

**LOCAL GOVERNMENT ACT 1995
DOG ACT 1976**

SHIRE OF COLLIE

DOGS LOCAL LAW 2010

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**LOCAL GOVERNMENT ACT 1995
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DOGS LOCAL LAW 2010

Under the powers conferred by the *Dog Act 1976*, the *Local Government Act 1995* and under all other powers, the Shire of Collie resolved on 27th July 2010 to adopt the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Collie Dog Local Law 2010*.

1.2 Application

This local law applies throughout the district of the Shire of Collie

1.3 Commencement

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

1.4 Repeal

The *Shire of Collie Local Law No. 2—Dogs* published in the *Government Gazette* on 7 May 1999 and the *Shire of Collie Local Law No. 2—Dogs Amendment 1/99* published in the *Government Gazette* on 3 September 1999 are repealed on the day this local law comes into operation.

1.5 Interpretation

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

“**Act**” means the *Dog Act 1976*;

“**authorised person**” means a person authorised by the Shire to perform all or any of the functions conferred on an authorised person under this local law;

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

“**dangerous dog**” has the same meaning as given to it in section 3.1 of the Act;

“**district**” means the district of the Shire of Collie declared under the *Local Government Act 1995*;

“**kennel**” means any structure or land used for the boarding or breeding of dogs;

“**local planning scheme**” means a local planning scheme made by the Shire under the *Planning and Development Act 2005* which applies throughout the whole or a part of the district.

“**pound**” means a pound established by the Shire from time to time pursuant to the Act and to Part XX (Part 20) of the *Local Government (Miscellaneous Provisions) Act 1960*;

“**pound keeper**” means a person authorised by the Shire to perform all or any of the functions conferred on a “pound keeper” under this local law;

“**Regulations**” means the *Dog Regulations 1976*;

“**seized**” shall mean a dog seized by an authorised person, but not having been placed in a pound;

“**Shire**” means the Shire of Collie; and

“**thoroughfare**” has the meaning given to it in section 1.4 of the *Local Government Act 1995*.

(2) Words and expressions used in this local law have the meanings respectively given to them in and for the purpose of the Act.

PART 2—IMPOUNDING OF DOGS

2.1 Attendance of pound keeper at pound

The pound keeper or authorised person is to be in attendance at the pound for the release of dogs at the times as determined by the Chief Executive Officer.

2.2 Release of impounded dogs

(1) A claim for the release of a dog seized and impounded is to be made to the pound keeper or authorised person.

(2) The pound keeper or authorised person is not to release a dog seized and impounded to any person unless that person has produced to the pound keeper or authorised person, satisfactory evidence—

- (a) of her or his ownership of the dog or of her or his authority to take delivery of it; or
- (b) that he or she is the person identified as the owner on a microchip implanted in the dog,
- (c) of proof of registration of the dog in accordance with the Act, and
- (d) of payment of the charges and costs imposed by the Shire in accordance with clause 2.4.

2.3 No breaking into or destruction of pound

A person who—

- (a) unless he or she is the pound keeper or a person authorised to do so, releases or attempts to release a dog from a pound; or
- (b) destroys, breaks into, damages or in any way interferes with or renders ineffective—
 - (i) any pound; or
 - (ii) any vehicle or container used for the purpose of catching, holding or conveying a seized dog,

commits an offence.

Penalty: Where the dog is a dangerous dog, \$4,000; otherwise \$2,000.

2.4 Charges and costs

The following are to be imposed and determined by the Shire under sections 6.16 to 6.19 of the *Local Government Act 1995*—

- (a) the charges to be levied under section 29(4) of the Act relating to the seizure and impounding of a dog;
- (b) the additional fee payable under section 29(4) of the Act where a dog is released at a time other than those determined under clause 2.1;
- (c) the costs of the destruction and the disposal of a dog referred to in section 29(15) of the Act; and
- (d) the charges for the sustenance and maintenance of a dog in a pound—per day or part thereof.

2.5 Euthanasia of dogs

The Shire may engage the services of a Veterinary Surgeon registered pursuant to the *Veterinary Surgeons Act 1960* to implement the euthanasia of dogs required to be destroyed by the Shire pursuant to the Act or this local law.

PART 3—FENCING REQUIREMENTS AND LIMITATIONS ON THE KEEPING OF DOGS

3.1 Dogs to be confined

(1) In this Part the term “**fence**” includes a wall.

(2) The owner or occupier of premises within the district on which a dog is kept shall cause the portion of those premises on which the dog is kept to be fenced in a manner capable of confining the dog to that portion.

(3) The fence used to confine a dog and every part of the fence shall be of a type, height and construction which, having regard to the breed, age, size and physical condition of the dog prevents the dog from passing over, under or through the fence.

(4) If there is a gate in the fence the gate shall—

- (a) be kept closed at all times except when the dog is not kept on the premises, but nothing in this subclause prevents a person from opening a gate in order to enter or leave the premises, and
- (b) be fitted with—
 - (i) an efficient self-closing mechanism;
 - (ii) an efficient self-latching mechanism;
 - (iii) a mechanism which enables the gate to be permanently locked.

(5) When an owner or occupier fails to comply with subclauses (2), (3) or (4), he or she commits an offence.

Penalty: Where the dog kept is a dangerous dog \$2,000; otherwise \$1,000.

3.2 Notice to provide enclosure

(1) The Shire may serve a written notice to the owner of any dog to provide a suitable enclosure on the property where the dog is normally kept if in the opinion of the Shire the dog is not adequately prevented from escaping from the property.

(2) Any person receiving a lawful direction pursuant to clause 3.2(1) herein shall comply with the direction within 7 days of its service.

3.3 Limitation on the number of dogs

- (1) This clause does not apply to premises which have been—
- (a) licensed under Part 4 as an approved kennel establishment; or
 - (b) granted an exemption under section 26(3) of the Act.
- (2) The limit on the number of dogs which may be kept on any premises is, for the purpose of section 26(4) of the Act 2 dogs over the age of 3 months and the young of those dogs under that age if the premises are situated within the district.

PART 4—APPROVED KENNEL ESTABLISHMENTS

4.1 Interpretation

In this Part and in Schedule 2—

“**adjoining**” means land or premises which have a common boundary or portion of a boundary with a lot or is separated from that lot by a right-of-way, pedestrian access way, access leg of a battleaxe lot or the equivalent not more than 6 m in width;

“**licence**” means a licence to keep an approved kennel establishment on premises;

“**licensee**” means the holder of the licence;

“**premises**”, in addition to the meaning given to it in section 3 of the Act, means the premises described in the application for a licence; and

“**transferee**” means a person who applies for the transfer of a licence to her or him under clause 4.13 of this local law.

4.2 Application for licence for approved kennel establishment

An application for a licence must be made in the form of that in Schedule 1, and must be lodged with the Shire together with—

- (a) a copy of a determination on application for planning approval granting approval for an animal establishment;
- (b) written evidence that either the applicant or another person who will have the charge of the dogs, will reside on the premises, or in the opinion of the Shire, sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare;
- (c) a written acknowledgement that the applicant has read and agrees to comply with any code of practice relating to the keeping of dogs nominated by the Shire; and
- (d) the fee for the application for a licence referred to in 4.9(1) of this local law.

4.3 Notice of proposed use

(1) Subject to clause 4.4(b) an applicant for a licence must give notice of the proposed use of the premises as an approved kennel establishment after the application for a licence has been lodged—

- (a) once in a newspaper circulating in the district; and
- (b) to the owner and occupiers of any premises adjoining the premises.

(2) The notices in subclause (1) must specify that—

- (a) any written submissions as to the proposed use are to be lodged with the CEO within 14 days of the date the notice is given; and
- (b) the application and plans and specifications may be inspected at the offices of the Shire.

(3) Where—

- (a) the notices given under subclause (1) do not clearly identify the premises; or
- (b) a notice given under subclause (1)(a) is of a size or in a location in the newspaper which, in the opinion of the Shire, would fail to serve the purpose of notifying persons of the proposed use of the premises,

then the Shire may refuse to determine the application for a licence until the notices or notice, as the case may be, is given in accordance with its directions.

4.4 When application can be determined

An application for a licence is not to be determined by the Shire until—

- (a) the applicant has complied with clause 4.2;
- (b) the applicant submits proof that the notices referred to in clause 4.3(1) have been given in accordance with that clause if the application for a licence is submitted more than 12 months after the date of a determination on application for planning approval granting approval for an animal establishment is issued; and
- (c) the Shire has considered any written submissions received within the time specified in clause 4.3(2)(a) on the proposed use of the premises.

4.5 Determination of application

In determining an application for a licence, the Shire is to have regard to—

- (a) the matters referred to in clause 4.7;
- (b) any written submissions received within the time specified in clause 4.3(2)(a) on the proposed use of the premises.

4.6 Where application cannot be approved

The Shire cannot approve an application for a licence where—

- (a) an approved kennel establishment cannot be permitted by the Shire on the premises under a local planning scheme; or
- (b) an applicant for a licence or another person who will have the charge of the dogs will not reside on the premises, or, in the opinion of the Shire, sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare.

4.7 Conditions of approval

- (1) The Shire may approve an application for a licence subject to the conditions contained in Schedule 2 and to such other conditions as the Shire considers appropriate.
- (2) In respect of a particular application for a licence, the Shire may vary any of the conditions contained in Schedule 2.

4.8 Compliance with conditions of approval

A licensee who does not comply with the conditions of a licence commits an offence.

Penalty: \$1,000 and a daily penalty of \$100.

4.9 Fees

- (1) On lodging an application for a licence, the applicant is to pay a fee to the Shire.
- (2) On the issue or renewal of a licence, the licensee is to pay a fee to the Shire.
- (3) On lodging an application for the transfer of a valid licence, the transferee is to pay a fee to the Shire.
- (4) The fees referred to in subclauses (1) to (3) are to be imposed and determined by the Shire under sections 6.16 to 6.19 of the *Local Government Act 1995*.

4.10 Form of licence

The licence is to be in the form determined by the Shire and is to be issued to the licensee.

4.11 Period of licence

- (1) The period of effect of a licence is set out in section 27(5) of the Act.
- (2) A licence is to be renewed if the fee referred to in clause 4.9(2) is paid to the Shire prior to the expiry of the licence.
- (3) On the renewal of a licence the conditions of the licence at the time of its renewal continue to have effect.

4.12 Variation or cancellation of a licence

- (1) The local government may vary the conditions of a licence.
- (2) The local government may cancel a licence—
 - (a) on the request of the licensee;
 - (b) following a breach of the Act, the Regulations or this local law; or
 - (c) if the licensee is not a fit and proper person.
- (3) The date a licence is cancelled is to be, in the case of—
 - (a) paragraph (a) of subclause (2), the date requested by the licensee; or
 - (b) paragraphs (b) and (c) of subclause (2), the date determined under section 27(6) of the Act.
- (4) If a licence is cancelled the fee paid for that licence is not refundable for the term of the licence that has not yet expired.

4.13 Transfer

- (1) An application for the transfer of a valid licence from the licensee to another person must be—
 - (a) made in the form determined by the Shire;
 - (b) made by the transferee;
 - (c) made with the written consent of the licensee; and
 - (d) lodged with the Shire together with—
 - (i) written evidence that a person will reside at or within reasonably close proximity to the premises the subject of the licence; and
 - (ii) the fee for the application for the transfer of a licence referred to in clause 4.9(3).
- (2) The Shire is not to determine an application for the transfer of a valid licence until the transferee has complied with subclause (1).
- (3) The Shire may approve, whether or not subject to such conditions as it considers appropriate, or refuse to approve an application for the transfer of a valid licence.
- (4) Where the Shire approves an application for the transfer of a valid licence, then on the date of approval, unless otherwise specified in the notice issued under clause 4.14(b), the transferee becomes the licensee of the licence for the purposes of this local law.

4.14 Notification

The Shire is to give written notice to—

- (a) an applicant for a licence of the Shire's decision on the application;
- (b) a transferee of the Shire's decision on the application for the transfer of a valid licence;
- (c) a licensee when the licence is due for renewal and the manner in which it may be renewed;
- (d) a licensee when the licence is renewed;
- (e) a licensee of any variation made under clause 4.12(1);
- (f) a licensee of the cancellation of a licence under clause 4.12(2)(a); or
- (g) a licensee of the cancellation of a licence under paragraphs (b) or (c) of clause 4.12(2), which notice is to be given in accordance with section 27(6) of the Act.

4.15 Inspection of kennel

With the consent of the occupier, an authorised person may inspect an approved kennel establishment at any time.

PART 5—DOGS IN PUBLIC PLACES**5.1 Places where dogs are prohibited absolutely**

(1) A person liable for the control of a dog under section 31 of the Act shall, subject to subclause (3), prevent that dog entering or being in or upon any of the following places:—

- (a) public places where signage indicates dogs are not permitted;
- (b) a public building, unless permitted by a sign;
- (c) shop or business premises, other than a shop or business premises where dogs are sold or treated for illness or injury;
- (d) a public swimming pool;
- (e) a construction, building or demolition site, unless tethered or otherwise constrained within the site;
- (f) areas vested in the Shire with remnant native vegetation, unless those areas are dog exercise areas under clause 5.2 of this local law.
- (g) in all the areas prescribed in Schedule 4 and coloured red in the aerial map in Schedule 6.

(2) If a dog enters or is in a place specified in subclause (1), every person liable for control of the dog at the time commits an offence.

Penalty: Where the dog is a dangerous dog, \$2,000; otherwise \$1,000.

(3) Subclause (1) does not apply to guide dogs or hearing dogs assisting blind or partially blind persons or other persons with disabilities.

5.2 Dog exercise areas

For the purposes of sections 31 and 32 of the Act, the lands described in Schedule 5 and which are coloured blue in the aerial map in Schedule 6 are dog exercise areas except for that portion of the land described which—

- (a) is being used for an organised function or event attended by people, as permitted by the Shire, during the times of such use;
- (b) is land which has been set apart as a children's playground.

PART 6—MISCELLANEOUS**6.1 Offence to excrete**

(1) A dog must not excrete on—

- (a) any thoroughfare or other public place; or
- (b) any land which is not a public place without the consent of the occupier.

(2) Subject to subclause (3), if a dog excretes contrary to subclause (1), every person liable for the control of the dog at that time commits an offence.

Penalty: \$500

(3) The person liable for the control of the dog does not commit an offence against subclause (2) if any excreta is removed immediately by that person.

PART 7—ENFORCEMENT**7.1 Interpretation**

In this Part—

“**infringement notice**” means the notice referred to in clause 7.3; and

“**notice of withdrawal**” means the notice referred to in clause 7.6(1).

7.2 Modified penalties

(1) The offences contained in Schedule 3 are offences in relation to which a modified penalty may be imposed.

(2) The amount appearing in the third column of Schedule 3 directly opposite is the modified penalty payable in respect of that offence if—

- (a) the dog is not a dangerous dog; or
- (b) the dog is a dangerous dog, but an amount does not appear in the fourth column directly opposite that offence.

(3) The amount appearing in the fourth column of Schedule 3 directly opposite an offence is the modified penalty payable in respect of that offence if the dog is a dangerous dog.

7.3 Issue of infringement notice

Where an authorised person has reason to believe that a person has committed an offence in respect of which a modified penalty may be imposed, he or she may issue to that person a notice in the form of Form 7 of the First Schedule of the Regulations.

7.4 Failure to pay modified penalty

Where a person who has received an infringement notice fails to pay the modified penalty within the time specified in the notice, or within such further time as may in any particular case be allowed by the CEO, he or she is deemed to have declined to have the offence dealt with by way of a modified penalty.

7.5 Payment of modified penalty

A person who has received an infringement notice may, within the time specified in that notice or within such further time as may in any particular case be allowed by the CEO, send or deliver to the Shire the amount of the penalty, with or without a reply as to the circumstances giving rise to the offence, and the Shire may appropriate that amount in satisfaction of the penalty and issue a receipt.

7.6 Withdrawal of infringement notice

(1) Whether or not the modified penalty has been paid, an authorised person may withdraw an infringement notice by sending a notice in the form of Form 8 of the First Schedule of the Regulations.

(2) A person authorised to issue an infringement notice under clause 7.3 cannot sign or send a notice of withdrawal.

7.7 Service

An infringement notice or a notice of withdrawal may be served on a person personally, or by leaving it at or posting it to her or his address as ascertained from her or him, or as recorded by the Shire under the Act, or as ascertained from inquiries made by the Shire.

Schedule 1

Form 1

APPLICATION FOR A LICENCE FOR AN APPROVED KENNEL ESTABLISHMENT

[clause 4.2]

I / We (Full name)

Of (postal address)

(telephone number) (facsimile number)

(E-mail address)

Apply for a licence for an approved kennel establishment at (address of premises)

.....

For (number and breed of dogs)

*(insert name of person) will be residing at the premises on and from (insert date)

*(insert name of person) will be residing (sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare) at (insert address of residence) on and from (insert date)

Attached are—

- (a) a copy of a Determination on application for planning approval granting approval for an animal establishment;
- (b) written evidence that a person will reside—
 - (i) at the premises; or
 - (ii) sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare;
- (c) if the person in item (b) is not the applicant, written evidence that the person is a person in charge of the dogs; and
- (d) copies of notices given if required under clause 4.4(b) of this local law.

I confirm that I have read and agree to comply with the Code of Practice known asin the keeping of dogs at the proposed kennel establishment.

Signature of applicant

_____ Date

* delete where inapplicable.

Note: a licence if issued will have effect for a period of 12 months—section 27.5 of the *Dog Act 1976*.

OFFICE USE ONLY

Application fee paid on _____ (insert date)

Schedule 2

CONDITIONS OF LICENCE

[clause 4.7(1)]

CONDITIONS OF A LICENCE FOR AN APPROVED KENNEL ESTABLISHMENT

An application for a licence for an approved kennel establishment may be approved subject to the following conditions—

- (a) a determination on application for planning approval granting approval for an animal establishment having first been obtained under a local planning scheme;
- (b) compliance with all conditions of any approval referred to in subclause (a) above
- (c) all external surfaces of each kennel must be kept in good condition;
- (d) all kennels and yards and drinking vessels must be maintained in a clean condition and must be cleaned and disinfected when so ordered by an authorised person;
- (e) all refuse, faeces and food waste must be disposed of daily into the approved apparatus for the treatment of sewage;
- (f) noise, odours, fleas, flies and other vectors of disease must be effectively controlled;
- (g) suitable water must be available at the kennel via a properly supported standpipe and tap; and
- (h) the licensee or the person nominated in the application for a licence, must, in accordance with the application for the licence, continue to reside—
 - (i) at the premises; or
 - (ii) in the opinion of the Shire, sufficiently close to the premises so as to control the dogs, and to ensure their health and welfare.

Schedule 3

OFFENCES AND MODIFIED PENALTIES

[clause 7.2]

Offence Clause	Nature of offence	Modified Penalty \$	Dangerous Dog Modified Penalty \$
2.3(a)	Attempting to or causing the unauthorised release of a dog from a pound	400	400
2.3(b)	Interfering with any pound or vehicle used for the purpose of catching, holding or conveying dogs	400	
3.1	Failing to provide means for effectively confining a dog	100	200
3.3(2)	Keeping more than the prescribed number of dogs without relevant approval	100	
4.8	Failing to comply with the conditions of a licence	200	200
5.1(2)	Dog in place from which prohibited absolutely	100	200
6.1(2)	Dog excreting in prohibited place	100	

Schedule 4**AREAS IN WHICH DOGS ARE PROHIBITED**

[clause 5.1]

1. Part of Reserve 34343—Mungalup Road and Collie Scenic Drive, Collie, being that part of the reserve west of Mungalup Road.
2. Reserve 32147—Mungalup Road and Collie Scenic Drive, Collie and which abuts Reserve 34343.
3. Reserve 22849—Mungalup Road and Collie Scenic Drive, Collie and which abuts Reserve 34343.
4. Reserve 7945—Mungalup Road and Wyvern Road, Collie and which abuts Wyvern Nature Reserve.
5. Reserve 15783—Venn Street and David Hay Street, Collie excluding a disturbed strip along the edge of the Collie River of varying widths as sign posted.
6. Reserve 27304—bordering Venn Street and Brunswick Street, Collie.

Schedule 5**DOG EXERCISE AREAS**

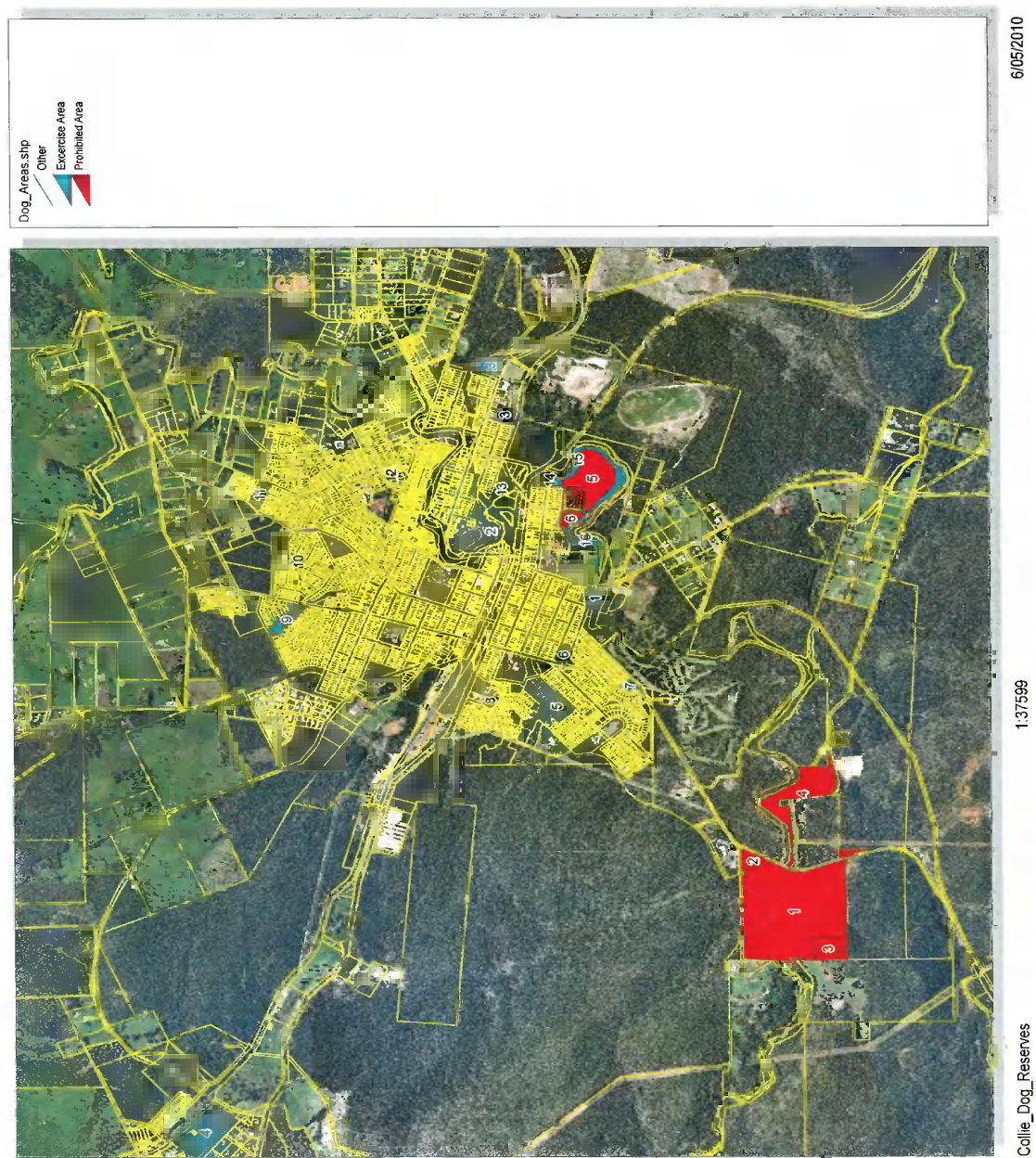
[clause 5.2]

Public Recreation Reserves which are dog exercise areas in accordance with section 31(2)(a) of the Act.

1. Lions Park
Reserve 35105 (lot 2045 and Wellington Location 5244)—Patterson Road and Crampton Road, Collie.
 2. Wallsend Ground,
Part of Reserve 15195 being that part adjacent to the Collie River as sign posted.
 3. Roche Park
Part of Reserve 30555 being that part west of the prolongation of a line depicting the western boundary Blair Street and that part north east of the intersection of Wilson Street and Coombes Street, Collie as sign posted.
 4. Allanson Recreation Ground
Part of Reserve 16403—Montgomery Street and Coalfields Road, Allanson, being all of the reserve excluding the area developed as an oval for sporting purposes and the portion east of Crossing Road.
 5. Reserve 23956—Baird Street and Porter Street, Collie.
 6. Reserve 4909—Atkinson Street and Moore Street, Collie.
 7. Heritage Park
Reserve 23097—Mungalup Road and Rowley Street, Collie.
 8. Reserve 43678—Wellington Boulevard and Jacaranda Street, Collie.
 9. Reserve 37760—Hodgson Terrace, Rogers Avenue and Atkinson Street, Collie.
 10. Neath Park
Reserve 25614—Denton Road and Wylam Road, Collie.
 11. Barbara Smith Park
Reserve 18996—Laurie Street and Princep Road, Collie.
 12. Flynn Park
Reserve 28570—Simpson Street and Vernon Street, Collie.
 13. Part of Reserve 23606—Gibbs Road and Cameron Road, being that portion adjacent to the Collie River and as sign posted.
 14. Reserve 21082—David-Hay Street, Collie.
 15. Part of Reserve 15783—Venn Street and David Hay Street, Collie being that portion adjacent to the Collie River as sign posted.
 16. Reserve 18806—Venn Street and Burt Street, Collie.
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Schedule 6
DOG PROHIBITED AREAS AND DOG EXERCISE AREAS

[clauses 5.1 and 5.2]



Dated 11th August 2010.

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

Cr WAYNE SANFORD, Shire President.
JASON WHITEAKER, Chief Executive Officer.