

NOTICE OF MEETING

COMMITTEE OF COUNCIL

Members of the Committee of Council are advised that a meeting will be held in Council Chambers, Civic Building, 83 Mandurah Terrace, Mandurah on:

**Tuesday 4 December 2018
at 5.30pm**

MARK R NEWMAN
Chief Executive Officer
28 November 2018

COMMITTEE MEMBERS

Mayor Williams
Deputy Mayor Councillor Knight
Councillor Wortley
Councillor Jackson
Councillor Lee
Councillor Lynn Rodgers
Councillor Shane Jones

Hon Councillor Riebeling
Councillor Tahlia Jones
Councillor Darcy
Councillor Schumacher
Councillor Peter Rogers
Councillor Matt Rogers

AGENDA:

1 OPENING OF MEETING AND ANNOUNCEMENT OF VISITORS

2 ATTENDANCE AND APOLOGIES

Councillor Darcy – Leave of Absence

3 IMPORTANT NOTE:

Members of the public are advised that the decisions of this Committee are referred to Council Meetings for consideration and cannot be implemented until approval by Council. Therefore, members of the public should not rely on any decisions of this Committee until Council has formally considered the resolutions agreed at this meeting.

4 ANSWERS TO QUESTIONS TAKEN ON NOTICE

Nil.

5 PUBLIC QUESTION TIME

Public Question Time provides an opportunity for members of the public to ask a question of Council. For more information regarding Public Question Time, please telephone 9550 3706 or visit the City's website www.mandurah.wa.gov.au.

6 PRESENTATIONS AND ANNOUNCEMENTS BY CHAIRMAN**7 DEPUTATIONS**

Any person or group wishing to make a 5-minute Deputation to the Committee meeting regarding a matter listed on this agenda for consideration must first complete an application form. For more information about making a deputation, or to obtain an application form, please telephone 9550 3706 or visit the City's website www.mandurah.wa.gov.au.

NB: Persons making a deputation to this Committee meeting will not be permitted to make a further deputation on the same matter at the successive Council meeting, unless it is demonstrated there is new, relevant material which may impact upon the Council's understanding of the facts of the matter.

8 CONFIRMATION OF MINUTES: 13 NOVEMBER 2018

(NB: It is the Elected Members' responsibility to bring copies of the previous Minutes to the meeting if required).

9 DECLARATIONS OF FINANCIAL, PROXIMITY AND IMPARTIALITY INTERESTS**10 QUESTIONS FROM ELECTED MEMBERS WITHOUT DISCUSSION**

10.1 Questions of which due notice has been given

10.2 Questions of which notice has not been given

11 BUSINESS LEFT OVER FROM PREVIOUS MEETING

12 REPORTS:

1	Lease – Reserve 45079 Merlin Street Falcon South Mandurah Tennis Club	1 - 4
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3	City Centre Project Framework	19 - 32
4	Murdoch University Scholarships	33 - 38
5	Proposed Animals, Environment & Nuisance Amendment Local Law 2019	39 - 94
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13 LATE AND URGENT BUSINESS ITEMS**14 CONFIDENTIAL ITEMS**

14.1 Road Dedication

15 CLOSE OF MEETING

1 **SUBJECT:** Lease – Reserve 45079 Merlin Street Falcon
 South Mandurah Tennis Club
CONTACT OFFICER/S: Ben Dreckow
AUTHOR: Lesley Petchell/Rachelle Love

Summary

South Mandurah Tennis Club (SMTTC) has held a lease over Reserve 45079 Merlin Street, Falcon, since 1994. The Club formally requested, upon the expiry of their current lease on the 28 February 2018, to enter into a new lease agreement with the City.

Officers have been in discussions with the club since late 2017, with the club in a “holding over” of their current lease, to allow officers time to re-assess the leasing and fee structure for sporting clubs. The outcome of this review has resulted in only three clubs varying their fee and leasing structure.

As SMTTC is not impacted by the recent review, officers recommend the club’s lease now be renewed for a term of five years with a five year renewal term option (5+5 years). With the rental fee aligning with the City’s fees and charges schedule for community and sporting groups, which is \$1,000 inclusive of GST per annum.

Council is requested to support the new lease agreement with the South Mandurah Tennis Club, over Reserve 45079 Merlin Street, Falcon, for a term of five years with a five year renewal term option (5+5 years), commencing on or after Minister for Lands consent, together with an annual rental fee of \$1,000 which aligns with the City’s schedule of fees and charges. All lease terms and conditions are subject to the approval of the Minister for Lands.

Disclosure of Interest

None

Location



Previous Relevant Documentation

- G19/8/18 28 August 2018 Council support the ratings and priorities of the four (4) 2018/19 Community Sport and Recreation Facility Fund (CSRFF) Small Grants applications submitted and note that an allowance for the

City's contributions towards each project has been listed in the 2018/19 capital budget, subject to the projects being approved by the Department of Local Government, Sport and Cultural Industries - Sport and Recreation.

- F.E567 9 August 1994 Council supported the Deed of Lease for the South Mandurah Tennis Club for a term of ten years with a ten year renewal term over Reserve 45079 – (No.2) Merlin Street, Falcon.

Background

SMTC has held a lease over Reserve 45079 Merlin Street since 1994, the original agreement was a short four year term expiring in 1998, which was then extended to a 20 year lease agreement expiring on the 28 February 2018. As the club continues to grow, they have approached officers with a request for ongoing tenure over the site.

The 'holding over' of the current lease, allows the club and all the other terms and conditions to remain in place after the final expiry date. It is often applied when ongoing tenure needs further consideration, or in this instance a differing lease structure may want to be considered. The lease remains in place until one party gives the other, one months' notice to vacate, or a new lease is executed. In this case the holding over has been applied while consideration is given to the ongoing structure of leasing for some of the City's sporting groups. At the completion of this assessment it was determined that the small to medium sized clubs would not benefit from the proposed change, and only three clubs were presented to Council for approval of a restructure of their lease arrangements.

As SMTC are not impacted by the recent assessment, officers recommend the Club's request for a new lease now been resolved.

Comment

SMTC currently hold 213 memberships, comprising of 168 senior and 45 junior members. Since the completion of their lighting project in 2017, the club now runs night tennis every Wednesday evening, weather permitting. 2018 saw the establishment of the Club's junior pennant teams which has grown throughout the year to three participating teams. Each Friday afternoon the Club runs their 'Youth At Risk Program' where teenagers are invited to play and enjoy an hour of free coaching from the clubs members.

The Club also run a 'HotShots' coaching program with a Tennis West approved coach which is run twice a week for children between the ages of 3-12 years. The club further hires out the clubhouse to the community providing yoga classes, church services and use of courts to the neighbouring primary school to facilitate with some of their PE activities programed for their students.

In August 2018, Council supported the SMTC Community Sport and Recreation Facilities Fund (CSRFF) application to resurface six courts. This project ensures the club can continue to provide safe and suitable infrastructure for their members and visitors. Officers recommend supporting the request for a new lease agreement as the club has the capacity to provide and maintain the facilities along with deliver programs accessible to the broader community.

Officers also consider that the proposed new lease agreement should align with the City's policy for the management of community facilities which state a maximum of ten years be typically granted.

Council is requested to approve a lease agreement over Reserve 45079 Merlin Street, Falcon to South Mandurah Tennis Club for a term of five years with a five year renewal term option (5+5 years), commencing on or after Minister for Lands consent, together with an annual rental fee of \$1,000 inclusive of GST, which aligns with the Council approved schedule of fees and charges for 2018/19. All lease terms and conditions are subject to the approval of the Minister for Lands.

Consultation

South Mandurah Tennis Club

Statutory Environment

Comply with S3.58 of the Local Government Act 1995 (LGA) – Disposal of Property
'Dispose' includes to sell, lease, or otherwise dispose of, whether absolutely or not.

Exemption of Disposition of Property – Section 30 Local Government (Functions and General) Regulations 1996. A disposition of land is exempt if the land is disposed of to a body whose objects are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature. As such the South Mandurah Tennis Club are exempt from the advertising of the disposal of the lease.

Land Administration Act 1997 Section 18 (2) Minister for Lands Approval. Various transactions relating to Crown Land to be approved by the Minister. As persons must not without authorisation assign, sell, transfer or otherwise deal with interest in Crown Land.

Policy Implications

Policy Community and Recreation Facilities - POL-CNP 07 – A lease is a contract between a lessee and the City of Mandurah which grants the lessee exclusive use of a whole facility (building and land). Length of tenure is typically up to 10 years.

Risk Implications

None

Economic Implications

Annual rental rate of \$1000 and document preparation fee of \$450 to be applied, and are in accordance with the City's Fees and Charges Schedule 2018/19 and to be borne by the Lessee.

Strategic Implications

The following strategies from the *City of Mandurah Strategic Community Plan 2017 – 2037* are relevant to this report:

Social:

- Provide opportunities, services and activities that engage our young people.
- Provide a range of social, recreational, entertainment and learning experiences for our residents and visitors.

Identity:

- Encourage active community participation and engagement.

Organisational Excellence:

- Ensure the City has the capacity and capability to deliver appropriate services and facilities.

Conclusion

The South Mandurah Tennis Club are seeking a new lease agreement with the City. They currently remain in a "Holding Over" term until more permanent tenure is resolved. Officers consider that a new lease agreement for a term of five years with a five year renewal term (5+5 years), together with an rental rate fee to align with the Council approval fees and charges which for 2018/19 is \$1,000 inclusive of GST.

Council is requested to approve a lease over Reserve 45079 Merlin Street, Falcon to South Mandurah Tennis Club for a term of five years with a five year renewal term option (5+5 years), commencing on or after Minister for Lands consent, together with an annual rental fee of \$1,000 inclusive of GST, all lease terms and conditions are subject to the approval of the Minister for Lands.

RECOMMENDATION

That Council:

- 1. Approves a lease agreement over Reserve 45079 Merlin Street, Falcon, to the South Mandurah Tennis Club with the following conditions:**
 - 1.1 Tenure term of five years with a five year renewal term (5+5 years);**
 - 1.2 Approval and commencement date subject to the Minister for Lands consent;**
 - 1.3 Annual rent and document preparation fee is to align with the Council approved schedule of fees and charges for sporting and community groups;**
- 2. Authorises the Chief Executive Officer to finalise the conditions of the Lease agreement.**

2 **SUBJECT:** Holiday Homes
 CONTACT OFFICER: Ben Dreckow
 AUTHOR: Ann Harrop

Summary

In April 2018, Council was presented with a petition containing the signatures of 65 residents requesting that Council consider the regulation of the location, size and management of short stay holiday homes within Mandurah. In June 2018 Council resolved, following a Notice of Motion, “that officers prepare a report that considers the establishment of a register of short term residential accommodation (STRA).

Following Council’s resolution, officers have undertaken a review of a number of industry based discussion papers and government position papers to investigate alternative approaches to managing holiday homes. The potential impacts of holiday homes on surrounding neighbourhoods are well documented however the method by which these impacts are managed varies from State to State.

Council adopted a ‘responsive’ approach to Holiday Homes in June 2015, whereby a list of known holiday homes is maintained, with complaints received against a known holiday home being addressed as a matter of high priority. Since this time, of the 131 homes currently on the City’s list of Holiday Homes, five properties have been the subject of noise complaints, with officers having been successful in working with landowners to manage issues through measures such as strengthening guest selection criteria, not allowing leavers, hens or bucks parties, and the provision of clear regulations to guests.

The ‘responsive’ approach to Holiday Homes is viewed to be an effective method for managing issues arising from Holiday Homes at this stage, with complaints regarding holiday homes comprising only a small percentage of total complaints dealt with by the City. As it is three years since the implementation of this approach however, it is suggested that a re-education campaign be conducted to ensure all owners and of known holiday homes and adjoining properties are;

- (a) Advised of obligations under the Environmental Protection (Noise) Regulations 1997; and
- (b) Advised of the City’s complaint handing procedure with regards to Holiday Homes.

Disclosure of Interest

Nil

Previous Relevant Documentation

- G.32/6/18 26 June 2018 Notice of Motion presented to Council requesting officers prepare a report that considers the establishment of a register of short term residential accommodation.
- G.6/4/18 24 April 2018 Council received a petition requesting the regulation of the location, size and management of short stay holiday homes within Mandurah. Council resolved to refer the matter to officers for investigation and inclusion in the reporting process.
- G.12/8/17 8 August 2017 Council considered WALGA’s discussion paper on Short Term Accommodation and the Shared Economy, and resolved to advise WALGA that the City has adopted a responsive approach to holiday houses and that it does not consider requiring an additional approval would add value to the process.
- G.19/6/15 23 June 2015 Council adopted a ‘Responsive Action’ approach to Holiday Homes
- G.17/03/15 24 March 2015 Council resolved that Officers report back to Council to initiate a Local Law and relevant town planning amendment in addition to detailing

observations over Easter and complaints received in relation to Holiday Homes.

Background

At its meeting of 24 April 2018, Council was presented with a petition containing the signatures of 65 residents requesting that Council consider the regulation of the location, size and management of short stay holiday homes within Mandurah. In response to this petition, Council resolved that “the petition be received and referred to officers for investigation and inclusion in the reporting process”.

A Notice of Motion was further considered by Council at its meeting of 26 June 2018 regarding the establishment of a Short Term Residential Accommodation Register (STRA) where it was resolved “that officers prepare a report that considers the establishment of a register of short term residential accommodation (STRA).

Council has previously considered this matter in some detail in March and June 2015, and again more recently in August 2017.

Historically in Mandurah, properties have been used as Holiday Homes, either by families in family owned properties, or by owners renting properties on a short term basis. There appears to be an increasing number of Holiday Homes that are more business based than has previously been the case and these properties are more easily accessible via the many national and international Holiday Home websites that are available. The City maintains an updated list of known Holiday Homes through undertaking an annual review of such websites, which currently lists 131 homes used as Holiday Homes within the City of Mandurah.

In March and June 2015, Council considered reports in relation to issues surrounding the operation of Holiday Homes within the City. A number of options for the management of Holiday Homes were considered at this time including:

1. The introduction of a Local Law similar to the City of Busselton model which would require all Holiday Homes to obtain an approval under the Local law and the planning scheme.
2. Amending the Town Planning Scheme to introduce definitions for Holiday Homes and an approval process akin to that which is currently in place in relation to the operation of Home Occupations.
3. Improving the City’s response procedures to address community concern.

In considering the options presented, Council requested officers assess the performance of known holiday homes over the 2015 Easter holiday period. Officers attended properties on 4 April 2015 (Easter Saturday) and 6 April 2015 (Easter Monday), which involved visits to 48 properties between the hours of 9:00pm to midnight on Easter Saturday and 9:00pm to 11:00pm on Easter Monday. During the visits, Officers made an assessment as to whether any obvious noise issues were present from the street, if there appeared to be street parking proliferation and any other amenity issues such as overflowing bins.

It was noted that during the assessments that five properties had greater than three cars with two properties having five cars. On these occasions the cars were parked behind the property line. No other notable issues were identified during the visits.

In addition, no direct noise or parking complaints were lodged with the City over this period. It was acknowledged during the assessment that it is difficult to determine whether a dwelling is being utilised for holiday purposes or by the owners. It was found that many of these dwellings had no visual differentiation between each other and other residential properties on the street, with car proliferation being minimal and in keeping with expectations for standard residential properties.

Officers also undertook a review of registered complaints between 1 January 2015 and 22 April 2015. During this time, the City received 74 Noise Service Requests (excluding dog barking) of which, there were no registered complaints against known Holiday Homes. In relation to car parking, there were a total of

332 complaints from 1 January to 22 April 2015, with two of these complaints linked to known Holiday Homes.

At its June 2015 meeting, following consideration of the various options for addressing Holiday Homes within the City of Mandurah, Council resolved to adopt a 'Responsive Action' response that included:

- Recording known Holiday Home locations
- Giving complaints in relation to noise, vehicle parking and refuse associated with known Holiday Homes a high priority; and
- Preparing a brochure outline procedures to be followed, if issues in relation to the operation of a Holiday Home should arise.

A copy of the brochure has been included as **Attachment 1**.

In August 2017, Council considered a discussion paper released by the Western Australian Local Government Association (WALGA) on Short Term Accommodation and the Shared Economy. The discussion paper was prepared in order to seek Local Government views on the need to review current guidance provided on Holiday Houses, including the inclusion of 'deemed provisions' relating to the control of holiday houses, and provide clarity on the definitions used to define short term accommodation.

The discussion paper provided an overview of how local governments from across the State are currently dealing with short term accommodation and provided examples of the approach taken in other States. Issues with the current guidance provided by the State Government and conflicts with definitions provided in the Planning and Development (Local Planning Schemes) Regulations 2015 were highlighted.

At this meeting, Council resolved to advise WALGA of Council's position that:

- (a) The City has adopted a responsive approach to holiday houses and considers that an additional approval for short stay accommodation beyond the original to build the dwelling whether in a single dwelling or grouped or multiple dwelling circumstance does not add additional value to the process.*
- (b) With regard to definitions, that the City considers that:*
 - *Holiday houses in grouped or multiple housing should be dealt with in the same manner as for a single house;*
 - *Definitions within the Model Provisions for Local Planning Schemes should reflect this position; and*
 - *All 'land use' definitions should be within the Deemed Provisions for Local Planning Schemes and not the Residential Design Codes;*
- (c) Home sharing, if ultimately defined, should be treated in the same manner as Holiday Houses; and*
- (d) Party houses are not considered to be an issue within the City of Mandurah*

In addition, Council formalised its responsive position by resolving that:

- (a) A 'Holiday House' be defined as "means a dwelling used to provide short stay accommodation";*
- (b) A 'Holiday House' be treated as an 'unlisted use' under Clause 3.2.2 of the Scheme, and that Council determines that for all zones where dwelling is a permitted or discretionary use, determines that a Holiday House is consistent with the zone and is therefore permitted; and*
- (c) By virtue of being a 'permitted use', are exempt from the need for development approval under Clause 61(2)(b) of the Deemed Provisions for Local Planning Schemes.*

Comment

In order to prepare this report, officers have undertaken a review of a number of discussion papers and government policy positions including:

- NSW parliamentary enquiry on the Adequacy of Regulation of Short Term Holiday Letting 2016
- Short-Term Holiday Letting in NSW Options Paper July 2017
- Planning Responses to online short term holiday rental platforms (Research Project for Australian Coastal Councils Association Inc.) - September 2018
- Planning Directive No. 6 – Exemption and Standards for Visitor Accommodation in Planning Schemes (Tasmania)
- Short Term Accommodation and the Shared Economy (WALGA) 2017
- Planning Bulletin 99 – Holiday Home Guidelines (WA)
- Not Fair BnB (Australian Hotels Association WA)

A copy of these documents can be made available to Councillors on request.

Historically in Mandurah, residential dwellings have been used as Holiday homes, either by families in family owned properties, or by owners renting properties on a short term basis. The introduction of online platforms has however, increased the popularity and ease of offering private dwellings for short term accommodation worldwide. With occupiers of short term accommodation generally prioritising leisure or festive activities, being unfamiliar with local rules to manage amenity and being less concerned about maintaining good neighbourly relations, the increasing prevalence of holiday homes within residential areas has the potential to impact on the amenity of a neighbourhood.

Following a review of the above research, these potential impacts/issues may include;

- Noise – Noise and anti-social behaviour is one of the key issues commonly raised in discussions regarding short term holiday accommodation. Whilst the occurrence of noise complaints may be low, the impact of such occurrences on neighbouring properties should not be dismissed. In WA, noise emissions are regulated by the Environmental Protection (Noise) Regulations 1997 with maximum penalties of \$250,000 able to be applied should breaches occur.
- Waste – Waste generation can be higher for short term occupiers than long term residents due to the likelihood of perishable items being disposed of after a stay. In addition unfamiliarity with waste collection days may result in waste being accumulated over several weeks if a collection is missed.
- Emergency Management – On-line platforms have opened up the short term accommodation market to interstate and overseas visitors, some of whom may have no local knowledge to assist them in the case of an emergency. Information regarding emergency phone numbers, the location of the nearest hospital, bushfire management provisions, presence of smoke alarms, and legal property address, are all details which short term occupants may not be aware of. It should be noted that in WA, under the Building Regulations 2012, all residential properties which are subject to sale, rental or hire are required to ensure compliant hard wired smoke alarms are fitted. Where a dwelling available for hire does not comply with these requirements, the local government may issue an infringement under the Criminal Procedure Act 2004.
- Traffic and Parking – Short term accommodation may attract a higher proportion of independent adults than would be expected by long term residents. This may result in an additional demand for parking than what is provided resulting in car proliferation.

Broader Impacts – The impact of residential short stay accommodation on the holiday accommodation industry as a whole has also been widely discussed. There is the view that there is inequality between the regulated accommodation sector and the residential short stay accommodation sector which is less regulated, particularly in respect to establishment and compliance costs. Conversely however, it has also been argued that residential short stay accommodation caters for a different category of tourist than is catered for by the hotel industry. Impact on property prices has also been raised as a concern in areas where there is limited housing stock available.

City of Mandurah's Current Response

Currently within the City of Mandurah, no additional approval is required to utilise a residential dwelling as a holiday house, as Council has previously resolved to define a 'Holiday House' as a "*dwelling used to provide short stay accommodation*" and determined that this use permitted and therefore exempt from the need to obtain development approval under the Local Planning Scheme.

It should be noted that this does not preclude strata development from restricting short term leases under their own strata by-laws and using the Strata Titles Act as an enforcement mechanism.

Notwithstanding, the City maintain an updated list of known holiday homes through an annual review of on line platforms, 131 homes are currently listed as being utilised for short stay accommodation purposes within the City of Mandurah. A breakdown of the location of these holiday houses is provided below.

Bouvard	4	Madora Bay	6
Coodanup	4	Mandurah	23
Dawesville	6	San Remo	3
Falcon	13	Silver Sands	6
Halls Head	42	Wannanup	8
Lakelands	1		

With 40,000 dwellings in the City of Mandurah, holiday homes make up 0.3% of the housing stock. This percentage is higher than the 0.2% national average, however is substantially lower than the median rate of 4% for coastal communities (University of Sydney, 2018).

The City's list of holiday homes is used to assist officers with the 'responsive approach' to holiday houses adopted by Council in June 2015. Properties are identified within the City's mapping system and can be easily identified by officers. In addition holiday homes are treated as a separate category in the City's Customer Request Management System, where complaints can be logged and recorded as being in association with a holiday home. Complaints received with regards to a known holiday house are given a high priority for response in order to ensure impacts on adjoining neighbourhoods are minimised.

In addition, officers informally receive comments from owners within strata developments that the use of an apartment or townhouse for a holiday home is in conflict with the site's strata by-laws. In these circumstances, advice is provided that the Strata Company is responsible for compliance with the strata by-laws under the Strata Titles Act and that it is a matter for the parties that make up the Strata to enforce.

Since the adoption of the 'responsive' approach to holiday houses, five known holiday houses have been the subject of a noise complaint.

In respect to the number of complaints received, holiday homes represent only a small proportion of total complaints received by the City. In the period between December 2017 and April 2018, generally perceived to be the peak period for holiday rentals in Mandurah, 84 noise complaints were received, of which only 1 complaint was received in relation to a known holiday home.

In general, on receipt of a noise complaint, officers contact the landowners advising them of their obligations under the Environmental Protection (Noise) Regulations 1997, the penalties for breaches of the Regulations (up to \$250 000/person and \$500,000/body corporate), and seek action to resolve any issues.

In addition, Officer's work with the complainant to ensure any further issues can be recorded and addressed through the provision of noise diaries and recording devices. The responsive approach has proved successful with officers working with both the landowners and complaints to resolve issues through measures such as strengthening guest selection criteria, not allowing leavers, hens or bucks parties, and the provision of clear regulations to guests.

Where a complaint relates to parking of vehicles, contact details for the City Rangers are provided in order to enable Rangers to respond at the time of any further reoccurrences.

Council's approach to holiday homes is proposed to be formalised under draft Local Planning Scheme No. 12 which was adopted by Council for the purposes of advertising in January 2018. Under the draft Scheme, Holiday Houses are listed as a 'permitted use' in all zones where a dwelling is permitted, meaning no development approval will be required to use a dwelling as a holiday house.

Alternative Responses in Western Australia

In Western Australia some guidance on Holiday Homes is provided by the Department of Planning, Land and Heritage (DPLH) in the form of Planning Bulletin 99 – Holiday Homes Guidance. Planning Bulletins are prepared by the Department in order to provide advice on legislation, planning practice and policy positions of the WAPC but do not have any statutory powers.

The Planning Bulletin, released in 2009, provides guidance on the considerations that may be relevant to the approval of a holiday home (amenity, building standard), and conditions that may be included on an approval (Management Plan, Fire and Emergency Response Plan, approval periods), however it is left to Local Governments through their schemes to determine whether an approval is required.

This Bulletin is however considered outdated, as there are inconsistencies between definitions provided within the Bulletin and definitions listed within the Model Provisions for Local Planning Scheme, introduced within 2015.

Planning Bulletin 99 suggests Holiday Homes be divided into two categories, standard and large, with standard holiday homes catering for up to 6 people, and large holiday homes catering for between 6 and 12 people. The Model Provisions for Local Planning Schemes defines a holiday house as a "single dwelling on one lot used to provide short-term accommodation, but does not include a bed and breakfast".

The Minister for Planning has recently supported an inquiry into the level of regulation of short-stay accommodation. The Economics and Industry Standing Committee will inquire into and report on matters relating to the regulation of short-stay accommodation in Western Australia, with particular reference to:

1. The forms and regulatory status of short-stay accommodation providers in regional and metropolitan Western Australia, including existing powers available to local government authorities;
2. The changing market and social dynamics in the short-stay accommodation sector;
3. Issues in the short-stay accommodation sector, particularly associated with emerging business models utilising online booking platforms;
4. Approaches within Australian and international jurisdictions to ensure the appropriate regulation of short-stay accommodation.

The Committee will report to the House by 27 June 2019 and have invited submissions by 25 January 2019. It is expected that the above references will cover issues such as customer safety, insurance, land use planning, building standards, stay length, neighbourhood amenity, registration, licensing and taxation.

A review of the approaches taken by Local Governments in WA has shown requirements for Holiday Homes varies significantly between Local Governments. These include:

- Development Approval Required

The Shire of Augusta Margaret River's Local Planning Scheme reflects the definitions provided within Planning Bulletin 99, requiring development approval for Holiday Houses and Holiday Houses (Large). A local planning policy provides further guidance on the approval requirements for holiday houses and includes locational requirements for Holiday House (Large) to ensure holiday houses catering for more

than 6 guests are located in coastal settlements; in an area identified within the Margaret River townsite, within 50m of a Village Centre zone or on properties greater than 1ha in size.

The local planning policy further specifies that each holiday house shall have one parking bay per bedroom available and have a maximum capacity determined by two guests per bedroom.

A Bushfire Management Plan for holiday houses outside of a residential built up area, and a management plan detailing house rules applicable to the site and identifying a 'property manager' that permanently resides within a 35 minute drive from the site are required to accompany a development application.

Holiday homes are subject to an annual renewal and holiday houses who have received verified complaints relating to impact on amenity are unlikely to retain approval. It should be noted that within the Shire of Augusta Margaret River, changing the use of a dwelling to a 'Holiday House' affects the rating of the property, with properties used for 'Holiday Houses' being rated for commercial purposes.

The Shire of Manjimup defines a holiday house as "a dwelling together with its associated outbuildings designed primarily has a dwelling house for permanent residential purposes whether or not occupied periodically as such and used, whether or not for commercial gain or reward, from time to time for unsupervised, short stay accommodation purposes excluding people that are members of the owners family but include all people where the owner is a company".

A comprehensive Local Planning Policy provides further guidance on the approval of holiday houses and requires a detailed management plan and emergency response plan to be provided. These plans are required to include scaled floor plans, maximum number of guests, location of car parking, method of booking, the provision of a local manager including contact details, cleaning and servicing arrangements, location and type of smoke alarms and information to be provided to guests including firefighting equipment, emergency service numbers, location of nearest hospital and evacuation plans. Approvals are subject to an annual renewal.

- **Development Approval and Compliance with Local Law Required**

Some Local Governments such as the City of Fremantle and City of Busselton, require both a development approval and registration under a local law.

In both local governments, the local law requires registration and annual renewal of all dwellings used for short stay accommodation. Key features of Fremantle's local law are:

- A house made available for short stay accommodation (defined as accommodation for not more than six occupants for no more than three consecutive months) must be registered with the City of Fremantle. In the application for registration the operator of the accommodation must include the name and contact details for the manager of the accommodation who must be contactable 24/7, and must give an undertaking to respond to any contact regarding the accommodation within 12 hours.
- The property being registered must have at least one on-site parking space (unless the registration is for accommodation for four or less occupants).
- Bookings for any short stay accommodation must be for a minimum stay of two consecutive nights (this is intended to deter the booking of this type of accommodation for use as a one-night 'party house').

Within the City of Busselton's Local Law, designated areas in which Holiday Homes are 'preferred' are identified including more coastal portions of the City, rural residential areas and where existing Holiday Homes were located. Holiday Homes are also encouraged in areas of high tourist amenity. Holiday homes that are used by families or are for personal use do not require consent. The City of Busselton's Local Law was designed for the City to monitor complaints and the owner's responsiveness and

therefore if a holiday home was the source of continual complaint and appropriate action is not taken by the owner the City may exercise its option to decline approval of the annual registration.

The City of Busselton Local Law has been designed to complement the role of the Police, who remain responsible for excessive noise, reckless behaviour or threatening behaviour whether this occurs day or night.

For reference, the City of Busselton currently has 1001 AirBnB listings, making up 5.4% of its total housing stock, compared to the City of Mandurah's 131 listings (0.3% of housing stock).

Interstate Responses

In 2016, the NSW Legislative Assembly Committee on Environment and Planning conducted an inquiry into the adequacy of regulation for short-term holiday letting in New South Wales. The recommendations of the parliamentary enquiry included a recommendation to exempt the short term letting of empty dwellings from the need to obtain approval where the development does not exceed applicable impact thresholds. The enquiry suggested impact thresholds could be determined by individual local governments.

Key findings of the parliamentary enquiry included:

- There is generally a low level of complaints concerning short term letting however given the continuing growth of short term letting, there is potential for more complaints.
- Complaints about the impacts of short term letting on the quiet enjoyment of adjoining properties are real and serious, and can be addressed through the existing regulatory framework.
- Subject to appropriate definitions and conditions, short term letting should be regarded as a residential use and as such, should not trigger any Building Code of Australia requirements.

Following the findings of the parliamentary enquiry, an options paper was released by the NSW Government for public consultation. In June 2018 the NSW Minister for Planning and Housing announced new planning rules for holiday houses which would:

- Provide a single definition for the use
- Exempt the use from approval where a host is present on site;
- Exempt the use from approval where a host is not present on site, and the house is leased for no more than 180 days per year within Greater Sydney or 365 days in the remainder of NSW.

Councils outside of Greater Sydney will be able to decrease, through their local environmental plans, the 365 day threshold to no lower than 180 days per year.

A mandatory Code of Conduct for holiday homes will be introduced that will apply to anyone involved in or using short term holiday houses which will be administered by the State Department of Finance, Services and Innovation.

In South Australia, an Advisory Notice was issued in March 2016 to clarify whether changes to the nature and/or extent of the occupation of a dwelling would constitute a change in use for the purposes of the Development Act 1993 and the Development Regulations 2008. In South Australia, the Act and Regulations make no reference to:

- The length of time a dwelling is occupied or the frequency with which occupation occurs;
- Any short or long term leasing or mutually agreed occupation arrangement/s;
- Platforms or tools used to facilitate and coordinate occupancy/rental; or
- Change in ownership arrangements.

Accordingly, the Advisory notice clarified that a dwelling would remain a dwelling even if it is occupied sporadically; let out during holiday periods to short term occupants; let for short term use; or if the owner lives overseas or interstate and uses it occasionally and then for relatively short periods. Therefore no

additional approval than that required to construct a dwelling is required for the use of a home as a holiday house.

In Tasmania, the use of a dwelling as a holiday house is exempt from the need to obtain development approval only when:

- The dwelling is used by the owner or occupier as their main place of residence, and only let while the owner or occupier is on vacation or temporarily absent; or
- The dwelling is used by the owner or occupier as their main place of residence, and visitors are accommodated in not more than 4 bedrooms.

The University of Sydney recently conducted a study on the planning responses to online short-term holiday rental platforms in Australia. The study found that State planning laws are generally inadequate in providing guidance to local government and recommended that:

- State planning laws should provide a standard definition of holiday rental accommodation and/or enable local councils to develop their own definitions for local planning schemes; and
- Once the use is defined, other planning provisions for regulating holiday rental accommodation should be made on an 'opt in' basis, determined by local councils in response to their specific local contexts and concerns.

The study also found that the need for regulation varied between local governments as the risk of impacts caused by holiday homes in residential areas varied dependant on the typology of the community. For example localities where there is an established tourist accommodation sector; where the local market is characterised by stable or falling demand; or where tourism is generally limited to a few peak periods, online rentals present minimal risk. Conversely, online rentals within closely settled communities, areas subject to high bushfire risk or low environmental capacity, present much greater issues that will likely require a strong regulatory approach.

City of Mandurah Actions

Following investigations into alternative regulatory options for addressing holiday homes, officers remain of the view that the need for an approval to use a dwelling as either a long-term rental, a short-term rental, or a permanent owner occupied residence, should not need an additional approval beyond the original approval to build the dwelling at this stage.

At the present time, the existing approach to holiday homes, in that that are exempt from the need to obtain development approval under the Local Planning Schemes should continue. This option does not preclude strata developments prohibiting the use through their own strata bylaws.

However, it is recognised that improvements to the current 'responsive action' approach can be undertaken.

Education is a key component of the responsive approach and can be used to educate home owners of their obligations under relevant legislation as well as adjoining neighbours of the avenues available should issues arise. Additional information, particularly through the website provides opportunities for the public to be aware of the City of Mandurah's roles in managing holiday homes.

The City has previously produced a 'Holiday Homes' brochure which was distributed to known holiday homes in 2015. It is proposed that should Council resolve to continue with the responsive approach, a re-education campaign be undertaken on an annual basis prior to the commencement of the peak holiday period. It is suggested this campaign would include:

- Reviewing on-line platforms in November and May (either side of the holiday period) of each year to update the City's list of holiday homes;

- Preparing an information pack for home owners outlining obligations under the Environmental Protection (Noise) Regulations 1997 (relating to noise), Building Regulations 2012 (relating to smoke alarms) and the City's Parking and Parking Facilities Local Law to provide advice on recommended information to be provided to guests, and linking home owners to resources available including current industry organisations and voluntary codes of conduct;
- Sending out copies of the City's Holiday Homes Complaint Handling Procedures brochure to adjoining residents of known holiday homes.
- Establishing additional data capture options with the Customer Request Management system in conjunction with the new Enterprise System; and
- Ongoing dialogue and consultation with local police with regard to holiday homes in Mandurah.

In addition to the above, it is recommended that an audit process be established to ensure all identified holiday homes comply with the requirements of the Building Regulations 2012 in regards to the provision of smoke alarms.

Statutory Environment

- Town Planning Scheme No. 3
- Planning Bulletin 99 – Holiday Home Guidelines (Sept 2009)
- Public Health Act 2016

At its meeting held on the 8 August 2017, Council formalised its approach to holiday homes consistent with the 'Responsive Action' approach, by determining in accordance with Clause 3.2.3 of the Scheme, that Holiday Homes are an unlisted use, and that they are consistent with the objectives of the zones in which they are located, and therefore, as a 'permitted (P)' use, are exempt from development approval in the Scheme.

Policy Implications

Should Council resolve to adopt a more regulatory approach to holiday homes, it is recommended that a local planning policy be prepared to clarify the application requirements for a holiday home, the criteria against which an application will be assessed and ongoing conditions that will be applied.

Local planning policies are prepared under Division 2 of the Deemed Provisions for Local Planning Schemes.

Risk Implications

The Minister for Planning has recently provided support for an inquiry into the level of regulation of short-stay accommodation. The Economics and Industry Standing Committee has resolved to investigate and report on the adequacy of the regulation of short term holiday letting in Western Australia, covering issues including customer safety, insurance, land use planning, building standards, stay length, neighbourhood amenity, registration, licensing and taxation.

Dependant on the outcomes of this enquiry, Council may be required to modify its approach to holiday homes.

Economic Implications

The tourism industry is important to Mandurah and holiday homes are a key component of the tourism accommodation available within the region. Increased regulation will add costs to this component of the

industry. The Australian Hotels Associations (WA) branch do however argue that this would put holiday homes on a more equal playing field with existing commercial operations.

Should Council adopt a more regulatory approach, there are cost implications with the processing and assessment of applications for holiday homes, along with ongoing monitoring and compliance of holiday home approvals. The benefits of adding more regulation to holiday homes will need to be weighed against these costs.

Strategic Implications

The following strategies from the *City of Mandurah Strategic Community Plan 2017 – 2037* are relevant to this report:

Social:

- Help build our community's confidence in Mandurah as a safe and secure city.
- Provide a range of social, recreational, entertainment and learning experiences for our residents and visitors.

Economic:

- Develop a strong and sustainable tourism industry.

Identity:

- Encourage active community participation and engagement.
- Promote Mandurah's identity as a unique regional city, based on its waterways, history and future vision.

Organisational Excellence:

- Demonstrate regional leadership and advocacy.
- Listen to and engage with our community.

Conclusion

The rise in online platforms such as AirBnb, has increased the ease in which dwellings within residential areas can be leased as short term accommodation. Whilst short term renting of holiday homes has long been a feature of coastal tourism, including within Mandurah, the potential impacts of short term rentals on the amenity of the surrounding neighbourhood should not be dismissed.

Since 2015, the City of Mandurah has adopted a 'responsive approach' to dealing with impacts arising from holiday houses, with complaints received against known holiday homes being dealt with as a high priority. Legislation such as the Environmental Protection (Noise) Regulations 1997 and the City of Mandurah's Parking and Parking Facilities Local Law can be enforced by officers where necessary to address complaints received.

Known holiday houses currently make up 0.3% of the total housing stock within Mandurah, and were the source of 1% of the total noise complaints made to the City between December 2017 and April 2018.

In light of these figures, officers remain of the view that the need for an approval to use a dwelling as either a long-term rental, a short-term rental, or a permanent owner occupied residence, should not need an additional approval beyond the original approval to build the dwelling at this stage.

The 'responsive' approach to Holiday Homes is viewed to have been effective in managing issues arising from Holiday Homes, however Council has the opportunity of undertake a more proactive role in informing owners of holiday homes of their obligations under relevant legislation. It is therefore recommended that a re-education campaign be conducted to ensure all owners of known holiday homes are advised of their obligations and for this campaign to be rolled out annually prior to the commencement of the peak holiday period.

It is noted that the outcomes of the announced Parliamentary Inquiry into the regulation of Holiday Homes may require modifications to Council's approach in the future. Should this occur, a further report will be presented to Council.

It is further recommended that Council endorse this report as the basis for a submission to the Parliamentary Inquiry.

NOTE:

- Refer **Attachment 1** *Holiday Homes Complaint Handling Procedure*

RECOMMENDATION

That Council:

1. **Reiterates its 'responsive' approach to Holiday Homes as an effective means of managing issues arising from Holiday Homes.**
2. **Request officers continue to maintain and review on a bi-annual basis, a list of known holiday homes.**
3. **Request officers undertake a re-education campaign to ensure all owners of holiday homes are:**
 - 3.1. **Advised of obligations under the Environmental Protection (Noise) Regulations 1997, Building Regulations 2012, and City of Mandurah Local Laws;**
 - 3.2. **Advised of the City's complaint handling procedure with regards to Holiday Homes;**
 - 3.3. **Provided with an information pack detailing recommended management practices;**
 - 3.4. **Update communications material on the City's website to provide relevant information for prospective holiday home operators for individual dwellings and those within strata developments and**
 - 3.5. **Liaise with the local police with respect to dealing with the noise and anti-social behaviour relating to Holiday Homes .**
4. **Request officers notify adjoining neighbours of known holiday homes of the City's Complaint Handling Procedure and ensure website information is updated accordingly.**
5. **Request officers develop an audit process for identified holiday homes to ensure compliance with the Building Regulations 2012.**
6. **Endorse this report as the basis for a submission to the Parliamentary Inquiry into the adequacy of regulation of short term letting in WA.**

Parking

The majority of Holiday Homes provide sufficient on-site parking however occasionally, parking may occur outside of the property boundary. Should you experience issues associated with parking, you are advised to contact the City on **9550 3777** or **council@mandurah.wa.gov.au**. The complaint will be referred to the City's Ranger Services Section who monitor parking throughout the city.

Please advise if you suspect the property as being a holiday home as this assists in making the owner of the property aware of the situation and seek their assistance.

Rubbish Disposal

Domestic waste should not be placed in public litter bins and the duty of care to dispose of waste appropriately lies with guests of Holiday Homes and/or the property manager.

The City's Ranger Services enforce the Litter Act 1979 in the district and penalties apply if litter is not disposed of appropriately. The City has other local laws relating to the appropriate filling and presentation of bins. Should you experience issues in association with litter and waste disposal, please contact the City on **9550 3777** or **council@mandurah.wa.gov.au**

Please advise if you suspect the property of being a holiday home as this will assist in early notification to the property owner to seek their assistance in resolving the issue.



City of Mandurah
3 Peel Street,
Mandurah WA 6210

Phone: 9550 3777

Email: council@mandurah.wa.gov.au
www.mandurah.wa.gov.au



Holiday Homes Complaint Handling Procedure



Introduction

The City of Mandurah has adopted a 'Responsive Approach' in dealing with complaints that relate specifically to properties that are being operated as Holiday Homes.

The City recognises Holiday Homes as playing a part in supporting the tourist industry in Mandurah, and encourages well managed Holiday Homes for short-term visitors that will enhance the tourism experience while minimising potential impacts on adjoining residents.

Unfortunately however, it is acknowledged that the behaviour of guests staying in such accommodation may give rise to issues which impact on the amenity of adjacent residents, and this brochure therefore provides information relating to the procedures to follow should such a complaint arise.



Commitment to successfully resolving disputes

The City of Mandurah takes complaints very seriously and through the Service Charter we will ensure that:

- You are dealt with by professional City Officers, identifiable through their general appearance and/or greeting.
- Your enquiry will be handled in a professional, polite, respectful and attentive manner at all times.
- Your issues and matters will be dealt with by the appropriate City Officer in a timely manner.
- We will communicate in clear and concise English language that is easily understood.

Dealing with your complaint - who to contact and when to contact them

Antisocial Behaviour

If your complaint relates to anti-social, dangerous or threatening behaviour, you should contact Mandurah Police on **131 444** and for urgent situations **000**. The City would appreciate being notified of any concerns of antisocial behaviour with holiday homes so the owner can be contacted.

Noise

Should noise be related to party's or excessive late night noise such as stereo's, calls should be referred to the Police on **13 444** however it is also requested that the City of Mandurah be advised on **9550 3777** or council@mandurah.wa.gov.au.

The City will arrange for the installation of a recording device as soon as possible and also contact the owner of the property to seek their action in resolving the issue.

Other noise concerns should also be notified to the City of Mandurah on the above number.

In advising of your complaint please advise the City if you suspect the property is a holiday home.



3	SUBJECT:	City Centre Project Framework
	CONTACT OFFICER/S:	Tony Free
	AUTHOR:	Marzel Norton

Summary

At its meeting of 28 November 2017, Council resolved to support for the establishment of a City Centre business unit to focus on the development and activation of Mandurah's City Centre.

The City Centre project team phased in its commencement since earlier in 2018 with a focus on the City Centre Waterfront project, its Community Reference Group and the implementation of Winter Wonderland 2018. A primary focus for the team was to also engage internally and externally to develop a preliminary framework to identify its overall vision, objective, focus areas, activities and measures.

This report outlines the process and the final framework for Council consideration and an overview of the 2018/19 projects.

Disclosure of Interest

Nil

Previous Relevant Documentation

- G.22/11/17 28 November 2017 Council resolved to establish of a separate business unit for the City Centre

Background

In November 2017, Council adopted a Notice of Motion requesting two actions:

- 1) *That the Chief Executive Officer to establish a business unit with a focus on "the development and activation of Mandurah's city centre".*
- 2) *That the Strategic Committee establish a City Centre Redevelopment Advisory Group made up of Elected Members and key community stakeholders, to advise Council on the future strategic activation and redevelopment opportunities.*

The framework and this report contributes to point one of the Notice of Motion, with point two to be set up later in 2019 as the more strategic elements commence its planning phase.

A vibrant, connected and culturally enriching City Centre is a key part of ensuring Mandurah's future social and economic success.

Item one of this motion seeks to establish a multi-disciplinary business unit charged with short term activation and long term redevelopment of our City Centre. This unit will harness the expertise and talent of our organisation, and focus that capacity to deliver tangible outcomes in facilitating and enabling our community to reshape their City Centre, both physically and experientially.

Item two of this motion ensures broad thinking and a cross section of our community is actively engaged in this task, and is in line with the City's Community Engagement agenda.

The Council resolution creates an important framework for enabling Council to effectively lead change in reshaping our City's narrative and reputation, and will play a pivotal role in delivering tangible outcomes to build confidence, create opportunities for our residents, and ultimately assist in ensuring a strong and prosperous future for Mandurah.

Comment

In order to develop the City Centre Project Framework, the following process was undertaken:

- Establish local context
 - Review of relevant Peel and Mandurah strategic directions
 - Review current business priorities, needs and synergies
 - Identify internal priorities, needs and synergies
- Review and identify successful models of Activation Plans and Operational teams

Establishing local context involved discussions with:

- Mandurah and Peel Tourism Organisation (MAPTO)
- Peel Chamber of Commerce and Industry (PCCI)
- Employment Facilitator (federally funded program)
- Peel Development Commission
- Local City Centre Businesses and property owners
- Internal discussions

Findings – Local Context

A number of documents were also considered, including the MAPTO Research Findings, PCCI's survey results, the City's Community Perception Survey 2018, The City Centre Place Activation Initiatives (2015), The City's City Centre Activation Strategy 2013-2017 and Economic Development Units working documents. A number of reoccurring themes emerged, these are displayed in the below table.

Opportunities	Challenges
<ul style="list-style-type: none"> - Tourism investment and attraction targeting: <ul style="list-style-type: none"> • Waterways activation • Waterways science • Infrastructure and business/product mix that supports the development of the City Centre as a day tripper destination - Supporting aspiration: Growing group of motivated business owners and community members that want to be a part of shaping Mandurah's future and perception - Some interest from property owners to commence planning 	<ul style="list-style-type: none"> - Residents do not recommend Mandurah to friends and family living outside Mandurah - Resident and business concerns: perception of safety within the City Centre Precinct area - Not enough product offer and diversity of product for day and night - Customer Service improvements - Visitation numbers/foot traffic - Length of stay: initial need to increase from 2hr visit to day visit - Some concerns and lack of confidence in the City Centre's ability to be an active commercial hub

In addition to the above, the local context review and engagement process identified three key age groups to target in the initial phase. The reasoning is outlined below:

	Current situation	Desired outcome through targeting
20-29 yrs	<ul style="list-style-type: none"> - untapped entrepreneurial thinking group of emerging influencers - minimal day and night activities target at this age bracket - potential business owners - targeted two-way communication 	<ul style="list-style-type: none"> - more young business owners operating within the City Centre - increased age group consumer activity from relevant attractions and entertainment - more businesses, activations and spaces with youthful vibrancy

	Current situation	Desired outcome through targeting
30-39 yrs	<ul style="list-style-type: none"> - targeted two-way communication - current business owners with capacity and/or interest in trying new things 	<ul style="list-style-type: none"> - increased age group consumer activity from relevant attractions and entertainment - engaged business owners trialling new products and/or enterprises
40-50 yrs	<ul style="list-style-type: none"> - targeted two-way communication 	<ul style="list-style-type: none"> - increased age group consumer activity from relevant attractions and entertainment

At a regional level Tourism Investment has an elevated priority with a focus on initiatives that boost visitation numbers and attract diverse business operators. The overarching goal to cement a strong day tripper experience and over time grow the length of stay of visitors in Mandurah.

There are also federal funds available for Mandurah projects that align with addressing long term unemployment. There is the possibility to attract partners or facilitate projects to attract funds into the City Centre.

At a local level though there are some concerns about the City Centre's ability to become a vibrant commercial hub, the recent infrastructure projects (City Centre Waterfront and Smart Street Mall) has been positively received by business and property owners to date. There is potential to leverage this interest with further work and conversations with business and property owners.

Findings – Redevelopment, Revitalisation and Activation Plans

Numerous local government plans relating to improving City Centre outcomes were reviewed, including the City's City Centre Activation Strategy and the Shape Mandurah – City Centre Activation Initiatives Report (2015).

The City of Mandurah documents highlight that a number of initiatives with individual successes. The overall goal of improving the retail and entertainment experience in Mandurah has had slow progress, mainly due to three limitations:

- Echoes of the impact of the Global Financial Crisis, including low business and property owner confidence to trial and partner on initiatives.
- Growth of wages
- Ongoing and increasing day time anti-social behaviours within some parts of the City Centre, impacting on consumer and business confidence.
- City budget limitations for trialling new initiatives

The formation of Shape Mandurah, based on the 'Town Team' model which are volunteer based community members with a focus on revitalising City Centres, has instigated small scale activations including murals. Shape projects have instigated creative and passionate individuals to build relationships and work together. Its key success to date is its presence and social media interaction. The group is becoming a 'magnet' to drawing out emerging leaders with the capability to deliver creative initiatives. This group is still developing skills and growing membership, however creative thinkers are reaching out and meeting with them due to their profile providing further opportunities for the City of Mandurah to link into community resources.

Finally, other local government plans relating to activation, revitalisation or redevelopment had a number of consistent themes. Many of these helped shaped the City's framework and these are outlined below.

1. Visions are based on creating a City Centre that is memorable, enhances human experience, and develops a thriving economy
2. Focus areas repeatedly have the following four areas:
 - Identity / Character
 - Connection / Movement

- Investment (attraction)
 - Activity (events, activation programs)
3. Structures for activity delivery included short and long term, practical and aspirational strategies and projects, such as:
- Aspirational Goals
 - Quick Wins
 - Detailed Action Plans

Based on the conversations and review of relevant documentation, The City Centre Framework (see Attachment 1) established its Vision (The Why), key Objective and four focus areas. The framework also outlines the delivery model (The Model) to explain its approach to implementing the framework's goals.

The Framework also outlines its approach to deliver as incorporating a 'Place Management' model. The benefits of this model involve:

- Improved outcomes via a geographical focus
- Focusing on utilising cross-disciplinary teams within the organisation and the engagement and contributions of private, public and voluntary organisations.
- Maximising the effectiveness of a location for its users, whether they are residents, shoppers, tourists, investors, property developers or business owners.

The delivery is centred on the actualisation of current assets and for this reason maximising business-led initiatives and business contributions and investment influence the projects that the City target. Project teams of different City business units depending on the project are also core to the implementation of the framework and its outcomes.

In order to maximise business-led initiatives, a commitment to supporting innovation and innovative thinking is recommended. It is for this reason a framework and not a strategy or detailed implementation plan was developed. This style to delivery will enable responsive testing and trialling of suitable projects and concepts. To support this style of operation and to ensure learnings and adopted promptly for continual improvement, an Action Research process will be adopted which include project evaluations as well as overall framework reviews.

Priority areas for year 1 were established based on two key factors:

- a) Locations of ongoing concern
- b) The capacity and willingness of businesses to engage in year 1.

These priority locations are:

- City Centre (for Activation Trials)
 - Mandurah Terrace
 - Smart Street Mall
 - Tuckey's Lane
 - Tuckey/Sholl Street Courtyard
- Eastern & Western Foreshore
 - Infrastructure planning and funding

In order to identify and work with businesses on 2018/19 projects the following simple initial 'Year 1 selection criteria for trial projects' was utilised:

- Within a priority area
- Business owner and/or land owner cash contribution at least 50 per cent for project cost
- Addresses a City Centre Framework Focus Area

Key 2018/19 projects that are currently underway:

- Winter Wonderland (delivered)
- Major event business-led activations e.g. Winter Wonderland and 'Top of the Terrace' in APES Games.
- Alfresco development Business Partnerships

- City Centre Waterfront and Smart Street Mall Infrastructure Project Planning and Funding
- Night time Security Foot patrols

Key 2018/19 projects that are in the initial planning phase are:

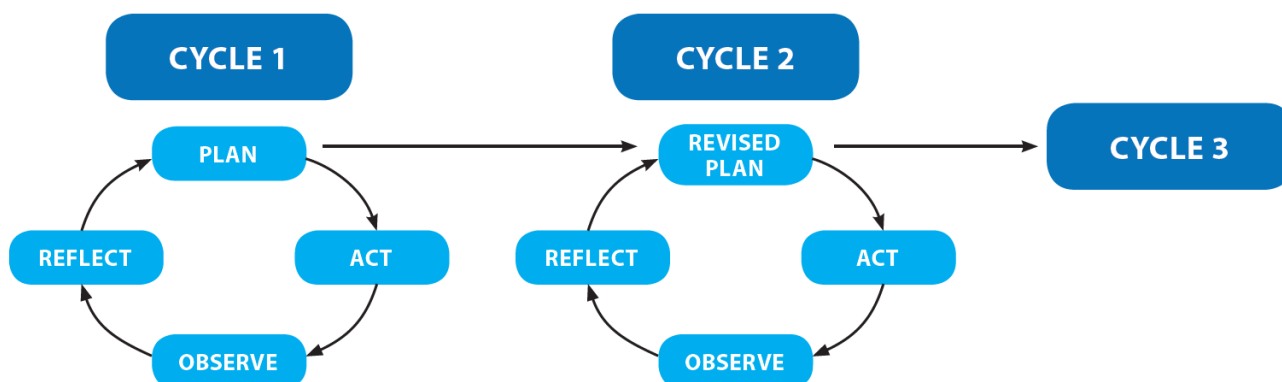
- Local 'influencers' development
- Pop up trials
- Property owners/management engagement
- Shape Mandurah partnership development
- Smart Street Activation Plan
- Produce Market/Market development (research phase)

Projects currently underway involve contributions from 7 businesses and 2 land owners with estimated contributions committed by businesses to date are \$75,000 (Winter Wonderland Activation and Alfresco Projects).

Evaluation and Measurements

To assess the progress and benefits of the activities delivered via the City Centre project team, an action research process is proposed. This method is beneficial in situations where exploration and trialling is desired. It provides flexibility to shift and change quicker, while providing a review process to assess how well initiatives are meeting outcomes.

The action research method is depicted below. The Framework is intended to go through a cycle every 12 months, providing a more refined plan and activities each year.



Planning for Cycle 1 occurred via the stakeholder engagement and review of relevant documents and examples. The projects for the 'Act' phase of Cycle 1 has commenced, with remaining projects outlined above. The Observe and Reflect phase has and will continue to include stakeholder debrief sessions (community, traders and City staff) and surveys. These are reviewed and collated by the City Centre team and presented to Council (e.g. Winter Wonderland Report in October 2018).

Guiding the Review and Reflect phases is the Theory of Change evaluation framework. Theory of Change essentially maps out the pathway to change. As you can see below the City Centre's Theory of Change 'Snapshot' outlines the current situation and the desired long term impact that will be measured. It also identifies the key outcomes that will drive the change.

Consultation

Stakeholders engaged in one-on-one meetings regarding Framework Development:

- MAPTO
- Peel Chamber of Commerce and Industry
- Employment Facilitator (Federally funded program)
- 24 local businesses operating within the City Centre Precinct (online/mobile and shop front businesses)

Statutory Environment

Nil

Policy Implications

Nil

Economic Implications

The proposed 2018/19 projects outlined within the framework (Attachment 1) are within the allocated City Centre budget allocation of \$400,000.

City funds will also be used to leverage business contributions with projects such as the Alfresco Trials requiring at least dollar for dollar investment by businesses. Estimated contributions by businesses to date are \$75,000 (Winter Wonderland Activation and Alfresco Projects).

The City Centre Night Patrols will also generate an income via parking enforcement role and business contributions to the Taxi Rank guard. Income amounts to be reported back to Council as part of the project evaluation.

Risk Analysis

The risks associated with the City Centre project include:

- General lack of consumer spending,
- Competition from other sources for the leisure dollar,
- The City Centre as a destination not currently embraced by the Mandurah Community.

Strategic Implications

The following strategies from the *City of Mandurah Strategic Community Plan 2017 – 2037* are relevant to this report:

Social:

- Help build our community's confidence in Mandurah as a safe and secure city
- Provide a range of social, recreational, entertainment and learning experiences for our residents and visitors.

Identity:

- Become known as a city and destination for events, arts, heritage and culture

Organisational Excellence:

- Listen to and engage with our community

Conclusion

As a result of the Council resolution November 2017, the formation of a City Centre project team commenced in 2018. A framework has now been established to guide and measure the outcomes and activities of the team over the next 12 months to 4 years.

NOTE:

- Refer **Attachment 1 City Centre Project Framework**

Subject to Committee's consent, officers will make a presentation on this item at the meeting.

RECOMMENDATION

That Council:

- 1. Endorses the City Centre Framework**
- 2. Acknowledges the 2018/19 projects and activities**

City Centre Project Framework



The Why

To reinvigorate the City Centre as *Mandjoogoordap*, the meeting place of the heart.

A lovable, social place that showcases the best of Mandurah, its people and businesses.

The Objective

To attract and support a vibrant and sustainable City Centre business and creative economy.

No need to plan: *Relaxing by day; entertaining by night*

An iconic, sociable City Centre that people love to use day and night

The Focus Areas

1. Iconic City Centre Identity
2. Linger Longer - Day
3. Linger Longer - Evening
4. Grow Business investment in the City Centre

The Target Groups

Three key target groups to be considered for the purposes of marketing and communication, champions and/or influencers, activation events and business-led initiatives are Mandurah residents aged:

- 20-29 yrs
- 30-39 yrs
- 40-50 yrs



Precinct Areas

- Mandurah Ocean Marina
- Civic and Cultural Precinct
- City Centre
- Eastern Foreshore
- Western Foreshore

Year 1 priority areas:

City Centre

- Mandurah Tce
- Smart Street Mall
- Tuckey's Lane
- Tuckey/Sholl Street Courtyard

Eastern & Western Foreshore

- Planning and funding

Note: City Centre Priority areas were selected factoring in:

- a) Locations of ongoing concern
- b) The capacity and willingness of businesses to engage in year 1

The Model

The Place Management Model

- Place management is the process that focuses on improving outcomes in a specific geographical area.
- Organisations structure operations to facilitate a 'place-based delivery model'
- Delivery involves cross-disciplinary teams within the organisation and the engagement and contributions of private, public and voluntary organisations
- The goal is to maximise the effectiveness of a location for its users, whether they are residents, shoppers, tourists, investors, property developers or business owners.

The City of Mandurah is trialling this model as a means to instigate simple, low risk partnerships that deliver benefits within the City Centre focus areas.

The Way We Work

The City Centre team includes:

- 2x Place Managers (Business engagement, business-led projects, cross-City coordination and liaison, evaluation and measurement)
- 1x City Centre Landscape Architect
- 1x Urban Designer

The team is cross-disciplinary, focused on creating a one-stop-shop to problem solving and streamlining processes that meet the City's Pillars of:

- Easiest Local Government in Australia to do business with

- Arriving at "YES" more often
- Empower the Community to be involved in and be part of the solution
- One Team – One Culture

Team focus on Business-led and business investment.

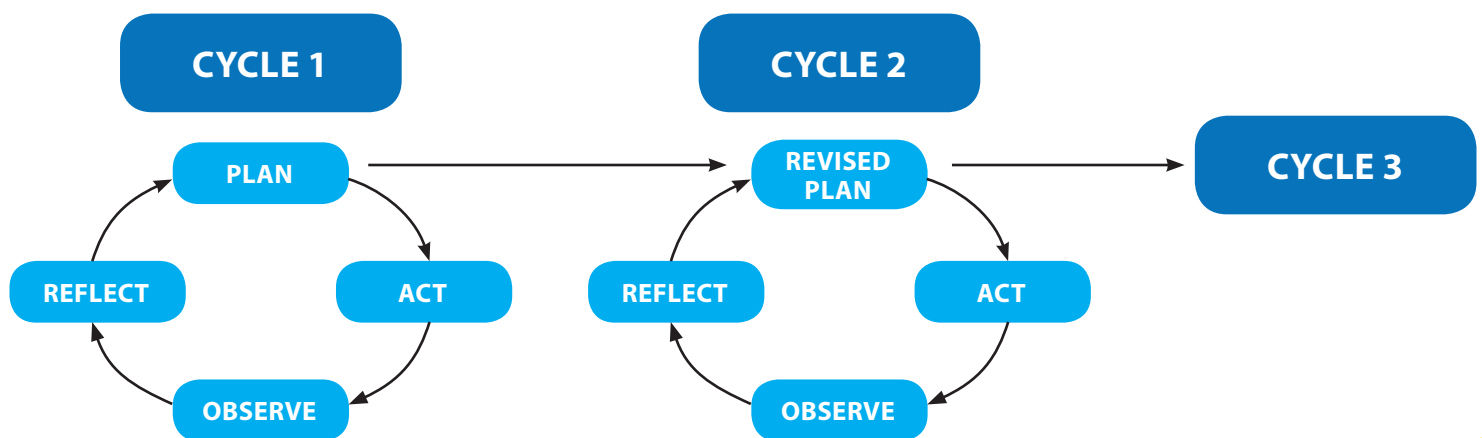
- The projects driven by the team target improving business engagement and increasing business-led projects.
- The team is also exploring the benefits of contributing funding to relevant projects where the investment from business and private sector are at least 50 per cent.

The City Centre Team's Action Research Process

Due to the rapid and trialling nature of the initial phase of the team, an Action Research process (below) is being undertaken to maximise the learnings and support adaptability for continual improvement. Evaluations and reviews forms part of this process and this will refine the criteria and structure for future initiatives.

Year 1 selection criteria for trial projects

- Within a priority area
- Business owner and/or land owner investment of at least 50 percent
- Addresses a City Centre Focus Area



The How – Steps to getting there

1

2

Iconic City Centre Identity		Linger Longer - Day For locals and visitors	
First 12 months Establish Identity <ol style="list-style-type: none"> 1. Identify and capture the views of community and business champions (building on the local legends work). 2. Establish a public recognisable City Centre identity based on the 'local legends' narrative. 	First 4 years Develop local advocacy <ol style="list-style-type: none"> 3. Integrated use and consistent communication of the City Centre identity by CoM and City Centre businesses (inc. Event promotion). 4. Build local and other online 'influencers' to share the Mandurah experience through their social networks. 	First 12 months Encourage business-led collaborations <ol style="list-style-type: none"> 1. Facilitate business-led activity at CoM events and other activation opportunities that build the day-tripper destination or after dark experience. 2. Support business-led and collaborative business initiatives in the City Centre that build the day-tripper destination. 3. Develop concepts and business case for 'Destination' level public infrastructure for \$10M State funded project 	First 4 years Encourage the growth of: <ul style="list-style-type: none"> • the Day Tripper 'offer' • visitation numbers • length of stay • investment by business in private spaces, inc shop facade and alfresco <ol style="list-style-type: none"> 4. Implement attraction initiatives to encourage local businesses and new businesses to set up and/or trial activities and shop fronts that are vibrant and inviting. 5. Attract and identify funds to develop the City Centre that provide 'Destination' level public space and infrastructure, including improved signage and connections.
2018/19 PROJECTS <ul style="list-style-type: none"> • Vision Project (shared outcomes) • MAPTO partnerships • Local 'influencers' development 		2018/19 PROJECTS <ul style="list-style-type: none"> • Shape Mandurah Partnership • Major Event Business-led Co-contributions • Alfresco Business Partnership trial (Cafés) • City Centre Waterfront Project • Produce Markets / markets 	

The How – Steps to getting there (cont.)

3

4

Linger Longer – Evening Inviting and active 3-11pm		Grow Business Investment in the City Centre	
First 12 months Provide a Safe & Inviting City Centre <ol style="list-style-type: none"> 1. Security, Ranger services and Police collectively support an safe after dark experience. 2. Utilise and support CoM events and activation activities to build activity 3-11pm. 3. Identify business-led opportunities that build after dark experience 	First 4 years Encourage the growth of: <ul style="list-style-type: none"> • Night Time Economy 'offer' • Visitation numbers • Length of stay between 3-11pm 4. Implement attraction strategies to encourage local businesses and new businesses to set up and/or trial after dark. 5. Continue to improve City Centre public space and infrastructure to support after dark events, safety and connections. 	First 12 months Quick wins and establishing relationships <ol style="list-style-type: none"> 1. Facilitate business-led activity at CoM events and other activation opportunities that build the day-tripper destination or after dark experience. 2. Establish relationships and communication with land/building owners of the City Centre. 3. Establish a relationship with City Centre property managers. 	First 4 years Grow investment by businesses via: <ul style="list-style-type: none"> • Supporting, streamlining and building capacity of City Centre Businesses; and • Attraction of unique businesses that add to a vibrant day or night City Centre experience. 4. Adopt a culture and work processes that streamlines activation activities and business initiatives and attraction. 5. Identify mutually beneficial projects with land and business owners. 6. Develop an Investment Attraction Prospectus (small and large commerce).

2018/19 PROJECTS

- Night time Patrol trial
- Alfresco Business Partnership trial (restaurants)
- Business-led Major Event Partnerships Evening Activations
- City Centre Waterfront Project

2018/19 PROJECTS

- Property Owners/ Managers Waterfront/City Centre meetings
- Business-led Projects in Linger Longer Day & Night
- Pop up Shop Trials

What success looks like – Theory of Change Snapshot

Current Situation

Residents, business owners and property owners have a low perception of the City Centre:

- Residents not promoting/recommending City Centre as a place to visit to friends and family
- Lack of diversity of food and retail offering
- Perceived issues with parking
- Ongoing safety concerns
- Reported lack of foot traffic and sales
- Lack of life and vibrancy during the day and night
- Signage and connection
- Property owner confidence is low (ie not (re) investing in their property)
- Business owners: Low appetite for risk to trial new initiatives (ie willingness to engage in City events and collaborative projects)

Desired Future (Long term impact)

A City Centre where:

- Residents are proud of and excited about their City Centre
- Residents recommend it as a place to visit to friends and family
- Businesses are investing/expanding their business
- Businesses are collaborating with others to test new ideas
- Property owners are investing in development projects
- Low business turn over
- Diversity in business mix during the day and night: retail, food/drink and office
- Diversity in activities and events within and around businesses including laneways and other public/private outdoor spaces during the day and night
- Engaged community, including artists and creatives contributing to activities in public and private outdoor spaces
- Attractive and vibrant alfresco spaces for the day and night

Resources

- Officer time
- Capital budget (infrastructure projects)
- Project budgets for activities

Activities

- Focus area projects (above)
E.g. Alfresco trial

Outcomes

1. Established City Centre Identity
2. Growth of:
 - local advocacy
 - business offer during the day and night
 - visitation numbers
 - length of stay
 - business and land owner investment
3. People reporting feeling safer in the City Centre
4. Internal streamlining: alfresco, parking, event activation and signage
5. Implementation of City Centre waterfront projects

Data sources

For example: Local advocacy (MAPTO survey); Visitation number and length of stay comparisons (Trendwise data); Investment amounts via property managers

4	SUBJECT:	Murdoch University Scholarships
	CONTACT OFFICER:	Tim Hartland
	AUTHOR:	Tim Hartland

Summary

Since 2005 the City has supported a number of scholarships in partnership with Murdoch University. In 2015 Council endorsed a three year agreement where four annual scholarships were supported, this agreement has now expired. This report seeks consideration from Council for entering into a new three year agreement which builds on the past success, extends support and increases opportunities.

Council approval is sought for three x \$4,000 a year rolling scholarships over three years of study, financially committing the City over five years, commencing in 2019 and resulting in nine students a year being funded at its peak.

It is recommended two scholarships would be available for any undergraduate course of study and one scholarship would be available for an Aboriginal student undertaking any course of study, each being for first year undergraduate students only and one of the three scholarships being awarded for a student studying at the Mandurah Campus only, with the remainder available for either Mandurah or South Street Campuses at the discretion of the selection panel.

Approval is also sought in support of funding Murdoch University's outreach activities for year 10 students to undertake an intensive Science, Technology, Engineering and Maths STEM four day workshop. The Murdoch University supported course is entitled the 'Conoco-Philips Science Experience' and would be available solely to students who reside in Mandurah and at a total cost of \$3,000 per annum over three years.

Disclosure of Interest

Nil

Previous Relevant Documentation

G. 15/09/15	22 September 2015	Council appointed a panel consisting of one Elected Member, one City Officer and one staff member representing the school of nursing at Murdoch University. Approved \$11,000 per annum for three years towards four scholarships (\$3,000 x 3, \$2000 x1).
SP.5/10/11	18 October 2011	Council appointed three elected members to the Murdoch University Scholarship Selection Panel.
SP.5/10/09	20 October 2009	Council appointed three elected members to the Murdoch University Scholarship Selection Panel.
SP.6/10/07	23 October 2007	Council appointed one elected member to the Murdoch University Scholarship Selection Panel.
G.47/4/07	17 April 2007	Council approved funding for two \$1,500 annual scholarships for Bachelor of Commerce and Bachelor of Science students enrolled at Murdoch University Peel Campus, and one \$2,000 annual grant for postgraduate research that would aid in the development of the community, environment or commerce in the Peel Region. Council appointed Councillor Wilson to the Murdoch University Scholarship Selection Panel.
G.18/9/05	20 September 2005	Council approved funding for two \$1,500 annual scholarships for Bachelor of Commerce and Bachelor of Science students enrolled

at Murdoch University Peel Campus, and one \$2000 annual grant for postgraduate research that would aid in the development of the community, environment or commerce in the Peel Region.

Background

At its 2015 meeting Council approved a three-year funding commitment to the '*City of Mandurah Undergraduate Nursing Scholarship*', providing \$11,000 per annum in 2016/17, 2017/18 and 2018/19. At this time Council approved two x \$3,000 undergraduate Nursing scholarships, one x Indigenous nursing student scholarship of \$3,000 plus one x \$2,000 undergraduate scholarship per year. Key information regarding the scholarships has been provided by Murdoch University as follows (2018 data):

- 29 City of Mandurah Scholarships awarded to date
- 131 Students live in Mandurah and are studying at Murdoch's Mandurah Campus
- 412 Students living in Mandurah and studying at Murdoch's South Street Campus
- 11 Students living in Mandurah and studying at Murdoch's Rockingham Campus
- 17 Aboriginal students living in Mandurah and studying at Murdoch University's Campuses (6 at the Mandurah Campus).

The scholarship amounts offered since 2015 have not increased, however the costs associated with studying have increased, with a three year Undergraduate degree costing from \$22,000.

Analysis of 2016 Census results regarding the qualifications of the population in Mandurah compared to Greater Perth shows that there was a lower proportion of people holding formal qualifications (Bachelor or higher degree; Advanced Diploma or Diploma; or Vocational qualifications), and a higher proportion of people with no formal qualifications.

Overall, 42.5% of the population aged 15 and over held educational qualifications, and 45.9% had no qualifications, compared with 51.7% and 38.1% respectively for Greater Perth.

The major differences between qualifications held by the population of Mandurah and Greater Perth were:

- A larger percentage of persons with No qualifications (45.9% compared to 38.1%)
- A larger percentage of persons with Vocational (24.8% compared to 19.4%)
- A smaller percentage of persons with Bachelor or Higher degrees (9.9% compared to 22.9%)
- A smaller percentage of persons with Advanced Diploma or Diplomas (7.7% compared to 9.3%)

The State Government's Peel Workforce Plan 2015-18 advises that, while the Peel is reasonably well serviced by primary and secondary education opportunities, in particular in the City of Mandurah, tertiary students in the region have limited course options and are faced with issues associated with public transport linkages. As a result, a significant number choose courses in the metropolitan areas. Murdoch University have approached the City seeking consideration of some changes to the scholarship make up and also introducing new funding for Year 10 students, to encourage pathways to University in STEM education.

Comment

The City has assisted a broad range of Mandurah students in attaining tertiary qualifications and employment since the introduction of scholarship support in 2005. It is recommended that the City continue its investment in the scholarship program from 2019 onwards and provide further opportunities for students to gain a tertiary education that for some may not have been possible and to also consider the next generation of students by supporting a Year 10 education program.

Scholarships Tertiary

There are three key changes to the scholarships makeup outlined in this report. Firstly opening up of the study content to encompass any undergraduate course (previously just nursing and leadership), secondly allowing local students who study at South Street Campus to be eligible for funding (partially supported) and thirdly awarding first year students the scholarships over three consecutive years.

Murdoch University have sought support to open up the scholarship criteria to all students residing in the Mandurah region but enrolled at any Murdoch University campus (South Street and Mandurah). The University advises that as of October 2018 there are currently 554 students residing in Mandurah enrolled at Murdoch University and of these 131 are living and studying in Mandurah. The focus of the scholarships have been to date on nursing, however by attracting students from other disciplines and raising aspirations of students, there will be a direct investment into the future potential of the community and region. While officers support opening this up to students from both campuses, the ongoing viability of the Mandurah campus is important, as such it is recommended that at least one of the three scholarships annually be offered solely to students studying at the Mandurah campus.

The scholarships have made a significant impact for local Murdoch University's students, with 28 of 29 scholarship recipients completing their qualifications or still studying. However the existing scholarships only support one of three years study, with many students undertaking their study citing that once support ended the increased fees placed significant financial hardship on them. Extending scholarship support to the entirety of a three year undergraduate degree qualification will mean certainty for students who have been assessed as meeting the criteria for financial hardship support. As such it is recommended the scholarship period be expanded from one to three years, continued eligibility will be reviewed each semester.

To track the City's investment and promote the partnership, Murdoch University will continue to offer the same benefits it has provided for past programs for the 2019-2021 Program. These include the following:

- An Annual report
- Awards Ceremony
- Marketing and Promotion of the Program
- Media coverage
- Management of the Program
- In-kind contributions and ongoing commitment

Scholarship eligibility criteria is as follows:

- Student must be an Australian citizen or permanent resident
- Student must be a current resident of the City of Mandurah
- Student must intending to enrol or be enrolled full-time in an Undergraduate degree at Murdoch University Peel Campus (One scholarship) or at any Murdoch Campus (Two scholarships)
- Undergraduate Scholarships - Student must demonstrate high academic achievement
- Aboriginal Scholarship - Student must be Aboriginal and a resident in the Mandurah community
- Student must be facing financial and/or personal hardship (e.g. Payslips, tax notice of assessment or Centrelink income statement).

Students will need to submit a personal statement that outlines personal or/and financial hardship, personal skills, examples of contributions made to the Mandurah community and why they would be a worthy recipient of the scholarship. Students will also need to submit a written reference from one or two people who are qualified to comment on their academic studies, including former employers, or appropriate members of the community who can verify their community involvement and/or leadership characteristics.

Murdoch University has advised that, of the Aboriginal undergraduate students currently enrolled across its campuses, 17 are currently enrolled at Peel Campus in a Nursing degree. The University advises that currently, the most popular fields of undergraduate study for indigenous students across its campuses are Nursing and Education.

The City's *Reconciliation Action Plan*, recommends that the City provide scholarship opportunities to support Aboriginal Nursing students. Specifically, it recommends that one Aboriginal-specific scholarship be offered annually, commencing in 2015.

Taking the RAP's recommendations into consideration, it is recommended that one annual undergraduate scholarship be awarded to an aboriginal student of any discipline, subject to the student fulfilling the necessary scholarship criteria.

Outreach STEM Year 10 support

STEM education is proven as a powerful driver of economic growth and in Australia, Chief Scientists are calling for STEM education to better engage students on STEM-related career pathways, especially at a high school level to inform ATAR (Year 11/12) subjects and improve career pathways into Tertiary studies. It is recommended that Council support annual funding support of \$3,000 per year for ten x Year 10 students who reside in Mandurah, to attend Murdoch Universities 'Conoco-Philips Science Experience' with a total commitment of \$9,000.

Murdoch University have also sought an additional \$1,000 annually which would be used to support lower socio-economic students wishing to attend other Murdoch aspirational events. Murdoch University cited the amount was sought to be utilised for bus hire to enable a local school cohort to attend an outreach activity (unspecified), or to support case-by-case transport needs. While this is no doubt a worthwhile activity, Officers feel this is outside of the scope of the funding discussions and considerations while developing a new three year agreement and as such is not supported. There is also no allocation in 2018/19 to support this activity.

Statutory Environment

N/A

Policy Implications

N/A

Economic Implications

\$4,000 per Scholarship	Year 1 (2019)	Year 2 (2020)	Year 3 (2021)	Year 4 (2022)	Year 5 (2023)	Total
3 Recipients 2019 Cohort	Y1 \$12,000 \$4,000 x 3 scholars	Y2 \$12,000 \$4,000 x 3 scholars	Y3 \$12,000 \$4,000 x 3 scholars			
3 Recipients 2020 Cohort		Y1 \$12,000 \$4,000 x 3 scholars	Y2 \$12,000 \$4,000 x 3 scholars	Y3 \$12,000 \$4,000 x 3 scholars		
3 Recipients 2021 Cohort			Y1 \$12,000 \$4,000 x 3 scholars	Y2 \$12,000 \$4,000 x 3 scholars	Y3 \$12,000 \$4,000 x 3 scholars	
Annual Total	\$12,000	\$24,000	\$36,000	\$24,000	\$12,000	\$108,000

It is recommended that Council support annual funding support of \$3,000 per year for ten x Year 10 students who reside in Mandurah, to attend Murdoch Universities 'Conoco-Philips Science Experience' with a total commitment of \$9,000 (2019 to 2021).

Risk Analysis

The key risks are reputational and financial and these will be mitigated by a robust scholarship selection panel and financial tracking, including reviews of all recipients on a semester by semester basis over the entirety of their grants. Murdoch University have excellent governance structures in place and previous reporting and accountability has been to a very high standard. This project is managed via their Office of Advancement - Scholarships & Banksia Association.

Strategic Implications

The following strategies from the *City of Mandurah Strategic Community Plan 2017 – 2037* are relevant to this report:

Economic:

- Increase the level of regional employment.
- Increase local education and training opportunities.

Organisational Excellence:

- Demonstrate regional leadership and advocacy.

Conclusion

Since the City introduced entered into a scholarship partnership with Murdoch University in 2011, 29 scholarships have been provided to Mandurah nursing and leadership students. Although the scholarship partnership has been very successful, feedback from Murdoch University indicates that increasing the grant amount and awarding over three years of study, will boost demand for the scholarships and provide consistent support to students experiencing financial hardship.

Taking the City's Reconciliation Action Plan recommendations into account, it is recommended that one annual Undergraduate Nursing Scholarship be awarded to an indigenous student and that one scholarship is for studying only at the Mandurah Campus. Aside it is recommended the scholarships support students who reside in Mandurah and study at either the South Street or Mandurah Campuses, with at least one scholarship annually being for the Mandurah Campus. A revised scholarship model will support nine students over five years complete their study at a total cost of \$108,000.

Further to supporting tertiary level students, it is recommended to also introduce new funding support for year 10 students who live in Mandurah to attend an intensive STEM education training. An annual allocation of \$3,000 will support ten students to undertake an intensive four day course that will prepare them for further studies and academic advancement.

To facilitate the process it is recommended a selection panel is established to oversee the allocations and that this consist of one elected member, a City Officer and Murdoch University representative.

RECOMMENDATION

That Council:

1. Approves three scholarships annually, with two being for First Year Undergraduate students and one being for a First Year Undergraduate Aboriginal Student, with a minimum of one Undergraduate scholarship being for the Mandurah Campus only and a maximum of two being for any Murdoch University Campus.
2. Allocates annual scholarship funding to Murdoch University as follows:
 - 2.1. 2019 x \$12,000 3 scholars (2019 cohort) *three new scholarships
 - 2.2. 2020 x \$24,000 6 scholars (2019 and 2020 cohort) *three new scholarships
 - 2.3. 2021 x \$36,000 9 scholars (2019, 2020 and 2021 cohort) *three new scholarships
 - 2.4. 2022 x \$24,000 6 scholars (2020 and 2021 cohort)
 - 2.5. 2023 x \$12,000 3 scholars (2021 cohort)
3. Approves the following eligibility criteria:
 - 3.1. Student must be an Australian citizen or permanent resident.
 - 3.2. Student must be a current resident of the City of Mandurah.
 - 3.3. Student must intending to enrol or be enrolled full-time in an Undergraduate degree at Murdoch University Peel Campus (one scholarship) or at any Murdoch Campus (two scholarships).

- 3.4. Undergraduate Scholarships - Student must demonstrate high academic achievement.
 - 3.5. Aboriginal Scholarship - Student must be Aboriginal and a resident in the Mandurah community
 - 3.6. Student must be facing financial and/or personal hardship.
4. Approves extending the tertiary academic scholarships to also include three year's annual funding support of \$3,000 per year for ten x Year 10 students who reside in Mandurah, to attend Murdoch Universities 'Conoco-Philips Science Experience' with a total commitment of \$9,000.
5. Appoints Councillor _____ as the Elected Member representative for the Murdoch Scholarships Assessment Panel and further appoints to the panel one City Officer (Manager Community Development) and acknowledges that one representative from Murdoch University will be on the panel.

5	SUBJECT:	Proposed Animals, Environment & Nuisance Amendment Local Law 2019
	CONTACT OFFICERS:	Brendan Ingle/Natasha Pulford
	AUTHOR:	Sophie Luxton
	FILE NO:	R0001458033

Summary

As part of the continuing process of updating and improving the City's local laws, a review has now been conducted of the Animals, Environment & Nuisance Local Law 2010.

Amendments are proposed to reduce the need for approvals whilst still retaining an ability to enforce requirements where required. The changes remove duplication with other legislation, provide increased flexibility and bring the local law up to date with the City's preferred approach to legislation enforcement.

As a legal requirement, all local laws are to have a purpose and effect where the following is proposed for the Animals, Environment & Nuisance Amendment Local Law 2019:

PURPOSE: to amend provisions within the City of Mandurah Animals, Environment & Nuisance Local Law 2010.

EFFECT: to ensure the City of Mandurah Animals, Environment & Nuisance Local Law 2010 is as clear and effective as possible.

Council is requested to adopt the proposed Animals, Environment & Nuisance Amendment Local Law 2019 for advertising.

Disclosure of Interest

Nil.

Previous Relevant Documentation

- G.34/2/11 22 February 2011 Animals, Environment and Nuisance Local Law – final.
- G.34/9/10 28 September 2010 Animals, Environment and Nuisance Local Law – proposed.

Background

Local laws are subsidiary legislation made by local governments under the *Local Government Act 1995*. They are generally made to serve a purpose that State or Federal Acts and Regulations do not address for the particular local government.

The current City of Mandurah Animals, Environment & Nuisance Local Law 2010 was adopted by Council in February 2011. The principle local law incorporates aspects of the WALGA Model Local Law as well as some unique clauses that were drafted to address local matters of concern to the City.

The amendments propose a vast reduction of provisions and aims to clarify and simplify the local law.

Comment

The principle local law provides protection against nuisances and hazards for: Keeping of Animals (birds, farm animals and bee keeping); Building, Development, Land Care and Nuisances; and Dangerous Things (including Pest Plants).

In keeping with the City's aim to empower the community and reduce red tape all permits and approvals issued through the local law have been reviewed and where possible it has been proposed to remove requirements to obtain permits. Proposed amendments provide much greater flexibility for the City and an easier process for the community, whilst retaining the ability to manage nuisance or problematic situations if required.

All proposed amendments are within **Attachment 1 Proposed Animal Nuisance and Environment Amendment Local Law 2018**.

There are a number of very minor administrative amendments (i.e. updated clause references) made throughout the local law that don't alter the intent of the local law. The main amendments proposed and their reasoning's are:

Proposed Amendment	Reasoning
Clause 1.2, definition updates:	<ul style="list-style-type: none"> Terminology updated to reflect legislative amendments or removed as definition is no longer required.
PART 2 – Keeping of Animals Division 1 – Keeping of Birds	<ul style="list-style-type: none"> Local law no longer requires permits to be obtained for the keeping of birds. The local law specifies minimum requirements from must be met. It is considered that the requirement to make an application to the City for a permit to keep birds is not necessary. Requirements for the keeping of different categories of birds have been retained within the local law and a failure to comply with these requirements is an offence under the local law.
PART 2 – Keeping of Animals Division 2 – Keeping of farm animals	<ul style="list-style-type: none"> Local law requires a permit to be obtained prior but provides the City with the flexibility to determine what animals can and cannot be kept. The ability for the City to require persons to obtain a permit for the keeping of farm animals is considered an appropriate mechanism for managing the issue of farm animals on residential properties. The proposed amendment removes all conditions from within the local law. Conditions will instead be determined by the City and included in the terms and conditions of each permit. Failure to comply with the terms and conditions of a permit may render that permit invalid and it is an offence under the local law to keep farm animals without a valid permit. This proposed amendment provides much greater flexibility for the City while also retaining the ability to manage situations should they become a nuisance or problematic.
PART 2 – Keeping of Animals Division 3 – Keeping of Bees	<ul style="list-style-type: none"> Local law no longer requires permits to be obtained for the keeping of bees. The local law specifies minimum requirements from must be met. The <i>Beekeepers Act 1963</i> has been revoked. It is considered that the requirement to make an application to the City for a permit to keep bees is not necessary. Requirements for keeping bees have been retained within the local law as have provisions to address issues of nuisance caused by the keeping of bees.

Report from **Acting Executive Manager Finance and Governance**
to **Committee of Council Meeting of 4 December 2018**

PART 3 – Building, Development & Land Care Division 3 – Smoke	<ul style="list-style-type: none"> • New clause: An owner or occupier shall ensure that no vegetation or other material cleared from the site is burnt on the site (except where a fire permit has been issued by the City). • Previous clause related to burning of building and development sites only. • There is no reason for the City to have different requirements for building/development sites and residential sites in regard to the topic of burning. • There is also no difference whether vegetation or other materials are from the site or brought in to burn. • Modified penalties have been increased reflecting the seriousness of burning cleared vegetation and the commercial nature of the burning that can occur.
PART 4 – Nuisances and Dangerous Things Division 2 – Smoke, fumes, odours and other emissions	<ul style="list-style-type: none"> • This clause has been amended to reduce the requirements that can instead be managed through terms and conditions of fire permits issued in accordance with the <i>Bush Fires Act 1954</i>. It is not necessary for these provisions to form part of the local law.
PART 4 – Nuisances and Dangerous Things Division 3 – Trucks	<ul style="list-style-type: none"> • Delete Division. • This Division has not been used since the enactment of the local law. Protections against noise, dust and odour are already provided for in State legislation (including the <i>Environmental Protection Act 1986</i> and the <i>Health (Miscellaneous Provisions) Act 1911</i>) and the City's Town Planning Scheme.
PART 4 – Nuisances and Dangerous Things Division 5 - Amusement Activities	<ul style="list-style-type: none"> • Delete Division. • This division has not be utilised by the City since the enactment of this local law. These matters can be addressed through other methods.
PART 4 – Nuisances and Dangerous Things Division 6 – Advertising, bill posting and junk mail	<ul style="list-style-type: none"> • Delete Division. • This division has not be utilised by the City since the enactment of this local law. These matters can be addressed through other methods including the Litter Act 1979.
PART 6 – Enforcement Division 1 – Notice of breach.	<ul style="list-style-type: none"> • Clause has been updated to bring it into line with other City local law Enforcement clauses.
SCHEDULE 5 – Pest Plants	<ul style="list-style-type: none"> • Addition of three new pest plants: Caltrop (<i>Tribulus terrestris</i>), Castor Oil Plant (<i>Ricinus communis</i>) and Flaxleaf Broom (<i>Genista Linifolia</i>). • New pest plants are required to be added to the local law to provide the City with the ability to control and manage these newly identified plants. • The accompanying modified penalty for pest plants is proposed to be increased from \$50 to \$250 for the first offence and increased from \$100 to \$500 for subsequent offences. The reasoning behind the proposed increase is that the current penalties are not considered adequate to properly manage this issue. As always the City will engage an education before enforcement approach when applying this provision.

Consultation

If adopted, the proposed local law will be advertised State-wide, locally and to relevant Ministers.

Statutory Environment

Local Government Act 1995 Part 3, Division 2:

- Subdivision 1 – Local laws made under this Act; and
- Subdivision 2 - Local laws made under any Act.

Health Act (Miscellaneous Provisions) Act 1911

Policy Implications

Relevant policies will be updated as required.

Economic Implications

Nil.

Risk Analysis

There is always a risk associated with introducing amendments to legislation. The proposed amendments will be widely advertised in an effort to ensure that any risk is as low as possible.

Strategic Implications

The following strategy from the *City of Mandurah Strategic Community Plan 2017 – 2037* is relevant to this report:

Organisational Excellence:

- Deliver excellent governance and financial management.

Conclusion

The City's Animals Environment and Nuisance Local Law 2010 requires amendment to reduce red tape, add clarity and provide the City with greater flexibility. The amendment local law will, if adopted, result in a much more efficient local law for the City.

Council is therefore requested to adopt the proposed Animals, Environment & Nuisance Amendment Local Law 2019 for advertising and note that any responses will be reported to Council for consideration prior to the making and gazettal of the local law.

NOTE:

- Refer ***Attachment 1 Proposed City of Mandurah Animals, Environment & Nuisance Amendment Local Law 2019.***
Attachment 2 City of Mandurah Animals, Environment & Nuisance Local Law 2010 showing mark up.

RECOMMENDATION

That Council:

- 1 **Adopt the proposed City of Mandurah Animals, Environment & Nuisance Amendment Local Law 2019 for advertising.**

- 2 Note that any public and Ministerial responses will be reported to Council for consideration prior to the making of the local law and publication in the Government Gazette.

****ABSOLUTE MAJORITY REQUIRED****

ATTACHMENT 1

LOCAL GOVERNMENT ACT 1995

HEALTH (MISCELLANEOUS PROVISIONS) ACT 1911

CITY OF MANDURAH

ANIMALS ENVIRONMENT AND NUISANCE AMENDMENT LOCAL LAW 2019

Under the powers conferred by the *Health (Miscellaneous Provisions) Act 1911*, *Local Government Act 1995* and under all other powers enabling it, the Council of the City of Mandurah resolved on INSERT DATE to make the following local law.

1.1 Citation

This local law may be cited as the *City of Mandurah Animals Environment and Nuisance Amendment Local Law 2019*.

1.2 Commencement

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

1.3 Principal local law amended

This local law amends the *City of Mandurah Animals, Environment and Nuisance Local Law 2010* as published in *Government Gazette* No. 43 of 22 March 2011.

1.4 Clause 1.2 amended

In clause 1.2:

- (1) delete the following definitions;
 - (a) “building licence”;
 - (b) “food premises”; and
 - (c) “townsite”.
- (2) insert the following definitions in alphabetical order;

- (a) “**building permit** is a permit granted under section 20 of the *Building Act 2011*”; and
- (b) “**food business** has the same meaning given in the *Food Act 2008*”.

1.5 Part 2, Division 1 amended

In Part 2:

- (1) delete Division 1; and
- (2) insert:

Division 1 – Keeping of birds

2.1 Keeping of poultry and pigeons in a residential zone

An owner or occupier of premises in a residential zone shall not keep or permit to be kept on the premises any poultry or pigeons unless in accordance with the requirements outlined in clauses 2.2, 2.3 and 2.4.

2.2 Requirements for keeping of poultry

- (1) A person who keeps poultry or permits poultry to be kept shall ensure that –
 - (a) no poultry shall be kept within 9 metres from any residential building;
 - (b) no poultry is able to approach within 15 metres of a public street, public building, commercial premises or food business;
 - (c) all poultry is kept in a properly constructed and securely fastened structure;
 - (d) all structures or enclosures within which poultry are kept are maintained at all times in a clean condition;
 - (e) all poultry is kept continually confined.
- (2) An owner or occupier of premises in a residential zone shall not keep or permit to be kept on the premises –
 - (a) more than 12 poultry; and

ATTACHMENT 1

- (b) more than 12 pigeons unless the owner or occupier is an affiliated person in which case the maximum number of pigeons may be increased to 100.
- (3) A person who fails to comply with sub clause (1) or (2) commits an offence.

2.3 Requirements for keeping of pigeons

- (1) A person who keeps pigeons or permits pigeons to be kept shall ensure that –
 - (a) all pigeons are kept in a properly constructed pigeon loft, except where registered homing pigeons are freed for exercise;
 - (b) all structures or enclosures within which pigeons are kept are maintained at all times in a clean condition;
 - (c) no opening to a pigeon loft, including openings for ventilation, is within 9 metres of any residential building;
 - (d) no opening to a pigeon loft, including openings for ventilation, is within 15 metres of a public street, public building, commercial premises or food business.
- (2) An affiliated person who keeps pigeons, or permits pigeons to be kept, shall do so in accordance with the Code of Practice – Pigeon Keeping, subject to the provisions of this local law.
- (3) A person who fails to comply with sub clause (1) or (2) commits an offence.

2.4 Requirements for keeping of aviary birds

- (1) A person who keeps, or permits to be kept, aviary birds shall ensure that –
 - (a) the aviary or cage in which the birds are kept is located at least 1 metre from any lot boundary and at least 5 metres from a residential building on any other lot;
 - (b) there is a floor beneath the roofed area of the aviary or cage which is constructed of smooth, impervious material with a gradient of at least 1 in 50 to the front of the aviary or cage;

- (c) the aviary or cage is kept in clean condition and good repair at all times;
- (d) all feed for the birds other than that intended for immediate consumption is stored in vermin proof containers; and
- (e) effective measures are taken to prevent the attraction or harbourage or vermin.

(2) A person who fails to comply with sub clause (1) commits an offence.

2.5 Roosters, geese, turkeys and peafowl

Except on land in a rural or rural residential zone or with the prior written permission of the local government, an owner or occupier of premises shall not keep any of the following –

- (a) rooster;
- (b) a goose or gander;
- (c) a turkey; or
- (d) a peacock or peahen.

2.6. Nuisance caused by birds

An owner or occupier of land shall not keep any bird or birds which –

- (a) are or create a nuisance; or
- (b) emit an unreasonable noise.

1.6 Part 2, Division 2 amended

In Part 2:

- (1) delete Division 2; and
- (2) insert:

Division 2 – Keeping of farm animals

2.7 Keeping of farm animals

- (1) An owner or occupier of land shall not keep, or allow to be kept, any farm animal unless –
 - (a) in accordance with a valid permit authorising the keeping of such a farm animal issued in relation to the land; or

(b) in a rural zone and in accordance with the provisions of any local planning scheme applicable to that zone.

- (2) An owner or occupier shall not keep more than one pig other than on premises registered as a piggery pursuant to the provisions of the *Health (Miscellaneous Provisions) Act 1911*, except with the express written approval of the local government.

2.8 Nuisance caused by farm animals

An owner or occupier of land shall not keep any farm animal or farm animals which –

- (a) are or create a nuisance; or
- (b) emit an unreasonable noise.

2.9 Variation or cancellation of permit to keep farm animals and conditions of permit

- (1) The local government may vary the conditions of a permit after it has been issued, and shall give notice of such variation to the permit holder within 14 days of such variation.
- (2) The local government may cancel a permit in the event the permit holder –
- (a) fails to comply with any condition of the permit; or
 - (b) fails to comply with a notice of breach issued under clause 6.1.

1.7 Part 2, Division 3 amended

In Part 2:

- (1) delete Division 3; and
- (2) insert:

Division 3 – Keeping of Bees

2.10 Keeping of Bees

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A person shall not keep bees or allow bees to be kept on land except in accordance with the requirements outlined in clause 2.10.

2.11 Requirements for Beekeeping

The keeping of bees is subject to the following requirements -

- (a) the provision of a good and sufficient water supply on the land which is readily accessible by the bees on the land;
- (b) each bee hive shall be -
 - (i) kept at a distance specified by the local government from any thoroughfare, public place or boundary of the land; or
 - (ii) located near a screen or other barrier so as to prevent the bees flying low over a thoroughfare, public place or adjoining land;
- (c) no more than 2 bee hives are to be kept on land of less than 2,000 square metres in area; and
- (d) no more than 15 bee hives are to be kept on land between 2,000 and 20,000 square metres in area.

2.12 Nuisance caused by bees or beehives

A person shall not keep or allow to be kept bees or beehives, or both, on land so as to create a nuisance.

2.13 Notice to remove bees

- (1) Whenever in the opinion of the local government a person has contravened any provision of this local law which relates to the keeping of bees or bee hives, the local government may give the owner or occupier of the land a written notice requiring her or him to remove any bees or bee hives, or both, from the land within the time specified in the notice.
- (2) Where a person fails to comply with a notice given under subclause (1), the local government may dispose of the bees or the bee hives or both in such manner as it sees fit and recover the costs of so doing from the owner or occupier, as the case may be, as a debt due to it.

1.8 Part 3, Division 3 amended

In Part 3:

- (1) In Division 1, Clause 3.3 delete subclause (3) and insert
 - (3) A written request for approval must be accompanied by the written approval of the landowner of the land on which materials are proposed to be stored.;
- (2) delete Division 3; and
- (3) insert:

Division 3 – Burning of materials

3.5 Burning of cleared vegetation prohibited

- (1) An owner of occupier shall ensure that no vegetation or other material is burnt on the site.
- (2) Subclause (1) does not apply where a fire permit has been issued by the local government under the *Bush Fires Act 1954*.

1.9 Part 4, Division 2 amended

In Part 4:

- (1) delete Division 2; and
- (2) insert:

Division 2 – Smoke, fumes, odours and other emissions

4.4 Burning rubbish, refuse or other material

- (1) A person shall not set fire to rubbish, refuse or other materials unless the burning complies with the *Bush Fires Act 1954*, any annual fire hazard reduction notice issued by the local government under that Act and any conditions of approval as determined by the local government.

- (2) Subclause (1) shall not apply to any barbeque, solid fuel water heater, space heater or ovens fired with dry paper, dry wood, synthetic char or charcoal type fuel.

4.5 Escape of smoke, fumes, odours and other emissions

An owner or occupier of land or premises shall not cause or permit the escape of smoke, fumes or odours from the land or premises in such quantity or of such a nature as to cause or to be a nuisance to any person.

1.10 Part 4, Division 3 amended

In Part 4, delete Division 3.

1.11 Part 4, Division 5 amended

In Part 4, delete Division 5.

1.12 Part 4, Division 6 amended

In Part 4, delete Division 6.

1.13 Part 4 amended

In Part 4, renumber remaining divisions and clauses.

1.14 Part 6 amended

In Part 6, Division 1:

- (1) delete Clause 6.1; and
- (2) insert:

6.1 Notice of breach

- (1) A person who fails to comply with a notice given to him or her under this local law commits an offence.

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- (2) If a person fails to comply with a notice given to him or her under this local law, the local government may do, or arrange to be done, the thing specified in the notice and recover from the person to whom the notice was given, as a debt, the costs incurred in doing so.

1.15 Schedule 1 amended

Delete Schedule 1.

1.16 Schedule 2 amended

Delete Schedule 2.

1.17 Schedule 3 amended

Delete Schedule 3.

1.18 Schedule 4 amended

Delete Schedule 4.

1.19 Schedule 5 amended

In Schedule 5:

- (1) renumber "Schedule 5" as "Schedule 1";
- (2) delete reference to "4.17(1)" and replace with "4.11(1)"; and
- (3) insert the following in alphabetical order:

Common Name	Scientific Name
Caltrop	Tribulus terrestris
Castor Oil Plant	Ricinus communis
Flaxleaf Broom	Genista Linifolia

1.20 Schedule 6 amended

In Schedule 6:

- (1) renumber "Schedule 6" as "Schedule 2"; and
- (2) delete reference to "4.18" and replace with "4.12".

1.21 Schedule 7 amended

In Schedule 7:

- (1) renumber "Schedule 7" as "Schedule 3";
- (2) delete modified penalties for item no; 1, 2, 3, 4 5, 6, 21, 22, 27, 28 and 29;
- (3) insert the following modified penalties in numerological order:

CLAUSE	DESCRIPTION	MODIFIED PENALTY First Offence	MODIFIED PENALTY Subsequent Offences
2.2	Failure to comply with requirements for keeping poultry	\$125	\$250
2.3	Failure to comply with requirements for keeping pigeons	\$125	\$250
2.4	Failure to comply with requirements for keeping aviary birds	\$125	\$250
2.7(1)(a)	Keeping a farm animal without a permit	\$250	\$500
2.8	Nuisance caused by farm animal	\$250	\$500
2.10	Failure to comply with a requirement for beekeeping	\$125	\$250
2.11	Nuisance caused by bees or beehives	\$125	\$250
2.13	Failure to comply with notice to remove bees or bee hives	\$125	\$250

ATTACHMENT 1

3.5	Owner or occupier not to burn on site	\$500	\$500
4.4	Noncompliant burning of rubbish or other materials	\$250	\$500

- (4) in item no 32, "Failure to comply with Pest Plant Notice":
 - (a) delete \$50 and replace with \$250; and
 - (b) delete \$100 and replace with \$500.
- (5) renumber item no column accordingly.

1.22 Terms used throughout the principle local law

- (1) delete every reference to the "*Beekeepers Act 1963*"; and
- (2) delete every reference to the "*Health Act 1911*" and replace with "*Health (Miscellaneous Provisions) Act 1911*".

Dated:

The Common Seal of the City of Mandurah was affixed by authority of a resolution of the Council in the presence of:

RHYS JOHN WILLIAMS, Mayor

MARK ROBERT NEWMAN, Chief Executive Officer

**MARKED UP TO SHOW AMENDMENTS PROPOSED IN CITY OF
MANDURAH PROPOSED ANIMALS ENVIRONMENT & NUISANCE
AMENDMENT LOCAL LAW 2019**

City of Mandurah

ANIMALS, ENVIRONMENT AND NUISANCE LOCAL LAW 2010

LOCAL GOVERNMENT ACT 1995

~~BEEKEEPERS ACT 1963~~

HEALTH ACT 1911

LOCAL GOVERNMENT ACT 1995

~~BEEKEEPERS ACT 1963~~

HEALTH ACT 1911

City of Mandurah

ANIMALS, ENVIRONMENT AND NUISANCE LOCAL LAW 2010

Under the powers conferred by the *Local Government Act 1995*, ~~*Beekeepers Act 1963*~~, *Health Act 1911* and under all other powers enabling it, the Council of the City of Mandurah resolved on 22 February 2011 to make the following local law.

PART 1 – PRELIMINARY

1.1 Citation

This local law may be cited as the City of Mandurah Animals, Environment and Nuisance Local Law 2010.

1.2 Definitions

(1) In this local law, unless the context specifies otherwise –

Act means the *Local Government Act 1995*;

affiliated person means a person who is a member of a poultry or pigeon club incorporated under the *Associations Incorporation Act 1987*;

amusement means anything usually conducted for amusement at a fair, a carnival or a show, whether conducted at a fair, a carnival or a show or elsewhere;

approved animal means any farm animal which is the subject of a permit;

AS/NZS 3500 means the standard called “Plumbing and Drainage” published by the Standard Association of Australia;

authorised person means a person authorised by the Council, under section 9.10 of the Act to perform all or any of the functions conferred on an authorised person under this local law;

aviary bird means any bird, other than poultry or pigeons, kept or usually kept in an aviary or cage;

bee hive means a hive standing alone or any 2 or more hives standing in a group;

birds includes poultry;

builder means the holder of a building licence issued in respect of building works on a building site or a person in control of a building site;

Building Code means the latest edition of the Building Code of Australia published by, or on behalf of, the Australian Building Codes Board, as amended from time to time, but not including explanatory information published with the Building Code;

building ~~licence permit~~ ~~means a licence issued under section 374 of the Local Government (Miscellaneous Provisions) Act 1960~~ is a permit granted under section 20 of the Building Act 2011;

building site means any lot for which a building licence is current;

Chief Executive Officer means the Chief Executive Officer of the local government;

City means the City of Mandurah;

Class 6 building means a Class 6 building as defined by the Building Code;

Class 9 building means a Class 9 building as defined by the Building Code;

Code of Practice–Pigeon keeping means the document entitled *A Code of Practice – May 1994 – Pigeon Keeping and Pigeon Racing* published in May 1994 by the Pigeon Racing Federation of WA (Incorporated) and the Independent Racing Pigeon Federation (Incorporated), as amended from time to time;

cow includes an ox, calf or bull;

development has the meaning given to it in the *Planning and Development Act 2005*;

development approval means a development approval under a local planning scheme;

development site includes any lot or lots for which there is current a development or subdivision approval, and any lot or lots upon which, construction work, earthworks, clearing of scrub, trees or overgrowth or any other site works are taking or have taken place, whether or not such works are subject to a development or subdivision approval;

district means the district of the local government;

dust means any visible granular or particulate material which has or has the potential to become airborne and includes organic and non-organic matter and sand, but does not include smoke;

equipment means equipment, machinery or vehicles used for or in connection with the development of land;

farm animal includes a horse, cow, sheep, goat, pig or other ungulate;

food ~~premises business~~ ~~includes the meaning of “food” as given under section 9 of the Food Act 2008 and the meaning of “food business” as given under section 10 of the same Act; has the same meaning given in the Food Act 2008;~~

horse includes an ass, mule, donkey or pony;

land includes any building or structure on the land;

liquid waste means waste from any process or activity, whether useful or useless, that is in liquid form and includes paint, fuel, grease, fat, oil, degreaser solvent, detergent, chemical, animal waste, food waste, effluent and all discharges of liquid to land, air or water that are not otherwise authorised by a written law but does not include uncontaminated stormwater;

livestock includes cattle, sheep, pigs, goats and horses;

livestock vehicle means a vehicle that contains livestock or previously has been used for the carriage of livestock;

local government means the City of Mandurah;

local planning scheme has the meaning given to it by the *Planning and Development Act 2005*;

lot has the meaning given to it by the *Planning and Development Act 2005*;

manure receptacle means a receptacle, of sufficient capacity to receive all manure produced in one week on premises upon which a farm animal or farm animals are kept, constructed of smooth, durable, impervious materials, fitted with a fly proof, hinged cover and with no part of the floor lower than the adjoining ground;

miniature horse means a horse whose maximum adult height does not exceed 870 millimetres and is classified as a miniature by the Miniature Horse Association of Australia;

nuisance means –

- (a) an activity or condition which is harmful or annoying and which gives rise to legal liability in the tort of public or private nuisance at law;
- (b) an unreasonable interference with the use and enjoyment of a person of his or her ownership or occupation of land; or
- (c) interference which causes material damage to land or other property on the land affected by the interference;

occupier means any person who is in control of any land or part of any land or authorised by the owner, lessee, licensee or any other person empowered to exercise control in relation to land to perform any work in relation to any land and without limiting the generality of the foregoing and for the avoidance of doubt includes a builder or contractor.

permit means a permit issued under these local laws;

permit holder means a person who holds a valid permit;

pest plant means a plant described as a pest plant by clause 4.17 of this local law;

pigeon includes homing pigeons and other domesticated breeds of the species *Columba livia*, but does not include native pigeons or doves whether or not the keeping of such birds is subject to the approval of the Department of Environment and Conservation;

poultry includes fowls, roosters, ducks, peafowls, turkeys, geese, guinea fowls, pheasants and other birds commonly kept for the production of eggs or meat for domestic consumption;

refuse means any waste material including bricks, lime, cement, concrete, rubble, stones, iron, timber, tiles, bags, plastics, ashes, vegetation, timber, wood or metal shavings, sawdust, and waste food, and includes any broken, used, derelict or discarded matter whatsoever;

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

residential building has the meaning given to it in the Residential Design Codes of Western Australia as amended;

residential zone includes any area zoned “Residential” and “Urban Development” under a local planning scheme;

rural zone means any area zoned “Rural” or “Rural Residential” under a local planning scheme;

sand means granules or particles of rock, earth, clay, loam, silt and any other granular, particulate or like material, and includes dust and gravel;

stormwater means any naturally occurring water that results from rainfall on or around a site, or water flowing onto the site;

street means any highway or thoroughfare which the public are entitled to use, and includes every part of the highway or thoroughfare, including the verge and other things including bridges and culverts appurtenant to it;

subdivision approval means a subdivision approval under the *Planning and Development Act 2005*;

~~**townsite** means the townsite of Mandurah which is —~~

~~(a) — constituted under section 26(2) of the *Land Administration Act 1997*; or~~

~~(b) — referred to in clause 37 of Schedule 9.3 of the Act.~~

truck means a motor vehicle having a tare weight in excess of 3000 kilograms;

unreasonable noise has the meaning given to it by the *Environmental Protection Act 1986*;

vermin includes rats, mice, flies, fleas, mites, lice, cockroaches and any other animal, whether vertebrate or invertebrate, which is known to be a vector of disease or likely to cause damage to human food, habitation or possessions.

- (2) Any other expression used in this local law and not defined herein shall have the meaning given to it in the Act.
- (3) Where in this local law a duty, obligation or liability is imposed on an “owner or occupier” the duty shall be deemed to be imposed jointly and severally on each owner and occupier.
- (4) Where under this local law the local government is authorised to carry out actions or cause to be undertaken works as a consequence of the failure of any person to comply with the terms of a notice or other conduct, the right to enter land is at all times subject to the provisions of Part 3, Division 3, Subdivision 3 of the Act.

1.3 Repeal

Clauses 20, 21, 47A, 50, 56, 62A, 68, 69, 70, 71, 72, 73, 74, 75, 76 and 77 of the *City of Mandurah Health Local Laws* as published in the *Government Gazette* of 23 August 1996 and Part XI and Division 2 of Part V of the *City of Mandurah Consolidated Local Laws* as published in the *Government Gazette* of 13 February 1998, are repealed.

1.4 Application

This local law shall apply throughout the district.

1.5 Commencement

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

PART 2 – KEEPING OF ANIMALS

Division 1 – Keeping of birds

2.1 Keeping of poultry and pigeons in a residential zone

~~(1) An owner or occupier of premises in a residential zone shall not keep or permit to be kept on the premises any poultry or pigeons—~~

~~(a) unless approved by the local government in accordance with the requirements outlined in clauses 2.2, 2.3 and 2.4; and~~

~~(b) otherwise than in accordance with subclause (2).~~

~~2.2 Application for approval to keep poultry and pigeons in a residential zone~~

~~(1) Subject to compliance with clause 2.1(2), the local government may approve the keeping of poultry or pigeons in accordance with these local laws by an owner or occupier of premises within a residential zone subject to the following—~~

~~(a) the owner or occupier submitting an application to the local government, which application shall—~~

~~(i) specify the number of poultry or pigeons proposed to be kept; and~~

~~(ii) include a site plan showing lot size, location of enclosure, distance from boundaries and buildings and proximity to houses on adjoining land.~~

~~(2) The local government may at its discretion conduct public consultation with all owners/occupiers whose property abuts the applicant's property prior to the application being determined.~~

~~(3) The local government may approve, with or without conditions, or refuse to approve an application received under this clause.~~

~~(4) Where an approval for the keeping of poultry or pigeons is issued subject to conditions, the holder of the approval shall comply or cause compliance with those conditions.~~

~~2.2~~ **Conditions Requirements for keeping of poultry**

~~(2) An owner or occupier of premises in a residential zone shall not keep or permit to be kept on the premises—~~

~~(a) — more than 12 poultry; and~~

~~(b) — more than 12 pigeons unless the owner or occupier is an affiliated person in which case the maximum number of pigeons may be increased to 100.~~

(1) A person who keeps poultry or permits poultry to be kept shall ensure that –

(a) no poultry shall be kept ~~less than~~within 9 metres from any residential building;

(b) no poultry is able to approach within 15 metres of a public street, public building, commercial premises or food ~~premises~~business;

(c) all poultry is kept in a properly constructed and securely fastened structure;

~~(d) — the structure has an impervious floor laid with a fall to the front of at least 1 in 50;~~

~~(e)~~ all structures or enclosures within which poultry are kept are maintained at all times in a clean condition;

~~(f)~~ all poultry is kept continually confined.

(2) An owner or occupier of premises in a residential zone shall not keep or permit to be kept on the premises –

(a) — more than 12 poultry; and

(b) — more than 12 pigeons unless the owner or occupier is an affiliated person in which case the maximum number of pigeons may be increased to 100.

(3) A person who fails to comply with sub clause (1) or (2) commits an offence.

~~2.4 — Roosters, geese, turkeys and peafowl~~

~~Except on land in a rural or rural residential zone or with the prior written permission of the local government, an owner or occupier of premises shall not keep any of the following—~~

~~(a) — rooster;~~

~~(b) — a goose or gander;~~

~~(c) — a turkey; or~~

~~(d) — a peacock or peahen.~~

2.52.3 Conditions Requirements for keeping of pigeons

(1) A person who keeps pigeons or permits pigeons to be kept shall ensure that –

(a) all pigeons are kept in a properly constructed pigeon loft, except where registered homing pigeons are freed for exercise;

(b) all structures or enclosures within which pigeons are kept are maintained at all times in a clean condition;

- (c) no opening to a pigeon loft, including openings for ventilation, is within 9 metres of any residential building;
 - (d) no opening to a pigeon loft, including openings for ventilation, is within 15 metres of a public street, public building, commercial premises or food ~~premises~~business.
- (2) An affiliated person who keeps pigeons, or permits pigeons to be kept, shall do so in accordance with the Code of Practice – Pigeon Keeping, subject to the provisions of this local law.

(3) A person who fails to comply with sub clause (1) or (2) commits an offence.

~~2.6~~ Termination of approval to keep poultry or pigeons

~~If an owner or occupier of premises to whom an approval to keep poultry or pigeons has been granted by the local government pursuant to clause 2.2(3)—~~

- ~~(a) breaches a condition of the approval;~~
- ~~(b) breaches clause 2.3 or 2.5 of this local law; or~~
- ~~(c) fails to comply with a written notice served by the local government in relation to the keeping of poultry or pigeons;~~

~~then the local government may cancel its approval upon written notice of such cancellation being given to the owner or occupier within 60 days of the breach or failure to comply as the case may be.~~

2.72.4. Conditions Requirements of keeping of aviary birds

- (1) A person who keeps, or permits to be kept, aviary birds shall ensure that –
 - (a) ~~(a)~~ the aviary or cage in which the birds are kept is located at least 1 metre from any lot boundary and at least 5 metres from a residential building on any other lot;
 - (b) there is a floor beneath the roofed area of the aviary or cage which is constructed of smooth, impervious material with a gradient of at least 1 in 50 to the front of the aviary or cage;
 - (c) ~~(b)~~ the aviary or cage is kept in clean condition and good repair at all times;
 - (d) all feed for the birds other than that intended for immediate consumption is stored in vermin proof containers; and
 - (e) ~~(c)~~ effective measures are taken to prevent the attraction or harbourage of vermin.

(2) A person who fails to comply with sub clause (1) commits an offence.

2.5 Roosters, geese, turkeys and peafowl

Except on land in a rural or rural residential zone or with the prior written permission of the local government, an owner or occupier of premises shall not keep any of the following –

- (a) rooster;
- (b) a goose or gander;
- (c) a turkey; or
- (d) a peacock or peahen.

2.8-6. Nuisance caused by birds

An owner or occupier of land shall not keep any bird or birds which –

- (a) are or create a nuisance; or
- (b) emit an unreasonable noise.

Division 2 – Keeping of farm animals

2.97. ~~Permit required to~~ Keeping of farm animals

~~(1) Subject to clause 2.14, a~~An owner or occupier of land shall not keep, or allow to be kept, any farm animal unless –

- (a) in accordance with a valid permit authorising the keeping of such a farm animal issued in relation to the land ~~pursuant to clause 2.12~~; or
- (b) in a rural zone and in accordance with the provisions of any local planning scheme applicable to that zone.

(2) An owner or occupier shall not keep more than one pig other than on premises registered as a piggery pursuant to the provisions of the Health (Miscellaneous Provisions) Act 1911, except with the express written approval of the local government.

~~2.10. Application for a permit to keep farm animals~~

~~An application for a permit required by clause 2.9 shall be in the form prescribed by Schedule 4 and shall include the following information—~~

- ~~(a) a plan of the property, at a scale not less than 1:200, with dimensions clearly marked, showing where it is proposed that the animal is to be kept and the distance of that location from any residential building on another lot, Class 6 or 9 building, business premises or food premises;~~
- ~~(b) a sketch plan, at a scale of 1:100, indicating the nature of the shelter or housing to be provided for the animal; and~~
- ~~(c) a detailed written plan for the management of manure which addresses—~~
 - ~~(i) control of flies and other vermin;~~
 - ~~(ii) disease prevention; and~~
 - ~~(iii) prevention of nuisance odours; and~~

~~(d) the appropriate application and permit fees as determined from time to time by the local government in accordance with sections 6.16 to 6.19 of the Act.~~

~~2.11. Determination of application to keep farm animals~~

~~(1) Subject to clause 2.12, the local government may—~~

~~(a) refuse to determine an application for a permit which does not comply with clause 2.10;~~

~~(b) approve an application for a permit subject to such conditions as it considers appropriate; or~~

~~(c) refuse to approve an application for a permit.~~

~~(2) Where an application for a permit is approved subject to conditions, the permit holder shall comply with those conditions or cause compliance with those conditions.~~

~~(3) Where the local government approves an application under subclause (1)(b), it is to issue to the applicant a permit in the form prescribed by Schedule 2.~~

~~(4) A permit is valid from the date of issue until 30 June the following year, unless it is cancelled prior to that date under this local law.~~

~~2.12. Conditions of approval to keep farm animals~~

~~(1) A permit shall not be granted pursuant to clause 2.11—~~

~~(a) unless the land for which the approval is sought is of such dimensions and configuration as will permit the subject animal to be confined in a minimum cleared area of 150 square metres and prevented from approaching within 15 metres of any residential building, Class 6 or 9 building, business premises or food premises;~~

~~(b) in the case of a horse (other than a miniature horse) or cow, unless the land for which the approval is sought has a minimum area of one hectare;~~

~~(c) for the keeping of any pig.~~

~~(2) The local government shall take into account the opinions of occupiers of adjoining properties in determining whether to grant approval for the keeping of a farm animal.~~

~~(3) Approval to keep a farm animal may be issued subject to conditions, including—~~

~~(a) that a stable or shelter is provided for housing the approved animal;~~

~~(b) that a manure receptacle is provided in a position convenient to the shelter or place where the approved animal is kept, and that the receptacle is used for the receipt of all manure produced on the premises; or~~

~~(c) any other conditions that the local government considers necessary for the protection of the health and amenity of the neighbourhood, and such conditions may be imposed at any time subsequent to the initial approval.~~

2.8 Nuisance caused by farm animals

~~An owner or occupier of land shall not keep any farm animal or farm animals which -~~

- ~~(a) are or create a nuisance; or~~
- ~~(b) emit an unreasonable noise.~~

2.132.9. Variation or cancellation of permit to keep farm animals and conditions of permit

- (1) The local government may vary the conditions of a permit after it has been issued, and shall give notice of such variation to the permit holder within 14 days of such variation.
- (2) The local government may cancel a permit in the event the permit holder –
 - (a) fails to comply with any condition of the permit; or
 - ~~(b) breaches clause 2.14 or 2.15 of this local law; or~~
 - ~~(be)~~ fails to comply with a notice of breach issued under clause 6.1.

2.14. Conditions for keeping farm animals

- ~~(1) An owner or occupier of premises upon which a farm animal or farm animals are kept, whether or not a permit is required for the keeping of such farm animals pursuant to clause 2.9, shall –~~
 - ~~(a) maintain the place or places where the animals are kept in clean condition;~~
 - ~~(b) ensure that any farm animal or farm animals kept on the premises does not cause or constitute a nuisance;~~
 - ~~(c) maintain the premises free from flies or other vermin by spraying with residual insecticide or other effective means;~~
 - ~~(d) if a manure receptacle is required to be used –~~
 - ~~(i) cause all manure produced on the premises to be collected daily and placed in the receptacle;~~
 - ~~(ii) cause the receptacle to be emptied as often as is necessary to prevent it becoming offensive or a breeding place for flies or other vermin, but in any case at least once a week; and~~

- ~~(iii) — keep the lid of the receptacle closed except when manure is being deposited or removed;~~
- ~~(e) — not permit any farm animal to approach within 15 metres of any residential building, food premises, Class 6 or 9 building, or a business or commercial premises.~~
- ~~(2) — An owner or occupier of premises in a rural zone shall not keep more than one pig other than on premises registered as a piggery pursuant to the provisions of the Health Act 1911, except with the express written approval of the local government.~~

2.15. Requirements for farm animal shelters

- ~~(1) — Any stable, enclosure or shelter provided for the keeping of farm animals, whether or not a permit is required for the keeping of such farm animals pursuant to clause 2.10, shall —~~
 - ~~(a) — not be situated within 15 metres of any residential building, Class 6 or 9 building, business premises or food premises;~~
 - ~~(b) — not be situated within one metre of any lot boundary;~~
 - ~~(c) — be constructed of materials approved by an authorised person;~~
 - ~~(d) — have on each side of the building between the wall and roof a clear opening of at least 150 millimetres in height and of sufficient length to provide adequate ventilation to the stable, enclosure or shelter;~~
 - ~~(e) — when required by the local government have a separate stall for each horse, cow — or other approved animal, the shortest dimension of which shall be at least twice the length of the animal housed therein;~~
 - ~~(f) — subject to subclause (2), have a floor, the upper surface of which shall —~~
 - ~~(i) — be raised at least 75 millimetres above the surface of the surrounding ground;~~
 - ~~(ii) — be constructed of cement, concrete or other similar impervious material; and~~
 - ~~(iii) — have a fall of 1 in 100 to a drain which shall empty into a trapped gully situated outside the stable or shelter.~~
- ~~(2) — A stable or shelter constructed with a sand floor may be approved by an authorised person subject to —~~
 - ~~(a) — the site being well drained, with the sand floor being at least 1.5 metres above the highest known ground water level;~~
 - ~~(b) — a 300 millimetres thick bed of crushed limestone being laid under the sand of the stable;~~

- ~~(c) — sand, whether natural or imported, being clean, coarse and free from dust;~~
- ~~(d) — footings to the stable or shelter being a minimum of 450 millimetres below ground level;~~
- ~~(e) — the design of the stable allowing for the access of small earth moving machinery, such as a skid steer loader, into each stall to maintain the correct floor height.~~
- ~~(3) — An owner or occupier of any land upon which a stable or shelter is located must ensure that the stable or shelter complies in all respects with the requirements of subclause (1), and, where the approval referred to in subclause (2) has been granted, with the requirements of subclause (2).~~

Division 3 – Keeping of Bees

~~2.16. Permit required to keep bees~~

- ~~(1) — Subject to the provisions of this clause, a person shall not keep bees or allow bees to be kept on land except in accordance with a valid permit issued in relation to the land.~~
- ~~(2) — Subclause (1) does not apply where —~~
 - ~~(a) — the land is outside the townsite; and~~
 - ~~(b) — the bees are kept —~~
 - ~~(i) — at least 500 m from a thoroughfare; or~~
 - ~~(ii) — less than 500 m from a thoroughfare but the vegetation or a screen or other barrier on the land is such as to encourage the bees to fly at a height over the thoroughfare as will not create a nuisance to users of the thoroughfare.~~
- ~~(3) — Subclause (1) does not apply where an occupier of land keeps bees on the land —~~
 - ~~(a) — for a continuous period not exceeding 8 weeks; and~~
 - ~~(b) — for the purpose of pollinating a crop on the land.~~
- ~~(4) — An occupier referred to in subclause (3), in keeping bees under that subclause, shall provide a good and sufficient water supply on the land which is readily accessible by the bees.~~
- ~~(5) — Subclause (1) does not apply where a person keeps bees on Crown land.~~

~~2.17 Application for a permit~~

~~An applicant for a permit shall —~~

- ~~(a) — be a person registered as a beekeeper under section 8 of the *Beekeepers Act 1963*;~~
- ~~(b) — provide such details as may be required by the local government;~~
- ~~(c) — apply in the form of that in Schedule 3; and~~

- ~~(d) — pay any application fee imposed and determined by the local government under sections 6.16 to 6.19 of the Act.~~

~~2.18~~ Determination of application

- ~~(1) — The local government may —~~

- ~~(a) — refuse to determine an application for a permit which does not comply with clause 2.17;~~
- ~~(b) — approve an application for a permit subject to the conditions referred to in clause 2.16 and to such other conditions as it considers appropriate; or~~
- ~~(c) — refuse to approve an application for a permit.~~

- ~~(2) — Where an application for a permit is approved subject to conditions, the permit holder is to comply with those conditions or is to cause those conditions to be complied with.~~

- ~~(3) — Where the local government approves an application under subclause (1)(b), it is to issue to the applicant a permit in the form of that in Schedule 4.~~

- ~~(4) — A permit is valid from the date of issue unless and until it is cancelled under this local law.~~

2.10 Keeping of Bees

A person shall not keep bees or allow bees to be kept on land except in accordance with the requirements outlined in clause 2.10.

2.1911 Conditions of approvalRequirements for Beekeeping

- ~~(1) — Without limiting the generality of clause 2.19(1)(b) an application for a permit may be approved by the local government~~The keeping of bees is subject to the following conditions-requirements -

- (a) the provision of a good and sufficient water supply on the land which is readily accessible by the bees on the land;
- (b) each bee hive shall be -
- (i) kept at a distance specified by the local government from any thoroughfare, public place or boundary of the land; or
- (ii) located near a screen or other barrier so as to prevent the bees flying low over a thoroughfare, public place or adjoining land;
- (c) no more than 2 bee hives are to be kept on land of less than 2,000 square metres in area; and
- (d) no more than 15 bee hives are to be kept on land between 2,000 and 20,000 square metres in area.

~~(2) In respect of a particular application for a permit, the local government may vary any of the conditions referred to in subclause (1).~~

~~2.20 Variation or cancellation of permit and conditions~~

~~(1) The local government may vary the conditions of a permit after it has been issued.~~

~~(2) The local government may cancel a permit on the request of a permit holder to do so.~~

~~(3) Notwithstanding clause 2.24, a permit shall be cancelled on—~~

~~(a) the permit holder ceasing to be registered as a beekeeper under section 8 of the *Beekeepers Act 1963*; or~~

~~(b) the expiration of a continuous period of 12 months during which the permit holder has not kept any bees on the land to which the permit relates, without any action required on the part of the local government.~~

~~2.21 Permit holder to notify cessation of registration or keeping of bees~~

~~(1) In this clause a **permit holder** includes the holder of a permit cancelled—
by clause 2.20 (3).~~

~~(2) A permit holder is to notify the local government in writing as soon as practicable after—~~

~~(a) the permit holder ceases to be registered as a beekeeper under section 8 of the *Beekeepers Act 1963*; or~~

~~(b) a continuous period of 12 months has passed during which the permit holder has not kept any bees on the land described in her or his permit.~~

~~(3) A permit holder shall, within 7 days of the local government giving the permit holder a written notice to do so, provide to the local government—~~

~~(a) written proof of her or his registration as a beekeeper under section 8 of the *Beekeepers Act 1963*;~~

~~(b) in respect of land identified by the local government in its notice, a signed statement as to whether or not he or she has kept bees on the land within the 12 months preceding the date of the notice; or~~

~~(c) both.~~

~~2.22 Permit not transferable~~

~~A permit is personal to the permit holder and applies only to the land described in the permit.~~

~~2.1223 Nuisance caused by bees or beehives~~

~~A person shall not keep or allow to be kept bees or beehives, or both, on land so as to create a nuisance.~~

~~2.2134 Notice to remove bees~~

- (1) Whenever in the opinion of the local government a person has contravened any provision of ~~the Beekeepers Act 1963 or of~~ this local law which relates to the keeping of bees or bee hives, the local government may give the ~~permit holder in relation to that land, or if there is no valid permit in relation to that land an~~ owner or occupier of the land a written notice requiring her or him to remove any bees or bee hives, or both, from the land within the time specified in the notice.
- ~~(2) Subject to Division 1 of Part 9 of the Act, on the giving of a notice referred to in subclause (1), any valid permit given by the local government relating to the keeping of bees or bee hives on that land is cancelled from the time specified in the notice, being not less than 7 days from the date it is given.~~
- (32) Where a person fails to comply with a notice given under subclause (1), the local government may dispose of the bees or the bee hives or both in such manner as it sees fit and recover the costs of so doing from the ~~permit holder or an~~ owner or occupier, as the case may be, as a debt due to it.

PART 3 – BUILDING, DEVELOPMENT AND LAND CARE

Division 1 – Litter and refuse on building sites

3.1 Provision of refuse receptacles

- (1) The owner or occupier of a building or development site shall at all times provide and maintain available for use on the site a refuse receptacle, to the satisfaction of an authorised person, of such design as will –
- (a) contain any refuse likely to be produced on the site; and
 - (b) prevent refuse being blown from the receptacle by wind.

3.2 Control of refuse

- (1) From the time of commencement of works on a building site or development site until the time of completion of such work, the owner or occupier of the site shall –
- (a) ensure all refuse on the site is placed and contained in the refuse receptacle and prevented from being blown from the site by wind;
 - (b) keep the site as free as is reasonably practicable from any refuse;
 - (c) maintain the street verge, and any other reserve, immediately adjacent to the site free of refuse from the site; and
 - (d) ensure the refuse receptacle is emptied when full.

- (2) The owner or occupier of a building site or development site shall ensure that, within 2 days of completion of works on the site, the site and the street verge immediately adjacent to it is cleared of all refuse and all refuse receptacles are removed from the site.

3.3 Unauthorised storage of materials

- (1) All construction materials must be located on the lot under construction.
- (2) Written approval must be obtained from the City prior to any proposal to store construction material on any other property (including a road reserve).
- (3) ~~A written~~ request for approval must be accompanied by the written approval of the landowner of the land on which materials are proposed to be stored.

Division 2 – Prevention of Dust and Liquid Waste

3.4 Prohibited Activities

- (1) An owner and or occupier of land must take effective measures to –
 - (a) stabilise dust on the land;
 - (b) contain all liquid waste on the land;
 - (c) ensure no dust or liquid waste is released or escapes from the land, whether by means of wind, water or any other cause.
- (2) Where the local government forms the opinion that –
 - (a) an owner or occupier has not complied with subclause (1)(a) or (1)(b); or
 - (b) the dust or liquid waste has been released or escaped from the owner's or occupier's land,the local government may serve on the owner and or occupier of the land a notice requiring the owner and or occupier to do one or more of the following –
 - (i) comply with subclause (1)(a) or (1)(b);
 - (ii) clean up and properly dispose of any released or escaped dust or liquid waste;
 - (iii) clean up and make good any damage resulting from the released or escaped dust or liquid waste;
 - (iv) take effective measures to stop any further release or escape of dust or liquid waste.
- (c) The requirements set out in a notice issued under subclause (2)(a) must be complied with -
 - (i) within 48 hours of service of the notice where no other time is specified;

- (ii) within such other period as is specified in the notice; or
 - (iii) immediately, if the notice so specifies.
- (3) Where the local government forms the opinion that dust or liquid waste has escaped or has been released from an activity undertaken on land or as a consequence of the use of equipment on land, the local government may serve a notice on the owner and or occupier of the land and or the operator of the equipment, as the case may be, requiring that the activity or use of the equipment on the land be ceased immediately, for such period as is specified in such notice.
- (4) Where the local government is of the opinion that dust or liquid waste may be released or escape as a result of an activity which is likely to be carried on from any land, the local government may give to the owner and or occupier a notice providing that the activity may only be carried on subject to conditions specified in the notice.

Division 3 – ~~Smoke~~Burning of materials

3.5 Burning of cleared vegetation prohibited

- ~~(1) An owner or occupier shall ensure that no vegetation or other material is burnt on the site.~~
- ~~(2) Subclause (1) does not apply where a fire permit has been issued by the local government under the Bush Fires Act 1954.~~
- ~~An owner or occupier of any building or development site shall ensure that no vegetation or other material cleared from the site is burnt on the site.~~

Division 4 – Unsightly land and disused materials

3.6 Removal of refuse and disused materials

- (1) The owner or occupier of a lot shall not keep, or permit to remain on the lot, any refuse, rubbish or disused material of whatsoever nature or kind which in the opinion of the local government or an authorised person is likely to give the lot an untidy appearance and does not conform with the general appearance of other land in that particular part of the district.
- (2) The local government or an authorised person may give notice in writing to the owner or occupier of a lot requiring the removal of refuse, rubbish or disused material from the lot within the time specified in the notice.

3.7 Removal of unsightly overgrowth of vegetation

- (1) The owner or occupier of a lot shall not permit to remain on a lot any unsightly overgrowth of vegetation that gives the lot an untidy appearance and does not conform with the general appearance of other land in that particular part of the district.

- (2) The local government or an authorised person may give notice in writing to the owner or occupier of a lot requiring the removal of the overgrowth of vegetation within the time specified in the notice.

3.8 Storage of vehicles, vessels and machinery

The owner or occupier of a lot shall not—

- (a) store, or allow to remain, in public view on any lot more than one vehicle, vessel or machinery (whether licensed or not) in a state of disrepair;
- (b) store, or allow to remain, in public view on any lot any vehicle, vessel or machinery in a state of disrepair for a period in excess of 1 month;
- (c) store, or allow to remain, in public view on any lot vehicle, vessel or machinery parts (including tyres); or
- (d) wreck, dismantle or break up any vehicle, part or body of a vehicle, vessel or machinery; unless—
 - (i) inside a building; or
 - (ii) within an area enclosed by a fence or wall of not less than 1.8 metres in height and of such a nature as to screen all vehicles, parts or bodies of vehicles, vessels or machinery from the street and from adjoining properties,
- (e) wreck, dismantle or break up a vehicle, vessel or machinery so as to cause a nuisance.

3.9 Disposing of disused refrigerators or similar containers

A person shall not place, leave or dispose of a disused refrigerator, ice-chest, ice-box, trunk, chest or other similar article having a compartment which has a capacity of 0.04 cubic metres or more on any land without first -

- (a) removing every door and lid and every lock, catch and hinge attached to a door or lid; or
- (b) rendering every door and lid incapable of being fastened; and
- (c) removing any refrigerants as per requirements of the Environment Protection (Ozone Protection) Policy 2000.

Division 5 – Hazardous materials

3.10 Hazardous trees

- (1) Where a tree on a lot endangers any person or thing on adjoining land, the local government may give a notice to the owner or the occupier of the lot to remove, cut, move or otherwise deal with that tree so as to make the tree safe.
- (2) Where a tree on a lot presents a serious and immediate danger to any person or thing, the local government may take any remedial action it considers appropriate in order to make the tree safe without having given the owner or occupier notice pursuant to subclause (1).
- (3) The local government reserves its right to recover any costs incurred by the local government for remedial action taken in terms of subclause (2).
- (4) Where the local government exercises its right of remedial action under subclause (2) the local government shall use its best endeavors to minimise any damage to the property but to the fullest extent possible at law, shall not be liable to the owner for its acts.

3.11 Cyclonic activities

- (1) Where in any circumstance there is likely to be a danger to the public or damage to property which may result from cyclonic activity, the local government may give a notice to the owner or the occupier of a lot specifying measures to prevent or minimise the danger or damage.
- (2) Where a circumstance represents serious and immediate danger to the public or property, the local government or an authorised person may take any remedial action it considers appropriate to prevent or minimize the danger or hazard without having given the owner or occupier notice pursuant to subclause (1).
- (3) Any costs incurred by the local government for remedial action taken in terms of subclause (2) cannot be recovered by the local government.

PART 4 – NUISANCES AND DANGEROUS THINGS

Division 1 – Light

4.1 Use of exterior lights

An owner or occupier of land on which floodlights or other exterior lights are erected or used shall not allow the floodlights or other exterior lights to shine directly onto any other premises.

4.2 Emission or reflection of light

An owner or occupier of land shall ensure that –

- (1) artificial light is not emitted or reflected from anything on the land so as to illuminate premises outside that land to more than 50 lux; and
- (2) natural light is not reflected from anything on the land so as to create or cause a nuisance to the occupier of any other premises or to a person lawfully using a thoroughfare.

4.3 Notice may require specified action to prevent emission or reflection of light

(1) Where –

- (a) floodlights or other exterior lights shine directly onto any other premises;
- (b) artificial light is emitted or reflected from anything on the land so as to illuminate premises outside the land to more than 50 lux; or
- (c) natural light is reflected from anything on the land so as to create or cause a nuisance to the occupier of any other premises or to a person lawfully using a thoroughfare,

the local government may by notice in writing direct the owner or occupier to take such actions as the authorised person considers necessary within the time specified in the notice.

(2) The notice referred to in subclause (1) may direct that –

- (a) floodlights or other exterior lights are used only during the hours specified in the notice;
- (b) the direction in which the lights shine be altered as specified in the notice; or
- (c) any reflective surfaces be painted or otherwise treated so as to abate the nuisance;

or any combination of these measures that the local government believes to be appropriate to the circumstances.

Division 2 – Smoke, fumes, odours and other emissions

4.4 Burning rubbish, refuse or other material

(1) A person shall not set fire to rubbish, refuse or other materials unless –

~~(2) Subclause (1) does not apply to rural residential zoned lots.~~

~~(3) A person shall not set fire to rubbish, refuse or other materials on rural residential zoned property unless –~~

~~(a) written approval has first been obtained from the local government;~~

~~(b) the person demonstrates to the satisfaction of the local government that reasonable alternatives for the disposal of the rubbish, refuse or other material do not exist and the potential for pollution is low;~~

~~(c) the material does not include any plastic, rubber, food scraps, green garden materials or other material likely to cause the generation of smoke or odour in such quantity as to cause a nuisance to other persons;~~

~~(d) a haze alert has not been issued by the Bureau of Meteorology for the period during which burning is to take place; and~~

~~(e)~~ — the burning complies with the *Bush Fires Act 1954*, any annual fire hazard reduction notice issued by the local government under that Act and any conditions of approval as determined by the local government.

~~(42)~~ Subclauses ~~(1) and (3)~~ shall not apply to any barbeque, solid fuel water heater, space heater or ovens fired with dry paper, dry wood, synthetic char or charcoal type fuel.

~~(5)~~ Subclause ~~(4)~~ is subject to any fire danger rating as determined by the Bureau of Meteorology.

4.5 Escape of smoke, fumes, odours and other emissions

An owner or occupier of land or premises shall not cause or permit the escape of smoke, fumes or odours from the land or premises in such quantity or of such a nature as to cause or to be a nuisance to any person.

Division 3 — Trucks

~~4.6 — Livestock vehicles~~

~~(1) — A person shall not park a vehicle containing livestock in a townsite for a period in excess of 30 minutes.~~

~~(2) — A person shall not park a vehicle which contains or has been used for the carriage of livestock so as to create or be a nuisance to any person, by reason of the odour emanating from the vehicle.~~

~~(3) — If a person parks a vehicle containing livestock in a townsite under and in accordance with subclause (1), then the person does not contravene subclause (2).~~

~~4.7 — Truck noise from residential land~~

~~(1) — A person shall not start or drive a truck on land zoned, approved or used for residential purposes between the hours of 10:30 p.m. and 6:30 a.m. on the following day without first obtaining the written consent of the local government.~~

~~(2) — In this clause, a truck means a vehicle having a tare in excess of 2,000 kg.~~

Division ~~4.3~~ — Stormwater management

~~4.68~~ Containment of stormwater

(1) Subject to subclause (2), the owner or occupier of a lot shall ensure that all stormwater received by any building, house, other structure or any paved or sealed or other surfaced areas including any vehicle access ways on the lot is contained within the lot and is not permitted to discharge onto or run-off onto adjacent land so as to cause a nuisance, or cause damage to any structures situated on adjacent land.

- (2) Subclause (1) shall not prevent the discharge of stormwater from a lot into a local government approved stormwater drain.

4.79 Guttering and downpipes

- (1) The owner or occupier of a lot shall ensure that each building or house on the lot is provided with adequate guttering and downpipes sufficient to receive, without overflow, all stormwater from the roof of the building or house, in accordance with AS/NZS 3500.
- (2) The owner or occupier of a lot shall ensure that all guttering and downpipes to each building or house on the lot are maintained in a good state of repair and free from obstruction.

4.810 Stormwater disposal systems

- (1) The owner or occupier of a lot shall ensure that all stormwater from the roof of each building or house on the lot, or the overflow from rainwater storage tanks, is discharged into stormwater drainage system, or discharged by other methods approved by the local government, in accordance with AS/NZS 3500.
- (2) The owner or occupier of a lot shall ensure that all stormwater from paved areas or other surfaced areas including any vehicle access ways of the lot is discharged into a stormwater drainage system of adequate capacity in accordance with AS/NZS 3500.
- (3) The owner or occupier of a lot shall ensure that all stormwater drainage systems on the lot are maintained in a good state of repair and free from obstruction.

4.11-9 Containment and disposal of swimming pool and other wastewater

- (1) Wastewater and backwash water from swimming pool filtration systems or other water storage systems associated with a swimming pool shall be contained within, and disposed onto or into the lot on which the swimming pool is located.
- (2) The disposal of wastewater and backwash water from a swimming pool filtration system or other water storage system associated with a swimming pool into an approved disposal system or a soakwell system having a minimum capacity of 140 litres, and located a minimum of 1.8 metres away from any building or lot boundary, satisfies the requirement of subclause (1).

Division 5—Amusement Activities

4.12—Nuisance

~~A person shall not, without written authorisation from the City, provide or conduct any amusement on land so as to create or be a nuisance to any owner or occupier of land in the district.~~

4.13—Abatement by authorised person

~~Subject to subdivision 3, of division 3, of part 3 of the Act, an authorised person may enter on any land where an amusement is provided or conducted and may do any act or thing reasonably required to abate a nuisance referred to in clause 4.12.~~

~~*Division 6—Advertising, bill posting and junk mail*~~

4.14—Placement of advertisement, bill posting or junk mail

- ~~(1) A person shall not without written authorisation from the City, place or affix any letter, figure, device, poster, sign or advertisement on any buildings, fences or posts.~~
- ~~(2) A person shall not place in or on any letter box, gate, fence or generally leave or distribute to any property in the district, any handbill, poster, pamphlet, flyer or other form of advertising or promotional material, where there is clearly displayed a sign or notice which states “no junk mail” or words of similar effect.~~

4.15. Exemptions

~~Clause 4.14 does not apply to:~~

- ~~(a) delivery of articles by Australia Post;~~
- ~~(b) documents issued under or for the purposes of an Act of Parliament;~~
- ~~(c) an authorised person or member of the police force acting in the course of their duties;~~
- ~~(d) electoral materials; or~~
- (e) legal process.**

~~*Division 7.5—Bird Nuisance*~~

4.1016. Restrictions on feeding of birds

- (1) A person shall not feed a bird -
- (a) so as to cause a nuisance, or
 - (b) with a food or substance that is not a natural food of a bird.
- (2) Where an authorised person forms the opinion that a person has not complied with subclause (1) the authorised person may serve the person a notice requiring the person to clean up and properly dispose of any feed or waste products specified in the notice.

~~*Division 8.6—Pest Plants*~~

4.1711 Description of Pest Plants

- (1) Every plant described in Schedule 5 to this local law is a pest plant.

4.1812 Serving of Notices

- (1) An authorised person may serve on the owner or occupier of private land within the district a duly completed notice in the form of Schedule 6 to this local law requiring the destruction, eradication or otherwise to control any pest plant on that land.
- (2) Where a person served with a notice under subclause (1) of this local law fails to comply with that notice within the time and in the manner specified therein they commit an offence.

PART 5 – OBJECTIONS AND APPEALS

5.1 Objections and Appeals

- (1) When the local government makes a decision under this local law as to whether it will –
 - (i) grant a person a permit or authorisation;
 - (ii) vary or cancel a permit or authorisation; or
 - (iii) give a person a notice;

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

PART 6 – ENFORCEMENT

Division 1 – Notice of breach

6.1 Notice of breach

- ~~(1) Where a breach of any provision of this local law has occurred, the local government may give a notice in writing to the person alleged to be responsible for such breach.~~
- ~~(2) A notice issued pursuant to subclause (1) shall –
 - ~~(a) specify the provision of this local law which has been breached;~~
 - ~~(b) specify the particulars of the breach; and~~
 - ~~(c) state the manner in which the recipient is required to remedy the breach to the satisfaction of the local government within a time period stipulated in the notice which shall be not less than 14 days from the giving of the notice.~~~~
- ~~(3) It is an offence to fail to comply with a notice issued by the local government pursuant to subclause (1).~~
- (1) A person who fails to comply with a notice given to him or her under this local law commits an offence.
- (2) If a person fails to comply with a notice given to him or her under this local law, the local government may do, or arrange to be done, the thing specified in the notice and recover from the person to who the notice was given, as a debt, the costs incurred in doing so.

6.2 Form of notices

Where this local law refers to the giving of a notice, other than the giving of an infringement notice, no particular form is prescribed and it will be sufficient that the notice be in writing giving sufficient details to enable the owner, occupier or other person to whom the notice is issued to know the offence committed and the measures required to be taken or conditions with which compliance is required, as the case may be.

6.3 When local government may undertake work required by notice

- (1) This clause applies only in respect of a notice issued under clauses 3.6(2), 3.7(2), 3.10(1), 3.11(1) and 4.3(1) of this local law.
- (2) Where a person fails to comply with a notice referred to in subclause (1) the local government may, subject to compliance with the requirements of subdivision 3, Division 3 Part 3 of the Act, do anything that it considers necessary to achieve, so far as is practicable, the purpose for which the notice was given.
- (3) The local government may recover the cost of anything it does under subclause (2) as a debt due from the person who failed to comply with the notice.

Division 2 – Offences and penalties

Subdivision 1 – General

6.4 Offences and penalties

- (1) A person who –
 - (a) fails to do anything required or directed to be done under this local law;
 - (b) fails to comply with the requirements of a notice issued under this local law by an authorised person; or
 - (c) does anything which under this local law that person is prohibited from doing, commits an offence.
- (2) Where, under this local law, an act is required to be done or forbidden to be done in relation to any land or premises, the owner or occupier of the land or premises has the duty of causing to be done the act so required to be done, or of preventing from being done the act forbidden to be done.
- (3) A person who commits an offence under this local law is liable to a maximum penalty of \$5,000 and a maximum daily penalty of \$500 in respect of each day or part of a day during which the offence has continued.

Subdivision 2 – Infringement notices and modified penalties

6.5 Prescribed offences

- (1) An offence against a clause specified in Schedule 7 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 Schedule 7
 - (a) in the case of a first offence the modified penalty will be that prescribed in column 4 of Schedule 7;
 - (b) in the case of a subsequent offence the modified penalty will be that prescribed in column 5 of Schedule 7.
- (3) An authorised person should be satisfied that –
 - (a) commission of the prescribed offence is a relatively minor matter; and
 - (b) only straightforward issues of law and fact are involved in determining whether the prescribed offence was committed, and the facts in issue are readily ascertainable, before giving an infringement notice to a person in respect of the commission of a prescribed offence.

6.6 Form of infringement notices

For the purposes of this local law –

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

SCHEDULE 1 – Application For A Permit

City of Mandurah Animals, Environment and Nuisance Local Law 2010

~~[cl. 2.10]~~

**FORM: APPLICATION FOR PERMIT TO KEEP FARM ANIMAL(S) IN OTHER THAN A RURAL
ZONE**

Given Names:		Family Name:	
Residential Address:			
		Post Code	
Type of animal for which approval is sought:			
Number of animals for which approval is sought:			
Address at which it is proposed animal/s is/are to be kept:			
		Post Code	

I hereby apply for approval to keep the animal(s) at the premises indicated and
submit herewith —

- (i) ~~a 1:200 scale diagram of the property clearly showing its dimensions, where it is proposed that the animal(s) be kept and the distance of that location from neighbouring houses;~~
- (ii) ~~a sketch plan at scale 1:100 indicating the nature of the shelter or housing to be provided for the animal(s); and~~
- (iii) ~~a plan for management of manure.~~

~~I understand that approval, if granted, is subject to such conditions as the local government sees fit to impose, and that they may be varied, or the approval withdrawn, in the event that a nuisance is caused or otherwise at the local government's discretion.~~

Signature of Applicant.....Date.....

~~SCHEDULE 2 – Permit To Keep Farm Animal(s) In Other Than A Rural Zone~~

~~City of Mandurah Animals, Environment and Nuisance Local Law 2010~~

~~{cl. 2.11(3)}~~

Given Names:		Family Name:	
Residential Address:			
		Post Code:	
Number of animals approved:			
Type of animals for which approval is granted:			
1.		2.	
3.		4.	
5.		6.	
Address at which it is proposed animal/s is/are to be kept:			
		Post Code:	

Conditions:

- 1.
- 2.
- 3.

This Permit is valid until 30 June 20.....

Signature of Authorised Person:..... Date

~~SCHEDULE 3 – Application To Keep Bees~~

~~City of Mandurah Animals, Environment and Nuisance Local Law 2010~~

~~{cl. 2.17(c)}~~

Given Names:		Family Name:	
Residential Address:			
		Post Code:	
Number of bees for which approval is sought:			
Address at which it is proposed bees are to be kept:			
		Post Code	

I hereby apply for approval to keep the bee(s) at the premises indicated and submit herewith—

- ~~(i) — a plan of the property, at a scale not less than 1:200, with dimensions clearly marked, showing where it is proposed that the bee hives are to be kept and the distance of that location from neighbouring houses;~~
- ~~(ii) — the proposed location of the water supply provided for the bees; and~~

(iii) ~~the appropriate application and permit fees as determined from time to time by City of Mandurah pursuant to the provisions of sections 6.16 to 6.19 of the Act.~~

~~I confirm that I am registered as a beekeeper under section 8 of the *Beekeepers Act 1963* and I understand that approval, if granted, is subject to such conditions as the local government sees fit to impose, and that they may be varied, or the approval withdrawn, in the event that a nuisance is caused or otherwise at the local government's discretion.~~

Signature of Applicant.....Date.....

SCHEDULE 4 – Permit To Keep Bees

~~CITY OF MANDURAH ANIMALS, ENVIRONMENT AND NUISANCE LOCAL LAW 2010~~

~~{CL. 2.18(3)}~~

GIVEN NAMES:		FAMILY NAME:	
RESIDENTIAL ADDRESS:			
		POST CODE:	
NUMBER OF BEES APPROVED:			
ADDRESS AT WHICH IT IS PROPOSED BEES ARE TO BE KEPT:			
		POST CODE:	

CONDITIONS:

1.
2.
3.

~~THIS PERMIT IS VALID UNTIL 30 JUNE 20....~~

SIGNATURE OF AUTHORISED PERSON:..... DATE

SCHEDULE ~~5~~1 - Pest Plants

City of Mandurah Animals, Environment and Nuisance Local Law 2010

[cl.4.~~47~~11(1)]

Common Name	Scientific Name
Black Flag	<i>Ferraria crisper</i>
Brazilian/Japanese Pepper Tree	<i>Schinus terebinthifolia</i>
<u>Caltrop</u>	<u><i>Tribulus terrestris</i></u>
<u>Castor Oil Plant</u>	<u><i>Ricinus communis</i></u>
<u>Flaxleaf Broom</u>	<u><i>Genista Linifolia</i></u>
Flinders Range Wattle	<i>Acacia iteaphylla</i>
Fountain Grass	<i>Pennisetum setaceum</i>
Geraldton Carnation	<i>Euphorbia terracina</i>
Wild Gladiolus	<i>G. Undulatus</i> , <i>G. Caryophyllaceus</i>
Madeira Creeper	<i>Anredera cordifolia</i>
Morning Glory	<i>Ipomoea cairica</i> , <i>I. indica</i>
Pampas Grass	<i>Cortaderia selloana</i>
Sydney Golden Wattle	<i>Acacia longifolia</i>
Tree of Heaven	<i>Ailanthus altissima</i>
Victorian Tea Tree	<i>Leptospermum laevigatum</i>
Watsonia	<i>Watsonia meriana</i>
White Weeping Broom	<i>Retama raetam</i>

SCHEDULE ~~6-2~~ - Pest Plant Notice

Agriculture and Related Resources Protection Act 1976

City of Mandurah Animals, Environment and Nuisance Local Law 2010

[cl.4.~~18~~12]

No.:

To
(Full name)

of
(Address)

You are hereby given notice under the *City of Mandurah Animals, Environment and Nuisance Local Law 2010* that you are required to:

.....
.....
.....
(specify whether required to destroy, eradicate or otherwise control)

the pest plant –

.....
(Common Name)

..... (Scientific Name)

on.....
(specify the land)

of which you are the Owner/Occupier (delete whichever is not applicable).

This notice may be complied with by

.....
.....
(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:..... Date

SCHEDULE ~~73~~ - Prescribed Offences

City of Mandurah Animals, Environment and Nuisance Local Law 2010

ITEM NO	CLAUSE	DESCRIPTION	MODIFIED PENALTY First Offence	MODIFIED PENALTY Subsequent Offences
<u>1</u>	<u>2.2</u>	<u>Failure to comply with requirements for keeping poultry</u>	<u>\$125</u>	<u>\$250</u>
<u>2</u>	<u>2.3</u>	<u>Failure to comply with requirements for keeping pigeons</u>	<u>\$125</u>	<u>\$250</u>
<u>3</u>	<u>2.4</u>	<u>Failure to comply with requirements for keeping aviary birds</u>	<u>\$125</u>	<u>\$250</u>
<u>4</u>	<u>2.7(1)(a)</u>	<u>Keeping a farm animal without a permit</u>	<u>\$250</u>	<u>\$500</u>
44	<u>2.16</u>	Failure to obtain permit to keep bees	<u>\$125</u>	<u>\$250</u>
<u>2</u>	<u>2.16(3)</u>	Failure to comply with obligation when temporarily keeping bees	<u>\$125</u>	<u>\$250</u>
<u>5</u>	<u>2.8</u>	<u>Nuisance caused by farm animal</u>	<u>\$250</u>	<u>\$500</u>
63	<u>2.192.10</u>	Failure to comply with a condition of a permit to keep bees <u>requirement for beekeeping</u>	<u>\$125</u>	<u>\$250</u>
74	<u>2.232.11</u>	Creation of Nuisance caused by from keeping of bees or beehives	<u>\$125</u>	<u>\$250</u>
<u>5</u>	<u>2.24</u>	Failure to comply with notice of local government	<u>\$125</u>	<u>\$250</u>
86	<u>2.242.13</u>	Failure to comply with notice to remove bees or bee hives for contravention of local law	<u>\$125</u>	<u>\$250</u>
97	<u>3.1</u>	<u>Failure to provide or maintain a refuse receptacle on a building or development site</u>	<u>\$250</u>	<u>\$500</u>
108	<u>3.2</u>	<u>Failure to control refuse on a building or development site</u>	<u>\$250</u>	<u>\$500</u>
119	<u>3.3</u>	<u>Unauthorised storage of materials</u>	<u>\$250</u>	<u>\$500</u>
1240	<u>3.4</u>	<u>Release or escape of dust or liquid waste from land</u>	<u>\$250</u>	<u>\$500</u>
<u>13</u>	<u>3.5</u>	<u>Owner or occupier not to burn on site</u>	<u>\$500</u>	<u>\$500</u>

1414	3.8 (1) (a)	Store or allow to remain on land more than one vehicle, vessel or machinery in a state of disrepair	\$250	\$500
14215	3.8 (2) (b)	Store or allow to remain on land any vehicle, vessel or machinery in a state of disrepair for a period in excess of 1 month	\$250	\$500
14316	3.8 (3) (c)	Store or allow to remain on land any vehicle, vessel or machinery parts (including tyres)	\$250	\$500
14417	3.8 (4) (a)(d)(i)	Wreck, dismantle or break up any vehicle part or body, vessel or machinery not inside a building	\$250	\$500
14518	3.8 (4) (b)(d)(ii)	Wreck, dismantle or break up any vehicle part or body, vessel or machinery not behind a sufficient fence or wall	\$250	\$500
14619	3.8 (5) (e)	Wreck, dismantle or break up a vehicle, vessel or machinery so as to cause a nuisance	\$250	\$500
14720	3.9	Disposing of disused refrigerator or similar container with door/lid that can be fastened without removing the refrigerant, door, lid, lock, catch, hinge and rendering the door/lid incapable of being fastened.	\$250	\$500
14821	4.1	Erection or use of lighting installations other than in accordance with requirements	\$250	\$500
14922	4.2	Emitting light contravening AS4282	\$250	\$500
23	4.4	Noncompliant burning of rubbish, refuse or other materials	\$250	\$500
2024	4.5	Cause of permit the escape of smoke, fumes, odours and other emissions so as to cause a nuisance	\$250	\$500
24	4.6	Parking a livestock vehicle in an urban area or rural townsite in excess of 30 minutes	\$250	\$500
22	4.7	Starting or driving a truck on residential land, or adjoining residential land, without consent	\$250	\$500

23 <u>25</u>	4. 8 <u>6</u>	Failure to ensure that all rainwater or storm water received by a lot and any building, house or structure on the lot, is contained within the lot	\$250	\$500
24 <u>26</u>	4. 7 <u>9</u>	Failure to maintain all guttering and down pipes in a good state of repair and free from obstruction	\$250	\$500
25 <u>27</u>	4. 8 <u>10</u>	Failure to maintain all subsurface stormwater disposal systems in a good state of repair and free from obstruction	\$250	\$500
26 <u>28</u>	4. 9 <u>11</u>	Failure to contain or dispose of swimming pool wastewater on the lot on which the swimming pool is located	\$250	\$500
27	4.12	Conducting an amusement so as to create a nuisance	\$250	\$500
28	4.14(1)	Unauthorised placement of advertisement, bill posting or junk mail	\$50	\$100
29	4.14(2)	Placement of advertisement, bill posting or junk mail where a "no junk mail", or equivalent, sign is displayed	\$50	\$100
30 <u>29</u>	4.1 <u>0</u> 6(1)(a)	Feeding a bird causing a nuisance	\$250	\$500
31 <u>30</u>	4.1 <u>0</u> 6(1)(b)	Feeding a bird a food/substance that is not a natural food	\$250	\$500
32 <u>31</u>	4.1 <u>2</u> 8(2)	Failure to comply with Pest Plant Notice	\$50 <u>250</u>	\$100 <u>500</u>
33 <u>32</u>	6.4(1)(b)	Failure to comply with notice	\$250	\$500

Dated this ~~1st day of March 2011~~ _____

The Common Seal of the City of Mandurah was affixed by authority of a resolution of the Council in the presence of -

~~PATRICIA M CREEVEY, OAM, Mayor~~
RHYS JOHN WILLIAMS, Mayor

MARK R NEWMAN, Chief Executive Officer

6	SUBJECT:	Proposed Fencing Amendment Local Law 2018
	CONTACT OFFICERS:	Gavin Worth/Natasha Pulford
	AUTHOR:	Sophie Luxton
	FILE NO:	R0001448083

Summary

As part of the continuing process of updating and improving the City's local laws, a review has now been conducted of the Fencing Local Law 2015.

Amendments are proposed to differentiate between the fencing requirements of residential properties with different density requirements.

As a legal requirement, all local laws are to have a purpose and effect where the following is proposed for the Fencing Amendment Local Law 2018:

PURPOSE: To amend provisions within the City of Mandurah Fencing Local Law 2015.

EFFECT: To ensure the City of Mandurah Fencing Local Law 2015 is as clear and effective as possible.

Council is requested to adopt the proposed Fencing Amendment Local Law 2018 for advertising.

Disclosure of Interest

Nil.

Previous Relevant Documentation

- G.32/2/16 23 February 2016 Adoption of Fencing Amendment Local Law 2015.
- G.37/6/15 23 June 2015 Adoption of Fencing Local Law 2015.

Background

Local laws are subsidiary legislation made by local governments under the *Local Government Act 1995*. They are generally made to serve a purpose that State or Federal Acts and Regulations do not address for the particular local government.

The Fencing Local Law 2015 was adopted by Council in June 2015. The local law had minor amendments made through an amendment local law adopted in 2016 at the request of the Joint Standing Committee on Delegated Legislation.

The intent of the principle local law is to establish standards and guidelines for fencing on residential, rural residential, rural and commercial zoned properties throughout the District.

Amendments are required to address matters previously covered by a Local Planning Policy that was amended in September 2018. In the interest of reducing red tape, it is also considered more efficient for all fencing requirements to be incorporated into the Fencing Local Law. A number of additional amendments are proposed in order to clarify existing provisions within the local law.

Comment

All proposed amendments are within **Attachment 1 Proposed Fencing Amendment Local Law 2018**.

There are a number of very minor administrative amendments (i.e. updated clause references) made throughout the local law that don't alter the intent of the local law. The main amendments proposed and their reasoning's are:

Proposed Amendment	Reasoning
Clause 1.2 Definitions	<ul style="list-style-type: none"> • Addition of a definition for "building line" and clarification of height. • To add clarity to the provisions within the principle local law as well as introducing fencing provisions for owners seeking to install fences across canal frontages.
Clauses 2.1 and 3.1	<ul style="list-style-type: none"> • Reworded clause to differentiate between lots with different density zonings and to reference the schedule which provides for the sufficient fence for each zoning. • To ensure the appropriate fencing is specified for the larger lot residential R5 and lower densities. This is also to maintain consistency with the previous Local Planning Policy which no longer includes these provisions.
Subclause 4.3(4)	<ul style="list-style-type: none"> • Subclause has been reworded to ensure that the reader understands the need to place any barbed wire fencing on side of the fence posts furthest from any public thoroughfare or other public space.
Clause 4.5	<ul style="list-style-type: none"> • Amend wording. Provision adds clarity that any gate must not encroach into or over any other property including a thoroughfare or other public space.
NEW – Part 5 Canal Walls 5.1 Fences between a Canal Wall and the Building Line	<ul style="list-style-type: none"> • This part has been added to formalise the City's position regarding fencing on canal walls. The City has only recently been approached regarding the placement of fencing on canal walls. The City's view is that it is not considered in keeping with the desired amenity of the canal waterway to approve these types of requests. • This inclusion will provide some clarity of the City's position on this matter. • NOTE: Property owners must also take care to check for any caveats or covenants on their property title that may also apply to fencing.
Clause 8.1	<ul style="list-style-type: none"> • Added a new subclause to ensure that electrified fencing is installed in safe location.
Clause 9.1	<ul style="list-style-type: none"> • replace the term "planning application" with "development application - terminology update.
Schedule 1 and Schedule 3	<ul style="list-style-type: none"> • Add reference to properties zoned Residential with different density levels to ensure the appropriate fencing is specified for the larger lot residential R5 and lower densities. This is also to maintain consistency with the previous Local Planning Policy which no longer includes these provisions. • Specified the minimum and maximum heights rather than average heights to clarify fencing height requirements for fences made from different materials.

Consultation

If adopted, the proposed local law will be advertised State-wide, locally and to relevant Ministers.

Statutory Environment

- *Local Government Act 1995* Part 3, Division 2, Subdivision 2 - Local laws made under any Act.

Policy Implications

Relevant policies will be updated as required. Matters to be incorporated through this amendment local law were previously addressed in a Local Planning Policy which was recently revoked.

Economic Implications

Nil.

Risk Analysis

There is minimal risk in respect to the amendments proposed as they seek to provide clarity to minimum standards generally considered acceptable for fencing.

Strategic Implications

The following strategy from the *City of Mandurah Strategic Community Plan 2017 – 2037* is relevant to this report:

Organisational Excellence:

- Deliver excellent governance and financial management.

Conclusion

The City's Fencing Local Law 2015 requires amendment to add clarity to existing provisions and incorporate issues previously addressed in a Local Planning Policy. The amendment local law will, if adopted, encompass all fencing requirements resulting in greater efficiencies for the City.

Council is therefore requested to adopt the proposed Fencing Amendment Local Law 2018 for advertising and note that any responses will be reported to Council for consideration prior to the making and gazettal of the local law.

NOTE:

- Refer **Attachment 1** **Proposed City of Mandurah Fencing Amendment Local Law 2018.**
Attachment 2 **City of Mandurah Fencing Local Law 2015 showing amendments.**

RECOMMENDATION

That Council:

- 1 Adopt the proposed City of Mandurah Fencing Amendment Local Law 2018 for advertising.**
- 2 Note that any public and Ministerial responses will be reported to Council for consideration prior to the making of the local law and publication in the Government Gazette.**

ABSOLUTE MAJORITY REQUIRED

LOCAL GOVERNMENT ACT 1995

CITY OF MANDURAH

FENCING AMENDMENT LOCAL LAW 2018

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the City of Mandurah resolved on INSERT DATE to make the following local law.

1. Citation

This local law may be cited as the *City of Mandurah Fencing Amendment Local Law 2018*.

2. Commencement

The 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 *City of Mandurah Fencing Local Law 2015* as published in Government Gazette No. 107 of 14 July 2015.

4. Clause 1.2 amended

In clause 1.2:

a) insert:

building line is the parallel line to the boundary that abuts a street or canal that is the minimum setback specified in the zoning table of the Residential Design Codes or town planning scheme;

b) in the definition for “dangerous” delete “7.1” and replace with “8.1”;

c) In the definition for “height”;

i. delete (a) and insert:

“(a) the ground level immediately below that point; or”;

ii. delete (c) and insert:

“(c) where the fence is erected on a retaining wall approved by the local government, or on a retaining wall that is exempt for needing approval by the local government, from the top of the retaining wall;”.

5. Clause 2.1 amended

In clause 2.1:

(a) delete clause 2.1(3)(a);

(b) insert: “2.1(3)(a) on a Residential Lot of R10 or higher density, and Commercial Lots, is a fence constructed and maintained in accordance with the specifications and requirements of Schedule 1 and is located behind the specified building line;”;

(c) delete clause 2.1(3)(c);

ATTACHMENT 1

- (d) insert: “2.1(3)(c) on a Rural, Rural Residential Lot or a Residential Lot of R5 or lower density is a fence constructed and maintained in accordance with the specifications and requirements of Schedule 3”.
- (e) delete clause 2.1(4)(b); and
- (f) insert: “2.1(4)(b) a Residential Lot with a density of R10 or higher and a Residential Lot of R5 or lower, a Rural Lot or a Rural Residential Lot, a sufficient fence is a fence constructed and maintained in accordance with the specifications and requirements of Schedule 1.

6. Clause 3.1 amended

In clause 3.1:

- (a) in subclause 3.1(1) delete “On any Residential Lot a fence erected within the primary street setback area shall;” and replace with “On any Residential Lot with a density of R10 or higher, a fence erected within the primary street setback area shall;”;
- (b) delete clause 3.1(1)(b);
- (c) insert: “3.1(1)(b) not exceed a height of 1.8 metres except that piers with a maximum dimension of 350x350mm may extend to a maximum height of 2.1 metres; and”;
- (d) insert new subclause: “3.1(2) On any Residential Lot with a density of R5 or lower shall comply with Schedule 3.”;
- (e) renumber remaining clauses accordingly; and
- (f) in clause 3.1(6) delete “Subclause 4” and insert “Subclause 5”.

7. Clause 4.3 amended

In clause 4.3:

- (a) delete clause 4.3(4); and
- (b) insert: “4.3(4) On a Rural Lot a person may erect or affix to any fence any barbed wire. If the fence is located adjacent to a thoroughfare or other public space then the barbed wire must be fixed to the side of the fence posts furthest from the thoroughfare or other public space”.

8. Clause 4.5 amended

In clause 4.5:

- (a) delete clause 4.5; and
- (b) insert “4.5 Any gate or door must not encroach into or over any other property including a thoroughfare or other public space.”

9. Part 5 amended

In Part 5:

- (a) Insert new part:

PART 5 – CANAL WALLS

5.1 Fences between a Canal Wall and the Building Line

ATTACHMENT 1

On any Residential property that abuts a canal, a fence that is to be located between the canal wall and the building line on the property shall:

- (a) not exceed a height of 1.2 metres;
- (b) be setback behind the developer installed footpath behind the canal wall or 1.2 metres where there is no footpath;
- (c) be constructed of face finished brick or stone or powder coated or stainless tubular metal or stainless steel wire with appropriate corrosion protection, glass or a combination of the aforementioned materials, or similar, that complement the dwelling and do not detract from the amenity of the canal waterway. Fibre cement sheet, sheet metal, treated timber and brushwood are not considered suitable;
- (d) be 80% visually permeable;
- (e) not compromise the structural integrity of the canal wall.

Note: Property owners must also take care to check for any caveats or covenants on their property title that may also apply to fencing.

- (b) Renumber the remaining parts and clauses accordingly.

10. Clause 8.1 amended

In clause 8.1:

- (a) in subclause 8.1(c) delete “and”;
- (b) in subclause 8.1(d) delete “.” and insert “; and”; and
- (c) insert “(e) on an Industrial Lot, any electrified part of the fence must be located on the property side of the fence, and behind a sufficient fence.”.

11. Clause 9.1 amended

In clause 9.1:

- (a) in subclause 9.1(1) delete “planning” and replace with “a development”;
- (b) in subclause 9.1(2)(a)(ii) delete “; or” and replace with “.”.

12. Clause 9.5 amended

In subclause 9.5(e) delete “9.1” and replace with “10.1”.

13. Clause 9.6 amended

In subclause 9.6(d) delete “9.1” and replace with “10.1”.

14. Schedule 1 amended

In Schedule 1:

- (a) delete the heading and replace with: “SPECIFICATIONS FOR A SUFFICIENT FENCE ON A RESIDENTIAL LOT OF R10 OR HIGHER DENSITY AND A COMMERCIAL LOT BEHIND THE PRIMARY STREET SETBACK”;
- (b) delete “Each of the following is a sufficient fence on a Residential and Commercial Lot – Refer to clause 3.1 for fences within the primary street setback area.”;
- (c) insert “Each of the following is a sufficient fence on a Residential Lot of R10 or higher density and Commercial Lots behind the primary street setback area:

ATTACHMENT 1

- (Refer to clause 3.1 for fences within the primary street setback area).”;
- (d) delete paragraph (a)(i);
 - (e) insert “(a)(i) a minimum height of 1.6 metres and a maximum height of 2.0 metres;”
 - (f) delete paragraph (b)(i);
 - (g) insert “(b)(i) a minimum height of 1.6 metres and a maximum height of 2.0 metres;”
 - (h) delete paragraph (c)(i);
 - (i) insert “(c)(i) a minimum height of 1.6 metres and a maximum height of 2.0 metres;”;
 - (j) delete paragraph (d)(i); and
 - (k) insert “(d)(i) a minimum height of 1.6 metres and maximum height of 2.0 metres;”.

15. Schedule 3 amended

In Schedule 3:

- (a) delete the heading and replace with: “SPECIFICATIONS FOR A SUFFICIENT FENCE ON A RURAL LOT, RURAL RESIDENTIAL LOT OR RESIDENTIAL LOT ZONED R5 OR LOWER DENSITY”.
- (b) delete “each of the following is a sufficient fence on a Rural Lot and Rural Residential Lot - ”; and
- (c) insert “Each of the following is a sufficient fence on a Rural Lot, Rural Residential Lot or Residential Lot zoned R5 or lower density.”;
- (d) delete paragraph (a)(i);
- (e) insert “(a)(i) have a minimum height of 1.0 metre and a maximum height of 1.4 metres;”;
- (f) delete paragraph (b)(i); and
- (g) insert “(b)(i) have a minimum height of 1.0 metre and a maximum height of 1.4 metres;”.

16. Schedule 4 amended

In Schedule 4 delete reference to “5.1” and replace with “6.1”.

17. Schedule 5 amended

Schedule 5 amended:

- (a) delete “9.2” and replace with “10.2”;
- (b) delete “6.1” and replace with “7.1”;
- (c) delete “8.1(2)” and replace with “9.1(2)”;
- (d) delete “9.3” and replace with “10.3”.

18. Terms used throughout the principal local law

Wherever the term “m” is used substitute with “metre” or “metres” as appropriate.

ATTACHMENT 1

Dated: INSERT DATE

The Common Seal of the City of Mandurah was affixed by authority of a resolution of the Council in the presence of:

RHYS JOHN WILLIAMS, Mayor

MARK ROBERT NEWMAN, Chief Executive Officer

LOCAL GOVERNMENT ACT 1995

CITY OF MANDURAH

FENCING LOCAL LAW 2015

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the City of Mandurah resolved on 23 June 2015 (and 23 February 2016) to make the following local law.

PART 1 - PRELIMINARY

1.1 Citation

This local law may be cited as the *City of Mandurah Fencing Local Law 2015* (as amended by the *City of Mandurah Fencing Amendment Local Law 2015*)

1.2 Definitions

In this local law, unless the context otherwise requires -

AS or AS/NZS means an Australian Standard or an Australian/New Zealand Standard published by Standards Australia.

building permit is a permit granted under section 20 of the *Building Act 2011*;

building line is the parallel line to the boundary that abuts a street or canal that is the minimum setback specified in the zoning table of the Residential Design Codes or town planning scheme;

Building Regulations means *Building Regulations 2012*;

Commercial Lot means a lot zoned commercial, service commercial, or business/residential or an equivalent commercial zone under a town planning scheme and/or Structure Plan, but does not include a lot occupied by a residential building;

dangerous in relation to any fence means—

- (a) an electrified fence which does not comply with clause **7.48.1** of this local law;
- (b) a fence containing barbed wire other than a fence erected and maintained in accordance with this local law;
- (c) a fence containing exposed broken glass, asbestos fibre, razor wire or any other potentially harmful projection or material; or
- (d) a fence which is likely to collapse or fall, or part of which is likely to collapse or fall, from any cause;

district means the district of the local government;

dividing fence means a fence that separates the lands of different owners whether the fence is on the common boundary of adjoining lands or on a line other than the common boundary;

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

fence means any structure used or functioning as a barrier, irrespective of where it is located and includes any affixed gate or screening;

height in relation to a fence means the vertical distance between the top of the fence at any point and—

- (a) the ground level immediately below that point; ~~or~~; or
- (b) where the ground levels on each side of the fence are not the same, the higher ground level, immediately below that point; or
- (c) where the fence is erected on a retaining wall approved by the local government, or on a retaining wall that is exempt from needing approval by the local government, from the top of the retaining wall;

Industrial Lot means a lot zoned Industry or an equivalent industrial zone under a town planning scheme and/or Structure Plan within the district;

local government means the City of Mandurah;

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

occupier has the meaning given to it in and for the purposes of the *Local Government Act 1995*;

owner has the meaning given to it in and for the purposes of the *Dividing Fences Act 1961*;

planning approval means approval issued by the City under its town planning scheme;

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

residential building has the meaning given to it in State Planning Policy 3.1 Residential Design Codes;

Residential Lot means a lot zoned residential or tourist under the town planning scheme and/or Structure Plan;

retaining wall means any structure approved by the local government which prevents the movement of soil in order to allow ground levels of different elevations to exist adjacent to one another;

Rural Lot means a lot zoned rural under a town planning scheme and/or Structure Plan within the district;

Rural Residential Lot means a lot zoned rural residential under the town planning scheme;

screening means any perforated panels or trellises composed of solid or obscured translucent panels;

schedule means a Schedule to this local law;

structure plan has the meaning given to it in the town planning scheme;

sufficient fence means a fence described in clause 2.1 of this local law;

town planning scheme means any gazetted town planning scheme operating within the district;

uniform fence means a fence erected by a developer or subdivider in accordance with a subdivision or development approval which divides a lot from a public place such as pedestrian access way, public open space or road reserve;

visually permeable means the surface of a fence which has—

- (a) continuous vertical or horizontal gaps of at least 50mm width occupying not less than one third of its face in aggregate of the entire surface or where gaps are narrower than 50mm, occupying not less than one half of its face in aggregate of the entire surface, as viewed directly from the street: or
- (b) a surface offering equal or lesser obstruction to view.

1.3 Repeal

Divisions 2, 3 and 5 of Part IX of the *City of Mandurah Consolidated Local Laws* as published in the *Government Gazette* of 13 February 1998 are repealed.

1.4 Application

This local law applies throughout the district.

1.5 Commencement

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

1.6 Relationship with other laws

- (1) In the event of any inconsistency between the provisions of a town planning scheme and the provisions of this local law, the provisions of the town planning scheme are to prevail.
- (2) Nothing in this local law affects a provision in any written law in respect of a building licence for a fence.

PART 2—SUFFICIENT FENCES

2.1 Sufficient Fences

(1) A person shall not erect a dividing fence or fence that is not a sufficient fence, unless otherwise approved or required by the local government.

(2) A dividing fence or fence erected prior to 8 April 1988 or lawfully erected prior to this local law coming into operation constitutes a sufficient fence.

(3) Subject to subclause (4) and (5), a sufficient fence—

~~(a) on a Residential and Commercial Lot is a fence constructed and maintained in accordance with the specifications and requirements of Schedule 1 and is located behind the specified building line;~~

(a) on a Residential Lot of R10 or higher density, and Commercial Lots, is a fence constructed and maintained in accordance with the specifications and requirements of Schedule 1 and is located behind the specified building line;

(b) on an Industrial Lot is a fence constructed and maintained in accordance with the specifications and requirements of Schedule 2; and

~~(c) on a Rural Lot or Rural Residential Lot is a fence constructed and maintained in accordance with the specifications and requirements of Schedule 3.~~

(c) on a Rural, Rural Residential or a Residential Lot of R5 or lower density is a fence constructed and maintained in accordance with the specifications and requirements of Schedule 3.

(4) Where a fence is erected on or near the boundary between—

(a) a Residential Lot and an Industrial Lot, a sufficient fence is a fence constructed and maintained in accordance with the specifications and requirements of Schedule 1;

~~(b) a Residential Lot and a Rural Lot or a Rural Residential Lot, a sufficient fence is a fence constructed and maintained in accordance with the specifications and requirements of Schedule 1.~~

(b) A Residential Lot with a density of R10 or higher and a Residential Lot of R5 or lower, a Rural Lot or a Rural Residential Lot, a sufficient fence is a fence constructed and maintained in accordance with the specifications and requirements of Schedule 1.

(5) Unless otherwise approved or required by the local government, a sufficient fence between lots other than those specified in subclause (4) is a fence constructed and maintained in accordance with the specifications and requirements of Schedule 1.

PART 3—FENCING WITHIN THE PRIMARY STREET, (FRONT) SETBACK AREA

3.1 Fences Within Primary Street (front) Setback Area

(1) ~~On a Residential Lot a fence erected within the primary street setback area shall~~
On any Residential Lot with a density of R10 or higher, a fence erected within the primary street setback area shall;

- (a) comply with State Planning Policy 3.1 - Residential Design Codes;
- ~~(b) not exceed a height of 1.8m except that piers with a maximum dimension of 350x350mm may extend to a maximum height of 2.1m. Where a fence that faces a street is placed on or adjacent to a retaining wall, the maximum height to the top of the fence from the lower ground level may be 2m or a maximum fence height of 1m above the top of the retaining wall; and~~
 (b) not exceed a height of 1.8 metres except that piers with a maximum dimension of 350x350mm may extend to a maximum height of 2.1 metres; and
- (c) be constructed of face finished brick or stone or timber palings, or a combination of the aforementioned materials, or similar, that complement the dwelling and do not detract from the street scape. Fibre cement sheet or sheet metal are not considered suitable.

(2) On any Residential Lot with a density of R5 or lower shall comply with Schedule 3.

- (32) On a Commercial Lot, no fence shall be erected forward of the building line.
- (43) On an Industrial Lot, a fence erected within the primary street setback area shall be visually permeable above 1.2_metres and not exceed a height of 2.4_metres.
- (54) All fences shall be truncated or reduced to no higher than 750mm within 1.5 metres adjoining a vehicle access point where a driveway meets a public street and where 2 streets intersect.
- ~~(65) Subclause (4)~~ Subclause (5) shall not apply to a visually permeable fence that does not obscure the lines of vision of a motorist using the driveway for access to a thoroughfare.

PART 4—FENCING MATERIALS, SCREENING AND MAINTENANCE

4.1 Fencing Materials

- (1) Subject to clause 2.1, a person shall only construct a fence from materials specified in the Schedules of this local law, unless otherwise approved or required by the local government.
- (2) Uniform fencing shall be constructed predominantly from new materials as described in the Schedules and where required by the local government, incorporate visually permeable sections above 1.2_metres to the satisfaction of the local government.
- (3) Pre-used materials shall not be permitted in the construction of a fence, unless the pre-used materials are structurally fit for the purpose, painted, treated and/or upgraded to the satisfaction of the local government.
- (4) No person shall erect a fence of impervious material in any place, position or location where it will, or is likely to, act as a barrier to or restrict the flow of a natural watercourse.

4.2 Screening

(1) Any screening affixed to a fence shall be designed to integrate with the colours, materials and specification of that sufficient fence to the satisfaction of the local government.

(2) On a Rural Lot or Rural Residential Lot, no person shall affix any screening to a fence.

(3) Screening affixed to a fence shall be installed and maintained in accordance with the manufacture's specifications and not compromise the structural integrity of a fence.

4.3 Barbed or Razor Wire or Other Material with Spiked or Jagged Projections

(1) A person shall not erect or affix to any fence any barbed or razor wire or other material with spiked or jagged projections except in accordance with this clause.

(2) On an Industrial Lot a person shall not erect or affix to any fence bounding that lot any barbed wire or razor wire or other materials with spiked or jagged projections unless the wire or material are attached on posts vertically or at an angle of 45 degrees, and unless the bottom row of wire or other materials is not less than 2 metres above the ground level.

(3) If the posts which carry the barbed wire or other materials referred to in subclause (2) are angled towards the outside of the lot bounded by the fence, the face of the fence must be set back from the lot boundary a sufficient distance to ensure that the angled posts, barbed wire or other materials do not encroach on adjoining land.

~~(4) On a Rural Lot, except that where a fence is adjacent to a thoroughfare or other public space, any barbed wire must be fixed to the side of the fence posts furthest from the thoroughfare or other public place.~~

(4) On a Rural Lot a person may erect or affix to any fence any barbed wire. If the fence is located adjacent to a thoroughfare or other public space then the barbed wire must be fixed to the side of the fence posts furthest from the thoroughfare or other public space.

4.4 Maintenance of Fences

(1) An owner or occupier shall maintain a fence in good condition and prevent it from becoming damaged, dangerous, dilapidated, unsightly or detrimental to the amenity of the locality.

(2) An owner or occupier of a lot on which a uniform fence is erected shall not alter the fence in any way, or enclose or screen any visually permeable sections of the fence.

4.5 Gates in Fences

~~Any gate or door must not encroach into or over any other property.~~
Any gate or door must not encroach into or over any other property including a thoroughfare or other public space.

PART 5 – CANAL WALLS

5.1 Fences between a Canal Wall and the Building Line

On any Residential property that abuts a canal, a fence that is to be located between the canal wall and the building line on the property shall:

- (a) not exceed a height of 1.2 metres;
- (b) be setback behind the developer installed footpath behind the canal wall or 1.2 metres where there is no footpath;
- (c) be constructed of face finished brick or stone or powder coated or stainless tubular metal or stainless steel wire with appropriate corrosion protection, glass or a combination of the aforementioned materials, or similar, that complement the dwelling and do not detract from the amenity of the canal waterway. Fibre cement sheet, sheet metal treated timber and brushwood are not considered suitable;
- (d) be 80% visually permeable;
- (e) not compromise the structural integrity of the canal wall.

NOTE: Property owners must also take care to check for any caveats or covenants on their property title that may also apply to fencing.

PART ~~5.6~~ – TENNIS COURT FENCES

~~5.4~~ 6.1 Tennis Court Fencing

(1) A person must not, without the written consent of the City, erect a fence around a tennis court.

(2) Fencing surrounding a tennis court shall be constructed and maintained in accordance with the specifications and requirements of Schedule 4.

PART ~~6.7~~ – RIGHT-OF-WAYS, PUBLIC ACCESS WAYS OR ROAD RESERVES

~~6.47.1~~ Fences Across Right-of-Ways, Public Access Ways or Road Reserves

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

PART ~~7.8~~—ELECTRIFIED FENCES

~~7.48.1~~ Electrified Fencing

On a Rural Lot or Industrial Lot, an electrified fence shall—

- (a) comply with AS/NZS 3016:2002 Electrical Installations – Electric Security Fences (as amended);
- (b) comply with any requirements of Western Power;
- (c) be capable of being rendered inoperable during the hours of business operations, if any, on the lot where it is erected; ~~and~~

(d) be designed to integrate with the colours, materials and specification of a sufficient fence; and

~~(d)~~(e) on an Industrial Lot, any electrified part of the fence must be located on the property side of the fence, and behind a sufficient fence.

PART ~~89~~—APPLICATION REQUIREMENTS

~~8.4~~ 9.1 Requirements for an approval from Local Government

(1) Where approval is required from the local government under these local laws and approval is not required in the form of planning-a development approval or a building permit, then a written application to the City to seek an approval under these local laws will apply.

(2) An owner or occupier of a lot, other than a Rural Lot, must not –

(a) have or use an electrified fence on that lot –

- (i) without first obtaining a building permit or written approval of the local government; and
- (ii) except in accordance with that permit or approval; ~~or.~~

(b) construct a fence wholly or partly of barbed or razor wire or other material with jagged or spiked projections on that lot –

- (i) without first obtaining a building permit or written approval of the local government; and
- (ii) except in accordance with that permit or approval.

(3) Approval to install an electrified fence on a fence will not be given;

(a) if the lot abuts a Residential Lot; and

(b) unless provision is made so as to enable the fence to be rendered inoperable during the hours of business operations, if any, on the lot.

(4) Approval to install razor wire on a fence will not be given;

(a) if the fence is within 3 metres of the boundary of the lot; or

(b) where any razor wire used in the construction of the fence is less than 2 metres or more than 2.4 metres above the ground level.

~~8.29.2~~ Application for Approval

(1) An owner of a lot may apply to the local government for any discretionary matter contained within this local law.

(2) An application must be—

(a) in writing in a form approved by the local government;

(b) accompanied by any document or information that is required by the local

government; and

(c) accompanied by an application fee.

8.39.3 Determination of Applications

(1) The local government may approve the erection of a fence that does not comply with the requirements of this local law.

(2) In determining whether to grant its consent to the erection, the local government may consider, in addition to any other matter that it is authorised to consider, whether the erection or retention of the fence would have an adverse impact on—

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

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

(4) An application submitted to the local government under this local law may be:

- (a) approved by the local government;
- (b) approved by the local government subject to conditions as the local government sees fit; or
- (c) rejected by the local government.

(5) Where the local government approves an application subject to conditions, the applicant must comply with those conditions.

(6) The local government may by written notice amend a condition imposed under subclause (4)(b).

(7) An amendment under subclause (6) is effective from the date specified in the notice.

8.4 9.4 Transfer of an Approval under these Local Laws

(1) An approval which is provided by the local government under this local law is deemed to transfer to each successive owner or occupier of the lot to which the approval applies.

(2) Where an approval is transferred under this clause, the successive owner or occupier may apply to the local government for a written confirmation of this transfer.

(3) If the local government approves an application under this clause, it may issue a written confirmation to the applicant in the form determined by the local government.

8.59.5 Cancellation of an approval

The local government may cancel an approval if -

- (a) the owner or occupier requests the local government to do so;

- (b) the fence to which the approval applies has been demolished and is not rebuilt for a period of 6 months;
- (c) the circumstances have changed in such a way that an approval for the fence could no longer be granted under the local law;
- (d) the owner or occupier fails to comply with a condition of the permit or breaches a provision of this local law in respect of the fence; or
- (e) the owner or occupier fails to comply with a notice of breach issued under clause 9.410.1.

8.69.6 Objections and appeals

Division 1 of Part 9 of the *Local Government Act 1995* applies to a decision under this local law to—

- (a) refuse an application for an Approval;
- (b) impose or vary an Approval condition;
- (c) cancel an Approval ; or
- (d) give a person a notice under clause 9.410.1.

PART 910—OFFENCES AND ENFORCEMENT

9.410.1 Notice of breach

(1) Where a breach of any provision of this local law has occurred in relation to a fence on a lot, the local government may give a notice in writing to the owner or occupier of that lot.

(2) A notice shall—

- (a) specify the provision of the local law that has been breached;
- (b) specify the particulars of the breach; and
- (c) state that the owner or occupier of the lot is required to remedy the breach within 28 days from the giving of the notice.

(3) Should an owner or occupier fail to comply with a notice, the local government may by its employees, agents or contractors enter upon the lot to which the notice relates and remedy the breach, and may recover the expenses of doing so from the owner or occupier of the lot, as the case may be, in a court of competent jurisdiction.

(4) The provisions of this clause are subject to section 3.25 and item 12 of Division 1 of Schedule 3.1 of the *Local Government Act 1995* and any entry onto land will be in accordance with Part 3, Division 3 of that Act.

9.210.2 Offences

(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 that person is prohibited from doing, commits an offence.

~~(2)~~(3) An offence against a clause specified in Schedule 5 is a prescribed offence for the purposes of section 9.16(1) of the *Local Government Act 1995*.

(3) 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 has continued.

9.310.3 Modified Penalties

Unless otherwise specified, the amount of the modified penalty for an offence against any provision of this local law is \$200.

9.410.4 Infringement Notices

For the purpose of this local law—

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

SCHEDULE 1

~~SPECIFICATIONS FOR A SUFFICIENT FENCE ON A RESIDENTIAL AND COMMERCIAL LOT BEHIND THE PRIMARY STREET SETBACK~~

SPECIFICATIONS FOR A SUFFICIENT FENCE ON A RESIDENTIAL LOT OF R10 OR HIGHER DENSITY AND A COMMERCIAL LOT BEHIND THE PRIMARY STREET SETBACK

[Clause 2.1(3)(a)]

~~Each of the following is a sufficient fence on a residential and Commercial Lot: Refer to clause 3.1 for fences within the primary street setback area.~~

Each of the following is a sufficient fence on a Residential Lot of R10 or higher density and Commercial Lots behind the primary street setback area: (Refer to clause 3.1 for fences within the primary street setback area).

(a) Timber fence which satisfies the following specifications—

- (i) ~~an average height of 1.8 metres~~ a minimum height of 1.6 metres and a maximum height of 2.0 metres;
- (ii) construction to be in accordance with the manufacturers specifications;
- (iii) timber panelling to provide a solid cover to provide a solid screen except where the fence is located within the primary street setback area;
- (iv) all timber is to be treated for protection from termite attack in accordance with “AS 3660.1:2014 Termite management – New building work (as amended)”.

(b) Fibre reinforced pressed cement sheeting which satisfies the following specifications—

- (i) ~~a minimum height of 1.6 metres and a maximum height of 2.0 metres; an average height of 1.8m;~~
- (ii) construction to be in accordance with the manufacturers specifications.

(c) Masonry (including brick, stone or concrete), which satisfies the following specifications—

- ~~(i) an average height of 1.8m except where located within the primary street setback area (Refer to Part 3 of this Local Law);~~

(i) a minimum height of 1.6 metres and maximum height of 2.0 metres;

- (ii) construction to be in accordance with the AS/NZS for Masonry construction that has been adopted by the Building Code of Australia at the time of construction.

(d) Metal Panel (eg Colourbond) or PVC panel (eg Duralok) fencing systems that satisfy the following specifications—

- ~~(i) an average height of 1.8m, except where located within the primary street setback area (Refer to Part 3 of this Local Law);~~
- (i) a minimum height of 1.6 metres and maximum height of 2.0 metres;

- (ii) construction to be in accordance with the manufacturers specifications.

(e) Composite fence—

- (i) a composite of the above fences such as timber posts with solid sheet metal infill and height as specified above.

SCHEDULE 2

SPECIFICATIONS FOR A SUFFICIENT FENCE ON AN INDUSTRIAL LOT

[Clause 2.1(3)(b)]

Each of the following is a sufficient fence on an Industrial Lot:

- (a) galvanised steel frame and galvanised link or chain mesh with PVC coat which satisfies the following specifications—
 - (i) generally a height of 2 metres with posts up to a maximum height of 2.4 metres with barbed wire or razor mesh where permitted by this local law;
 - (ii) construction to be in accordance with the manufacturers specifications.
- (b) fences of timber, masonry (brick, stone or concrete), fibre cement, metal panel (eg colorbond) or PVC panel (eg Duralok) or composite that satisfies the following specifications—
 - (i) constructed to the minimum specifications referred to in Schedule 1.

SCHEDULE 3

~~SPECIFICATIONS FOR A SUFFICIENT FENCE ON A RURAL LOT AND RURAL RESIDENTIAL LOT~~ SPECIFICATIONS FOR A SUFFICIENT FENCE ON A RURAL LOT, RURAL RESIDENTIAL LOT OR RESIDENTIAL LOT ZONED R5 OR LOWER DENSITY

[Clause 2.1(3)(c)]

~~Each of the following is a sufficient fence on a Rural Lot and Rural Residential Lot:~~
Each of the following is a sufficient fence on a Rural Lot, Rural Residential Lot or Residential Lot zoned R5 or lower density:

(a) Post and Wire Construction—

- (i) have ~~an average height of 1.2m~~ a minimum height of 1.0 metre and a maximum height of 1.4 metres;
- (ii) timber posts shall be impregnated with a termite and fungicidal preservative;
- (iii) wire shall be high tensile galvanised wire and not less than 2.5mm;
- (iv) a minimum of 5 wires shall be used, generally with the lower wires spaced closer together than the higher wires so as to prevent smaller stock passing through, and connected to posts in all cases;
- (v) galvanised iron posts may be used;
- (vi) star pickets may be used for intermediate posts with PVC safety caps on top;
- (vii) construction shall be in accordance with manufacturers specifications.

(b) Post and Rail Construction—

- (i) ~~have a maximum height of 1.4m, a minimum height of 1m and an average height of 1.2m~~ have a minimum height of 1.0 metre and a maximum height of 1.4 metres;-
- (ii) timber posts shall be impregnated with a termite and fungicidal preservative;
- (iii) the fence is to be fitted with a timber top rail and up to 3 intermediate rails;
- (iv) galvanised wire, including mesh may be used below the timber top rail.

SCHEDULE 4

SPECIFICATIONS FOR TENNIS COURT FENCING

| [Clause ~~5.16.1~~]

The following is considered a suitable fence surrounding a tennis court;

- (a) black PVC coated cyclone mesh fencing (maximum of 50mm x 50mm gaps) or similar supported by galvanised metal poles installed in accordance with the manufacturers specifications, and
- | (b) a height of 3 metres.

SCHEDULE 5

OFFENCES IN RESPECT OF WHICH MODIFIED PENALTIES APPLY

[Clause ~~9.2~~10.2]

City of Mandurah *Fencing Local Law 2015*

Offence No	Clause No	Nature of offence	Modified penalty
1	2.1	Erect a dividing fence or boundary fence on a lot that does not meet the minimum requirements for a sufficient fence	\$200
2	4.1(3)	Use pre-used materials in the construction of a fence without approval	\$200
3	4.4(1)	Failure to maintain a fence in good condition/prevent fence from becoming dangerous or dilapidated	\$200
4	4.5	Erect or maintain a gate in a fence that encroaches into or over any other property.	\$200
5	6.4 <u>7.1</u>	Erect or maintain a fence/obstruction temporary or permanent across a right-of-way, public access way or road reserve without consent	\$200
6	8.1(2) <u>9.1(2)</u>	Construct or use an electrified fence or a fence wholly or partly of razor wire or barbed wire or other material with spiked or jagged projections without a building permit or approval	\$200
7	9.3 <u>10.3</u>	Other offences not specified	\$200

Dated this day of 2015

The Common Seal of the City of Mandurah was affixed by authority of a resolution of the Council in the presence of -

~~MARINA ELIZABETH VERGONE,~~
~~Mayor~~ RHYS JOHN WILLIAMS, Mayor

MARK R NEWMAN, Chief Executive Officer