

**PROPOSED CITY OF JOONDALUP FENCING LOCAL LAW 2014
SCHEDULE OF SUBMISSIONS AND COMMENTS**

No.	SUMMARY OF SUBMISSION	CITY COMMENT
Department of Local Government and Communities		
1	<p>Contents page</p> <p>Suggested that the contents page not be capitalized and that the headings be centralized, for example:</p> <p style="text-align: center;">Part 1 – Preliminary</p>	<p>Partially supported. The word ‘Contents’ changed from all capitals to title case.</p> <p>Headings retained left aligned in Contents page.</p>
2	<p>Clause 1.2</p> <p>Suggested that the standard clause wording be used as follows:</p> <p>“This local law comes into operation 14 days after the date of its publication in the <i>Government Gazette</i>.”</p>	<p>The current wording in the proposed local law reflects the wording of section 3.14 of the <i>Local Government Act 1995</i>. All local laws recently made by the City of Joondalup have contained this same wording.</p> <p>The comment is noted and no change is recommended.</p>
3	<p>Clause 1.3</p> <p>Clause 1.3(3) sets out the intent of the local law. This clause has no legislative effect and can be removed if the City wishes.</p> <p>While the <i>Local Government Act 1995</i> (the Act) requires the purpose or intent (and effect) be included in the public notices relating to a proposed local law, there is no requirement to include the intent (and effect) in the local law itself.</p>	<p>As per section 3.15 of the <i>Local Government Act 1995</i>, inclusion of the purpose and effect assists with informing residents of the district of the purpose and effect of the local law.</p> <p>The comment is noted and no change is recommended.</p>

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4	<p>Clause 1.5</p> <p>Section 33 of the <i>Interpretation Act 1984</i> provides that when a local law is repealed, the repeal will also apply to all amendments to the original local law.</p> <p>This means that as long as the primary local law is repealed, the amendments to that local law will also be repealed. As such, sub-clauses (2) and (3) are not necessary and can be deleted.</p> <p>It may be useful to include the date of the gazetted amendments. For example:</p> <p>1.5 Repeal The <i>City of Joondalup Private Property Local Law 1998</i> as published in the <i>Government Gazette</i> of 10 July 2000 and 15 January 2002 is repealed.</p>	<p>Not supported. Considered important to inform the public of each of the affected local laws.</p>
5	<p>Australian Standards</p> <p>The City should ensure that the Australian Standards cited throughout the local law are current and have the correct title. If the citation is not accurate, the Delegated Legislation Committee may request that the citation be amended.</p> <p>In addition, where a reference is made to Australian Standards, the Committee has previously requested that the reference include the words “as amended from time to time”.</p> <p>Furthermore, they Committee have requested that separate definitions for ‘AS’ and ‘AS/NZS’ be provided, however as no Australian and New Zealand Standards are referred to in this</p>	<p>Noted and amended where required.</p> <p>Supported and amended as suggested.</p> <p>Supported and amended as suggested.</p>

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SCHEDULE OF SUBMISSIONS AND COMMENTS**

No.	SUMMARY OF SUBMISSION	CITY COMMENT
	<p>local law, it is suggested the definition for AS be amended as follows:</p> <p>AS means an Australian Standard published by Standards Australia, as amended from time to time.</p> <p>The Committee has also expressed that where Australian Standards are used, the general public should be informed by the City as to where they can freely access these standards. The Committee may inquire as to how this information will be made available to the public. It is suggested the City provide this information when submitting the required documents to the Committee.</p>	<p>Noted. Information box added following definition of 'AS' indicating where Australian Standards can be obtained.</p>
6	<p>Modified penalties</p> <p>This local law does not presently contain any modified penalties. The City may wish to include modified penalties which would provide an alternative to taking each matter to court. If the City does not include a modified penalty for a particular offence, it may be unable to issue a modified penalty for that offence.</p>	<p>Noted. It is not intended that infringement notices would be issued under the local law for non-compliance as the <i>Building Act 2011</i> and <i>Building Regulations 2012</i> provide a mechanism for enforcement.</p>
7	<p>Minor edits</p> <p>The following minor edits are suggested:</p> <ul style="list-style-type: none"> • Clause 3.5: substitute 'AS3700 – Masonry Structures' with 'AS3700-2011 Masonry structures'; • Schedule 1 paragraph (a): substitute “%” with “per cent”; 	<p>Amended as suggested.</p> <p>Not supported.</p>

Local Government Act 1995

City of Joondalup

Fencing Local Law 2014

Local Government Act 1995

City of Joondalup

Fencing Local Law 2014

Contents

Part 1 – Preliminary

- 1.1 Citation
- 1.2 Commencement
- 1.3 Purpose and effect
- 1.4 Application
- 1.5 Repeal
- 1.6 Definitions
- 1.7 Relationship with other laws

Part 2 - Sufficient fences

- 2.1 Meaning of 'sufficient fence'

Part 3 - Fencing materials and requirements

- 3.1 Fences that do not require a building permit
- 3.2 Prohibited fencing materials
- 3.3 Gates in boundary fences
- 3.4 Fencing materials requiring written approval
- 3.5 Masonry fences

Part 4 - Offences and penalties

- 4.1 Offences and penalties

Schedule 1 – Specifications for a sufficient fence on a residential lot

Schedule 2 – Specifications for a sufficient fence on a commercial lot or an industrial lot

Schedule 3 – Specifications for a sufficient fence on a rural lot

Local Government Act 1995

City of Joondalup

Fencing Local Law 2014

Under the powers conferred on it by the *Local Government Act 1995*, the *Dividing Fences Act 1961* and under all other powers enabling it, the Council of the City of Joondalup resolved on **dd mm** 2014 to make the following local law.

Part 1 – Preliminary

1.1 Citation

This local law may be cited as the *City of Joondalup Fencing Local Law 2014*.

1.2 Commencement

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

1.3 Purpose and effect

- (1) The purpose of this local law is to prescribe a sufficient fence and the standard for the construction of fences throughout the district.
- (2) The effect of this local law is to establish the minimum requirements for fencing within the district.

1.4 Application

This local law applies throughout the district.

1.5 Repeal

The following local laws are repealed:

- (1) The *City of Joondalup Private Property Local Law 1998* as published in the *Government Gazette* (No. 37) on 8 March 1999;
- (2) Clauses 5.2, 5.3, 5.5, 5.6 and 5.7 of the *City of Joondalup Amendment Local Law 2000* as published in the *Government Gazette* (No. 136) on 10 July 2000; and
- (3) Clause 7 of the *City of Joondalup Amendment Local Law 2001* as published in the *Government Gazette* (No. 7) on 15 January 2002.

1.6 Definitions

- (1) In this local law –

Act means the *Dividing Fences Act 1961*;

AS means an Australian Standard published by Standards Australia, as amended from time to time;

barbed wire fence means a wire or strand of wires having small pieces of sharply pointed wire twisted around it at short intervals;

boundary fence means a fence, other than a dividing fence, that separates private land from land that is local government property or a thoroughfare;

building permit has the meaning given to it in the *Building Act 2011*;

commercial lot means a lot where a commercial use –

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

district means the district of the local government;

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

dividing fence has the meaning given to it in the Act;

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

fence means any structure, not including a retaining wall, used or functioning as a barrier, irrespective of where it is located and includes any gate;

height in relation to a fence means the vertical distance between –

- (a) the top of the fence at any point; and
- (a) 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 district planning scheme; and
- (b) is or will be the predominant use of the lot;

local government means the City of Joondalup;

local government property has the meaning given to it in the *Local Government Act 1995*;

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

primary street means the sole or principal thoroughfare that provides access to the major entry (front door) to the dwelling;

razor wire fence means a coiled strong wire with pieces of sharp cutting edges set across it at close intervals;

residential lot means a lot where a residential use –

- (a) is or may be permitted under the district 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;

rural lot means a lot where a rural use –

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

Schedule means a Schedule to this local law;

street boundary means the boundary between the land comprising the primary street and the land that abuts thereon;

street setback means the horizontal distance between the street boundary and a building, measured at right angles (90 degrees) to the street boundary;

street setback area means the area between the street boundary and the street setback;

sufficient fence means a fence described in clause 2.1;

thoroughfare has the meaning give to it in the *Local Government Act 1995*, but does not include a private thoroughfare which is not under the management or control of the local government.

1.7 Relationship with other laws

- (1) In the event of any inconsistency between the provisions of a district planning scheme and the provisions of this local law, the provisions of the district planning scheme are to prevail.
- (2) Nothing in this local law affects the need for compliance, in respect of a fence, with –
 - (a) any relevant provisions of a district planning scheme; and
 - (b) any relevant provisions that apply if a building permit is required for that fence under the *Building Act 2011* or *Building Regulations 2012*.

Part 2 - Sufficient fences

2.1 Meaning of 'sufficient fence'

- (1) For the purposes of the Act a dividing fence is a sufficient fence in a residential area if it is constructed on or near the boundary between a residential lot and a –
 - (a) residential lot;
 - (b) commercial lot;
 - (c) industrial lot;
 - (d) rural lot,and is constructed and maintained to a minimum standard in accordance with the specifications in Schedule 1.
- (2) For the purposes of the Act a dividing fence is a sufficient fence in an industrial or commercial area if it is constructed on or near the boundary between a commercial lot or an industrial lot and a –

- (a) commercial lot;
- (b) industrial lot;
- (c) rural lot,

and is constructed and maintained to a minimum standard in accordance with the specifications in Schedule 2.

- (3) For the purposes of the Act a dividing fence is a sufficient fence in a rural area if it is constructed on or near the boundary between two or more rural lots and is constructed and maintained to a minimum standard in accordance with the specifications in Schedule 3.

Part 3 - Fencing materials and requirements

3.1 Fences that do not require a building permit

Fences that do not require a building permit is dealt with in the *Building Regulations 2012*.

3.2 Prohibited fencing materials

- (1) In constructing a fence a person must not use –
 - (a) broken glass or any other potentially harmful projections or material;
 - (b) asbestos fibre;
 - (c) material that is likely to collapse or fall, or part of which is likely to collapse or fall, from any cause;
 - (d) pre-used materials unless the material is painted or treated to the satisfaction of the local government.

3.3 Gates in boundary fences

A person shall not install a gate in a boundary fence which does not –

- (a) open into the lot; or
- (b) open by sliding parallel on the inside of the fence, which it forms part of, when closed,

without first obtaining the written approval of the local government.

3.4 Fencing materials requiring written approval

- (1) A person shall not construct any barbed wire fence, electrified fence or razor wire fence without first obtaining the written approval of the local government.
- (2) Any barbed wire fence, electrified fence or razor wire fence shall be constructed in accordance with the conditions of written approval issued by the local government.

3.5 Masonry fences

A person shall construct a masonry fence in accordance with *AS3700-2011 Masonry structures*.

Part 4 - Offences and penalties

4.1 Offences and penalties

- (1) A person who fails to comply with or who contravenes any provision of this local law commits an offence and is liable on conviction to a maximum penalty of \$5,000 and, if the offence is a continuing offence, a maximum daily penalty of \$500.

Local Government Act 1995

City of Joondalup

Fencing Local Law 2014

Schedule 1 – Specifications for a sufficient fence on a residential lot

A sufficient fence is a fence constructed of corrugated fibre reinforced pressed cement and erected in accordance with manufacturer's specifications and which satisfies the following specifications:

- (a) a minimum in-ground depth of 25% of the total length of the sheet, but in any case shall have a minimum in-ground depth of 600 millimetres;
- (b) the total height and depth of the fence to consist of a single continuous fibre reinforced cement sheet;
- (c) the sheets to be lapped and capped with extruded snap-fit type capping in accordance with the manufacturers written instructions; and
- (d) the height of the fence to be 1.8 metres except with respect to a fence within the street setback area.

Local Government Act 1995

City of Joondalup

Fencing Local Law 2014

**Schedule 2 – Specifications for a sufficient fence on a commercial lot
or an industrial lot**

A sufficient fence is a chain link fabric fence erected in accordance with *AS1725.1-2010 Chain link fabric fencing* with the height of the fence to be 1.8 metres.

Local Government Act 1995

City of Joondalup

Fencing Local Law 2014

Schedule 3 – Specifications for a sufficient fence on a rural lot

A sufficient fence is a fence of post and wire construction erected at a height of 1.2 metres and containing a minimum of 5 wires, generally with the lower wires spaced closer together than the higher wires so as to prevent smaller stock passing through and each wire connected to posts in all cases.

Dated dd of mm 2014.

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

.....

TROY PICKARD
MAYOR

.....

GARRY HUNT
CHIEF EXECUTIVE OFFICER

Local Government Act 1995

City of Joondalup

Fencing Local Law 2014

Local Government Act 1995

City of Joondalup

Fencing Local Law 2014

Contents

Part 1 – Preliminary	3
1.1 Citation	3
1.2 Commencement	3
1.3 Purpose and effect	3
1.4 Application	3
1.5 Repeal	3
1.6 Definitions	4
1.7 Relationship with other laws	6
Part 2 - Sufficient fences	6
2.1 Meaning of ‘sufficient fence’	6
Part 3 - Fencing materials and requirements	7
3.1 Fences that do not require a building permit	7
3.2 Prohibited fencing materials	7
3.3 Gates in boundary fences	8
3.4 Fencing materials requiring written approval	8
3.5 Masonry fences	8
Part 4 - Offences and penalties	8
4.1 Offences and penalties	8
Schedule 1 – Specifications for a sufficient fence on a residential lot	9
Schedule 2 – Specifications for a sufficient fence on a commercial lot or an industrial lot	10
Schedule 3 – Specifications for a sufficient fence on a rural lot	11

Local Government Act 1995

City of Joondalup

Fencing Local Law 2014

Under the powers conferred on it by the *Local Government Act 1995*, the *Dividing Fences Act 1961* and under all other powers enabling it, the Council of the City of Joondalup resolved on **dd** **mm** 2014 to make the following local law.

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1.1 Citation

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1.2 Commencement

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1.3 Purpose and effect

- (1) The purpose of this local law is to prescribe a sufficient fence and the standard for the construction of fences throughout the district.
- (2) The effect of this local law is to establish the minimum requirements for fencing within the district.

1.4 Application

This local law applies throughout the district.

1.5 Repeal

The following local laws are repealed:

- (1) The *City of Joondalup Private Property Local Law 1998* as published in the *Government Gazette* (No. 37) on 8 March 1999;
- (2) Clauses 5.2, 5.3, 5.5, 5.6 and 5.7 of the *City of Joondalup Amendment Local Law 2000* as published in the *Government Gazette* (No. 136) on 10 July 2000; and
- (3) Clause 7 of the *City of Joondalup Amendment Local Law 2001* as published in the *Government Gazette* (No. 7) on 15 January 2002.

1.6 Definitions

(1) In this local law –

Act means the *Dividing Fences Act 1961*;

AS means an Australian Standard published by Standards Australia, as amended from time to time;

Note:

Australian Standards can be accessed online at the SAI Global website, at the following URL:

<http://infostore.saiglobal.com>

barbed wire fence means a wire or strand of wires having small pieces of sharply pointed wire twisted around it at short intervals;

boundary fence means a fence, other than a dividing fence, that separates private land from land that is local government property or a thoroughfare;

building permit has the meaning given to it in the *Building Act 2011*;

commercial lot means a lot where a commercial use –

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

district means the district of the local government;

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

dividing fence has the meaning given to it in the Act;

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;

[Section 5 of the Act]

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

fence means any structure, not including a retaining wall, used or functioning as a barrier, irrespective of where it is located and includes any gate;

height in relation to a fence means the vertical distance between –

- (a) the top of the fence at any point; and
- (a) 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 district planning scheme; and
- (b) is or will be the predominant use of the lot;

local government means the City of Joondalup;

local government property has the meaning given to it in the *Local Government Act 1995*;

local government property means anything, whether land or not, that belongs to, or is vested in, or under the care, control or management of, the local government.

[Section 1.4 of the *Local Government Act 1995*]

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

lot means a defined portion of land –

- (a) depicted on a plan or diagram available from, or deposited with, the Authority and for which a separate Crown grant or certificate of title has been or can be issued; or
- (b) depicted on a diagram or plan of survey of a subdivision approved by the Commission; or
- (c) which is the whole of the land the subject of —
 - (i) a Crown grant issued under the *Land Act 1933*;
 - (ii) a certificate of title registered under the *Transfer of Land Act 1893*;
 - (iii) a survey into a location or lot under section 27(2) of the *Land Administration Act 1997* or a certificate of Crown land title the subject of such a survey;
 - (iv) a part-lot shown on a diagram or plan of survey of a subdivision deposited with the Authority; or
 - (v) a conveyance registered under the *Registration of Deeds Act 1856*,

but does not include a lot in relation to a strata scheme, a lot in relation to a survey-strata scheme, or a lot shown as common property on a survey-strata plan, as those terms are defined in the *Strata Titles Act 1985*;

[Section 4 of the *Planning and Development Act 2005*]

primary street means the sole or principal thoroughfare that provides access to the major entry (front door) to the dwelling;

razor wire fence means a coiled strong wire with pieces of sharp cutting edges set across it at close intervals;

residential lot means a lot where a residential use –

- (a) is or may be permitted under the district 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;

rural lot means a lot where a rural use –

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

Schedule means a Schedule to this local law;

street boundary means the boundary between the land comprising the primary street and the land that abuts thereon;

street setback means the horizontal distance between the street boundary and a building, measured at right angles (90 degrees) to the street boundary;

street setback area means the area between the street boundary and the street setback;

sufficient fence means a fence described in clause 2.1;

thoroughfare has the meaning give to it in the *Local Government Act 1995*, but does not include a private thoroughfare which is not under the management or control of the local government.

thoroughfare means a road or other thoroughfare and includes structure or other things appurtenant to the thoroughfare that are within its limits, and nothing is prevented from being a thoroughfare only because it is not open at each end.

[Section 1.4 of the *Local Government Act 1995*]

1.7 Relationship with other laws

- (1) In the event of any inconsistency between the provisions of a district planning scheme and the provisions of this local law, the provisions of the district planning scheme are to prevail.
- (2) Nothing in this local law affects the need for compliance, in respect of a fence, with –
 - (a) any relevant provisions of a district planning scheme; and
 - (b) any relevant provisions that apply if a building permit is required for that fence under the *Building Act 2011* or *Building Regulations 2012*.

Part 2 - Sufficient fences

2.1 Meaning of 'sufficient fence'

- (1) For the purposes of the Act a dividing fence is a sufficient fence in a residential area if it is constructed on or near the boundary between a residential lot and a –
 - (a) residential lot;
 - (b) commercial lot;
 - (c) industrial lot;
 - (d) rural lot,and is constructed and maintained to a minimum standard in accordance with the specifications in Schedule 1.
- (2) For the purposes of the Act a dividing fence is a sufficient fence in an industrial or commercial area if it is constructed on or near the boundary between a commercial lot or an industrial lot and a –
 - (a) commercial lot;

(b) industrial lot;

(c) rural lot,

and is constructed and maintained to a minimum standard in accordance with the specifications in Schedule 2.

- (3) For the purposes of the Act a dividing fence is a sufficient fence in a rural area if it is constructed on or near the boundary between two or more rural lots and is constructed and maintained to a minimum standard in accordance with the specifications in Schedule 3.

Part 3 - Fencing materials and requirements

3.1 Fences that do not require a building permit

Fences that do not require a building permit is dealt with in the *Building Regulations 2012*.

Clause 2 of Schedule 4 defines the kinds of work for which a building permit is not required:

Item	Description of building work for which building permit is not required
4.	Construction, erection, assembly or placement of a fence, screen or similar structure, other than a fence forming part of an enclosure for a private swimming pool, if — (a) the fence, screen or similar structure is constructed in accordance with a local law made under the Local Government Act 1995 section 9.60 that applies to the construction of the fence, screen or similar structure in the district in which the fence, screen or similar structure is, or is to be, located; or (b) the fence, screen or similar structure is, or is to be, located in a district in which there is no local law of a type referred to in paragraph (a) and the fence, screen or similar structure — (i) if constructed of masonry, is no more than 0.75 m in height; and (ii) if constructed of a material other than masonry, is no more than 1.8 m in height; and (iii) is not located in wind region C or D as defined in AS1170.2.

[*Building Regulations 2012*]

3.2 Prohibited fencing materials

- (1) In constructing a fence a person must not use —
- (a) broken glass or any other potentially harmful projections or material;
 - (b) asbestos fibre;
 - (c) material that is likely to collapse or fall, or part of which is likely to collapse or fall, from any cause;
 - (d) pre-used materials unless the material is painted or treated to the satisfaction of the local government.

3.3 Gates in boundary fences

A person shall not install a gate in a boundary fence which does not –

- (a) open into the lot; or
- (b) open by sliding parallel on the inside of the fence, which it forms part of, when closed,

without first obtaining the written approval of the local government.

3.4 Fencing materials requiring written approval

- (1) A person shall not construct any barbed wire fence, electrified fence or razor wire fence without first obtaining the written approval of the local government.
- (2) Any barbed wire fence, electrified fence or razor wire fence shall be constructed in accordance with the conditions of written approval issued by the local government.

3.5 Masonry fences

A person shall construct a masonry fence in accordance with *AS3700-2011 Masonry structures*.

Part 4 - Offences and penalties

4.1 Offences and penalties

- (1) A person who fails to comply with or who contravenes any provision of this local law commits an offence and is liable on conviction to a maximum penalty of \$5,000 and, if the offence is a continuing offence, a maximum daily penalty of \$500.

Local Government Act 1995

City of Joondalup

Fencing Local Law 2014

Schedule 1 – Specifications for a sufficient fence on a residential lot

A sufficient fence is a fence constructed of corrugated fibre reinforced pressed cement and erected in accordance with manufacturer's specifications and which satisfies the following specifications:

- (a) a minimum in-ground depth of 25% of the total length of the sheet, but in any case shall have a minimum in-ground depth of 600 millimetres;
- (b) the total height and depth of the fence to consist of a single continuous fibre reinforced cement sheet;
- (c) the sheets to be lapped and capped with extruded snap-fit type capping in accordance with the manufacturers written instructions; and
- (d) the height of the fence to be 1.8 metres except with respect to a fence within the street setback area.

Local Government Act 1995

City of Joondalup

Fencing Local Law 2014

**Schedule 2 – Specifications for a sufficient fence on a commercial lot
or an industrial lot**

A sufficient fence is a chain link fabric fence erected in accordance with *AS1725.1-2010 Chain link fabric fencing* with the height of the fence to be 1.8 metres.

Local Government Act 1995

City of Joondalup

Fencing Local Law 2014

Schedule 3 – Specifications for a sufficient fence on a rural lot

A sufficient fence is a fence of post and wire construction erected at a height of 1.2 metres and containing a minimum of 5 wires, generally with the lower wires spaced closer together than the higher wires so as to prevent smaller stock passing through and each wire connected to posts in all cases.

Dated dd of mm 2014.

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

.....

TROY PICKARD
MAYOR

.....

GARRY HUNT
CHIEF EXECUTIVE OFFICER

City of Joondalup Fencing Local Law 2014 – Comparison Matrix

ATTACHMENT 4

New local law clause	Clause Title	Existing local law clause	Comment
PART 1 – Preliminary			
1.1	Citation	PPLL 1	Local law will be cited as the <i>City of Joondalup Fencing Local Law 2014</i> .
1.2	Commencement	PPLL 2	Local law commences 14 days after its publication in the <i>Government Gazette</i> .
1.3	Purpose and effect	PPLL 3	While not technically required for the local law, the purpose and effect has been included considering the requirement upon a local government to notify residents of the purpose and effect of local laws.
1.4	Application	PPLL 5	Local law applies throughout the district.
1.5	Repeal	PPLL 4	Local law repeals: <ul style="list-style-type: none"> • the <i>City of Joondalup Private Property Local Law 1998</i>; • relevant clauses within the <i>City of Joondalup Amendment Local Law 2000</i>; • relevant clauses within the <i>City of Joondalup Amendment Local Law 2001</i>.
1.6	Definitions	PPLL 6	Includes some new definitions used throughout the local law.
1.7	Relationship with other laws	PPLL 7 and 8	Local law clarifies that in the event of any inconsistency between the local law and the district planning scheme, or any other law, the district planning scheme or other law shall prevail.
PART 2 – Sufficient fences			
2.1	Meaning of sufficient fence	PPLL 13, 14	Defines what a sufficient fence is for the purposes of the <i>Dividing Fences Act 1961</i> .
PART 3 – Fencing materials and requirements			
3.1	Fences that do not require a building permit	PPLL 7-12	Outlines those fences that do not require a building permit, consistent with the provisions of the <i>Building Act 2011</i> and the <i>Building Regulations 2012</i> . Former clauses regarding the application and issue of licences are not required, as they are dealt with in the aforementioned Act and Regulations.

New local law clause	Clause Title	Existing local law clause	Comment
3.2	Prohibited fencing materials	PPLL 16, 18, 19	Outlines that fences must be constructed using specified materials and to a specified standard and that in certain circumstances the local government can approve the use of pre-used materials subject to conditions.
3.3	Gates in boundary fences	PPLL 20	Gates are required to open inwards to a property, or slide along the inside of the adjoining parallel fence.
3.4	Fencing materials requiring written approval	PPLL 18, 19	Clause stipulates that the construction of a barbed wire, electrified fence or razor wire fence is only permitted with the City's written approval and subject to conditions.
3.5	Masonry fences	–	Details the Australian Standard to be complied with for the construction of masonry fences.
PART 4 – Offences and penalties			
4.1	Offences and penalties	PPLL 42-46	Outlines what constitutes an offence under the local law and the applicable penalty on conviction.
SCHEDULES			
SCHED 1	Specifications for a sufficient fence on a residential lot	Schedule 1	Details specifications for a sufficient fence on residential lots.
SCHED 2	Specifications for a sufficient fence on a commercial lot or an industrial lot	Schedule 2	Details specifications for a sufficient fence on commercial and industrial lots.
SCHED 3	Specifications for a sufficient fence on a rural lot	Schedule 3	Details specifications for a sufficient fence on rural lots.

Former clauses not provided in new local law

Former local law	Old local law clause	Clause Title	Comment
PPLL	15	Fences within Front Setback – Approval Requirement	The former clause outlined development conditions associated with fencing constructed in the front setback area. These provisions are regulated in the <i>City of Joondalup District Planning Scheme No. 2</i> and <i>State Planning Policy No. 3 – Residential Design Codes</i> and are not relevant for inclusion within the local law.
PPLL	17	Maintenance of Fences	The former clause is redundant as clause 12 of Schedule 3.1 of the <i>Local Government Act 1995</i> specifically provides the ability for local governments to issue notices to ensure that unsightly, dilapidated or dangerous fences or gates that adjoin public property (boundary fences) are to be modified or repaired. The repair of dividing fences is a civil matter between neighbours and is regulated by the <i>Dividing Fences Act 1961</i> .
PPLL	21	Fences across Right of Ways, Public Access Ways or Road Reserves	The former clause is redundant as the <i>Local Government Act 1995</i> provides that regulations may control these issues. The <i>Local Government (Uniform Local Provisions) Regulations 1996</i> provides local governments with the authority to regulate these issues.
PPLL	22	Graffiti Protection	The JSCDL previously determined in its Sixth Report (2003) that the prescriptive nature of such clauses is neither contemplated nor authorised by the <i>Local Government Act 1995</i> on the grounds of unreasonableness. For these and other reasons, the JSCDL will continue to require the repeal of such 'anti-graffiti' clauses in local laws or recommend that the local law be disallowed.
PPLL	23	Record of Graffiti Protection	See above.
PPLL	24	Estate Fencing	The former clause regulated the approval of estate boundary fences. Such provisions are regulated at the subdivision development approval stage and not a relevant matter for inclusion within the local law.
PPLL	25	Estate Boundary Fences	See above.
PPLL	26	Tennis Court Fencing	The former clause regulated the fencing of tennis courts. The new local law is only designed to determine the minimum standards of a 'sufficient fence' for the purposes of the <i>Dividing Fences Act 1961</i> . Additionally and in accordance with the provisions of the

Former local law	Old local law clause	Clause Title	Comment
			<i>Building Act 2011</i> and the <i>Building Regulations 2012</i> , any fence over 1.8 metres in height requires a building permit. The standards of a 'tennis court fence' will therefore be regulated by the planning approval and building permit application processes.
PPLL	41	Limit on liability	The JSCDL determined in its Sixth Report (2003) that 'ouster' clauses purporting to extinguish the tortious liability of the local government are inconsistent with the <i>Local Government Act 1995</i> , and therefore deemed void and inoperative.
PPLL	43	Infringement and infringement withdrawal notices	Specified the form of the relevant notices as per the <i>Local Government (Functions and General) Regulations 1996</i> . Not considered necessary to specify the content of the forms.
PPLL	45	Prosecution for offences	Local government can recover unpaid penalties for an offence against the local law by taking proceedings against the offender in a court of petty sessions. Not required to stipulate the process in the local law.
PPLL	46	Records to be kept	Local government to keep adequate records of all infringement notices served and modified penalties received, as a mandatory requirement under the City's Record Keeping Plan. Not necessary to record in local law.
PPLL	SCHED	Schedule of fees and charges	Not required as fees and charges determined annually via the budget process.