

LOCAL GOVERNMENT ACT 1995

SHIRE OF NORTHAM

FENCING LOCAL LAW 2019

CONTENTS

PART 1—PRELIMINARY

- 1.1 Title
- 1.2 Commencement
- 1.3 Repeal
- 1.4 Application
- 1.5 Interpretation
- 1.6 Relationship with other laws
- 1.7 Permit fees and charges

PART 2—SUFFICIENT FENCES

- 2.1 Sufficient fences

PART 3—GENERAL

- 3.1 Fences within front setback areas
- 3.2 Maximum height of fences
- 3.3 Fences on a rural lot
- 3.4 Maintenance of fences
- 3.5 Fences in relation to fill
- 3.6 Gates in fences
- 3.7 Fences across rights-of-way, public access ways or thoroughfares
- 3.8 General discretion of the Local Government
- 3.9 Estate Fences
- 3.10 Tennis Court Fences

PART 4—FENCING MATERIALS

- 4.1 Fencing materials
- 4.2 Pre-used fencing materials
- 4.3 Barbed wire and broken glass fences
- 4.4 Fences Screening and Colours

PART 5—ELECTRIFIED AND RAZOR WIRE FENCES

- 5.1 Requirements for a permit
- 5.2 Application for a permit
- 5.3 Determining an application
- 5.4 Transfer of a permit
- 5.5 Cancellation of a permit
- 5.6 Right of appeal and review

PART 6—NOTICES OF BREACH

- 6.1 Notices of breach

PART 7—ENFORCEMENT

- 7.1 Offences and penalties
- 7.2 Modified penalties
- 7.3 Form of notices

**FIRST SCHEDULE
SPECIFICATIONS FOR A SUFFICIENT FENCE ON A RESIDENTIAL LOT**

**SECOND SCHEDULE
PERMIT FOR AN ELECTRIFIED FENCE**

**THIRD SCHEDULE
PERMIT FOR A RAZOR WIRE FENCE**

**FOURTH SCHEDULE
OFFENCES AND MODIFIED PENALTIES**

LOCAL GOVERNMENT ACT 1995

SHIRE OF NORTHAM

FENCING LOCAL LAW 2019

Under the powers conferred by the *Local Government Act 1995* and by all other powers enabling it, the Council of the Shire of Northam resolved on 16 October 2019 to make the following local law.

PART 1—PRELIMINARY

1.1 Title

This local law may be cited as the *Shire of Northam Fencing Local Law 2019*.

1.2 Commencement

This local law comes into operation on the 14th day after the day on which it is published in the *Government Gazette*.

1.3 Repeal

The *Shire of Northam Fencing Local Law 2008* published in the *Government Gazette* on 16 September 2008 and all amendments thereto are hereby repealed on the day this local law comes into operation.

1.4 Application

This local law applies throughout the district.

1.5 Interpretation

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

Act means the *Local Government Act 1995*;

AS/NZS means an Australian Standard published by the Standards Association of Australia and as amended from time to time;

Authorised Person means a person authorised by the local government under section 9.10 of the *Local Government Act 1995* to carry out functions with respect to this local law;

boundary fence means a fence, other than a dividing 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 a common boundary;

building permit means a building permit issued pursuant to the *Building Act 2011*;

CEO means the Chief Executive Officer of the Shire of Northam;

commercial lot means a lot where a commercial use—

- (a) is or may be permitted under the town planning scheme; and
- (b) is or will be the predominant use of the lot;

dangerous in relation to any fence means—

- (a) an electrified fence other than a fence in respect of which a permit under Part 5 of this local law has been issued and is current;
- (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;

electrified fence permit means a permit, in the form of the Second Schedule, to have and use an electrified fence on the lot to which the permit applies;

- estate boundary fence** means a fence around the external boundary of a subdivision to indicate the extent of that subdivision and includes any special works or construction that indicates the entrance to that land;
- estate entry statement** means a fence or wall that identifies the entrance of an estate, and includes any sign (indicating the estate name and locality) sculpture, flagpole or flag;
- estate fence** means an estate entry statement or an estate boundary fence;
- fence** means any structure, that is used or functioning as a barrier, irrespective of where it is located and includes a gate that separates the road reserve and a lot adjacent to the road reserve;
- front boundary** means the boundary that separates a thoroughfare and the front of the lot;
- front setback** means the horizontal distance between the front boundary and a wall of the building measured at right angle to the front boundary;
- height** in relation to a fence means the vertical distance between—
- (a) the top of the fence at any point; and
 - (b) the ground level or, where the ground levels on each side of the fence are not the same, the higher ground level, immediately below that point;
- industrial lot** means a lot where an industrial use—
- (a) is or may be permitted under the town planning scheme; and
 - (b) is or will be the predominant use of the lot;
- land** includes a house, building, work, or structure, in or on the land;
- local government** means the Shire of Northam;
- lot** means a defined portion of land for which a separate certificate of title has been issued and includes a strata lot;
- natural ground level**, in relation to a development, means—
- (a) the level approved, for the purposes of the development, by the local government, under a local planning scheme; or
 - (b) in any other case, the level which existed immediately before the commencement of the development, (including any site works);
- non-sacrificial graffiti protection** means a coating applied to a fence or wall which is not removed in the process of removing graffiti;
- notice of breach** means a notice referred to in clause 6.1(1);
- occupier** has the meaning given to it in the *Local Government Act 1995*;
- owner** for the purposes of the definition of 'dividing fence', has the meaning given to it in the Act;
- owner** for all other purposes, has the meaning given to it in the *Local Government Act 1995*;
- permit** means an electrified fence permit or a razor wire fence permit under Part 5;
- person** has the meaning given to it in the *Interpretation Act 1984*;
- public place** means a place to which the public has access;
- reserve** means land (including parkland or foreshore) in or adjoining the district that is—
- (a) set apart for the use and enjoyment of the public; or
 - (b) Acquired for public purposes and vested in or under the care control and management of the local government;
- razor wire fence permit** means a permit, in the form of the Third Schedule, to construct a fence wholly or partly of razor wire on the lot to which the permit applies;
- residential lot** means a lot where a residential use—
- (a) is or may be permitted under a local planning scheme; and
 - (b) is or will be the predominant use of the lot;
- retaining wall** means any structure which prevents the movement of soil in order to allow ground levels of different elevations to exist adjacent to one another;
- right of way** means a portion of land that is—
- (a) shown and marked 'Right of Way' or 'R.O.W', or coloured or marked in any other way to signify that the portion of land is a right of way, on any plan or diagram deposited with the Registrar of Titles that is subject to the provisions of section 167A of the *Transfer of Land Act 1893*;
 - (b) shown on a diagram or plan of survey relating to a subdivision that is created as a right of way and vested in the Crown under section 152 of the *Planning and Development Act 2005*; or
 - (c) shown and marked as a right of way on a map or plan deposited with the Registrar of Titles and transferred to the Crown under the *Transfer of Land Act 1893*, but does not include—
 - (i) private driveway; or
 - (ii) right of way created by easement between two parties;
- rural lot** means a lot where a rural use—
- (a) is or may be permitted under a local planning scheme; and
 - (b) is or will be the predominant use of the lot;

rural residential lot means a lot where a rural residential use—

- (a) is or may be permitted under the local planning scheme; or
- (b) is or will be the predominant use of the lot; and
- (c) is generally ranging from 1 to 4 hectares;

rural smallholdings lot means a lot where a rural smallholdings use—

- (a) is or may be permitted under the local planning scheme; or
- (b) is or will be the predominant use of the lot; and
- (c) is generally ranging in size from 4 to 40 hectares;

schedule means a schedule to this local law;

setback area has the meaning given to it for the purposes of a local planning scheme;

sufficient fence means a fence described in clause 2.1; and includes a fence of the description and quality agreed upon by the owners of adjoining lots which does not fail to satisfy clause 2.1

thoroughfare has the meaning given to it in the *Local Government Act 1995*;

planning scheme means a local planning scheme of the local government made under the *Planning and Development Act 2005*;

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

written law has the same meaning given to it by section 5 of the *Interpretation Act 1984* and includes this local law.

(2) Any other expression used in this local law and not defined herein must have the meaning given to it in the—

- (a) *Local Government Act 1995*;
- (b) *Dividing fences Act 1961*
- (c) *Building Act 2011*; or
- (d) *Planning and Development Act 2005*;

unless the context requires otherwise.

(3) A reference to an Australian Standard is to that Australian Standard as it is amended from time to time.

1.6 Relationship with other laws

(1) In the event of any inconsistency between the provisions of a local planning scheme and the provisions of this local law, the provisions of the local planning scheme are to prevail.

(2) Nothing in this local law affects a provision in any other written law in respect of a building permit for a fence.

1.7 Permit fees and charges

All permit fees and charges applicable under this local law shall be as determined by the local government from time to time in accordance with section 6.16 to 6.19 of the *Local Government Act 1995*.

PART 2—SUFFICIENT FENCES

2.1 Sufficient fences

(1) A person shall not erect a dividing fence or a boundary fence that is not a sufficient fence.

(2) Subject to subclauses (3) and (4), a sufficient fence—

- (a) on a residential lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of the First Schedule.
- (b) on a commercial lot and on an industrial lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of the First Schedule;
- (c) on a rural lot, rural residential lot or rural small holding lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of the First Schedule.

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

- (a) a residential lot and an industrial lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of the First Schedule;
- (b) a residential lot and a commercial lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of the First Schedule;
- (c) a residential lot and a rural lot, rural residential or rural small holding a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of the First Schedule.

(4) Unless the local government specifies otherwise, a sufficient fence on a boundary between lots other than those specified in subclause (3) is a dividing fence constructed in accordance with the specifications and requirements of the First Schedule.

(5) Notwithstanding any other provisions in this local law, a fence constructed of stone or concrete shall be a sufficient fence only if it is designed by a structural engineer where—

- (a) it is greater than 1800mm in height; or
- (b) the local government so requires.

PART 3—GENERAL

3.1 Fences within front setback areas

(1) A person shall not, without the written consent of the local government, erect a free-standing fence greater than 1200mm in height, within the front set-back area of a residential lot within the district.

(2) The local government may approve the erection of a fence of a height greater than 1200mm in the front setback area of a residential lot only if the fence on each side of the driveway into the Lot across the front boundary is to be angled into the Lot for a distance of not less than 1500mm along the frontage to a distance of not less than 1500mm from the frontage in order to provide appropriate splayed lines of vision for a motorist using the driveway for access to a thoroughfare.

(3) The provision of subclause (2) shall not apply to a fence—

- (a) of open construction that does not obscure the lines of vision of a motorist using the driveway for access to a thoroughfare; or
- (b) that does not adjoin a footpath.

(4) Secondary street fences shall be visibly permeable above 1200mm from natural ground level for 50% of the length of the street boundary, right of way or access leg and shall allow surveillance from an outdoor living area and/or major opening such as a window to a habitable room.

3.2 Maximum height of fences

A person shall not erect a fence that is greater in height than—

- (a) 1800mm on a residential or rural lot, or
- (b) 2400mm on a commercial or industrial lot.

3.3 Fences on a rural lot

A person shall not without the written consent of the local government, erect a fence on a rural lot, within 7.5m of a thoroughfare of a height exceeding 1500mm.

3.4 Maintenance of fences

(1) An owner or occupier of a lot on which a fence is erected shall maintain the fence in good condition and so as to prevent it from becoming dangerous, dilapidated, unsightly or prejudicial to the amenity of the locality.

(2) Where in the opinion of an Authorised Person, a fence is in a state of disrepair or is dangerous or is otherwise in breach of a provision of this local law, an Authorised Person may give notice in writing to the owner or occupier (as the case requires) of the land on which the fence is erected, requiring the owner or occupier to modify, repair, paint, or maintain the fence within the time and in the manner specified in the notice.

(3) A notice issued pursuant to subclause (2) may contain a condition requiring that the fence be treated with a non-sacrificial graffiti protection treatment, which protection treatment must be applied in accordance with the manufacturer's specifications.

3.5 Fences in relation to fill

(1) A free standing fence constructed of corrugated fibre reinforced pressed cement must not have more than 150mm difference in soil levels on each side.

(2) Where land has been filled or retained to a height of more than 500mm above natural ground level at or within 1m of a boundary, a person must only erect a dividing fence that is a sufficient fence on the said fill or retaining wall if the applicant produces to the local government written agreement from all and any adjoining land owners.

3.6 Gates in fences

A person shall not erect a fence which does not—

- (a) open into a lot, if the gate is providing access to a thoroughfare; or
- (b) open by sliding parallel and on the inside of the fence, which it forms part of, when closed.

3.7 Fences across rights-of-way, public access ways or thoroughfares

A person shall not, without the approval of the local government, erect or maintain a fence or obstruction of a temporary or permanent nature across any rights-of-way, public access way or thoroughfare so as to impede or prevent use of those facilities in the manner for which they are intended and constructed.

3.8 General discretion of the local government

(1) Notwithstanding clauses 2.1 and 3.2, the local government may consent to the erection or repair of a fence which does not comply with the requirements of this local law.

(2) In determining whether to grant its consent to the erection or repair of any fence, 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 effect 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 locality.

3.9 Estate Fences

- (1) A person must not construct an estate fence without a permit.
- (2) Where an estate fence is constructed and contains an estate name, the estate fence must also depict the suburb name in equal prominence.
- (3) An owner or occupier of a lot adjacent to an estate boundary must, where that estate boundary fence is damaged, dilapidated or in need of repair, ensure that—
 - (a) it is repaired or replaced with the same or similar materials with which it was first constructed; and
 - (b) so far as is practicable the repaired or replaced section is the same as the original fence.

3.10 Tennis Court Fences

- (1) This clause does not apply to a rural lot.
- (2) A person shall not erect a fence around or partly around a tennis court on a lot unless—
 - (a) the fence is less than 3.6m in height;
 - (b) the whole of the fence is at least 900mm from the boundary between the lot on which the tennis court is located and the adjoining lot or if it is less than 900mm, the owner of the adjoining lot has been given the opportunity to make submissions to the local government on the location of the fence; and
 - (c) the fence is constructed of chain link fabric mesh and is 50mm x 2.5mm poly vinyl chloride coated or galvanised, and is erected in accordance with the manufacturers specifications.

PART 4—FENCING MATERIALS

4.1 Fencing materials

- (1) A person shall construct any fence on a residential lot, rural residential lot, small holding lot, commercial lot or an industrial lot from only those materials specified for a sufficient fence in respect of such lot in the First Schedule or some other material approved by the local government.
- (2) 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 stormwater or a watercourse.

4.2 Pre-used fencing materials

- (1) A person must not construct a dividing fence on a residential lot, rural residential lot, small holding lot, commercial lot or an industrial lot from pre-used materials without the written consent of the local government or an Authorised Person.
- (2) Where the local government or an Authorised Person approves, under this Part, the use of pre-used materials in the construction of a fence that approval must be conditional on the applicant painting or treating the pre-used material as directed by the local government or an Authorised Person.

4.3 Barbed wire and broken glass fences

- (1) This clause does not apply to a fence constructed wholly or partly of razor wire.
- (2) An owner or occupier of a residential lot or a commercial lot shall not erect or affix to any fence on such a lot any barbed wire or other material with spiked or jagged projections, unless the prior written approval of the local government has been obtained.
- (3) An owner or occupier of an industrial lot shall not erect or affix on any fence bounding that lot any barbed wire or other materials with spiked or jagged projections unless the wire or materials are not nearer than 2000mm from the ground level.
- (4) If the posts which carry the barbed wire or other materials referred to in subclause (3) 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.
- (5) An owner or occupier of a lot shall not affix or allow to remain as part of any fence or wall, whether internal or external, on that lot any broken glass.
- (6) An owner or occupier of a rural lot shall not place or affix barbed wire upon a fence on that lot where the fence is adjacent to a thoroughfare or other public place unless the barbed wire is fixed to the side of the fence posts furthest from the thoroughfare or other public place.

4.4 Fence Screening and Colours

- (1) On a residential lot, commercial lot, or industrial lot, 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 residential lot, rural smallholdings lot or rural 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 manufacturers specifications and shall not undermine the structural integrity of the fence.

PART 5—ELECTRIFIED AND RAZOR WIRE FENCES

5.1 Requirements for a Permit

- (1) An owner or occupier of a lot, other than a rural lot, shall not—
- (a) have and use an electrified fence on that lot without first obtaining a permit under subclause (2); or
 - (b) construct a fence wholly or partly of razor wire on that lot without first obtaining a permit under subclause (3).
- (2) A permit to have and use an electrified fence shall not be issued—
- (a) in respect of a lot which is or which abuts a residential lot;
 - (b) unless the fence is of a design which will comply with AS/NZS 3016:2002 Electrical installations—Electricity security fences; and
 - (c) 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 where it is erected.
- (3) A permit to have a fence constructed wholly or partly of razor wire shall not be issued—
- (a) if the fence is within 3m of the boundary of the lot;
 - (b) where any razor wire used in the construction of the fence is less than 2000mm or more than 2400mm above the ground level.
- (4) An application for a permit referred to in subclauses (2) or (3) shall be made by the owner of the lot on which the fence is or is to be erected, or by the occupier of the lot with the written consent of the owner.

5.2 Application for a Permit

- (1) An owner or occupier of land may apply to the local government for an electrified fence permit or a razor wire fence licence permit.
- (2) An application for a permit must—
- (a) be in the form determined by the local government;
 - (b) include—
 - (i) a written consent signed by the owner of the land on which the proposed fence is to be located—unless the applicant is the owner of that land; and
 - (ii) any further information may be required by the local government; and
 - (c) be accompanied by any fee imposed by the Council under sections 6.16 to 6.19 of the *Local Government Act 1995*.

5.3 Determining an application

- (1) The local government may refuse to consider an application that does not comply with clause 5.2.
- (2) The local government may—
- (a) approve an application, subject to any conditions that it considers to be appropriate; or
 - (b) refuse to approve an application.
- (3) If the local government approves an application, it is to issue a permit in the form set out in the Second Schedule or the Third Schedule (as the case may be).
- (4) The local government may vary a condition to which a permit is subject by giving written notice to the permit holder and the varied condition takes effect 7 days after that notice is given.

5.4 Transfer of a permit

- (1) A permit referred to in clause 5.1 shall transfer with the land to any new occupier or owner of the lot, to which the permit applies.
- (2) On an application by a new owner or occupier, the local government is to transfer the relevant permit to that new owner or occupier (as the case may be) by a written endorsement on the permit.

5.5 Cancellation of a Permit

Subject to Division 1 Part 9 of the *Local Government Act 1995*, the local government may cancel a permit issued under this Part if—

- (a) the permit holder requests the local government to do so;
- (b) the fence to which the permit applies is being demolished and not being rebuilt for at least 6 months;
- (c) the fence no longer satisfies the requirements specified in clause 5.1(2) or 5.1(3) as the case may be;
- (d) the permit holder breaches any condition upon which the permit has been issued; or
- (e) the permit holder fails to comply with a notice issued under clause 6.1.

5.6 Right of appeal and review

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

- (a) grant a person a permit under this local law;
- (b) renew, vary, or cancel a permit, that a person has under this local law, or
- (c) give a person a notice,

the provisions of Division 1 of Part 9 of the *Local Government Act 1995* and regulation 33 of the *Local Government (Functions and General) Regulations 1996* apply to that decision.

PART 6—NOTICES OF BREACH**6.1 Notices 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 of that lot ('notice of breach').

(2) A notice of breach shall—

- (a) specify the provision of this local law which 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.

PART 7—ENFORCEMENT**7.1 Offences and penalties**

(1) A person who fails to comply with a notice of breach commits an offence and is liable upon conviction to a penalty of not less than \$500 and not exceeding \$5000 and, if the offence is a continuing offence, to a maximum daily penalty of \$500.

(2) A person who fails to comply with or who contravenes any provision of this local law commits an offence and is liable to maximum penalty of \$5000 and, if the offence is a continuing offence, to a maximum daily penalty of \$500.

7.2 Modified penalties

(1) An offence against any provision of this local law is a prescribed offence for the purposes of section 9.16 of the *Local Government Act 1995*.

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

(3) Before giving an infringement notice to a person in respect of the commission of a prescribed offence, 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.

7.3 Form of notices

For the purposes 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 the form of Form 2 of Schedule 1 of the *Local Government (Functions and General) Regulations 1996*; and
- (b) the form of the withdrawal of infringement notice referred to in section 9.20 of the *Local Government Act 1995* is to be in the form of Form 3 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

**FIRST SCHEDULE
SPECIFICATIONS FOR A SUFFICIENT FENCE**

[clause 2.1]

Each of the following is a "sufficient fence" on the specified lot type:

A. RESIDENTIAL LOT**(1) Timber fence**

- (a) corner posts to be 125mm x 125mm x 2,400mm and intermediate posts to be 125mm x 75mm x 2,400mm spaced at 2,400mm centres;
- (b) corner posts to be strutted two ways with 100mm x 50mm x 450mm sole plates and 75mm x 50mm struts;
- (c) intermediate posts to be doubled yankee strutted with 150mm x 25mm x 450mm struts;
- (d) all posts to have tops with a 60mm weather cut and to be sunk at least 600mm into the ground;
- (e) rails to be 75mm x 50mm with each rail spanning 2 bays of fencing double railed or bolted to each post with joints staggered;
- (f) the fence to be covered with 75mm x 20mm sawn pickets, 1,800mm in height placed 75mm apart and affixed securely to each rail;
- (g) the height of the fence to be 1,800mm except with respect to the front set back area for which there is no minimum height but which is subject to clause 2.1(2).

(2) Corrugated fence

A fence constructed of corrugated fibre reinforced pressed cement or steel sheeting constructed to manufacturer's specifications or which satisfies the following specifications—

- (a) a minimum in-ground length of 25 per cent of the total length of the sheet, but in any case with a minimum in-ground depth of 600mm;
- (b) the total height and depth of the fence to consist of a single continuous fibre reinforced cement or steel sheet;
- (c) the sheets to be lapped and capped with extruded "snap-fit" type capping in accordance with the manufacturer's written instructions;
- (d) the height of the fence to be 1.8 metres except with respect to the front set back area for which there is no minimum height but which is subject to clause 2.1(2).

(3) Brick, stone or concrete fence

A fence constructed of brick, stone or concrete, which satisfies the following requirements and specifications—

- (a) footings of minimum 225mm x 150mm concrete 15MPa or 300mm x 175mm brick laid in cement mortar or 400mm x 400mm concrete 20MPa with minimum 1 layer 4-L11TM;
- (b) pier specifications—
 - (i) continuous fence with engaged piers or infill panels between piers maximum 2.1 metres high with No. 2 R6 galvanised rod continuous in last mortar bed joint;
 - (ii) engaged or attached piers 290mm x 290mm (for 90mm wide masonry unit) and 350mm x 350mm (for 110 wide masonry unit) with No. 1 Y12 galvanised reinforcing rod tied into footing and located centrally in pier;
 - (iii) pier core to be filled with 15MPa concrete. Piers at maximum 2.1 metre centres.
- (c) expansion joints in accordance with the manufacturer's written instructions;
- (d) a minimum height of 1.8 metres up to 2.1 metres (including screening), except within the street setback area which is subject to requirements outlined in clause 3.1; and
- (e) certified by a Structural Engineer as being appropriate for the particular site and wind terrain category.

(4) Composite fence

A composite fence which satisfies the following specifications for the brick construction—

- (1) (a) brick piers of minimum 345mm x 345mm at 1,800mm centres bonded to a minimum height base wall of 514mm;
- (b) each pier shall be reinforced with one R10 galvanised starting rod 1,500mm high with a 250mm horizontal leg bedded into a 500mm x 200mm concrete footing and set 65mm above the base of the footing. The top of the footing shall be 1 course (85mm) below ground level;
- (c) the minimum ultimate strength of brickwork shall be 20MPa. Mortar shall be a mix of 1 part cement, 1 part lime and 6 parts sand;
- (d) the ground under the footings is to be compacted to 6 blows per 300mm and checked with a standard falling weight penetrometer;
- (e) control joints in brickwork shall be provided with double piers at a maximum of 6-metre centres;
- or
- (2) (a) brick piers of a minimum 345mm x 345mm x 2,700mm centres bonded to the base wall; and
- (b) each pier shall be reinforced with two R10 galvanised starting rods as previously specified.

B. RURAL RESIDENTIAL LOT, RURAL SMALLHOLDINGS LOT OR RURAL LOT**(1) Post and wire construction**

In the case of a non-electrified fence of post and wire construction—

- (a) wire shall be high tensile wire and not less than 2.5mm. 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;
- (b) posts shall be of indigenous timber or other suitable material including—
 - (i) timber impregnated with a termite and fungicidal preservative;
 - (ii) standard iron star pickets; or
 - (iii) concrete;
- (c) if timber posts are used, posts are to be cut not less than 1,800mm long x 50mm diameter at small end if round or 125mm x 60mm if split or sawn. Posts to be placed at no more than 10 metre intervals, set minimum 600mm in the ground and 1,200mm above ground;
- (d) strainer posts, if timber, shall not be less than 2,250mm long and 150mm diameter at the small end (tubular steel to be 50mm in diameter) and shall be cut from indigenous timber or other suitable material. These shall be placed a minimum of 1,000mm in the ground and set at all corners, gateways and fence line angles but not exceeding 200 metres apart.

(2) Electrified fence

An electrified fence having 4 wires is a sufficient fence if constructed generally in accordance with a non-electrified fence.

C. COMMERCIAL LOT OR INDUSTRIAL LOT**(1) PVC coated rail-less link mesh, chain mesh or steel mesh which satisfies the following specifications—**

- (a) corner posts to be minimum 50mm normal bore x 3.5mm and with footings of a 225mm diameter x 900mm;
- (b) intermediate posts to be minimum 37mm nominal bore x 3.15mm at maximum 3.5 centres and with footings of a 225mm diameter x 600mm;
- (c) struts to be minimum 30mm nominal bore x 3.15mm fitted at each gate and two at each corner post and with footings 225mm x 600mm;
- (d) cables to be affixed to the top, centre and bottom of all posts and to consist of two or more 3.15mm wires twisted together or single 4mm wire;
- (e) rail-less link, chain or steel mesh is to be to a height of 2 metres on top of which are to be 3 strands of barbed wire carrying the fence to a height of 2.4 metres in accordance with clause 4.3 of this local law; and
- (f) galvanised link mesh wire to be 2 metres in height and constructed of 50mm mesh 2.5mm galvanised iron wire and to be strained, neatly secured and laced to the posts and affixed to cables. Vehicle entry gates shall provide an opening of not less than 3.6 metres and shall be constructed of 25mm tubular framework with 1 horizontal and 1 vertical stay constructed of 20mm piping and shall be covered with 50mm x 2.5mm galvanised link mesh strained to framework. Gates shall be fixed with a drop bolt and locking attachment.

(2) Corrugated fence

A fence constructed of corrugated fibre reinforced pressed cement or steel sheeting constructed to manufacturer's specifications or which satisfies the following specifications—

- (a) a minimum in-ground length of 25 per cent of the total length of the sheet, but in any case with a minimum in-ground depth of 600mm;
- (b) the total height and depth of the fence to consist of a single continuous fibre reinforced cement or steel sheet;
- (c) the sheets to be lapped and capped with extruded "snap-fit" type capping in accordance with the manufacturer's written instructions;
- (d) the height of the fence to be 1.8 metres except with respect to the front set back area for which there is no minimum height but which is subject to clause 2.1(2).

(3) Brick, stone or concrete fence

A fence constructed of brick, stone or concrete, which satisfies the following requirements and specifications—

- (a) footings of minimum 225mm x 150mm concrete 15MPa or 300mm x 175mm brick laid in cement mortar or 400mm x 400mm concrete 20MPa with minimum 1 layer 4-L11TM;
- (b) pier specifications—
 - (i) continuous fence with engaged piers or infill panels between piers maximum 2.1 metres high with No. 2 R6 galvanised rod continuous in last mortar bed joint;
 - (ii) engaged or attached piers 290mm x 290mm (for 90mm wide masonry unit) and 350mm x 350mm (for 110 wide masonry unit) with No. 1 Y12 galvanised reinforcing rod tied into footing and located centrally in pier;
 - (iii) pier core to be filled with 15MPa concrete. Piers at maximum 2.1 metre centres;
- (c) expansion joints in accordance with the manufacturer's written instructions;

- (d) a minimum height of 1.8 metres up to 2.1 metres (including screening), except within the street setback area which is subject to requirements outlined in clause 3.1; and
- (e) certified by a Structural Engineer as being appropriate for the particular site and wind terrain category.

**SECOND SCHEDULE
PERMIT FOR AN ELECTRIFIED FENCE**

[clause 5.3]

This is to certify that.....
of
is the permit holder, subject to the conditions set out below, to have and use an electrified fence on
.....
..... (address)
from 20..... and until this permit is transferred or cancelled.
Dated this day of 20.....

.....
Authorised Person,
Shire of Northam.

Conditions of Permit

The holder of the permit must—

- (a) display the permit in a prominent position on the land or premises on which the electrified fence has been constructed;
- (b) upon the request of the local government or an Authorised Person produce to him or her this permit;
- (c) within 14 days of a change in the ownership or occupation of the land or premises in respect of which the permit has been granted, notify the local government in writing of the details of that change or those changes;
- (d) obtain the written consent of the local government prior to the commencement of any alteration, addition or other work relating to or affecting the electrified fence;
- (e) comply with AS/NZS 3016:2002; and
- (f) following construction of the fence, lodge with Western Power a certificate of installation from a qualified electrician and comply with any requirements of Western Power regarding the construction of the fence.

Transfer by endorsement

This permit is transferred to
.....
of
.....
from and including the date of this endorsement.
Dated this day of 20.....

.....
Authorised Person,
Shire of Northam.

**THIRD SCHEDULE
PERMIT FOR A RAZOR WIRE FENCE**

[clause 5.3]

This is to certify that.....
of
is the permit holder, subject to the conditions set out below, to have a fence constructed wholly or partially of razor wire on
.....
..... (address)
from 20..... and until this permit is transferred or cancelled.
Dated this day of 20.....

.....
Authorised Person,
Shire of Northam.

Conditions of permit

The holder of the permit must—

- (a) display this permit in a prominent position on the land or premises on which the fence has been constructed;
- (b) on the request of the local government or an Authorised Person, produce to him or her this permit;
- (c) within 14 days of a change in the ownership or occupation of the land or premises in respect of which the permit has been granted, notify the local government in writing of the details of that change or those changes; and
- (d) obtain the written consent of the local government prior to the commencement of any alteration, addition or other work relating to or affecting the fence.

Transfer by endorsement

This permit is transferred to

.....

of

.....

from and including the date of this endorsement.

Dated this day of 20.....

.....
Authorised Person,
Shire of Northam.

**FOURTH SCHEDULE
OFFENCES AND MODIFIED PENALTIES**

[clause 7.2]

Item No.	Clause No.	Nature of offence	Modified Penalty \$
1.	2.1(1)	Erect a fence which is not a sufficient fence	250
2.	3.1(1)	Erect or modify a fence within the street setback area without written consent of the local government	250
3.	3.2	Erect a fence which is higher than the permitted height	250
4.	3.3	Erect a fence on a rural lot which is higher than the permitted height	250
5.	3.4(1)	Failing to maintain a fence in good condition or preventing a fence from becoming dangerous, dilapidated or unsightly	250
6.	3.5(1)	Erect or permit a fence of corrugated fibre reinforced pressed cement having soil higher than 150mm on a side of the fence	250
7.	3.6(a)	Erect a fence which contains a gate which does not open into the lot	250
8	3.6(b)	Erect a fence which contains a sliding gate which is not located on the inside of the fence on the lot	250
9.	3.7	Erect a fence across a right of way, public access way or thoroughfare without the approval of the local government	250
10.	4.1(1)	Construct a fence on a residential lot, rural residential lot, small holding lot, commercial lot or an industrial lot from materials not approved by the local government	250
11.	4.2(1)	Construct a dividing fence on a residential lot, rural residential lot, small holding lot, commercial lot or an industrial lot from pre-used materials without the approval of the local government	250
12.	4.3(2)	Erect a fence using barbed wire or other material with spiked or jagged projections in fence construction without written approval of the local government	500
13.	4.3(3)	Erect a fence using barbed wire or other material with spiked or jagged projections in a fence at a level lower than 2000mm from the ground	500
14.	5.1(1)	Have or use razor wire in a fence or electrify a fence without having a permit	500
15.	6.1(1)	Failing to comply with the requirements of a notice	500
16.	7.1(2)	All other penalties not specified	250

Dated this 22nd day of October 2019.

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

CHRISTOPHER ANTONIO, President.
JASON WHITEAKER, Chief Executive Officer.

