cases.
- (b) posts shall be of indigenous timber or other suitable material including—
 - (i) timber impregnated with a termite and fungicidal preservative;
 - (ii) standard iron star pickets; or
 - (iii) concrete;
- (c) cut not less than 1 800mm long x 50mm diameter at small end if round or 125mm x 60mm if split or sawn.
- (d) posts to be set minimum 600mm in the ground and 1 200mm above the ground; and
- (e) strainer posts shall be not less than 2 250mm long and 150mm diameter at the small end (tubular steel to be 50mm in diameter) and shall be cut from indigenous timber or other suitable material. These shall be placed a minimum of 1 000mm in the ground.

Electrified fence

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

Schedule 5
LICENCE FOR APPROVED ELECTRIFIED FENCE

[clause 2.11(1)(a)]

This is to certify that (1) ...
of (2) ...
is licensed, subject to the conditions set out below, to have and use an electrified fence on
(address)
from ... 20... and until this licence is transferred or cancelled.
Dated this ... day of ... 20...

Chief Executive Officer,
Shire of Wyndham East Kimberley

Conditions of Licence—

The holder of the licence must—

- (a) display the licence in a prominent position on the land or premises on which the electrified fence has been erected;
(b) upon the request of a Building Surveyor produce to him or her the licence;
(c) within 14 days of a change in the ownership or occupation of the land or premises in respect of which the licence has been granted, notify the Chief Executive Officer in writing of the details of that change or those changes;
(d) obtain the written consent of the local government prior to the commencement of any alteration, addition or other work relating to or affecting the electrified fence; and
(e) comply with AS/NZS 3016:2002 Electrical installations—Electric security fences.

Transfer by Endorsement

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

Chief Executive Officer,
Shire of Wyndham East Kimberley.

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

Schedule 6
LICENCE FOR APPROVED RAZOR WIRE FENCE

[clause 2.11(1)(b)]

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

Chief Executive Officer,
Shire of Wyndham East Kimberley

Conditions of licence—

- (a) display the licence in a prominent position on the land or premises on which the fence has been erected;
(b) upon the request of a Building Surveyor produce to him or her the licence;
(c) within 14 days of a change in the ownership or occupation of the land or premises in respect of which the licence has been granted, notify the Chief Executive Officer in writing of the details of that change or those changes; and
(d) obtain the written consent of the local government prior to the commencement of any alteration, addition or other work relating to or affecting the fence.

Transfer by Endorsement

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

Dated this day of 20.....

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

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

Dated: 31 January 2017.

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

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



Our Ref: LE.08.2
Enquiries: Lisa Hannagan

16 February 2017

Hon Michael Mischin MLC
Minister for Commerce
Level 10, Dumas House
2 Havelock Street
WEST PERTH WA 6005

Dear Minister,

**SHIRE OF WYNDHAM EAST KIMBERLEY
FENCING LOCAL LAW 2017**

Council resolved to make the Shire of Wyndham East Kimberley Fencing Local Law 2017 at the Ordinary Council Meeting held 31 January 2017.

The Shire of Wyndham East Kimberley Fencing Local Law 2017 was published in the Government Gazette on Wednesday 15 February 2017.

As per Section 3.12(5) of the *Local Government Act 1995*, please find attached copy of the gazetted law.

Please contact Lisa Hannagan, Senior Governance & Risk Officer on 9168 4100 if you require any further information.

Yours sincerely

Carl Askew
Chief Executive Officer



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SHIRE OF WYNDHAM EAST KIMBERLEY

BUSH FIRES ACT 1954
LOCAL GOVERNMENT ACT 1995

BUSH FIRE BRIGADES LOCAL LAW 2017

LOCAL GOVERNMENT ACT 1995
DIVIDING FENCES ACT 1961

FENCING LOCAL LAW 2017

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

SHIRE OF WYNDHAM EAST KIMBERLEY

BUSH FIRE BRIGADES LOCAL LAW 2017

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

SHIRE OF WYNDHAM EAST KIMBERLEY

BUSH FIRE BRIGADES LOCAL LAW 2017

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

PART 1—PRELIMINARY

1.1 Citation

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

1.2 Commencement

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

1.3 Definitions

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

Act means the *Bush Fires Act 1954*;

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

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

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

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

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

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

cadet member is defined at 4.4 of this local law;

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

Council means the Council of the local government;

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

district means the district of the local government;

fire fighting member is defined in clause 4.2;

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

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

Regulations means Regulations made under the Act; and

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

Schedule means the Schedule included in this local law;

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

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

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

(a) a Captain;

(b) a First Lieutenant;

(c) a Second Lieutenant;

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

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

1.4 Repeal

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

1.5 Application

This local law applies throughout the district.

PART 2—ESTABLISHMENT OF BUSH FIRE BRIGADES

Division 1—Establishment of a bush fire brigade

2.1 Establishment of a bush fire brigade

- (1) The local government may establish a bush fire brigade for the purpose of carrying out normal brigade activities.
- (2) A bush fire brigade is established on the date of the local government's decision under subclause (1).

2.2 Name and officers of bush fire brigade

- (1) On establishing a bush fire brigade under clause 2.1(1) the local government is to—
 - (a) give a name to the bush fire brigade;
 - (b) specify the area in which the bush fire brigade is primarily responsible for carrying out the normal brigade activities (the *brigade area*); and
 - (c) appoint—
 - (i) a Captain;
 - (ii) a First Lieutenant;
 - (iii) a Second Lieutenant;
 - (iv) additional Lieutenants if the local government considers it necessary;
 - (v) an Equipment Officer;
 - (vi) a Secretary; and
 - (vii) a Treasurer; or
 - (viii) a Secretary/Treasurer combined.
- (2) When considering the appointment of persons to the positions in subclause (1)(c), the local government is to have regard to the qualifications and experience which may be required to fill each position.
- (3) A person appointed to a position in subclause (1)(c) is to be taken to be a brigade member.
- (4) The appointments referred to in subclause (1)(c) expire at the completion of the first annual general meeting of the bush fire brigade.
- (5) If a position referred to in subclause (1)(c) becomes vacant prior to the completion of the first annual general meeting, then the local government is to appoint a person to fill the vacancy in accordance with subclause (2).

Division 2—Command at a fire

2.3 Ranks within the bush fire brigade

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

Division 3—Application of Rules to a bush fire brigade

2.4 Rules

- (1) The Rules govern the operation of a bush fire brigade.
- (2) A bush fire brigade and each brigade member is to comply with the Rules.

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

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

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

(2) In this clause—

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

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

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

2.7 New arrangement after dissolution

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

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

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

3.2 Officers to be supplied with Act

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

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

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

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

3.4 Chief Bush Fire Control Officer may attend meetings

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

3.5 Duties of Chief Bush Fire Control Officer

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

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

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

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

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

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

3.8 Nomination of bush fire control officer to the local government

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

3.9 Minutes to be tabled before the Bush Fire Advisory Committee

- (1) The Secretary is to forward a copy of the minutes of the annual general meeting of a bush fire brigade to the Chief Bush Fire Control Officer within 1 month after the meeting.
- (2) The Chief Bush Fire Control Officer is to table the minutes of a bush fire brigade's annual general meeting at the next meeting of the—
 - (a) Bush Fire Advisory Committee; or
 - (b) Council, if there is no Bush Fire Advisory Committee, following their receipt under subclause (1).

*Division 4—Bush Fire Advisory Committee***3.10 Functions of Advisory Committee**

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

3.11 Advisory Committee to nominate bush fire control officers

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

3.12 Local government to have regard to nominees

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

3.13 Advisory Committee to consider bush fire brigade motions

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

PART 4—TYPES OF BUSH FIRE BRIGADE MEMBERSHIP**4.1 Types of membership of bush fire brigade**

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

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

4.2 Fire fighting members

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

4.3 Associate members

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

4.4 Cadet members

Cadet members are—

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

4.5 Honorary life member

- (1) The bush fire brigade may by a simple majority resolution appoint a person as an honorary life member in recognition of services by that person to the bush fire brigade.
- (2) No membership fees are to be payable by an honorary life member.

4.6 Notification of membership

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

PART 5—APPOINTMENT, DISMISSAL AND MANAGEMENT OF MEMBERS

5.1 Rules to govern

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

PART 6—EQUIPMENT OF BUSH FIRE BRIGADES

6.1 Policies of local government

The local government may make policies under which it—

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

6.2 Equipment in brigade area

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

6.3 Funding from local government budget

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

6.4 Consideration in the local government budget

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

SCHEDULE 1—RULES GOVERNING THE OPERATION OF BUSH FIRE BRIGADES

[Clause 2.4]

PART 1—PRELIMINARY

1.1 Interpretation

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

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

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

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

Committee means the Committee of the bush fire brigade;

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

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

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

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

PART 2—OBJECTS AND MEMBERSHIP OF BUSH FIRE BRIGADE

2.1 Objects of bush fire brigade

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

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

2.2 Committee to determine applications

Applications for membership are to be determined by the Committee.

2.3 Conditions of membership

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

- (a) the qualifications required;

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

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

2.4 Applications for membership

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

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

2.5 Decision on application for membership

(1) The Committee may—

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

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

2.6 Department to be notified of registrations

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

2.7 Termination of membership

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

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

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

2.8 Suspension of membership

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

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

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

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

2.9 Existing liabilities to continue

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

2.10 Member has right of defence

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

2.11 Objection Rights

A person whose—

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

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

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

PART 3—FUNCTIONS OF BRIGADE OFFICERS

3.1 Chain of command during fire fighting activities

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

3.2 Duties of Captain

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

3.3 Secretary

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

3.4 Treasurer

The Treasurer is to—

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

3.5 Equipment Officer

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

3.6 Storage of equipment

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

3.7 Equipment Officer to report

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

PART 4—COMMITTEE

4.1 Management of bush fire brigade

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

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

4.2 Constitution of Committee

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

PART 5—MEETINGS OF BUSH FIRE BRIGADE

5.1 Ordinary meetings

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

5.2 Special meetings

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

5.3 Annual general meeting

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

5.4 Quorum

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

- (2) No business is to be transacted at a meeting of the bush fire brigade unless a quorum of brigade members is present in person or by proxy.
- (3) If a meeting ceases to have a quorum at any time, the presiding member is to immediately—
- (a) close the meeting; or
 - (b) adjourn the meeting for 10 minutes, after which the meeting is to be closed if a quorum is not achieved within that time.

5.5 Voting

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

5.6 Auditor

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

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

PART 6—MEETINGS OF COMMITTEE

6.1 Meetings of Committee

- (1) The Committee is to meet for the despatch of business, adjourn and otherwise regulate its meeting as it thinks fit.
- (2) The Captain or Secretary may convene a meeting of the Committee at any time.

6.2 Quorum

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

6.3 Voting

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

PART 7—GENERAL ADMINISTRATION MATTERS

7.1 Fees

- (1) The membership fees, if any, for each type of member for the ensuing 12 months are to be determined by the bush fire brigade at the annual general meeting.
- (2) Subject to subclause (3), a member is to pay the membership fees for her or his type of membership on or before 1 May.
- (3) The bush fire brigade may exempt a brigade member, or a class of membership, from the payment of membership fees, for such period and on such conditions as the bush fire brigade may determine.

7.2 Funds

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

7.3 Financial year

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

7.4 Banking

- (1) The funds of the bush fire brigade are to be placed in a bank account and are to be drawn on only by cheques signed jointly by any 2 of the Captain, Secretary or Treasurer.
- (2) If the Secretary/Treasurer is a combined position, the Captain and Secretary/Treasurer are to sign the cheques referred to in subclause (1).

7.5 Disclosure of interests

- (1) A brigade member shall disclose to the bush fire brigade or Committee any financial interest, whether direct or indirect, he or she may have in any matter being considered by the bush fire brigade or Committee, as appropriate.
- (2) If a financial interest has been disclosed under subclause (1), then the bush fire brigade or Committee, as appropriate, is to decide, in the absence of the brigade member who disclosed that interest, whether or not the brigade member is to be permitted to vote on that matter.
- (3) Where the bush fire brigade or Committee, as appropriate, decides under subclause (2), that a brigade member is not to be permitted to vote on a matter, and the brigade member votes on the matter, then her or his vote is to be taken to have no effect and is not to be counted.

7.6 Disagreements

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

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

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

PART 8—NOTICES AND PROXIES

8.1 Notices

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

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

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

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

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

8.2 Proxies

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

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

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

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

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

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

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

Form 1

PROXY VOTE

SHIRE OF WYNDHAM EAST KIMBERLEY BUSH FIRE BRIGADE

[ANNUAL] [EXTRAORDINARY] GENERAL MEETING

TO BE HELD ON [DATE]

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

MOTION FOR AGAINST ABSTAIN

- 1.
2.

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

Date: _____
Signed: _____

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

Dated this day of 20

APPENDIX I

APPLICATION FOR MEMBERSHIP—FIRE FIGHTING MEMBER

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

Applicant's Name

My private address is

My business address is

Usual Occupation

I can be contacted on—

Telephone No: (Home) (Work) Mobile

Fax No: (Home) (Work)

CB Radio Channel Call Sign

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

I hold a current driver's licence No. Classes

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

I give these undertakings—

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

Date Applicant's signature

Please list here any fire fighting equipment owned by you.

- 1.
2.
3.

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

APPENDIX II

APPLICATION FOR MEMBERSHIP—ASSOCIATE MEMBER

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

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

MDL No: Classes:

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

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

Applicant's Name

My private address is

My business address is

I can be contacted on—

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

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

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

I give these undertakings—

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

Date

.....
Applicant's signature

BUSH FIRE BRIGADE USE ONLY:

APPROVED / DECLINED

Signed:
Brigade Captain

APPENDIX III

APPLICATION FOR MEMBERSHIP—CADET MEMBER

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

Applicant's Name

My private address is.....

I can be contacted on—

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

Fax No:(Home)

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

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

Date of Birth:

I give these undertakings—

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

Date

.....
Applicant's signature

PARENT / GUARDIAN CONSENT—

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

Signed

BUSH FIRE BRIGADE USE ONLY:

APPROVED / DECLINED

Signed:
Brigade Captain

Dated: 31 January 2017.

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

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

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

SHIRE OF WYNDHAM EAST KIMBERLEY

FENCING LOCAL LAW 2017

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LOCAL GOVERNMENT ACT 1995
DIVIDING FENCES ACT 1961

SHIRE OF WYNDHAM EAST KIMBERLEY

FENCING LOCAL LAW 2017

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

PART 1—PRELIMINARY

1.1 Citation

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

1.2 Commencement

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

1.3 Purpose and effect

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

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

1.4 Application

This local law applies throughout the district.

1.5 Repeal

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

1.6 Definitions

In this local law—

Act means the *Dividing Fences Act 1961*;

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

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

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

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

Building Surveyor means a Building Surveyor of the local government;

CEO means the Chief Executive Officer of the local government;

Commercial Lot means a lot where a commercial use—

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

dangerous in relation to any fence means—

- (a) an electrified fence other than a fence approved by the local government under this local law;
- (b) a fence containing barbed wire other than a fence erected and maintained in accordance with this local law;
- (c) a fence containing exposed broken glass, asbestos fibre, razor wire or any other potentially harmful projection or material; or
- (d) a fence which is likely to collapse or fall, or part of which is likely to collapse or fall, from any cause;

district means the district of the local government;

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

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

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

fence means any structure, not including a retaining wall, used or functioning as a barrier, irrespective of where it is located and includes any gate;

front boundary means the boundary line between a lot and the thoroughfare upon which that lot abuts, or in the case of a lot abutting on more than 1 thoroughfare, the boundary line between the lot and the primary thoroughfare;

front setback area means the area between the building line of a lot and the front boundary of that lot;

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

- (a) the top of the fence at any point; and
- (b) the ground level or, where the ground levels on each side of the fence are not the same, the higher ground level, immediately below that point;

Industrial Lot means a lot where an industrial use—

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

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

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

local government property means anything except a thoroughfare—

- (a) which belongs to the local government;
- (b) of which the local government is the management body under the *Land Administration Act 1997*; or
- (c) which is an “otherwise unvested facility” under section 3.53 of the *Local Government Act 1995*;

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

notice of breach means a notice referred to in clause 5.1;

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

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

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

Residential Lot means a lot where a residential use—

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

retaining wall means any structure which prevents the movement of soil or retains soil or structures in order to allow ground levels of different elevations to exist adjacent to one another;

Rural Lot means a lot where a rural use—

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

Schedule means a Schedule to this local law;

Special Rural Lot means a lot where a special rural use—

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

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

sufficient fence means a fence described in clause 2.1;

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

1.7 Licence fees and charges

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

PART 2—FENCES

Division 1—Sufficient fences

2.1 Sufficient fences

- (1) A person shall not erect a dividing fence or a boundary fence that is not a sufficient fence.
- (2) Subject to subclauses (3) and (4), a sufficient fence—
 - (a) on a Residential Lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of Schedule 2;

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

Division 2—General

2.2 Fences within front setback areas

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

2.3 Gates in fences

A person shall not erect a gate in a fence, which does not—

- (a) open into the lot; or
- (b) open by sliding parallel and on the inside of the fence, which it forms part of, when closed.

2.4 Depositing fencing material on public place

A person shall not deposit or permit the deposit of any materials used in the construction or maintenance of any fence, on any thoroughfare, public place or local government property unless the approval of the local government has been obtained.

2.5 Fences on a Rural Lot

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

2.6 Maintenance of fences

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

2.7 Fences across rights-of-way, public access ways or thoroughfares

A person must not, without the approval of the local government, erect or maintain a fence or obstruction of a temporary or permanent nature across any right-of-way, public access way or thoroughfare so as to impede or prevent use of those facilities in the manner for which they are intended and constructed.

2.8 General discretion of the local government

- (1) Notwithstanding the provisions of clause 2.1, the local government may approve the erection or repair of a dividing fence, which is not a sufficient fence if all of the owners of the lots to be separated by the dividing fence makes an application for approval for that purpose.

(2) In determining whether to grant its approval under subclause (1), the local government may consider whether the erection or retention of the fence would have an adverse effect on—

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

Division 3—Fencing materials

2.9 Pre-used fencing materials

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

- (1) Notwithstanding clause 2.1, a person shall not construct a fence on a Residential Lot, a Commercial Lot or an Industrial Lot from pre-used materials without the approval of the local government.
- (2) Where the local government approves the use of pre-used materials in the construction of a fence under subclause (1), that approval shall be conditional on the applicant painting or treating the pre-used material as directed by the Building Surveyor.

2.10 Barbed wire fences and spiked or jagged materials

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

2.11 Electrified and razor wire fences

- (1) An owner or occupier of a lot shall not—
 - (a) construct or use an electrified fence on that lot without obtaining the approval of the local government in the form prescribed in Schedule 5; or
 - (b) construct a fence wholly or partly of razor wire on that lot without obtaining the approval of the local government in the form prescribed in Schedule 6.
- (2) The local government shall not approve an application for the purpose of subclause (1)(a)—
 - (a) in respect of a lot which is or which abuts a Residential Lot;
 - (b) unless the electrified fence complies with AS/NZS 3016:2002 Electrical installations—Electricity security fences; and
 - (c) unless provision is made so as to enable the fence to be rendered inoperable during the hours of business operations, if any, on the lot where it is erected.
- (3) The local government shall not approve an application for the purpose of subclause (1)(b)—
 - (a) if the fence is within 3 000 mm of the boundary of the lot; or
 - (b) where any razor wire used in the construction of the fence is less than 2 000 mm or more than 2 400 mm above the ground level.
- (4) An application for approval for the purpose of subclauses (1)(a) or (1)(b) shall be made by the owner of the lot on which the fence is or is to be erected, or by the occupier of the lot with the written consent of the owner.

2.12 Prohibited fencing materials

A person shall not affix or use broken glass in the construction of any fence.

PART 3—APPROVALS

3.1 Application for approval

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

- (2) An application for approval under this local law shall—
- (a) be in the form determined by the local government;
 - (b) be signed by the applicant and the owner of the lot;
 - (c) provide the information required by the form; and
 - (d) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.19 of the *Local Government Act 1995*.
- (3) The local government may require an applicant to provide additional information reasonably related to an application before determining an application for approval.
- (4) The local government may refuse to consider an application for approval which is not in accordance with subclauses (2) and (3).

3.2 Decision on application for approval

- (1) The local government may—
- (a) approve an application for approval unconditionally or subject to any conditions; or
 - (b) refuse to approve an application for approval.
- (2) If the local government approves an application for approval, it is to issue to the applicant an approval in the form determined by the local government.
- (3) If the local government refuses to approve an application for approval, it is to give written notice of that refusal to the applicant.
- (4) Where a clause of this local law refers to conditions which may be imposed on an approval or which are to be taken to be imposed on an approval, the clause does not limit the power of the local government to impose other conditions on the approval under subclause (1)(a).

3.3 Compliance with approval

Where an application for approval has been approved, the applicant and the owner or occupier of the lot to which the approval relates, shall comply with the terms and any conditions of that approval.

3.4 Duration of approval

Unless otherwise stated in the form of approval, an approval granted under this local law—

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

PART 4—MISCELLANEOUS

4.1 False or misleading statement

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

PART 5—NOTICES OF BREACH

5.1 Notices of breach

- (1) Where a breach of any provision of this local law has occurred in relation to a fence on a lot, the local government may give a notice in writing to the owner of that lot.
- (2) A notice of breach shall—
- (a) specify the provision of this local law which has been breached;
 - (b) specify the particulars of the breach; and
 - (c) state that the owner is required to remedy the breach within the time specified in the notice.
- (3) Should an owner fail to comply with a notice of breach, the local government may, by its employees, agents or contractors enter upon the lot to which the notice relates and remedy the breach, and may recover the expenses of so doing from the owner of the lot in a court of competent jurisdiction.
- (4) The provisions of this clause are subject to section 3.25 and item 12 of Division 1 of Schedule 3.1 of the *Local Government Act 1995* and any entry on to land will be in accordance with Part 3, Division 3 of that Act.

PART 6—OFFENCES

6.1 Offences and penalties

- (1) A person who fails to comply with a notice of breach commits an offence and is liable upon conviction to a penalty of not less than \$250 and not exceeding \$5 000 and, if the offence is a continuing offence, to a maximum daily penalty of \$500.
- (2) A person who fails to comply with or who contravenes any provision of this local law commits an offence and is liable on conviction to a penalty of not less than \$250 and not exceeding \$5 000 and, if the offence is a continuing offence, to a maximum daily penalty of \$500.

6.2 Modified penalties

(1) An offence against any provision of this local law is a prescribed offence for the purposes of section 9.16(1) of the *Local Government Act 1995*.

(2) The amount appearing in the final column of Schedule 1, directly opposite a prescribed offence in that Schedule, is the modified penalty for that prescribed offence.

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

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

6.3 Form of notices

For the purposes of this local law—

- (a) the form of the infringement notice referred to in sections 9.16 and 9.17 of the *Local Government Act 1995* is to be in the form of Form 2 of Schedule 1 of the *Local Government (Functions and General) Regulations 1996*; and
- (b) the form of the withdrawal of infringement notice referred to in section 9.20 of the *Local Government Act 1995* is to be in the form of Form 3 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

PART 7—OBJECTIONS AND REVIEW**7.1 Objections and review**

When the local government makes a decision under this local law as to whether it will—

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

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

Schedule 1
OFFENCES AND MODIFIED PENALTIES

[clause 6.2(2)]

Item No.	Clause No.	Nature of offence	Modified penalties \$
1	2.1(1)	Erect a fence that is not a sufficient fence	250
2	2.2	Erect a fence greater than 1 200mm in height within a front setback area of a Residential Lot without the written consent of the Building Surveyor	250
3	2.3(a)	Erect a gate in a fence not opening into the lot	200
4	2.3(b)	Erect a gate in a fence not sliding parallel and inside a fence	200
5	2.6	Failure to maintain a fence in good condition to prevent the fence becoming dangerous, dilapidated or unsightly	250
6	2.7	Erect or maintain a fence or obstruction of temporary or permanent nature across a right-of way, public access way or thoroughfare without approval	250
7	2.9(1)	Construct a dividing fence on a Residential, Commercial or Industrial Lot from pre-used materials without written approval	250
8	2.10(2)	Erect a fence using barbed wire or material with spiked or jagged projections in the fence construction without approval	250
9	2.11(1)	Construct, erect or use razor wire in a fence or electrify a fence without approval	250
10	2.12	Affix, or use, any broken glass in a fence	250
11	3.3	Failure to comply with terms or conditions of approval	250
12	6.1	Failure to comply with notice of breach	250

Schedule 2
SPECIFICATIONS FOR A SUFFICIENT FENCE ON A RESIDENTIAL LOT

[clause 2.1(2)(a)]

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

Timber fence

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

Corrugated fence

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

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

Brick, stone or concrete fence

A fence constructed of brick, stone or concrete, which satisfies the following requirements and specifications—

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

Composite fence

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

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

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

[clause 2.1(2)(b)]

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

Galvanised or PVC fence and gate

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

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

Other fences

- (a) a fence of cement sheet or steel sheeting constructed to the minimum specifications referred to in Schedule 2;
- (b) a fence constructed of aluminium sheeting when supported on posts and rails provided that it is used behind a building line and is of a minimum height of 1 800mm but no greater than 2 400mm; or
- (c) a fence of timber, brick, stone or concrete constructed to the minimum specifications referred to in Schedule 2.

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

[clause 2.1(2)(c)]

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

Non-electrified fence

- (a) wire shall be high tensile wire and not less than 2.5mm. A minimum of 5 wires shall be used, generally with the lower wires spaced closer together than the higher wires so as to prevent smaller stock passing through, and connected to posts in all cases.
- (b) posts shall be of indigenous timber or other suitable material including—
 - (i) timber impregnated with a termite and fungicidal preservative;
 - (ii) standard iron star pickets; or
 - (iii) concrete;
- (c) cut not less than 1 800mm long x 50mm diameter at small end if round or 125mm x 60mm if split or sawn.
- (d) posts to be set minimum 600mm in the ground and 1 200mm above the ground; and
- (e) strainer posts shall be not less than 2 250mm long and 150mm diameter at the small end (tubular steel to be 50mm in diameter) and shall be cut from indigenous timber or other suitable material. These shall be placed a minimum of 1 000mm in the ground.

Electrified fence

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

Schedule 5
LICENCE FOR APPROVED ELECTRIFIED FENCE

[clause 2.11(1)(a)]

This is to certify that (1)
of (2)
is licensed, subject to the conditions set out below, to have and use an electrified fence on
.....
(address)
from 20..... and until this licence is transferred or cancelled.
Dated this day of 20.....

Chief Executive Officer,
Shire of Wyndham East Kimberley

Conditions of Licence—

The holder of the licence must—

- (a) display the licence in a prominent position on the land or premises on which the electrified fence has been erected;
(b) upon the request of a Building Surveyor produce to him or her the licence;
(c) within 14 days of a change in the ownership or occupation of the land or premises in respect of which the licence has been granted, notify the Chief Executive Officer in writing of the details of that change or those changes;
(d) obtain the written consent of the local government prior to the commencement of any alteration, addition or other work relating to or affecting the electrified fence; and
(e) comply with AS/NZS 3016:2002 Electrical installations—Electric security fences.

Transfer by Endorsement

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

Chief Executive Officer,
Shire of Wyndham East Kimberley.

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

Schedule 6
LICENCE FOR APPROVED RAZOR WIRE FENCE

[clause 2.11(1)(b)]

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

Chief Executive Officer,
Shire of Wyndham East Kimberley

Conditions of licence—

- (a) display the licence in a prominent position on the land or premises on which the fence has been erected;
(b) upon the request of a Building Surveyor produce to him or her the licence;
(c) within 14 days of a change in the ownership or occupation of the land or premises in respect of which the licence has been granted, notify the Chief Executive Officer in writing of the details of that change or those changes; and
(d) obtain the written consent of the local government prior to the commencement of any alteration, addition or other work relating to or affecting the fence.

Transfer by Endorsement

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

Dated this day of 20.....

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

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

Dated: 31 January 2017.

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

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

Public Notices

Tenders

KUNUNURRA SQUASH CLUB AGM
 Tuesday 28th March, 6pm
 George Room
 Gullivers Tavern

Kununurra Markets Inc.
2017 Annual General Meeting
 Wednesday 8th March at 6.00pm
 At Agricultural Showground
 Nominations are sought for all committee positions
 All Members and Prospective Stallholders are invited to attend

ST JOHN AMBULANCE KUNUNURRA
 St John
 NATIONALLY RECOGNISED TRAINING
MARCH
Provide First Aid - HLTAID003
 1 DAY COURSE
 Saturday 11th March
 Cost \$199.00 per person
Provide First Aid - HLTAID003
 2 DAY COURSE
 Wednesday 22nd – Thursday 23rd March
 Cost \$199.00 per person
APRIL
Provide CPR - HLTAID001
 Wednesday 5th April
 Cost \$89.00 per person
Provide First Aid - HLTAID003
 2 DAY COURSE
 Thursday 6th – Friday 7th April
 Cost \$199.00 per person
 Office Hours: Monday to Friday 8am - 4pm
 3 Coolbah Drive PO Box 895
 Ph: 9168 2844 Fax: 9168 2855
 Email: stjohkna@inet.net.au



SHIRE OF WYNDHAM | EAST KIMBERLEY

REQUEST FOR THE PERMANENT CLOSURE OF A PUBLIC ROAD – JANDAMI LANE

Notice is hereby given in accordance with section 58 of the Land Administration Act 1997 advising the public that the Shire of Wyndham East Kimberley Council is giving consideration to the permanent closure of Jandami Lane.

A copy of the plan showing the location of Jandami Lane is available for inspection at the Shire Office at 20 Coolbah Drive, Kununurra, during office hours from 23 February 2017. Persons wishing to object or otherwise on the proposal may do so by forwarding written submissions to:

Director Infrastructure
 Shire of Wyndham East Kimberley
 PO Box 614
 Kununurra WA 6743

By 30 March 2017.
 Carl Askew
 Chief Executive Officer

WWW.SWEK.WA.GOV.AU



SHIRE OF WYNDHAM | EAST KIMBERLEY

ADOPTION OF A LOCAL LAW: BUSH FIRE BRIGADES LOCAL LAW 2017

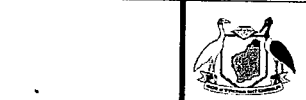
The Shire of Wyndham East Kimberley has made a local law relating to Bush Fire Brigades. The purpose of this local law is to provide for the establishment, organisation, maintenance and equipment of Bush Fire Brigades in the district. The effect of the local law is to align local laws with changes in law and operational practice.

A copy of the law may be inspected at, or obtained from, the Shire of Wyndham East Kimberley administration offices at 20 Coolbah Drive, Kununurra or Koolama Street, Wyndham between the hours of 0800 and 1600, Monday to Friday.

The Local Law will come into operation on 3 March 2017.

Carl Askew
 CHIEF EXECUTIVE OFFICER

WWW.SWEK.WA.GOV.AU



SHIRE OF WYNDHAM | EAST KIMBERLEY

ADOPTION OF A LOCAL LAW: FENCING LOCAL LAW 2017

The Shire of Wyndham East Kimberley has made a local law relating to Fencing. The purpose of this law is to prescribe a sufficient fence and the standard for construction of fences throughout the district. The effect of the local law is to establish minimum requirements for fencing within the district.

A copy of the law may be inspected at, or obtained from, the Shire of Wyndham East Kimberley administration offices at 20 Coolbah Drive, Kununurra or Koolama Street, Wyndham between the hours of 0800 and 1600, Monday to Friday.

The Local Law will come into operation on 3 March 2017.

Carl Askew
 CHIEF EXECUTIVE OFFICER

WWW.SWEK.WA.GOV.AU

Check out all the classifieds in your local West Australian Regional newspaper or visit www.westregional.com.au

FOR SALE BY OWNER

REQUEST FOR TENDER

The Project to be undertaken is the Construction of a Multi-Purpose Facility at the Kununurra Roadside Grounds at Drivers Road, Kununurra, Western Australia, 6743.

The Activity to be undertaken is a 252sqm outdoor multipurpose centre, constructed of steel, including at least:

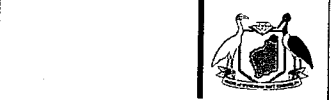
- an office;
- kitchen/store;
- ablutions, male/female/disabled
- competitor liaison area;
- meeting room;
- store room, kiosk;
- merchandise sales area;
- a 20sqm cool room;
- Aluminium (500m) and wire fencing (2000m);
- 10 x 9x9m shade sails;
- 30000sqm spectator area; and
- installation of irrigation system (30000sqm).

Completed by July 2017.

TENDER APPLICATION CLOSES: 2nd MARCH, 2017

SITE VISIT MONDAY 27TH FEB, 8:30am

Please contact **Matt Young 0429 009 441** or **Sophie Cooke 0407 344 399** for a copy of the scope of works or more information



SHIRE OF WYNDHAM | EAST KIMBERLEY

RF: T05-16/17 Wetland Weed Harvester for Sale by Tender

The Shire of Wyndham East Kimberley invites tenders for the purchase of a wetland weed harvester.

Details of the tender, including specifications, are available upon request from the Senior Procurement and Contracts Officer, via email: tenders@swek.wa.gov.au, between 8:00am to 4:00pm, Monday to Friday. Potential respondents must provide their contact name, email and phone number.

An opportunity to inspect the wetland weed harvester is available between the hours of 9:00am-10:00am and 2:00pm-3:00pm on Wednesday the 22 February 2017 and Monday 27 February 2017. Potential respondents seeking to inspect the wetland weed harvester are to confirm their attendance by emailing tenders@swek.wa.gov.au. An inspection of the weed harvester is not a mandatory requirement of tendering but potential Respondents are encouraged to view the Wetland Weed Harvester prior to submitting a Tender.

Clarification of tender details must be in writing and sought via email: tenders@swek.wa.gov.au, prior to 12:00pm, Tuesday 28 February 2017.

Tenders must be clearly marked "T05-16/17: Weed Harvester for Sale by Tender", placed in a sealed envelope and lodged in the tender box at the Shire Administration Office, 20 Coolbah Drive, Kununurra or posted and addressed to Chief Executive Officer, Shire of Wyndham East Kimberley, PO Box 614, Kununurra, WA, 6743. The highest, or any tender may not necessarily be accepted.

Electronic or facsimile submissions will not be accepted.

The Deadline for submissions is 3:00pm (WST), Friday 3 March 2017.

Late tenders will not be accepted. Any potential tenderer canvassing Shire of Wyndham East Kimberley Officers will be disqualified from the tender process.

WWW.SWEK.WA.GOV.AU

BUYING OR SELLING?

When it comes to buying and selling the first place most people look is in the Echo Classifieds and they look - week after week.

So whether you're buying or selling, it pays to do your homework with our classified pages

Phone 6332 1170



SHIRE OF WYNDHAM | EAST KIMBERLEY

Request for Proposal RFP02 16/17: Provision of an Offsite Tip Shop for the Shire of Wyndham East Kimberley Landfill Sites

The Shire of Wyndham East Kimberley invites proposals for the provision of a Kununurra based offsite tip shop for the on-selling of recyclables and auto parts from the Kununurra and Wyndham Landfill Sites for a period of three (3) years with an optional two (2) x one (1) year extensions.

Preference is for a single operator to provide a proposal for the on-selling of both recyclable items and auto parts from both the Kununurra and Wyndham Landfill sites within an offsite Tip Shop facility(s). However, proposals solely for the Kununurra Landfill Site for general recyclables or auto parts will be considered.

Details of the request for proposal are available on the Shire's website: <http://www.swek.wa.gov.au/workwithus/tenders/> Potential respondents will need to register as a supplier with VendorPanel to access the proposal documents.

Clarification of request for proposal details must be in writing and sought via the Shire's VendorPanel website, prior to 2:00pm, Friday 24 February 2017.

Proposals must be submitted via the Shire's VendorPanel website www.vendorpanel.com.au/swek

The Deadline for submissions is 2:00pm (WST), Friday 3 March 2017.

Responses submitted by facsimile, email, mail or hand delivery will not be accepted. Late proposals will not be accepted.

Any potential tenderer canvassing Shire of Wyndham East Kimberley Officers will be disqualified from the tender process.

WWW.SWEK.WA.GOV.AU

Classifieds 6332 1170



SHIRE OF WYNDHAM | EAST KIMBERLEY

RF: T08-16/17 Provision of Traffic Management Services for a Period of One Year

The Shire of Wyndham East Kimberley invites tenders from suitably qualified and experienced contractors for the provision of Traffic Management Services for a period of one (1) year with a possible one (1) year extension, at the absolute discretion of the Principal.

The Contract is a schedule of rates Contract and will be utilised by the Principal on an as required basis. Appointment to the Contract does not guarantee a specific financial value or volume of work annually.

Details of the tender are available on the Shire's website www.swek.wa.gov.au/workwithus/tenders

Potential respondents will need to register as a supplier with VendorPanel to access the tender documents.

Clarification to tender details must be in writing and sought via the Shire's VendorPanel website, prior to 2:00pm, Friday 24 February 2017.

Tenders must be submitted via the Shire's VendorPanel website www.vendorpanel.com.au/swek

The Deadline for submissions is 2:00pm (WST), Friday 3 March 2017.

Responses submitted by facsimile, email, mail or hand delivery will not be accepted. Late tenders will not be accepted.

The lowest, or any tender may not necessarily be accepted.

Any potential tenderer canvassing Shire of Wyndham East Kimberley Officers will be disqualified from the tender process.

WWW.SWEK.WA.GOV.AU

PUBLIC NOTICE

ADOPTION OF A LOCAL LAW

FENCING LOCAL LAW 2017

The Shire of Wyndham East Kimberley has made a local law relating to Fencing. The purpose of this law is to prescribe a sufficient fence and the standard for construction of fences throughout the district. The effect of the local law is to establish minimum requirements for fencing within the district.

A copy of the law may be inspected at, or obtained from, the Shire of Wyndham East Kimberley administration offices at 20 Coolibah Drive, Kununurra or Koolama Street, Wyndham between the hours of 0800 and 1600, Monday to Friday.

The Local Law will come into operation on 3 March 2017.

Carl Askew
CEO



T | 9168 4100
F | 9168 1798
E | mail@swek.wa.gov.au
W | www.swek.wa.gov.au

PO Box 614 Kununurra 6743
20 Coolibah Drive KUNUNURRA
Koolama Street WYNDHAM
8.00am - 4.00pm MON - FRI

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

***SHIRE OF WYNDHAM EAST
KIMBERLEY***

FENCING LOCAL LAW 2017

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LOCAL GOVERNMENT ACT 1995
DIVIDING FENCES ACT 1961

SHIRE OF WYNDHAM EAST KIMBERLEY

FENCING LOCAL LAW 2017

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

PART 1—PRELIMINARY

1.1 Citation

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

1.2 Commencement

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

1.3 Purpose and effect

- (1) The purpose of this local law is to prescribe a sufficient fence and the standard for the construction of fences throughout the district.
- (2) The effect of this local law is to establish the minimum requirements for fencing within the district.

1.4 Application

This local law applies throughout the district.

1.5 Repeal

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

1.6 Definitions

In this local law —

Act means the *Dividing Fences Act 1961*;

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

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

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

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

Building Surveyor means a Building Surveyor of the local government;

CEO means the Chief Executive Officer of the local government;

Commercial Lot means a lot where a commercial use—

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

dangerous in relation to any fence means—

- (a) an electrified fence other than a fence approved by the local government under this local law;
- (b) a fence containing barbed wire other than a fence erected and maintained in accordance with this local law;
- (c) a fence containing exposed broken glass, asbestos fibre, razor wire or any other potentially harmful projection or material; or
- (d) a fence which is likely to collapse or fall, or part of which is likely to collapse or fall, from any cause.

district means the district of the local government;

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

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

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

fence means any structure, not including a retaining wall, used or functioning as a barrier, irrespective of where it is located and includes any gate;

front boundary means the boundary line between a lot and the thoroughfare upon which that lot abuts, or in the case of a lot abutting on more than 1 thoroughfare, the boundary line between the lot and the primary thoroughfare;

front setback area means the area between the building line of a lot and the front boundary of that lot;

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

- (a) the top of the fence at any point; and
- (b) the ground level or, where the ground levels on each side of the fence are not the same, the higher ground level, immediately below that point;

Industrial Lot means a lot where an industrial use—

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

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

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

local government property means anything except a thoroughfare—

- (a) which belongs to the local government;
- (b) of which the local government is the management body under the *Land Administration Act 1997*; or
- (c) which is an “otherwise unvested facility” under section 3.53 of the *Local Government Act 1995*.

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

notice of breach means a notice referred to in clause 5.1;

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

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

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

Residential Lot means a lot where a residential use—

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

retaining wall means any structure which prevents the movement of soil or retains soil or structures in order to allow ground levels of different elevations to exist adjacent to one another;

Rural Lot means a lot where a rural use—

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

Schedule means a Schedule to this local law;

Special Rural Lot means a lot where a special rural use—

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

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

sufficient fence means a fence described in clause 2.1;

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

1.7 Licence fees and charges

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

PART 2—FENCES

Division 1—Sufficient fences

2.1 Sufficient fences

- (1) A person shall not erect a dividing fence or a boundary fence that is not a sufficient fence.
- (2) Subject to subclauses (3) and (4), a sufficient fence—
 - (a) on a Residential Lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of Schedule 2;
 - (b) on a Commercial Lot and on an Industrial Lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of Schedule 3; and
 - (c) on a Rural Lot and on a Special Rural Lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of Schedule 4.

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

Division 2—General

2.2 Fences within front setback areas

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

2.3 Gates in fences

A person shall not erect a gate in a fence, which does not—

- (a) open into the lot; or
- (b) open by sliding parallel and on the inside of the fence, which it forms part of, when closed.

2.4 Depositing fencing material on public place

A person shall not deposit or permit the deposit of any materials used in the construction or maintenance of any fence, on any thoroughfare, public place or local government property unless the approval of the local government has been obtained.

2.5 Fences on a Rural Lot

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

2.6 Maintenance of fences

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

2.7 Fences across rights-of-way, public access ways or thoroughfares

A person must not, without the approval of the local government, erect or maintain a fence or obstruction of a temporary or permanent nature across any right-of-way, public access way or thoroughfare so as to impede or prevent use of those facilities in the manner for which they are intended and constructed.

2.8 General discretion of the local government

- (1) Notwithstanding the provisions of clause 2.1, the local government may approve the erection or repair of a dividing fence, which is not a sufficient fence if all of the owners of the lots to be separated by the dividing fence makes an application for approval for that purpose.
- (2) In determining whether to grant its approval under subclause (1), the local government may consider whether the erection or retention of the fence would have an adverse effect on—
 - (a) the safe or convenient use of any land;
 - (b) the safety or convenience of any person; or
 - (c) the visual amenity of the locality.

Division 3—Fencing materials

2.9 Pre-used fencing materials

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

- (1) Notwithstanding clause 2.1, a person shall not construct a fence on a Residential Lot, a Commercial Lot or an Industrial Lot from pre-used materials without the approval of the local government.

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

2.10 Barbed wire fences and spiked or jagged materials

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

2.11 Electrified and razor wire fences

- (1) An owner or occupier of a lot shall not—
 - (a) construct or use an electrified fence on that lot without obtaining the approval of the local government in the form prescribed in Schedule 5; or
 - (b) construct a fence wholly or partly of razor wire on that lot without obtaining the approval of the local government in the form prescribed in Schedule 6.
- (2) The local government shall not approve an application for the purpose of subclause (1)(a)—
 - (a) in respect of a lot which is or which abuts a Residential Lot;
 - (b) unless the electrified fence complies with AS/NZS 3016:2002 Electrical installations—Electricity security fences; and
 - (c) unless provision is made so as to enable the fence to be rendered inoperable during the hours of business operations, if any, on the lot where it is erected.
- (3) The local government shall not approve an application for the purpose of subclause (1)(b)—
 - (a) if the fence is within 3 000 mm of the boundary of the lot; or
 - (b) where any razor wire used in the construction of the fence is less than 2 000 mm or more than 2 400 mm above the ground level.
- (4) An application for approval for the purpose of subclauses (1)(a) or (1)(b) shall be made by the owner of the lot on which the fence is or is to be erected, or by the occupier of the lot with the written consent of the owner.

2.12 Prohibited fencing materials

A person shall not affix or use broken glass in the construction of any fence.

PART 3—APPROVALS

3.1 Application for approval

- (1) Where a person is required to obtain the approval of the local government under this local law, that person shall apply for approval in accordance with subclause (2).
- (2) An application for approval under this local law shall—
 - (a) be in the form determined by the local government;
 - (b) be signed by the applicant and the owner of the lot;
 - (c) provide the information required by the form; and
 - (d) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.19 of the *Local Government Act 1995*.
- (3) The local government may require an applicant to provide additional information reasonably related to an application before determining an application for approval.
- (4) The local government may refuse to consider an application for approval which is not in accordance with subclauses (2) and (3).

3.2 Decision on application for approval

- (1) The local government may—
 - (a) approve an application for approval unconditionally or subject to any conditions; or
 - (b) refuse to approve an application for approval.
- (2) If the local government approves an application for approval, it is to issue to the applicant an approval in the form determined by the local government.
- (3) If the local government refuses to approve an application for approval, it is to give written notice of that refusal to the applicant.
- (4) Where a clause of this local law refers to conditions which may be imposed on an approval or which are to be taken to be imposed on an approval, the clause does not limit the power of the local government to impose other conditions on the approval under subclause (1)(a).

3.3 Compliance with approval

Where an application for approval has been approved, the applicant and the owner or occupier of the lot to which the approval relates, shall comply with the terms and any conditions of that approval.

3.4 Duration of approval

Unless otherwise stated in the form of approval, an approval granted under this local law—

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

PART 4—MISCELLANEOUS

4.1 False or misleading statement

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

PART 5—NOTICES OF BREACH

5.1 Notices of breach

- (1) Where a breach of any provision of this local law has occurred in relation to a fence on a lot, the local government may give a notice in writing to the owner of that lot.
- (2) A notice of breach shall—
 - (a) specify the provision of this local law which has been breached;
 - (b) specify the particulars of the breach; and
 - (c) state that the owner is required to remedy the breach within the time specified in the notice.
- (3) Should an owner fail to comply with a notice of breach, the local government may, by its employees, agents or contractors enter upon the lot to which the notice relates and remedy the breach, and may recover the expenses of so doing from the owner of the lot in a court of competent jurisdiction.
- (4) The provisions of this clause are subject to section 3.25 and item 12 of Division 1 of Schedule 3.1 of the *Local Government Act 1995* and any entry on to land will be in accordance with Part 3, Division 3 of that Act.

PART 6—OFFENCES

6.1 Offences and penalties

- (1) A person who fails to comply with a notice of breach commits an offence and is liable upon conviction to a penalty of not less than \$250 and not exceeding \$5 000 and, if the offence is a continuing offence, to a maximum daily penalty of \$500.
- (2) A person who fails to comply with or who contravenes any provision of this local law commits an offence and is liable on conviction to a penalty of not less than \$250 and not exceeding \$5 000 and, if the offence is a continuing offence, to a maximum daily penalty of \$500.

6.2 Modified penalties

- (1) An offence against any provision of this local law is a prescribed offence for the purposes of section 9.16(1) of the *Local Government Act 1995*.
- (2) The amount appearing in the final column of Schedule 1, directly opposite a prescribed offence in that Schedule, is the modified penalty for that prescribed offence.
- (3) For the purpose of guidance only, before giving an infringement notice to a person in respect of the commission of a prescribed offence, an authorised person should be satisfied that—
 - (a) commission of the prescribed offence is a relatively minor matter; and
 - (b) only straightforward issues of law and fact are involved in determining whether the prescribed offence was committed, and the facts in issue are readily ascertainable.

6.3 Form of notices

For the purposes of this local law—

- (a) the form of the infringement notice referred to in sections 9.16 and 9.17 of the *Local Government Act 1995* is to be in the form of Form 2 of Schedule 1 of the *Local Government (Functions and General) Regulations 1996*; and
- (b) the form of the withdrawal of infringement notice referred to in section 9.20 of the *Local Government Act 1995* is to be in the form of Form 3 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

PART 7—OBJECTIONS AND REVIEW

7.1 Objections and review

When the local government makes a decision under this local law as to whether it will –

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

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

Schedule 1

OFFENCES AND MODIFIED PENALTIES

[clause 6.2(2)]

Item No	Clause No.	Nature of offence	Modified penalties \$
1	2.1(1)	Erect a fence that is not a sufficient fence	250
2	2.2	Erect a fence greater than 1 200mm in height within a front setback area of a Residential Lot without the written consent of the Building Surveyor	250
3	2.3(a)	Erect a gate in a fence not opening into the lot	200
4	2.3(b)	Erect a gate in a fence not sliding parallel and inside a fence	200
5	2.6	Failure to maintain a fence in good condition to prevent the fence becoming dangerous, dilapidated or unsightly	250
6	2.7	Erect or maintain a fence or obstruction of temporary or permanent nature across a right-of way, public access way or thoroughfare without approval	250
7	2.9(1)	Construct a dividing fence on a Residential, Commercial or Industrial Lot from pre-used materials without written approval	250
8	2.10(2)	Erect a fence using barbed wire or material with spiked or jagged projections in the fence construction without approval	250
9	2.11(1)	Construct, erect or use razor wire in a fence or electrify a fence without approval	250
10	2.12	Affix, or use, any broken glass in a fence	250
11	3.3	Failure to comply with terms or conditions of approval	250
12	6.1	Failure to comply with notice of breach	250

Schedule 2

SPECIFICATIONS FOR A SUFFICIENT FENCE ON A RESIDENTIAL LOT

[clause 2.1(2)(a)]

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

Timber fence

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

Corrugated fence

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

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

Brick, stone or concrete fence

A fence constructed of brick, stone or concrete, which satisfies the following requirements and specifications—

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

Composite fence

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

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

or

- (2)
 - (a) brick piers of a minimum 345mm x 345mm x 2 700mm centres bonded to the base wall; and
 - (b) each pier shall be reinforced with 2 R10 galvanised starting rods as previously specified.

Schedule 3

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

[clause 2.1(2)(b)]

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

Galvanised or PVC fence and gate

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

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

Other fences

- (a) a fence of cement sheet or steel sheeting constructed to the minimum specifications referred to in Schedule 2;
- (b) a fence constructed of aluminium sheeting when supported on posts and rails provided that it is used behind a building line and is of a minimum height of 1 800mm but no greater than 2 400mm; or
- (c) a fence of timber, brick, stone or concrete constructed to the minimum specifications referred to in Schedule 2.

Schedule 4

SPECIFICATIONS FOR A SUFFICIENT FENCE ON A RURAL LOT OR SPECIAL RURAL LOT

[clause 2.1(2)(c)]

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

Non-electrified fence

- (a) wire shall be high tensile wire and not less than 2.5mm. A minimum of 5 wires shall be used, generally with the lower wires spaced closer together than the higher wires so as to prevent smaller stock passing through, and connected to posts in all cases.
- (b) posts shall be of indigenous timber or other suitable material including—
 - (i) timber impregnated with a termite and fungicidal preservative;
 - (ii) standard iron star pickets; or
 - (iii) concrete;
- (c) cut not less than 1 800mm long x 50mm diameter at small end if round or 125mm x 60mm if split or sawn.
- (d) posts to be set minimum 600mm in the ground and 1 200mm above the ground; and
- (e) strainer posts shall be not less than 2 250mm long and 150mm diameter at the small end (tubular steel to be 50mm in diameter) and shall be cut from indigenous timber or other suitable material. These shall be placed a minimum of 1 000mm in the ground.

Electrified fence

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

Schedule 5

LICENCE FOR APPROVED ELECTRIFIED FENCE

[clause 2.11(1)(a)]

This is to certify that

(1) _____

of (2)

is licensed, subject to the conditions set out below, to have and use an electrified fence on

(address)

from _____ 20 _____ and until this licence is transferred or cancelled.

Dated this _____ day of _____ 20 _____

Chief Executive Officer,
Shire of Wyndham East Kimberley

Conditions of Licence—

The holder of the licence must—

- (a) display the licence in a prominent position on the land or premises on which the electrified fence has been erected;
- (b) upon the request of a Building Surveyor produce to him or her the licence;
- (c) within 14 days of a change in the ownership or occupation of the land or premises in respect of which the licence has been granted, notify the Chief Executive Officer in writing of the details of that change or those changes;
- (d) obtain the written consent of the local government prior to the commencement of any alteration, addition or other work relating to or affecting the electrified fence; and
- (e) comply with AS/NZS 3016:2002 Electrical installations - Electric security fences.

Transfer by Endorsement

This licence is transferred to (3)

of (4)

from and including the date of this endorsement.

Dated this _____ day of _____ 20 _____

Chief Executive Officer,
Shire of Wyndham East Kimberley.

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

Schedule 6

LICENCE FOR APPROVED RAZOR WIRE FENCE

[clause 2.11(1)(b)]

This is to certify that (1)

of (2)

is licensed, subject to the conditions set out below, to have a fence constructed wholly or partially of razor wire at

(address)

From _____ 20__ and until this licence is transferred or cancelled.

Dated this _____ day of _____ 20_____

Chief Executive Officer,
Shire of Wyndham East Kimberley

Conditions of licence—

- (a) display the licence in a prominent position on the land or premises on which the fence has been erected;
- (b) upon the request of a Building Surveyor produce to him or her the licence;
- (c) within 14 days of a change in the ownership or occupation of the land or premises in respect of which the licence has been granted, notify the Chief Executive Officer in writing of the details of that change or those changes; and
- (d) obtain the written consent of the local government prior to the commencement of any alteration, addition or other work relating to or affecting the fence.

Transfer by Endorsement

This licence is transferred to (3)

of (4)

from and including the date of this endorsement.

Dated this _____ day of _____ 20_____

Chief Executive Officer
Shire of Wyndham East Kimberley

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

Dated: 31 January 2017

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



A handwritten signature in blue ink, appearing to read "Ron Yuryevich".

Ron Yuryevich
Commissioner

A handwritten signature in blue ink, appearing to read "Carl Askew".

Carl Askew
Chief Executive Officer