

LOCAL GOVERNMENT ACT 1995

SHIRE OF MORAWA

FENCING LOCAL LAW 2018

CONTENTS

PART 1 - PRELIMINARY

- 1.1 Citation
- 1.2 Commencement
- 1.3 Application
- 1.4 Repeal
- 1.5 Definitions
- 1.6 Requirements of local planning scheme
- 1.7 Requirements of *Building Act 2011*

PART 2 - SUFFICIENT FENCES

- 2.1 Sufficient fences – requirement
- 2.2 Sufficient fences – generally
- 2.3 Sufficient fences – between lots having different requirements
- 2.4 General discretion of the local government
- 2.5 Transitional provision

PART 3 - FENCING GENERALLY

- 3.1 Fences within front and secondary setback areas
- 3.2 Alteration of ground levels
- 3.3 Obstruction of watercourse
- 3.4 Gates or doors in fences
- 3.5 Retaining walls
- 3.6 Estate fencing
- 3.7 Maintenance of fences
- 3.8 Fences across rights-of-way, public access ways or thoroughfares

PART 4 - FENCING MATERIALS, SCREENING AND MAINTENANCE

- 4.1 Prohibited materials
- 4.2 Pre-used fencing materials
- 4.3 Approved materials
- 4.4 Screening

PART 5 - RESTRICTED FENCING

- 5.1 Barbed wire fencing
- 5.2 Electrified fencing
- 5.3 Razor wire fencing

PART 6 - APPROVALS

- 6.1 Application for approval
- 6.2 Decision on application for approval
- 6.3 Compliance with approval
- 6.4 Cancellation of an approval
- 6.5 Duration of approval

PART 7 - OBJECTIONS AND REVIEW

- 7.1 Objections and review

PART 8 - ENFORCEMENT

- 8.1 Notices of breach
- 8.2 Offences and penalties
- 8.3 Modified penalties

8.4 Form of notices

SCHEDULE 1 – SUFFICIENT FENCE – RESIDENTIAL AND TOWNSITE LOTS

SCHEDULE 2 - SUFFICIENT FENCE – COMMERCIAL, INDUSTRIAL AND SPECIAL USE LOTS

SCHEDULE 3 – SUFFICIENT FENCE – RURAL AND RURAL RESIDENTIAL LOTS

SCHEDULE 4 – PRESCRIBED OFFENCES

# LOCAL GOVERNMENT ACT 1995

## SHIRE OF MORAWA

### FENCING LOCAL LAW 2018

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Morawa resolved on 21 June 2018 to make the following local law.

#### PART 1 - PRELIMINARY

##### 1.1 Citation

This local law may be cited as the *Shire of Morawa Fencing Local Law 2018*.

##### 1.2 Commencement

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

##### 1.3 Application

This local law applies throughout the district.

##### 1.4 Repeal

The *Shire of Morawa Local Laws Relating to Fencing 2008* as published in the *Government Gazette* on 16 July 2008 are repealed.

##### 1.5 Definitions

In this local law unless the context otherwise requires –

**applicant** means a person who makes an application for approval under this local law;

**approval** means a favourable decision in respect of an application which is in writing, may be subject to conditions and which allows a proposal to proceed;

**AS or AS/NZS** means an Australian or Australian/New Zealand Standard published by Standards Australia, and available for viewing free of charge at the Shire of Morawa Administration Centre;

**authorised person** means a person appointed by the local government to perform any of the functions under this local law;

**boundary fence** means a fence constructed on the boundary of a lot which abuts a thoroughfare, and results in the application of section 16(1) of the *Dividing Fences Act 1961*;

**Building Code** has the meaning given in section 3 of the *Building Regulations 2012*;

**commercial lot** means a lot zoned as commercial under the local planning scheme;

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

**dangerous** in relation to any fence means –

- (a) an electrified fence which does not comply with clause 5.2 of this local law;
- (b) a fence containing barbed wire other than a fence constructed and maintained in accordance with this local law;
- (c) a fence containing exposed broken glass, asbestos fibre, razor wire, metal spikes 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** has the meaning given in section 5 of the *Dividing Fences Act 1961*;

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

**estate boundary fence** means the fence constructed around the external boundary of a subdivision of land to indicate the extent of that subdivision and includes any special works or construction that identifies the entrance to that land;

**estate entry statement** means a fence, or wall constructed of masonry or other materials to identify the entrance of an estate and may include but not be limited to a sign indicating the estate name and

locality, sculptures, flagpoles and flags;

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

**front boundary** means the boundary line between a lot and the thoroughfare upon which that lot abuts, or in the case of a lot abutting on more than one thoroughfare the boundary line between the lot and the primary thoroughfare;

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

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

- (a) the ground level; 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 constructed on a retaining wall approved by the local government, from the top of the retaining wall;

**industrial lot** means a lot zoned as industrial under the local planning scheme;

**local government** means the Shire of Morawa;

**local planning scheme** means a local planning scheme and includes any structure plan adopted or approved by the local government made under the *Planning and Development Act 2005*;

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

**notice of breach** means a notice referred to in clause 8.1;

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

**owner** has the meaning given to it in section 5 of the *Dividing Fences Act 1961*;

**repair** has the meaning given to it under section 5 of the *Dividing Fences Act 1961*;

**residential lot** means a lot zoned as residential under the local planning scheme;

**retaining wall** means any structure 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 as rural under the local planning scheme;

**rural residential lot** means a lot zoned as rural residential under the local planning scheme;

**Schedule** means a Schedule to this local law;

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

**set fee** means a fee determined by the local government in accordance with sections 6.16 to 6.19 of the *Local Government Act 1995*;

**special use lot** means a lot zoned as special use under the local planning scheme;

**sufficient fence** means a fence described in clause 2.2 or 2.3 and includes a fence of the description and quality agreed upon by the owners of adjoining lots which does not fail to satisfy clause 2.2 or 2.3;

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

**townsite lot** means a lot zoned as townsite under the local planning scheme.

## 1.6 Requirements of local planning scheme

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.

## 1.7 Requirements of *Building Act 2011*

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

# PART 2 - SUFFICIENT FENCES

## 2.1 Sufficient fences – requirement

A person shall not construct a dividing fence or a boundary fence that is not a sufficient fence.

## 2.2 Sufficient fences – generally

Subject to clause 2.3 a sufficient fence –

- (a) on a residential lot or townsite lot is a dividing fence or a boundary fence constructed in accordance with Schedule 1;
- (b) on a commercial lot, industrial lot or special use lot is a dividing fence or a boundary fence constructed in accordance with Schedule 2; and

- (c) on a rural lot or rural residential lot is a dividing fence or a boundary fence constructed in accordance with Schedule 3.

### **2.3 Sufficient fences – between lots having different requirements**

Where a fence is constructed on or near the boundary between –

- (a) a residential lot or townsite lot and a lot zoned for any other purpose, a sufficient fence is a fence constructed in accordance with Schedule 1; and
- (b) a commercial lot or industrial lot and a rural lot or rural residential lot, a sufficient fence is a fence constructed in accordance with Schedule 3.

### **2.4 General discretion of the local government**

- (1) Notwithstanding the provisions of clause 2.1, an authorised person may give written consent for the construction or repair of a fence which is not a sufficient fence where all of the owners of the lots adjoin the fence make an application for approval for that purpose.
- (2) In determining whether to grant its approval under subclause (1), the local government may consider whether the construction or repair 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;
  - (c) the visual amenity of the locality; and
  - (d) any other matter considered relevant.

### **2.5 Transitional provision**

A dividing fence or fence lawfully constructed prior to this local law coming into operation constitutes a sufficient fence.

## **PART 3 - FENCING GENERALLY**

### **3.1 Fences within front and secondary setback areas**

- (1) A person shall not, without the written consent of an authorised person, construct a free-standing fence greater than 1200mm in height, within the front setback area of a residential lot or townsite lot.
- (2) An authorised person may approve the construction of a fence of a height greater than 1200mm in the front setback area of a residential lot or townsite lot, if provision is made for lines of vision for a motorist using the driveway to access a thoroughfare where the fence on each side of the driveway into the lot across the front boundary is angled –
  - (a) into the lot for a distance of not less than 1500mm along the frontage, and
  - (b) to a distance of not less than 1500mm from the frontage.
- (3) The provision of subclause (2) shall not apply to a fence of open construction that does not obscure the lines of vision of a motorist using the driveway for access to a thoroughfare.
- (4) The provision of subclause (2) shall apply to a secondary setback area where a driveway in the secondary setback area is used as the primary driveway access.

### **3.2 Alteration of ground levels**

- (1) A person shall not alter the natural ground level of land on or within 1000mm of the boundary of a lot, whether by removing soil or bringing onto the land any fill of any kind, by more than 500mm without the approval of an authorised person.
- (2) A fence constructed of corrugated fibre-reinforced pressed cement shall not have more than 150mm difference in the ground levels on each side of the fence.
- (3) Where land has been filled or retained to a height of more than 500mm above natural ground level at or within 1000mm of a boundary of a lot, a person shall only construct a dividing fence that is a sufficient fence on the said filled land or retaining wall if the person produces to an authorised person the written agreement of the owners of the adjoining lot.

### **3.3 Obstruction of watercourse**

No person shall construct 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.

### **3.4 Gates or doors in fences**

A person shall not construct a gate or door in a fence which encroaches into or over any other property.

### **3.5 Retaining walls**

A person must not commence to construct a retaining wall which is on the boundary line unless –

- (a) an application has been lodged with the local government including –
  - (i) two copies of a plan and specifications of the proposed retaining wall; and
  - (ii) in the case of a retaining wall exceeding 500mm in height and when required by an authorised person, engineering calculations in respect of the proposed retaining wall; and
- (b) an authorised person has approved the application.

### **3.6 Estate fencing**

- (1) A person shall not construct an estate entry statement or estate boundary fence without the approval of an authorised person.
- (2) Where an estate entry statement or estate boundary fence is constructed and contains an estate name, the entry statement or estate boundary fence shall also depict the locality name in at least equal prominence.
- (3) An owner or occupier of a lot adjacent to an estate boundary fence shall, where that fence is damaged, dilapidated or in need of repair, cause it to be repaired or replaced with the same or similar materials with which it was first constructed, so as far as practicable the repaired or replaced section shall be the same as the original fence.

### **3.7 Maintenance of fences**

An owner or occupier of a lot on which a fence is constructed shall maintain the fence in good condition and suitably enclosed so as to prevent it from becoming damaged, dangerous, dilapidated, unfit for purpose or unsightly.

### **3.8 Fences across rights-of-way, public access ways or thoroughfares**

A person must not construct or maintain a fence or obstruction of a temporary or permanent nature across any right-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 without the approval of an authorised person.

## **PART 4 - FENCING MATERIALS, SCREENING AND MAINTENANCE**

### **4.1 Prohibited materials**

A person must not construct a fence which is comprised, in whole or in part of spikes, broken glass, jagged materials, barbed wire, razor wire, asbestos or any other dangerous material except to the extent provided for in Part 5.

### **4.2 Pre-used fencing materials**

- (1) A person shall not construct a boundary fence, dividing fence or estate fence from pre-used materials without the approval of an authorised person.
- (2) Where an authorised person approves the use of pre-used materials, the materials shall be structurally fit for the purpose, and comply with any conditions imposed by an authorised person.
- (3) Conditions for use of pre-used fencing materials may include but are not limited to –
  - (a) painting;
  - (b) treated;
  - (c) specific use or placement; and
  - (d) upgrading.

### **4.3 Approved materials**

Subject to clause 4.2, a person shall only construct a dividing fence or boundary fence from materials specified in the Schedules of this local law, unless otherwise approved or required by an authorised person.

#### **4.4 Screening**

- (1) Screening may be fixed to a sufficient fence that is compliant with Schedule 1 which is consistent with the colours, materials and specification of that sufficient fence.
- (2) Screening is not to be affixed to a fence so that the maximum height exceeds 2.1m.
- (3) Screening affixed to a fence shall be installed and maintained in accordance with the manufacturer's specifications and not compromise the structural integrity of a fence.

### **PART 5 - RESTRICTED FENCING**

#### **5.1 Barbed wire fencing**

- (1) An owner or occupier of a residential lot shall not affix or allow to remain any barbed wire on any fence bounding that lot.
- (2) An owner or occupier of a townsite lot, rural lot or rural residential 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 top or the side of the fence posts furthest from the thoroughfare or other public place.
- (3) An owner or occupier of a commercial lot, industrial lot or special use lot shall not construct or affix to any fence bounding that lot any barbed wire unless –
  - (a) the wire or material are attached on posts vertically or at an angle of 45 degrees; and
  - (b) the bottom row of wire or other materials is not less than 2000mm above 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 onto or over adjoining land.

#### **5.2 Electrified fencing**

- (1) An owner or occupier of a lot shall not construct or use an electrified fence on that lot without first obtaining approval of an authorised person.
- (2) Notwithstanding subclause (1), approval is not required for an electrified fence if –
  - (a) constructed on a rural lot or rural residential lot;
  - (b) for the purpose of animal control;
  - (c) installed in accordance with the manufacturer's specifications; and
  - (d) which is not the dividing fence with a residential lot, townsite lot or special use lot.
- (3) An electrified fence for the purpose of security must not be present on a lot unless it complies with *AS/NZS 3016:2002 Electrical Installations – Electric Security Fences*, as amended from time to time, and which is available for viewing free of charge at the Shire of Morawa Administration Centre.
- (4) Approval to have and use an electrified fence for the purpose of security shall not be issued –
  - (a) in respect of a lot which is or which abuts a residential lot or townsite 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 where it is constructed.

#### **5.3 Razor wire fencing**

- (1) An owner or occupier of a lot shall not construct a fence wholly or partly of razor wire on that lot without first obtaining approval under subclause (2).
- (2) Approval to have a fence constructed wholly or partly of razor wire shall not be issued –
  - (a) in respect of a lot which is or which abuts a residential lot or townsite lot;
  - (b) if the fence is within 3m of the boundary of the lot; or
  - (c) where any razor wire used in the construction of the fence is less than 2000mm or more than 2400mm above the ground level.

### **PART 6 - APPROVALS**

#### **6.1 Application for approval**

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

- (2) An application for approval under this local law shall –
  - (a) provide all necessary documentation and information required for a decision;
  - (b) provide two copies of a plan and specifications of the proposed;
  - (c) engineering certification of structural or electrical engineering specifications, if required;
  - (d) be signed by the owner of the lot;
  - (e) be forwarded to the CEO together with any set fee; and
  - (f) be in the form determined by the local government from time to time.
- (3) An authorised person may require an applicant to provide additional information reasonably related to an application before determining an application for approval.
- (4) An authorised person may refuse to consider an application for approval which is not in accordance with subclauses (2) and (3).

## **6.2 Decision on application for approval**

- (1) An application submitted to the local government under this local law may be –
  - (a) approved by an authorised person;
  - (b) approved by an authorised person subject to conditions as the authorised person sees fit; or
  - (c) rejected by an authorised person.
- (2) In determining whether to grant its consent to the construction or installation, an authorised person may consider, in addition to any other matter that it is authorised to consider, whether the construction 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) An authorised person may by written notice amend a condition imposed under subclause (1)(b) at any time.
- (4) An amendment under subclause (3) is effective from the date specified in the notice.
- (5) If an authorised person approves an application for approval, it is to give written notice of the approval and any conditions applied, to the applicant.
- (6) If an authorised person refuses to approve an application for approval, it is to give written notice of that refusal and the reasons for the decision to the applicant.

## **6.3 Compliance with approval**

Where an application for approval has been approved under clause 6.2, the applicant and the owner or occupier of the lot to which the approval relates, shall comply with the terms and any conditions of that approval.

## **6.4 Cancellation of an approval**

An authorised person may cancel an approval if –

- (a) the owner or occupier requests an authorised person 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 8.1.

## **6.5 Duration of approval**

- (1) Unless otherwise stated in the form of approval, an approval granted under this local law transfers with the lot to which it relates and 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 subclause (1), the successive owner or occupier may apply to an authorised person for written confirmation of this transfer.
- (3) For the avoidance of doubt, approval granted under this local law may be relied upon by any subsequent owner or occupier of the lot, and may be enforced against them by the local government.



## PART 7 - OBJECTIONS AND REVIEW

### 7.1 Objections and review

Where an authorised person exercises a discretion pursuant to this local law, an affected person has a right of objection and appeal under Division 1 of Part 9 of the *Local Government Act 1995*.

## PART 8 - ENFORCEMENT

### 8.1 Notices of breach

- (1) Where a breach of any provision of this local law has occurred in relation to a fence on a lot, an authorised person may give a notice of breach in writing to the owner or occupier of that lot.
- (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 is required to remedy the breach within the time specified in the notice.
- (3) An owner or occupier given a notice of breach shall comply with the terms of the notice and remedy the breach within the time specified in the notice.
- (4) Should an owner or occupier fail to comply with a notice, an authorised person may 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.
- (5) 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 power of entry exercised by the local government under this local law is subject to Part 3, Division 3 of the *Local Government Act 1995*.

### 8.2 Offences and penalties

- (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) 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.

### 8.3 Modified penalties

The amount appearing in the final column of Schedule 4 directly opposite a prescribed offence in that Schedule is the modified penalty for that prescribed offence.

### 8.4 Form of notices

For the purposes of this local law –

- (1) 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 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*; and
- (2) 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*.

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## SCHEDULE 1 – SUFFICIENT FENCE – RESIDENTIAL AND TOWNSITE LOTS

[Clause 2.2(a)]

Each of the following is a sufficient fence on residential and townsite lots –

- (a) except with respect to the front setback area for which there is no minimum height but which is subject to clause 3.1; and
- (b) where constructed to an average height of 1800mm.

## **1. Timber fence**

- (1) Any type of professionally manufactured timber fence, constructed in accordance with the manufacturer's specifications.
- (2) A dense brushwood constructed in accordance with the manufacturer's specifications.
- (3) A timber fence constructed as follows –
  - (a) corner posts to be 125mm x 125mm x 2 400mm and intermediate posts to be 125mm x 75mm x 2400mm spaced at 2400mm 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; and
  - (f) the fence to be covered with 75mm x 20mm sawn pickets, 1800mm in height placed 75mm apart and affixed securely to each rail.

## **2. Corrugated fence**

- (1) Any fence constructed of corrugated fibre reinforced pressed cement sheet fence or steel sheeting fence in accordance with the manufacturer's specifications.
- (2) 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 shall have 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; and
  - (c) the sheets to be lapped and capped with extruded snap-fit type capping in accordance with the manufacturer's specifications.

## **3. Brick, stone or concrete fence**

Any type of brick stone or concrete fence that –

- (a) is constructed in accordance with the Building Code, finished plumb, true and level and appropriately jointed, cleaned and of good general appearance.
- (a) has footings having a minimum of 225mm x 150mm concrete 15MPa or 300mm x 175mm brick laid in cement mortar;
- (b) fences to be offset a minimum of 200mm at maximum 3000mm centres or 225mm x 100mm engaged piers to be provided at maximum 3000mm centres; and
- (c) expansion joints in accordance with the manufacturer's specifications.

## **4. Composite fence**

- (1) A composite fence which satisfies the following specifications for the brick construction –
    - (a) brick piers shall have a minimum of 345mm x 345mm at 1800mm centres bonded to a minimum height base wall of 514mm;
    - (b) each brick 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; and
    - (e) control joints in brickwork shall be provided with double piers at a maximum of 6 metre centres;
  - (2) Notwithstanding paragraphs (1)(a) and (b), a composite fence may be constructed so that –
    - (a) brick piers of a minimum 345mm x 345mm x 2700mm centres bonded to the base wall;
    - (b) each pier shall be reinforced with two R10 galvanised starting rods as previously specified, and
    - (c) all other requirements are as previously specified.
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## **SCHEDULE 2 - SUFFICIENT FENCE – COMMERCIAL, INDUSTRIAL AND SPECIAL USE LOTS**

[Clause 2.2(b)]

Each of the following is a sufficient fence on commercial and industrial lots –

- (1) A fence constructed of galvanized or PVC coated –
  - (a) rail-less link;
  - (b) chain; or
  - (c) steel mesh.
- (2) A fence constructed in accordance with clause (1) shall be constructed in accordance with the following specifications –
  - (a) to a height of 2000mm;
  - (b) corner posts to be a minimum of 50mm nominal bore x 3.5mm and with footings of a 225mm diameter x 900mm;
  - (c) intermediate posts to be minimum 37mm nominal bore x 3.15mm at maximum 4 metre centres and with footings of a 225mm diameter x 600mm;
  - (d) 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;
  - (e) 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;
  - (f) galvanised link mesh wire to be 2000mm 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;
  - (g) vehicle entry gates shall provide an opening of not less than 3.6 metres and shall be constructed of 25mm tubular framework with one horizontal and one vertical stay constructed of 20mm piping and shall be covered with 50mm x 2.5mm galvanised link mesh strained to framework; and
  - (h) gates shall be fixed with a drop bolt and locking attachment.
- (3) A fence constructed in accordance with paragraph (2) may have up to 3 strands of plain or barbed wire, none being less than 1800mm above ground level, not more than 2400mm above ground level
- (4) Fences constructed in accordance with Schedule 1.

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## **SCHEDULE 3 – SUFFICIENT FENCE – RURAL AND RURAL RESIDENTIAL LOTS**

[Clause 2.2(c)]

Each of the following is a sufficient fence on rural and rural residential lots –

- (1) In the case of a non-electrified fence, a fence of posts and wire construction, the minimum specifications for which are –
  - (a) wire shall be –
    - (i) high tensile wire and not less than 2.5mm; and
    - (ii) a minimum of seven 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, and not less than 1650mm long x 50mm diameter at small end if round or 125mm x 60mm if split or sawn;
    - (ii) standard iron star pickets; or
    - (iii) concrete;
  - (c) posts to be set minimum 400mm in the ground and 1200mm above the ground; and
  - (d) strainer posts shall be –
    - (i) not less than 2250mm long and 50mm diameter at the small end (tubular steel to be 50mm in diameter);
    - (ii) cut from indigenous timber or other suitable material; and
    - (iii) placed a minimum of 1000mm in the ground.

- (2) An electrified fence having five wires only is a sufficient fence if constructed generally in accordance with clause (1).

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**SCHEDULE 4 – PRESCRIBED OFFENCES**

[Clause 8.3]

Item	Clause	Nature of offence	Modified penalty \$
1	2.1	Construction of a dividing fence or boundary fence on a lot that is not a sufficient fence without approval	200
2	3.1	Construction of a non-compliant fence within setback area without approval	200
3	3.2(1)	Alteration of ground levels without approval	500
4	3.3	Obstruction of a watercourse	200
5	3.4	Construction of a gate or fence encroaching over other property	200
6	3.5	Construction of retaining wall without approval	500
7	3.6(1)	Construction of estate fencing without approval	500
8	3.7	Failure to maintain fence in good condition	200
9	3.8	Construction of a fence across right-of-way etc. without approval	500
10	4.1	Use of prohibited materials in a fence	500
11	4.2(1)	Use of pre-used fencing materials without approval	200
12	4.4(2)	Construction of screen exceeding 2.1m in height	200
13	5.1(1)	Using or allowing to remain barbed wire on a residential lot	200
14	5.1(2)	Non-compliant use of barbed wire on a townsite, rural or rural residential lot	200
15	5.1(3)	Non-compliant use of barbed wire on a commercial, industrial or special use lots	500
16	5.2	Construction of an electric fence without approval	500
17	5.3	Construction of a razor wire fence without approval	500
18	6.3	Failure to comply with conditions of approval for fence	500
19	8.1(3)	Failure to comply with notice of breach in relation to Part 5 – Restricted Fencing	500
20	8.1(3)	Failure to comply with notice of breach in relation to all matters other than Part 5 – Restricted Fencing	200
21	8.2(1)	Other offences not specified	200

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Dated \_\_\_\_\_ 2018

The Common Seal of the Shire of Morawa was affixed by authority of a resolution of Council in the presence of –

K.J. CHAPPEL, President

C.P.M. LINNELL, Chief Executive Officer