

**WASTE AVOIDANCE AND RESOURCE RECOVERY
ACT 2007**

LOCAL GOVERNMENT ACT 1995

SHIRE OF CAPEL

WASTE FACILITY LOCAL LAW 2010

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**SCHEDULE 1
PRESCRIBED OFFENCES**

**WASTE AVOIDANCE AND RESOURCE RECOVERY ACT 2007
LOCAL GOVERNMENT ACT 1995**

SHIRE OF CAPEL

WASTE FACILITY LOCAL LAW 2010

Under the powers conferred by the *Waste Avoidance and Resource Recovery Act 2007* and the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Capel resolved on 22 September 2010 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Capel Waste Facility Local Law 2010*.

1.2 Commencement

This local law comes into operation on the day of its publication in the *Government Gazette*.

1.3 Application and intent

(1) This local law provides for the orderly regulation of the storage, treatment, processing, sorting, recycling or disposal of waste and the related payment of fees for that disposal at the Range Road Capel Waste Transfer Station.

(2) Any person within, entering or leaving the premises of a Shire Waste Facility, or doing any act prohibited under this local law in the vicinity of such premises, is subject to the provisions of this local law.

1.4 Definitions

(1) In this local law, unless the contrary intention appears—

“access way” means any traffic route through a Shire Waste Facility;

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

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

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

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

“Range Road Waste Transfer Station” means the Shire Waste Facility located at Lot 5306 on Deposited Plan 184264, being Reserve 24529 held for the purposes of Waste Transfer Station and Pound;

“Shire” means the Shire of Capel;

“Shire Waste Facility” means a waste facility operated by the Shire of Capel;

“WARR Act” means the *Waste Avoidance and Resource Recovery Act 2007*;

“WARR Regulations” means the *Waste Avoidance and Resource Recovery Regulations 2008*;

“waste” has the same meaning as in the WARR Act;

Note: section 3(1) of the WARR Act defines “waste” to include matter—

(a) whether liquid, solid, gaseous or radioactive and whether useful or useless, which is discharged into the environment; or

(b) prescribed by the regulations to be waste.

Regulation 4(1) of the WARR Regulations prescribes “waste generated by the operations of a local government” as local government waste for the purposes of paragraph (b) of the definition of “local government waste” in section 3(1) of the WARR Act.

and,

“Waste facility” has the same meaning as in section 3(1) of the WARR Act;

Note: section 3(1) of the WARR Act defines “waste facility” to mean “premises used for the storage, treatment, processing, sorting, recycling and disposal of waste”.

(2) If a term has a meaning in the WARR Act or the LG Act, it has the same meaning in this local law.

PART 2—PAYMENT OF FEES

2.1 Fees

Fees for depositing waste at a Shire Waste Facility are imposed and determined by the Shire under sections 6.16-6.19 of the LG Act.

2.2 Payment

(1) Subject to subclause 2.2(2), the correct fee must be paid for any waste delivered to or left at a Shire Waste Facility before the person delivering or leaving the waste departs from the Shire Waste Facility.

(2) The only circumstance under which a person may deliver or leave waste at a Shire Waste Facility without paying the correct fee before departing from the Shire Waste Facility is when—

- (a) an exemption from the payment of a fee applies to the person or the waste; or**
- (b) an arrangement has been made with an authorised person for paying the fee at a different time or in a different manner.**

(3) Subject to subclause (2), a person who delivers waste to or leaves waste at a Shire Waste Facility and then departs from the facility without paying the correct fee commits an offence.

PART 3—OBSTRUCTING ACCESS

3.1 Prohibition

A person who does anything to obstruct an access way within a Shire Waste Facility or at the entrance to a Shire Waste Facility commits an offence.

3.2 Impounding

A vehicle or any other goods that are obstructing an access way within a Shire Waste Facility or at the entrance to a Shire Waste Facility may be removed and impounded by an authorised person.

PART 4—GENERAL REQUIREMENTS FOR USE OF A FACILITY

4.1 Instructions

(1) An authorised person may give a person within a Shire Waste Facility any instruction in regard to regulating the use of the facility.

(2) A person within a Shire Waste Facility must obey an instruction given under clause 4.1(1) and any rules or instructions exhibited on a sign within the facility.

(3) A person who does not comply with clause 4.1(2) commits an offence.

(4) An authorised person may direct a person who has committed an offence under clause 4.1(3) to leave the Shire Waste Facility.

(5) A person who does not comply with a direction under clause 4.1(4) commits an offence.

4.2 Depositing of waste

(1) A person who deposits any waste at a Shire Waste Facility other than in accordance with the instruction of an authorised person commits an offence.

(2) A person who deposits any waste on a road reserve adjoining a Shire Waste Facility, or on other land adjoining a Shire Waste Facility commits an offence.

4.3 Removal of waste

A person who removes any waste from a Shire Waste Facility without express authority from an authorised person commits an offence.

4.4 Lighting of fires

A person who, without express authority from an authorised person, lights, or attempts to light a fire within a Shire Waste Facility commits an offence.

4.5 Damage to property

A person who damages, defaces or otherwise interferes with any building, equipment or other property within a Shire Waste Facility commits an offence.

4.6 Flora and fauna

A person who, within a Shire Waste Facility—

- (a) digs up, removes, damages or otherwise interferes with any flora; or
- (b) traps, chases, worries, removes or otherwise interferes with any fauna, unless—
- (c) with the express authority of an authorised person; and
- (d) in accordance with the *Environmental Protection Act 1986*, the *Wildlife Conservation Act 1950* and other relevant legislation,

commits an offence.

4.7 Non-acceptable waste

- (1) A person who, at a Shire Waste Facility, deposits any waste that cannot be accepted at that class of facility commits an offence.
- (2) If a person deposits material in breach of clause 4.7(1) then the Shire may remove the waste and make good any damage caused by its disposal at the Shire Waste Facility; and
 - (a) the costs of removal and making good any damage may be recovered from that person in a court of competent jurisdiction.

PART 5—ENFORCEMENT

5.1 Offences and general penalty

- (1) A person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law a person is prohibited from doing, commits an offence.
- (2) Any person who commits an offence under this local law is liable, on conviction, to a penalty not exceeding \$5,000, and if the offence is of a continuing nature, to a further penalty not exceeding \$500 in respect of each day or part of a day during which the offence has continued.

5.2 Prescribed offences

- (1) An offence against a clause specified in Schedule 1 is a prescribed offence for the purposes of section 9.16(1) of the LG Act.
- (2) The amount of the modified penalty for a prescribed offence is that specified adjacent to the clause in Schedule 1.

5.3 Form of notices

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

Schedule 1 PRESCRIBED OFFENCES

Clause	Description	Modified Penalty
2.2(3)	Depositing of waste without payment of fee	\$500
3.1	Obstructing access way	\$500
4.1(3)	Failure to obey instruction	\$200
4.1(5)	Failure to comply with a direction	\$500
4.2	Depositing of waste other than in accordance with instruction	\$500
4.3	Removal of waste without authority	\$200
4.4	Lighting a fire without authority	\$200
4.5	Damaging property	\$200

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

M. T. SCOTT, Shire President,
P. F. SHEEDY, Chief Executive Officer.

Dated: 27 October 2010.

Consented to—

**K. J. McNAMARA, Chief Executive Officer,
Department of Environment and Conservation.**
