

LG301*

LOCAL GOVERNMENT ACT 1995

City of Armadale

PARKING AND PARKING FACILITIES AMENDMENT LOCAL LAW 2011

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the City of Armadale resolved on 25 July 2011 to adopt the following local law.

1. Citation

This local law may be cited as the *City of Armadale Parking and Parking Facilities Amendment Local Law 2011*.

2. Commencement

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

3. Principal Local Law

In this local law, the *City of Armadale Parking and Parking Facilities Local Law 2002* published in the *Government Gazette* on 3 April 2003 is referred to as the principal local law. The principal local law is amended.

4. Schedule amended

Delete Schedule 2 and insert—

Schedule 2—Prescribed offences

Item No.	Clause No.	Nature of Offence	Modified Penalty \$
1	2.2	Failure to park wholly within parking stall	50
2	2.2(4)	Failure to park wholly within parking area	50
3	2.3(1)(a)	Causing obstruction in parking station	70
4	2.3(1)(b)	Parking contrary to sign in parking station	70
5	2.3(1)(c)	Parking contrary to directions of Authorized Person	70
6	2.3(1)(d)	Parking or attempting to park a vehicle in a parking stall occupied by another vehicle	50
7	3.1(1)(a)	Parking wrong class of vehicle	70
8	3.1(1)(b)	Parking by persons of a different class	50
9	3.1(1)(c)	Parking during prohibited period	70
10	3.1(3)(a)	Parking in no parking area, e.g. on footway	70
11	3.1(3)(b)	Parking contrary to signs or limitations	50
12	3.1(3)(c)	Parking vehicle in motor cycle only area	50
13	3.1(4)	Parking motor cycle in stall not marked "M/C"	50
14	3.1(5)	Parking without permission in an area designated for "Authorised Vehicles Only"	70
15	3.2(1)(a)	Failure to park on the left of two-way carriageway	70
16	3.2(1)(b)	Failure to park on boundary of one-way carriageway	70
17	3.2(1)(a) or 3.2(1)(b)	Parking against the flow of traffic	70
18	3.2(1)(c)	Parking when distance from farther boundary less than 3 metres	70
19	3.2(1)(d)	Parking closer than 1 metre from another vehicle	50
20	3.2(1)(e)	Causing obstruction	70

Item No.	Clause No.	Nature of Offence	Modified Penalty \$
21	3.3(b)	Failure to park at approximate right angle	50
22	3.4(2)	Failure to park at an appropriate angle	50
23	3.5(2)(a) and 6.2	Double parking	70
24	3.5(2)(b)	Parking on or adjacent to a median strip	70
25	3.5(2)(c)	Denying access to private drive or right of way	70
26	3.5(2)(d)	Parking beside excavation or obstruction so as to obstruct traffic	70
27	3.5(2)(e)	Parking within 10 metres of traffic island	50
28	3.5(2)(f)	Parking on footpath/pedestrian crossing	70
29	3.5(2)(g)	Parking contrary to continuous line markings	70
30	3.5(2)(h)	Parking on intersection	70
31	3.5(2)(i)	Parking within 1 metre of fire hydrant or fire plug	70
32	3.5(2)(j)	Parking within 3 metres of public letter box	50
33	3.5(2)(k)	Parking within 10 metres of intersection	50
34	3.5(3)(a) or (b)	Parking vehicle within 10 metres of departure side of bus stop, children's crossing or pedestrian crossing	70
35	3.5(4)(a) or (b)	Parking vehicle within 20 metres of approach side of bus stop, children's crossing or pedestrian crossing	70
36	3.5(5)	Parking vehicle within 20 metres of approach side or departure side of railway level crossing	50
37	3.6	Parking contrary to direction of Authorized Person	70
38	3.7(2)	Removing mark of Authorized Person	70
39	3.8	Moving vehicle to avoid time limitation	70
40	3.9(a)	Parking in thoroughfare for purpose of sale	50
41	3.9(b)	Parking unlicensed vehicle in thoroughfare	70
42	3.9(c)	Parking a trailer/caravan on a thoroughfare	70
43	3.9(d)	Parking in thoroughfare for purpose of repairs	70
44	3.10(1) or (2)	Parking on land that is not a parking facility without consent	70
45	3.10(3)	Parking on land not in accordance with consent	50
46	3.11	Driving or parking on reserve	70
47	4.1(1)	Stopping contrary to a 'no stopping' sign	70
48	4.1(2)	Parking contrary to a 'no parking' sign	70
49	4.1(3)	Stopping within continuous yellow lines	70
50	5.1	Stopping unlawfully in a loading zone	70
51	5.2	Stopping unlawfully in a taxi zone or bus zone	70
52	5.3	Stopping unlawfully in a mail zone	70

Item No.	Clause No.	Nature of Offence	Modified Penalty \$
53	5.4	Stopping in a zone contrary to a sign	70
54	6.1	Stopping in a shared zone	50
55	6.3	Stopping near an obstruction	50
56	6.4	Stopping on a bridge or tunnel	70
57	6.5	Stopping on crests/curves etc	70
58	6.6	Stopping near fire hydrant	70
59	6.7	Stopping near bus stop	70
60	6.8	Stopping on path, median strip or traffic island	70
61	6.9	Stopping on verge	70
62	6.10	Obstructing path, a driveway etc	70
63	6.11	Stopping near letter box	70
64	6.12	Stopping heavy or long vehicles on carriageway	70
65	6.13	Stopping in bicycle parking area	50
66	6.14	Stopping in motorcycle parking area	70
67	6.15	Stopping in disabled parking area	120
68	9.1 (1)	Obstruction of street or public place	70
69		All other offences not specified	70

Dated: 3 August 2011.

The common seal of the City of Armadale was affixed by authority of a resolution by Council in the presence of—

L. REYNOLDS AM, JP, Mayor.
R. S. TAME, Chief Executive Officer.

!201100152GG!



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**LOCAL GOVERNMENT ACT 1995
DOG ACT 1976**

SHIRE OF CHITTERING

DOGS LOCAL LAW 2011

**LOCAL GOVERNMENT ACT 1995
DOG ACT 1976**

SHIRE OF CHITTERING

DOGS LOCAL LAW 2011

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**LOCAL GOVERNMENT ACT 1995
DOG ACT 1976**

SHIRE OF CHITTERING

DOGS LOCAL LAW 2011

Under the powers conferred by the *Dog Act 1976* and under all other powers enabling it, the Council of the Shire of Chittering resolved on 15 June 2011 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Chittering Dogs Local Law 2011*.

1.2 Commencement

This local law comes into operation 14 days after it is published in the *Government Gazette*.

1.3 Repeal

The *Shire of Chittering By-Laws Relating to Dogs* published in the *Government Gazette* on 16 August 1996 is repealed.

1.4 Interpretation

In this local law unless the context otherwise requires—

Act means the *Dog Act 1976*;

authorised person means a person appointed by the local government 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 local government;

local government means the Shire of Chittering;

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

Regulations means the *Dog Regulations 1976*;

thoroughfare has the meaning given to it in section 1.4 of the *Local Government Act 1995*; and

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

1.5 Application

This local law applies throughout the district.

PART 2—IMPOUNDING OF DOGS

2.1 Charges and costs

The following are to be imposed and determined by the local government 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 or on a day other than those determined under clause 2.2; and
- (c) the costs of the destruction and the disposal of a dog referred to in section 29(15) of the Act.

2.2 Attendance of pound keeper at pound

The pound keeper is to be in attendance at the pound for the release of dogs at the times and on the days of the week as are determined by the Chief Executive Officer.

2.3 Release of impounded dog

(1) A claim for the release of a dog seized and impounded is to be made to the pound keeper or in the absence of the pound keeper, to the Chief Executive Officer.

- (2) The pound keeper is not to release a dog seized and impounded to any person unless that person has produced, to the satisfaction of the pound keeper, 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.

2.4 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 not dog-proof—
 - (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, \$2,000; otherwise \$1,000.

PART 3—REQUIREMENTS AND LIMITATIONS ON THE KEEPING OF DOGS

3.1 Dogs to be confined

- (1) An occupier of premises on which a dog is kept must—
- (a) cause a portion of the premises on which the dog is kept to be fenced in a manner capable of confining the dog;
 - (b) ensure the fence used to confine the dog and every gate or door in the fence is of a type, height and construction which having regard to the breed, age, size and physical condition of the dog is capable of preventing the dog at all times from passing over, under or through it;
 - (c) ensure that every gate or door in the fence is kept closed at all times when the dog is on the premises and is fitted with a proper latch or other means of fastening it;
 - (d) maintain the fence and all gates and doors in the fence in good order and condition; and
 - (e) where no part of the premises consists of open space, yard or garden or there is no open space or garden or yard of which the occupier has exclusive use or occupation, ensure that other means exist on the premises (other than the tethering of the dog) for effectively confining the dog within the premises.
- (2) Where an occupier fails to comply with subclause (1), he or she commits an offence.

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

3.2 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—
- (a) 2 dogs over the age of 3 months and the young of those dogs under that age if the premises are situated within a townsite, small rural holding, rural retreat or rural residential; or
 - (b) 3 dogs over the age of 3 months and the young of those dogs under that age if the premises are situated outside a townsite, small rural holding, rural retreat or rural residential.

PART 4—APPROVED KENNEL ESTABLISHMENTS

4.1 Interpretation

In this Part and in Schedule 2—

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

licensee means the holder of a 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 4.14.

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 local government together with—

- (a) plans and specifications of the kennel establishment, including a site plan;
- (b) copies of the notices to be given under clause 4.3;
- (c) 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 local government, sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare;
- (d) 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 local government; and
- (e) the fee for the application for a licence referred to in clause 4.10(1).

4.3 Notice of proposed use

(1) 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 owners 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 local government.

(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 local government, would fail to serve the purpose of notifying persons of the proposed use of the premises,

then the local government 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 Exemption from notice requirements

Where an application for a licence is made in respect of premises on which an approved kennel establishment is either a—

- (a) permitted use; or
- (b) use which the local government may approve subject to compliance with specified notice requirements,

under a town planning scheme, then the requirements of clauses 4.2(b), 4.3 and 4.5(a) do not apply in respect of the application for a licence.

4.5 When application can be determined

An application for a licence is not to be determined by the local government 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; and
- (c) the local government has considered any written submissions received within the time specified in clause 4.3(2)(a) on the proposed use of the premises.

4.6 Determination of application

In determining an application for a licence, the local government 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;
- (c) any economic or social benefits which may be derived by any person in the district if the application for a licence is approved;
- (d) the effect which the kennel establishment may have on the environment or amenity of the neighbourhood;
- (e) whether the approved kennel establishment will create a nuisance for the owners and occupiers of adjoining premises; and
- (f) whether or not the imposition of and compliance with appropriate conditions of a licence will mitigate any adverse effects of the approved kennel establishment identified in the preceding paragraphs.

4.7 Where application cannot be approved

The local government cannot approve an application for a licence where—

- (a) an approved kennel establishment cannot be permitted by the local government on the premises under a town 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 local government, sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare.

4.8 Conditions of approval

(1) The local government may approve an application for a licence subject to the conditions contained in Schedule 2 and to such other conditions as the local government considers appropriate.

(2) In respect of a particular application for a licence, the local government may vary any of the conditions contained in Schedule 2.

4.9 Compliance with conditions of approval

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

Penalty: Where a dog involved in the contravention is a dangerous dog, \$2,000 and a daily penalty of \$200; otherwise \$1,000 and a daily penalty of \$100.

4.10 Fees

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

4.11 Form of licence

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

4.12 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 4.10(2) is paid to the local government 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.

4.13 Variation or cancellation of 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.

4.14 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 local government;
 - (b) made by the transferee;
 - (c) made with the written consent of the licensee; and
 - (d) lodged with the local government 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 4.10(3).
- (2) The local government is not to determine an application for the transfer of a valid licence until the transferee has complied with subclause (1).
- (3) The local government 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 local government 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 4.15(b), the transferee becomes the licensee of the licence for the purposes of this local law.

4.15 Notification

The local government is to give written notice to—

- (a) an applicant for a licence of the local government's decision on her or his application;
- (b) a transferee of the local government's decision on her or his application for the transfer of a valid licence;
- (c) a licensee of any variation made under clause 4.13(1);
- (d) a licensee when her or his licence is due for renewal and the manner in which it may be renewed;
- (e) a licensee when her or his licence is renewed;
- (f) a licensee of the cancellation of a licence under clause 4.13(2)(a); and
- (g) a licensee of the cancellation of a licence under paragraphs (b) or (c) of clause 4.13(2), which notice is to be given in accordance with section 27(6) of the Act.

4.16 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) Subject to Section 8 of the Act and Section 66J of the *Equal Opportunity Act 1984*, dogs are prohibited absolutely from entering or being in any of the following places—

- (a) a public building, unless permitted by a sign;
- (b) a theatre or picture gardens;
- (c) all businesses or vehicles classified as food businesses or food transport vehicles under the *Food Act 2008*;
- (d) a public swimming pool; and
- (e) the following reserves and freehold land—
 - (i) Clune Park, Bindoon; and
 - (ii) John Glenn Park, Muchea

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

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

5.2 Places which are dog exercise areas

(1) Subject to clause 5.1 and subclause (2) of this clause, for the purposes of sections 31 and 32 of the Act, Pt Lot 1023 Edmonds Place, Bindoon is a dog exercise area.

(2) Subclause (1) does not apply to—

- (a) land which has been set apart as a children's playground;
- (b) an area being used for sporting or other activities, as permitted by the local government, during the times of such use; or
- (c) a car park.

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: \$200.

(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 an offence 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 local government the amount of the penalty, with or without a reply as to the circumstances giving rise to the offence, and the local government may appropriate that amount in satisfaction of the penalty and issue an acknowledgment.

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 local government under the Act, or as ascertained from inquiries made by the local government.



Schedule 1

DOGS LOCAL LAW 2011

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)..... (insert address of residence) on and from (insert date).

Attached are—

- (a) a site plan of the premises showing the location of the kennels and yards and all other buildings and structures and fences;
- (b) plans and specifications of the kennel establishment;
- (c) copy of notice of proposed use to appear in newspaper;
- (d) copy of notice of proposed use to be given to adjoining premises;
- (e) 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; and
- (f) if the person in item (e) is not the applicant, written evidence that the person is a person in charge of the dogs.

I confirm that I have read and agree to comply with the Code of Practice known as, in 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.

OFFICE USE ONLY

Application fee paid on [insert date].

Schedule 2

DOGS LOCAL LAW 2011

CONDITIONS OF A LICENCE FOR AN APPROVED KENNEL ESTABLISHMENT

(clause 4.8(1))

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

- (a) each kennel, unless it is fully enclosed, must have a yard attached to it;
- (b) each kennel and each yard must be at a distance of not less than—
 - (i) 25m from the front boundary of the premises and 5m from any other boundary of the premises;
 - (ii) 10m from any dwelling; and
 - (iii) 25m from any church, school room, hall, factory, dairy or premises where food is manufactured, prepared, packed or stored for human consumption;
- (c) each yard for a kennel must be kept securely fenced with a fence constructed of link mesh or netting or other materials approved by the local government;
- (d) the minimum floor area for each kennel must be calculated at 2.5 times the length of the breed of dog (when it is fully grown), squared, times the number of dogs to be housed in the kennel and the length of the dog is to be determined by measuring from the base of the tail to the front of its shoulder;
- (e) the floor area of the yard attached to any kennel or group of kennels must be at least twice the floor area of the kennel or group of kennels to which it is attached;
- (f) the upper surface of the kennel floor must be—
 - (i) at least 100mm above the surface of the surrounding ground;
 - (ii) smooth so as to facilitate cleaning;
 - (iii) rigid;
 - (iv) durable;
 - (v) slip resistant;
 - (vi) resistant to corrosion;
 - (vii) non-toxic;
 - (viii) impervious;
 - (ix) free from cracks, crevices and other defects; and
 - (x) finished to a surface having a fall of not less than 1 in 100 to a spoon drain which in turn must lead to a suitably sized diameter sewerage pipe which must be properly laid, ventilated and trapped in accordance with the health requirements of the local government;
- (g) all kennel floor washings must pass through the drain in item (f)(x) and must be piped to approved apparatus for the treatment of sewage in accordance with the health requirements of the local government;
- (h) the kennel floor must have a durable upstand rising 75mm above the floor level from the junction of the floor and external and internal walls, or internal walls must be so constructed as to have a minimum clearance of 50mm from the underside of the bottom plate to the floor;
- (i) where a yard is to be floored, the floor must be constructed in the same manner as the floor of any kennel;
- (j) from the floor, the lowest internal height of a kennel must be, whichever is the lesser of—
 - (i) 2m; or
 - (ii) 4 times the height of the breed of dog in the kennel, when it is fully grown, measured from the floor to the uppermost tip of its shoulders while in a stationary upright position;
- (k) the walls of each kennel must be constructed of concrete, brick, stone or framing sheeted internally and externally with good quality new zincalume or new pre-finished colour coated steel sheeting or new fibrous cement sheeting or other durable material approved by the local government;
- (l) all external surfaces of each kennel must be kept in good condition;
- (m) the roof of each kennel must be constructed of impervious material;
- (n) 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;
- (o) all refuse, faeces and food waste must be disposed of daily into the approved apparatus for the treatment of sewage;
- (p) noise, odours, fleas, flies and other vectors of disease must be effectively controlled;
- (q) suitable water must be available at the kennel via a properly supported standpipe and tap; and

- (r) 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 local government, sufficiently close to the premises so as to control the dogs, and to ensure their health and welfare.

Schedule 3

DOGS LOCAL LAW 2011

OFFENCES IN RESPECT OF WHICH MODIFIED PENALTY APPLIES

(clause 7.2)

Offence	Nature of Offence	Modified Penalty \$	Dangerous Dog Modified Penalty \$
2.4(a)	Attempting to or causing the unauthorised release of a dog from a pound	200	400
2.4(b)&(c)	Interfering with any pound or vehicle used for the purpose of catching, holding or conveying dogs	200	
3.1	Failing to provide means for effectively confining a dog	50	200
4.9	Failing to comply with the conditions of a licence	100	200
5.1(2)	Dog in place from which prohibited absolutely	200	400
6.1(2)	Dog excreting in prohibited place	200	

Dated: 30 June 2011.

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

Cr ALEX DOUGLAS, Shire President.
HARRY HAWKINS, Chief Executive Officer.

LG301*

LOCAL GOVERNMENT ACT 1995
AGRICULTURE AND RELATED RESOURCES PROTECTION ACT 1976

Shire of Harvey

PEST PLANTS LOCAL LAW 2011

Under the powers conferred by the *Agriculture and Related Resources Protection Act 1976* and the *Local Government Act 1995* and by all other powers enabling it, the Council of the Shire of Harvey resolved on the 2nd August, 2011 to make the following local law.

PART 1 — PRELIMINARY

1.1 Citation

This local law may be cited as the Shire of Harvey Pest Plants Local Law 2011.

1.2 Definitions

In this local law, unless the context otherwise requires—

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

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

“**pest plant**” means a plant described as a pest plant by clause 2.1 of this local law.

1.3 Application

This local law applies throughout the district.

PART 2 — DESCRIPTION OF PEST PLANTS

2.1 Description of Pest Plants

Every plant described in the First Schedule of this local law is a pest plant.

PART 3 — SERVING OF NOTICES

3.1 Serving of Notices

(1) The local government may serve on the owner or occupier of private land within the district a duly completed notice in the form of the Second Schedule to this local law requiring that person to destroy, eradicate or otherwise control any pest plant on that land;

(2) A person served with a notice under sub clause (1) of this clause shall comply with that notice within the time and in the manner specified therein.

PART 4 — OFFENCES

4.1 Penalties

Where a person fails to comply with a notice served under clause 3.1 of this local law, the local government may—

(a) without payment of any compensation in respect thereof, destroy, eradicate or control, as the case may be, any pest plant the destruction, eradication or control of which was required by the notice; and

(b) recover in a court of competent jurisdiction from the person to whom the notice is directed, the amount of the expense of such destruction, eradication or control.

FIRST SCHEDULE

PEST PLANTS

Common Name

Scientific Name

Caltrop

Tribulus terrestris

SECOND SCHEDULE

AGRICULTURE AND RELATED RESOURCES PROTECTION ACT 1976

LOCAL GOVERNMENT ACT 1995

Shire of Harvey

PEST PLANTS LOCAL LAW 2011

PEST PLANT NOTICE

No.

To

(Full name)

Of

(Address)

You are hereby given notice under the above local law that you are required to—

.....
(Here specify whether required to destroy, eradicate or otherwise control)
the pest plant—

(Common Name) (Scientific Name)

on

(Here specify the land)
of which you are the

(Owner or occupier)

This notice may be complied with by

(Here specify manner of achieving destruction, eradication or control)

Such measures shall be commenced not later than

(Date)

and shall be completed by

(Date)

Upon failure to comply with this notice within the times specified, the local government may destroy, eradicate or control, as the case may be, any specified pest plant at your expense, and if necessary recover the same in a Court of competent jurisdiction.

Date of service of notice:

.....
Signature of authorised person

Dated 2nd August, 2011.

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

Cr. P. F. MONAGLE, Shire President.
M. A. PARKER, Chief Executive Officer.

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LOCAL GOVERNMENT ACT 1995

SHIRE OF QUAIRADING

**EXTRACTIVE INDUSTRIES
LOCAL LAW 2011**

LOCAL GOVERNMENT ACT 1995

SHIRE OF QUAIRADING

EXTRACTIVE INDUSTRIES LOCAL LAW 2011

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LOCAL GOVERNMENT ACT 1995

SHIRE OF QUAIRADING

EXTRACTIVE INDUSTRIES LOCAL LAW 2011

Under the powers conferred by the *Local Government Act 1995*, and under all other powers enabling it, the Council of the Shire of Quairading resolved on 26th May 2011 to make the following local law.

PART 1 — PRELIMINARY**1.1 Citation**

This local law is cited as the *Shire of Quairading Extractive Industries Local Law 2011*.

1.2 Commencement

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

1.3 Purpose and effect

- (1) The purpose of the proposed Extractive Industries local law 2011 is to establish requirements and conditions with which extractive industry proposals, within the district, must comply with.
- (2) The effect of the proposed Extractive Industries local law 2011 is to provide for the regulation, control and management of extractive industry proposals.

1.4 Interpretation

In this local law, unless the context otherwise requires—

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

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

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

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

“**excavation**” includes quarry;

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

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

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

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

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

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

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

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

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

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

1.5 Application

(1) The provisions of this local law—

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

(i) apply and have force and effect throughout the whole of the district; and

(ii) apply to every excavation whether commenced prior to or following the coming into operation of this local law;

(b) do not apply to the extraction of minerals under the *Mining Act 1978*;

(c) do not apply to the carrying on of an extractive industry on Crown land;

(d) do not apply to the carrying out of an extractive industry on a lot by the owner or occupier of that lot where the material extracted is not sold and is used solely on that lot or on an adjacent lot owned or occupied by the person carrying out the extractive industry.

(2) Notwithstanding any other provision, the local government may waive any requirement or provision of this Local Law (including a requirement to hold a valid licence), where the local government is satisfied on receiving a written application for an exemption under this clause that the extractive industry is to be carried out solely for the benefit of a local community or sporting organisation (whether incorporated or not), provided that where the local government is so satisfied—

- (a) the extractive industry may only be carried out if the local government has authorised it in writing;
- (b) the local government may impose conditions on the authorisation pursuant to which the extractive industry must operate (including in a case where the CEO otherwise waives the requirement to hold a valid and current licence);
- (c) the person carrying out the extractive industry must comply with any conditions imposed by the local government on the authorisation;
- (d) failure to comply with any condition imposed by the local government is deemed to be an offence pursuant to clause 2.1(b);
- (e) the local government may from time to time vary or delete any condition previously imposed, and may impose a new condition or conditions; and
- (f) the local government may at any time determine that the extractive industry authorised pursuant to this clause must cease, provided that the local government must give written notice to the person carrying out the extractive industry which allows a minimum 28 days for the cessation of operations.

PART 2 — LICENSING REQUIREMENTS FOR AN EXTRACTIVE INDUSTRY

2.1 Extractive industries prohibited without licence

A person must not carry on an extractive industry—

- (a) unless the person is the holder of a valid and current licence; and
- (b) otherwise than in accordance with any terms and conditions set out in, or applying in respect of, the licence.

2.2 Applicant to advertise proposal

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

- (a) forward by registered mail a notice in the form determined by the local government from time to time to—
 - (i) the owners and occupiers of all land adjoining the land upon which it is proposed to excavate, or within an area determined by the local government as likely to be affected by the granting of a licence, advising of the application and specifying that they may, within 21 days from the date of service of the letter, object to or make representations in writing in respect of the issue of a licence by the local government;
 - (ii) every authority or person having control or jurisdiction over any of the things referred to in clause 2.3(1)(a)(vii) and (viii) within 500 metres from the boundaries of the land, or within an area determined by the local government as likely to be affected by the granting of a licence; and
- (b) as soon as practicable after complying with the requirements of paragraph (a)—
 - (i) forward a copy of the notice to the CEO; and
 - (ii) publish the notice in a newspaper circulating in the area in which the proposed excavation is located.

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

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

2.3 Application for licence

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

- (a) 3 copies of a plan of the excavation site to a scale of between 1:500 and 1:2000 showing—
 - (i) where the proposed excavation surface area is—
 - (I) not to exceed 5 hectares, the existing and proposed land contours based on the Australian Height Datum and plotted at 1-metre contour intervals;
 - (II) to be greater than 5 hectares, the existing and proposed land contours based on the Australian Height Datum and plotted at 5-metre contour intervals;

- (ii) the land on which the excavation site is to be located;
 - (iii) the external surface dimensions of the land;
 - (iv) the location and depth of the existing and proposed excavation of the land;
 - (v) the location of existing and proposed thoroughfares or other means of vehicle access to and egress from the land and to public thoroughfares in the vicinity of the land;
 - (vi) the location of buildings, treatment plant, tanks and other improvements and developments existing on, approved for or proposed in respect of the land;
 - (vii) the location of existing power lines, telephone cables and any associated poles or pylons, sewers, pipelines, reserves, bridges, railway lines and registered grants of easement or other encumbrances over, on, under or adjacent to or in the vicinity of the land;
 - (viii) the location of all existing dams, watercourses, drains or sumps on or adjacent to the land;
 - (ix) the location and description of existing and proposed fences, gates and warning signs around the land; and
 - (x) the location of the areas proposed to be used for stockpiling excavated material, treated material, overburden and soil storage on the land and elsewhere;
- (b) 3 copies of a works and excavation programme containing—
- (i) the nature and estimated duration of the proposed excavation for which the licence is applied;
 - (ii) the stages and the timing of the stages in which it is proposed to carry out the excavation;
 - (iii) details of the methods to be employed in the proposed excavation and a description of any on-site processing works;
 - (iv) details of the depth and extent of the existing and proposed excavation of the site;
 - (v) an estimate of the depth of and description of the nature and quantity of the overburden to be removed;
 - (vi) a description of the methods by which existing vegetation is to be cleared and topsoil and overburden removed or stockpiled;
 - (vii) a description of the means of access to the excavation site and the types of thoroughfares to be constructed;
 - (viii) details of the proposed number and size of trucks entering and leaving the site each day and the route or routes to be taken by those vehicles;
 - (ix) a description of any proposed buildings, water supply, treatment plant, tanks and other improvements;
 - (x) details of drainage conditions applicable to the land and methods by which the excavation site is to be kept drained;
 - (xi) a description of the measures to be taken to minimise sand drift, dust nuisance, erosion, watercourse siltation and dangers to the general public;
 - (xii) a description of the measures to be taken to comply with the *Environmental Protection (Noise) Regulations 1997*;
 - (xiii) a description of the existing site environment and a report on the anticipated effect that the proposed excavation will have on the environment in the vicinity of the land;
 - (xiv) details of the nature of existing vegetation, shrubs and trees and a description of measures to be taken to minimise the destruction of existing vegetation; and
 - (xv) a description of the measures to be taken in screening the excavation site, or otherwise minimising adverse visual impacts, from nearby thoroughfares or other areas;
- (c) 3 copies of a rehabilitation and decommissioning programme indicating—
- (i) the objectives of the programme, having due regard to the nature of the surrounding area and the proposed end-use of the excavation site;
 - (ii) whether restoration and reinstatement of the excavation site is to be undertaken progressively or upon completion of excavation operations;
 - (iii) the method by which topsoil is to be replaced and revegetated;
 - (iv) the numbers and types of trees and shrubs to be planted and other landscaping features to be developed;
 - (v) how rehabilitated areas are to be maintained;
 - (vi) the programme for the removal of buildings, plant, waste and final site clean up; and
 - (vii) how any face is to be made safe and batters sloped.
- (d) evidence that a datum peg has been established on the land related to a point approved by the local government on the surface of a constructed public thoroughfare or such other land in the vicinity;
- (e) a certificate from a licensed surveyor certifying the correctness of—
- (i) the plan referred to in paragraph (a); and
 - (ii) the datum peg and related point referred to in paragraph (d);

- (f) evidence that the requirements of clause 2.2(1) and (2) have been carried out;
 - (g) copies of all land use planning approvals required under any planning legislation;
 - (h) the consent in writing to the application from the owner of the excavation site;
 - (i) any other information that the local government may reasonably require;
 - (j) the licence application fee specified by the local government from time to time;
 - (k) copies of any environmental approval required under any environmental legislation; and
 - (l) copies of any geotechnical information relating to the excavation site.
- (2) All survey data supplied by an applicant for the purpose of sub clause (1) shall comply with Australian Height Datum and Australian Map Grid standards.
- (3) Where in relation to a proposed excavation—
- (a) the surface area is not to exceed 5,000 square metres; and
 - (b) the extracted material is not to exceed 5,000 cubic metres;
- the local government may exempt a person making application for a licence under subclause (1) from supplying any of the data specified in paragraphs (b), (d), (e) and (l) of subclause (1).

PART 3—DETERMINATION OF APPLICATION

3.1 Determination of application

- (1) The local government may refuse to consider an application for a licence that does not comply with the requirements of clause 2.3, and in any event shall refuse an application for a licence where planning approval for an extractive industry use of the land has not first been obtained.
- (2) The local government may, in respect of an application for a licence—
- (a) refuse the application; or
 - (b) approve the application—
 - (i) over the whole or part of the land in respect of which the application is made; and
 - (ii) on such terms and conditions, if any, as it sees fit.
- (3) Where the local government approves an application for a licence, it shall—
- (a) determine the licence period, not exceeding 21 years from the date of issue; and
 - (b) approve the issue of a licence in the form determined by the local government from time to time.
- (4) Where the local government approves the issue of a licence, the CEO upon receipt by the local government of—
- (a) payment of the annual licence fee, or the relevant proportion of the annual licence fee to 30 June, imposed and determined by the local government from time to time under and in accordance with sections 6.16 to 6.19 of the Act;
 - (b) payment of the secured sum if any, imposed under clause 5.1;
 - (c) the documents, if any, executed to the satisfaction of the CEO, under clause 5.1; and
 - (d) a copy of the public liability insurance policy required under clause 7.1(1) shall issue the licence to the applicant.
- (5) Without limiting subclause (2), the local government may impose conditions in respect of the following matters—
- (a) the orientation of the excavation to reduce visibility from other land;
 - (b) the appropriate siting of access thoroughfares, buildings and plant;
 - (c) the stockpiling of material;
 - (d) the approval of the number and size of trucks entering and leaving the site each day and the route or routes to be utilised by those trucks;
 - (e) the hours during which any excavation work may be carried out;
 - (f) the hours during which any processing plant associated with, or located on, the site may be operated;
 - (g) requiring all crushing and treatment plant to be enclosed within suitable buildings to minimise the emission of noise, dust, vapour and general nuisance to the satisfaction of the local government;
 - (h) the depths below which a person shall not excavate;
 - (i) distances from adjoining land or thoroughfares within which a person must not excavate;
 - (j) the safety of persons employed at or visiting the excavation site;
 - (k) the control of dust and wind-blown material;
 - (l) the planting, care and maintenance of trees, shrubs and other landscaping features during the time in which the extractive industry is carried out in order to effectively screen the area to be excavated and to provide for progressive rehabilitation;
 - (m) the prevention of the spread of dieback or other disease;
 - (n) the drainage of the excavation site and the disposal of water;

- (o) the restoration and reinstatement of the excavation site, the staging of such works, and the minimising of the destruction of vegetation;
- (p) the provision of retaining walls to prevent subsidence of any portion of the excavation or of land abutting the excavation;
- (q) requiring the licensee to meet all conditions imposed under the development approval issued by the local government in relation to the extractive industry;
- (r) requiring the licensee to furnish to the local government a surveyor's certificate each year, prior to the renewal fee being payable, to certify the quantity of material extracted and that material has not been excavated below the final contour levels outlined within the approved excavation programme;
- (s) requiring the licensee to enter into an agreement with the local government in respect of any condition or conditions imposed under this local law;
- (t) any other matter for properly regulating the carrying on of an extractive industry; and
- (u) requiring the licensee to enter into an agreement with the local government by which it agrees to pay any extraordinary expenses incurred by the local government in repairing damage caused to thoroughfares in the district by heavy or extraordinary traffic conducted by or on behalf of the licensee under the licence.

3.2 Payment of annual licence fee

On or before 30 June in each year, a licensee shall pay to the local government the annual licence fee imposed and determined by the local government from time to time, under and in accordance with sections 6.16 to 6.19 of the Act.

PART 4 — TRANSFER, CANCELLATION AND RENEWAL OF LICENCE

4.1 Transfer of licence

- (1) An application for the transfer of a licence shall—
 - (a) be made in writing;
 - (b) be signed by the licensee and the proposed transferee of the licence;
 - (c) be accompanied by the current licence;
 - (d) be accompanied by the consent in writing to the transfer from the owner of the excavation site;
 - (e) include any information that the local government may reasonably require; and
 - (f) be forwarded to the CEO together with the fee determined by the local government from time to time.
- (2) Upon receipt of any application for the transfer of a licence, the local government may—
 - (a) refuse the application; or
 - (b) approve the application on such terms and conditions, if any, as it sees fit.
- (3) Where the local government approves an application for the transfer of a licence, the local government shall transfer the licence by an endorsement on the licence in the form determined by the local government from time to time, signed by the Chief Executive Officer.
- (4) Where the local government approves the transfer of a licence it shall not be required to refund any part of the fees paid by the former licensee in respect of the transferred licence.

4.2 Cancellation of licence

- (1) The local government may cancel a licence where the licensee has—
 - (a) been convicted of an offence against—
 - (i) this local law; or
 - (ii) any other law relating to carrying on an extractive industry; or
 - (b) transferred or assigned or attempted to transfer or assign the licence without the consent of the local government;
 - (c) permitted another person to carry on an extractive industry otherwise than in accordance with the terms and conditions of the licence and of the provisions of this local law;
 - (d) failed to pay the annual licence fee under clause 3.2; or
 - (e) failed to have a current public liability insurance policy under clause 7.1(1) or failed to provide a copy of the policy or evidence of its renewal as the case may be, under clause 7.1(2).
- (2) Where the local government cancels a licence under this clause—
 - (a) the local government shall advise the licensee in writing of the cancellation;
 - (b) the cancellation takes effect on and from the day on which the licensee is served with the cancellation advice; and
 - (c) the local government shall not be required to refund any part of the fees paid by the licensee in respect of the cancelled licence.

4.3 Renewal of licence

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

- (a) the fee determined by the local government from time to time;
 - (b) a copy of the current licence;
 - (c) a plan showing the contours of the excavation carried out to the date of that application;
 - (d) details of the works, excavation and rehabilitation stages reached and of any changes or proposed changes with respect to any of the things referred to in clauses 2.3(1) (b) and (c); and
 - (e) any other things referred to in clauses 2.3 and 3.1.
- (2) The local government may waive any of the requirements specified in clause 4.3 (1) (d) or (e) if—
- (a) an application to renew a licence is in relation to land in respect of which the current licence was issued less than 12 months prior to the date from which the new licence if granted would apply; and
 - (b) the methods to be employed in the proposed land excavation are identical to those being employed at the date of the application,
- then the applicant shall not be obliged, unless otherwise required by the local government to submit details of any of the things referred to in clauses 2.3 and 3.1.
- (4) Upon receipt of an application for the renewal of a licence, the local government may—
- (a) refuse the application; or
 - (b) approve the application on such terms and conditions, if any, as it sees fit.

PART 5—SECURED SUM AND APPLICATION THEREOF

5.1 Security for restoration and reinstatement

- (1) For the purpose of ensuring that an excavation site is properly restored or reinstated, the local government may require that—
- (a) as a condition of a licence; or
 - (b) before the issue of a licence,
- the licensee shall give to the local government a bond, bank guarantee or other security, of a kind and in a form acceptable to the local government, in or for a sum determined by the local government from time to time.
- (2) A bond required under subclause (1) is to be paid into a fund established by the local government for the purposes of this clause.

5.2 Use by the local government of secured sum

- (1) If a licensee fails to carry out or complete the restoration and reinstatement works required by the licence conditions either—
- (a) within the time specified in those conditions; or
 - (b) where no such time has been specified, within 60 days of the completion of the excavation or portion of the excavation specified in the licence conditions, then; subject to the local government giving the licensee 14 days notice of its intention to do so—
 - (i) the local government may carry out or cause to be carried out the required restoration and reinstatement work or so much of that work as remains undone; and
 - (ii) the licensee shall pay to the local government on demand all costs incurred by the local government or which the local government may be required to pay under this clause.
- (2) The local government may apply the proceeds of any bond, bank guarantee or other security provided by the licensee under clause 5.1 towards its costs under this clause.
- (3) The liability of a licensee to pay the local government's costs under this clause is not limited to the amount, if any, secured under clause 5.1.

PART 6—LIMITATIONS, OBLIGATIONS OF THE LICENSEE AND PROHIBITIONS

6.1 Limits on excavation near boundary

Subject to any licence conditions imposed by the local government, a person shall not, without the written approval of the local government, excavate within—

- (a) 20 metres of the boundary of any land on which the excavation site is located;
- (b) 20 metres of any land affected by a registered grant of easement;
- (c) 40 metres of any thoroughfare; or
- (d) 40 metres of any watercourse.

6.2 Prohibitions

A licensee shall not—

- (a) remove any trees or shrubs within 40 metres (or such lesser distance as may be allowed, in writing, by the local government) of the boundary of any thoroughfare on land in respect of which a licence has been granted, except for the purpose of constructing access thoroughfares, erecting buildings or installing plant for use in connection with the excavation and then only with the express approval of the local government and subject to any conditions which the local government may impose in accordance with clause 3.1;

- (b) store, or permit to be stored, any explosives or explosive devices on the site to which the licence applies other than with the approval of the local government and the Department of Mines and Petroleum; or
- (c) fill or excavate, other than in accordance with the terms and conditions of the licence, the site plans and the works and excavation programme approved by the local government.

6.3 Blasting

(1) A person shall not carry out or permit to be carried out any blasting in the course of excavating unless—

- (a) the local government has otherwise given approval in respect of blasting generally or in the case of each blast;
- (b) subject to subclause (2), the blasting takes place only between the hours of 8.00 a.m. and 5.00 p.m., or as determined by the local government, on Mondays to Fridays inclusive;
- (c) the blasting is carried out in strict accordance with the AS2187 SAA Explosives Code, the *Mines Safety and Inspection Act 1994*, the *Environmental Protection Act 1986*, and all relevant local laws of the local government; and
- (d) in compliance with any other conditions imposed by the local government concerning—
 - (i) the time and duration of blasting;
 - (ii) the purposes for which the blasting may be used; and
 - (iii) such other matters as the local government may reasonably require in the interests of the safety and protection of members of the public and of property within the district.

(2) A person shall not carry out or permit to be carried out any blasting on a Saturday, Sunday or public holiday except with the prior approval of the local government.

6.4 Obligations of the licensee

A licensee shall—

- (a) where the local government so requires, securely fence the excavation to a standard determined by the local government and keep the gateways locked when not actually in use in order to prevent unauthorised entry;
- (b) erect and maintain warning signs along each of the boundaries of the area excavated under the licence so that each sign—
 - (i) is not more than 200 metres apart;
 - (ii) is not less than 1.8 metres high and not less than 1 metre wide; and
 - (iii) bears the words “DANGER EXCAVATIONS KEEP OUT”;
- (c) except where the local government approves otherwise, drain and keep drained to the local government’s satisfaction any excavation to which the licence applies so as to prevent the accumulation of water;
- (d) restore and reinstate the excavation site in accordance with the terms and conditions of the licence, the site plans and the works and excavation programme approved by the local government;
- (e) take all reasonable steps to prevent the emission of dust, noise, vibration and other forms of nuisance from the excavation site; and
- (f) otherwise comply with the conditions imposed by the local government in accordance with clause 3.1.

PART 7 — MISCELLANEOUS PROVISIONS

7.1 Public liability

(1) A licensee shall have at all times a current public liability insurance policy taken out in the joint names of the licensee and the local government indemnifying the licensee and the local government for a sum of not less than \$10,000,000 in respect of any one claim relating to any of the excavation operations.

(2) The licensee shall provide to the local government a copy of the policy taken out under subclause (1), within 14 days after the issue of that policy and shall provide to the local government evidence of renewal within 14 days of each renewal date.

7.2 Mines Safety and Inspection Act 1994 and Environmental Protection Act 1986

(1) In any case where the *Mines Safety and Inspection Act 1994* or the *Environmental Protection Act 1986* applies to any excavation carried on or proposed to be carried on at a site, the licensee in respect of that site shall—

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

(2) In this clause, the *Mines Safety and Inspection Act 1994* and the *Environmental Protection Act 1986* include all subsidiary legislation made under those Acts.

7.3 Notice of cessation of operations

(1) Where a licensee intends to cease carrying on an extractive industry—

- (a) temporarily for a period in excess of 12 months; or
- (b) permanently,

the licensee shall, as well as complying with clause 7.4, give the local government written notice of the cessation not later than 1 week after those operations have ceased.

(2) Where a licensee has given written notice to the local government of the intention to permanently cease carrying on an extractive industry on the site to which the licence applies the licence is deemed to have expired on the date such cessation is so notified.

(3) The temporary or permanent cessation of the carrying on of an extractive industry on a site or the deemed expiration or cancellation of a licence does not entitle the licensee to any refund of any licence fee.

7.4 Works to be carried out on cessation of operations

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

- (a) restore and reinstate the excavated site in accordance with the proposals approved by the local government or in such other manner as the local government may subsequently agree in writing with the licensee;
- (b) ensure that any face permitted to remain upon the excavation site is left safe with all loose materials removed and where the excavation site is—
 - (i) sand, the sides are sloped to a batter of not more than 1:3 (vertical:horizontal); and
 - (ii) limestone or material other than sand, the sides are sloped to a batter which, in the opinion of the local government, would enable the site to be left in a stable condition;
- (c) ensure that the agreed floor level of the excavation is graded to an even surface or is otherwise in accordance with the rehabilitation and decommissioning programme approved by the local government;
- (d) ensure that all stockpiles or dumps of stone, sand or other materials are left so that no portion of that material can escape onto land not owned or occupied by the licensee nor into any stream, watercourse or drain that is not wholly situated within the land owned or occupied by the licensee;
- (e) erect retaining walls where necessary to prevent subsidence of land in the vicinity of any excavation;
- (f) remove from the site all buildings, plant and equipment erected, installed or used for or in relation to the carrying on of an extractive industry on the site and fill all holes remaining after such removal to the level of the surrounding ground and compact such filled holes sufficiently to prevent settling; and
- (g) break up, scarify, cover with topsoil and plant with grass, trees and shrubs all parts of the site where buildings, plant and equipment were erected or installed and all areas which were used for stockpiling unless otherwise specified under this local law.

PART 8—OBJECTIONS AND REVIEW

8.1 Objections and review

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

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

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

PART 9—MODIFIED PENALTIES

9.1 Offences

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

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

9.2 Modified penalties

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

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

9.3 Forms

For the purposes of this local law—

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

Schedule

PRESCRIBED OFFENCES

MODIFIED PENALTIES

[cl. 9.2(1)]

Item	Clause	Description	Modified Penalty \$
1	2.1(a)	Excavate with a valid and current licence	500
2	2.1(b)	Carry on extractive Industry without licence or in breach of terms and conditions	500
3	6.1	Excavate near boundary	250
4	6.2(a)	Removal of trees or shrubs near within 40 metres of the boundary without approval	350
5	6.2(b)	Store without required approval explosives or explosive devices	350
6	6.2(c)	Fill or excavate, contrary to the term and conditions of the licence	350
7	6.3(1)(b)	Carry out or permit to be carried out blasting outside hours approved by the local government	300
8	6.3(1)(d)	Failure to comply with conditions imposed by the local government in relation to blasting activities	350
9	6.3(2)	Carry out or permit to be carried out any blasting on Saturday, Sunday, or public holiday without approval	250
10	6.4(a)	Failure to securely fence and/or keep gateways locked where required	350
11	6.4(b)	Failure to erect and maintain warning signs as required	350
12	6.4(c)	Failure to drain and keep drained any excavation to which the licence applies	350
13	6.4(f)	Failure to comply with the conditions of licence imposed by the local government	500
14		All other offences not specified	200

Dated 28th July 2011.

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

D. C. RICHARDS, Shire President.
G. FARDON, Chief Executive Officer.