LG302

LOCAL GOVERNMENT ACT 1995
Shire of Dardanup

DUST CONTROL AMENDMENT LOCAL LAW 2021

Under the powers conferred by the Local Government Act 1995 and under all other powers enabling it, the Council of the Shire of Dardanup resolved on 31 March 2021 to make the following local law.

1. Citation
This local law shall be cited as the Shire of Dardanup Dust Control Amendment Local Law 2021.

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

3. Principal local law
This local law amends the Shire of Dardanup Dust Control Local Law 2011 as published in Government Gazette on 9 January 2012.

4. Clause 1.4 amended
Clause 1.4(1) is amended as follows—
(a) insert the following in alphabetical order—

   building waste means builders rubble, demolition waste and other waste, from or in connection with a building site;

   waste has the meaning given to it in section 3(1) of the Waste Avoidance and Resource Recovery Act 2007;

(b) delete the definition for “district” and replace with the following—

   district means the district of the local government and includes any area placed under the jurisdiction of the local government under any written law;

(c) delete the word ‘;’ and following the definition for ‘person in charge’; and

(d) insert the word ‘; and’ following the definition for ‘Regulations’.

5. Clause 2.1 amended
Clause 2.1 is amended as follows—
(a) delete the words ‘2.1 Dust control measures’ and replace with ‘2.1 Dust and sand control measures’;

(b) in subclause 2.1(a) insert the words ‘and sand’ following the word ‘dust’;

(c) in subclause 2.1(b) insert the words ‘or sand’ following the word ‘dust’;

(d) in subclause 2.1(b) delete the word water; and

(e) in subclause 2.1(c) insert the words ‘or sand’ following the word dust.

6. Clause 2.3 inserted
Insert the following after clause 2.2—

2.3 Building Waste Control measures
(1) A person must not commence or continue, or permit the commencement or continuation, of building works on a building site unless—

   (a) an Approved Receptacle is provided and maintained on the building site;

   (b) all building waste is placed in, and kept securely in, the Approved Receptacle; and

   (c) if the Approved Receptacle has a lid or cover, the lid or cover is kept securely in place at all times except when building waste is being placed in, or removed from, the Approved Receptacle.

(2) In this clause—

   Approved Receptacle means—

   (a) a receptacle with a capacity of at least 4 cubic metres with a lid or cover;

   (b) a wire enclosure with a capacity of at least 4 cubic metres with a lid or cover; or

   (c) any other receptacle or container approved by the Shire or an authorised person.

7. Clause 3.1 amended
Clause 3.1 is amended as follows—
(a) in subclause (2)(b) insert the words ‘or sand’ following the word ‘dust’; and
(b) in subclause (3)(c) delete the words 'licence' and replace with the words 'permit'.

8. Clause 3.4 amended
Delete clause 3.4(2)(b) and replace with—
(b) have regard to any relevant publications of a State environmental agency or other relevant State Authority.

9. Clause 3.5 inserted
After clause 3.4 insert—

3.5 Other situations where a dust management plan required
Where it appears to an authorised person that dust or sand is escaping, being released or being carried, or is likely to escape, be released or be carried, from any land, the authorised person may, by notice in writing, direct the owner or occupier, within a time specified in the notice, to submit to the Shire a dust management plan.

10. Clause 4.1 amended
Clause 4.1 is amended as follows—
(a) in subclause (1)(b) insert the words 'or sand' following the word 'dust';
(b) in subclause (2)(b) insert the words ', sand or building waste' following the word 'dust';
(c) in subclause (2)(d) insert the words ', sand or building waste' following the word 'dust'; and
(d) in subclause (2)(e) insert the words ', sand or building waste' following the word 'dust'.

11. Clause 4.3 amended
Clause 4.3 is amended by inserting the words ', sand or building waste' following the word 'dust'.

12. Clause 6.1 amended
Clause 6.1 is amended as follows—
(a) in paragraph (a) delete "or"; and
(b) delete paragraph (b) and replace with—
(b) contravenes any provision of this local law;
(c) fails to do anything required or directed to be done under this local law; or
(d) does anything which under this local law the person is prohibited from doing,
commits an offence.

13. Schedule 1 amended
Schedule 1—Prescribed Offences is deleted and replaced with—

### Schedule 1

<table>
<thead>
<tr>
<th>Item No.</th>
<th>Clause No.</th>
<th>Nature of Offence</th>
<th>Modified Penalty $</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2.1(a)</td>
<td>Failure to take effective measures to stabilise dust and sand; or</td>
<td>500</td>
</tr>
<tr>
<td>2</td>
<td>2.1(b)</td>
<td>Failure to take effective measures to ensure no dust or sand is released or escapes from the land as required.</td>
<td>500</td>
</tr>
<tr>
<td>3</td>
<td>2.1(c)</td>
<td>Failure to notify the owners or occupiers of adjoining land as required.</td>
<td>500</td>
</tr>
<tr>
<td>4</td>
<td>2.2</td>
<td>Failure to take effective measures to prevent a load or any part of it escaping.</td>
<td>500</td>
</tr>
<tr>
<td>5</td>
<td>2.3(1)(a)</td>
<td>Failure to provide an approved receptacle or enclosure or approved container on a building site.</td>
<td>500</td>
</tr>
<tr>
<td>6</td>
<td>2.3(1)(b)</td>
<td>Failure to place in, and secure, all building waste in an approved receptacle.</td>
<td>500</td>
</tr>
<tr>
<td>7</td>
<td>2.3(1)(c)</td>
<td>Failure to keep secure lid of approved receptacle</td>
<td>500</td>
</tr>
<tr>
<td>8</td>
<td>3.2(1)(a)</td>
<td>Commencing or carrying out a dust generating development without lodging a dust management plan</td>
<td>500</td>
</tr>
<tr>
<td>Item No.</td>
<td>Clause No.</td>
<td>Nature of Offence</td>
<td>Modified Penalty</td>
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<tr>
<td>9</td>
<td>3.2(1)(c)</td>
<td>Commencing or carrying out a dust generating development contrary to a term or condition of dust management plan</td>
<td>500</td>
</tr>
<tr>
<td>10</td>
<td>3.5</td>
<td>Failure to provide a dust management plan.</td>
<td>500</td>
</tr>
<tr>
<td>11</td>
<td>4.1(3)</td>
<td>Failure to comply with a notice.</td>
<td>500</td>
</tr>
<tr>
<td>12</td>
<td>4.2(2)</td>
<td>Failure to comply with a notice to cease activity or development.</td>
<td>500</td>
</tr>
<tr>
<td>13</td>
<td>4.3</td>
<td>Failure to comply with a notice to prevent a possible breach.</td>
<td>500</td>
</tr>
<tr>
<td>14</td>
<td>5.1</td>
<td>Preventing or obstructing an authorised person or employee from carrying out his or her duties.</td>
<td>500</td>
</tr>
</tbody>
</table>

Dated 14 April, 2021.
The Common Seal of the Shire of Dardanup was affixed by authority of a resolution of the Council in the presence of—

Cr. MICHAEL T BENNETT, President.
Mr ANDRIES S. SCHONFELDT, Chief Executive Officer.