



PARLIAMENT OF WESTERN AUSTRALIA

REPORT OF THE

JOINT STANDING COMMITTEE

ON

DELEGATED LEGISLATION

IN RELATION TO

SHIRE OF NORTHAMPTON SIGNS LOCAL LAW

Presented by the Hon R L Wiese MLA (Chairman)

Report 43

JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION

Terms of Reference

It is the function of the Committee to consider and report on any regulation that:

- (a) appears not to be within power or not to be in accord with the objects of the Act pursuant to which it purports to be made;*
- (b) unduly trespasses on established rights, freedoms or liberties;*
- (c) contains matter which ought properly to be dealt with by an Act of Parliament; or*
- (d) unduly makes rights dependent upon administrative, and not judicial, decisions.*

If the Committee is of the opinion that any other matter relating to any regulation should be brought to the notice of the House, it may report that opinion and matter to the House.

Members as at the date of this report:

Hon Bob Wiese MLA (Chairman)
Hon Nick Griffiths MLC (Deputy Chairman) (Until 8 September 1999)
Hon Simon O'Brien MLC
Hon Ray Halligan MLC
Hon Jim Scott MLC
Mr Bill Thomas MLA
Mr Iain MacLean MLA
Mr Norm Marlborough MLA

Staff as at the date of this report:

Nigel Pratt, Advisory/Research Officer
Jan Paniperis, Committee Clerk

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**Report of the Joint Standing Committee on
Delegated Legislation**

in relation to

Shire of Northampton Signs Local Law

1 EXECUTIVE SUMMARY

- 1.1 The Committee has raised several specific concerns with the Shire of Northampton regarding the *Shire of Northampton Signs Local Law* (“Local Law”). In addition the Committee has raised broader issues regarding local laws for the regulation of signs and advertising devices made under the *Local Government Act 1995* in its Forty-Second Report in relation to the *Shire of Denmark Signs Local Law 1999*.
- 1.2 The Committee has reluctantly resolved to recommend disallowance of the Local Law after:
- 1.2.1 Reporting to the House in relation to a similar local law in its Forty-Second Report in relation to the *Shire of Denmark Signs Local Law 1999*.
- 1.2.2 Moving a “protective” notice of motion for disallowance of the Local Law to provide it with sufficient time to table and publish its Forty-Second Report and to review in detail the *Shire of Northampton Signs Local Law*.
- 1.2.3 Writing to the Shire by letter dated 30 September 1999 expressing its concerns in relation to the Local Law, enclosing a copy of its Forty-Second Report and seeking an urgent response prior to the motion for disallowance being put to a vote in the Legislative Council on 13 October 1999.
- 1.2.4 Reviewing the Shire’s response dated 4 October 1999 in which it advised the Committee that it was not able to address its concerns until late October 1999.
- 1.3 As the matter cannot be satisfactorily resolved prior to the motion for disallowance being put to a vote in the House on 13 October 1999 and in light of its concerns regarding the Local Law raised in its letter dated 30 September 1999, the Committee must reluctantly recommend disallowance of the Local Law in its entirety.

**Report of the Joint Standing Committee on
Delegated Legislation**

in relation to

Shire of Northampton Signs Local Law

2 INTRODUCTION

- 2.1 In the exercise of its scrutiny function the Committee reviewed the *Shire of Northampton Signs Local Law* (“Local Law”) made under the *Local Government Act 1995*. A copy of the Local Law has been attached to this report and marked “Annexure A”.
- 2.2 Under the Committee’s Joint Rules, if the Committee is of the opinion that a matter relating to any regulation or local law should be brought to the notice of the House, it may report that opinion and matter to the House. It is also the function of the Committee to consider and report on any regulation or local law that appears not to be within power.
- 2.3 The purpose of the Local Law is the control of signs and advertising devices within the Shire of Northampton. To achieve this purpose the Local Law requires signs (other than exempt signs) to be licensed, sets fees for the issue of a licence and provides penalties for contravention.¹
- 2.4 The Local Law first came before the Committee for scrutiny at its meeting on Tuesday 17 August 1999. At that time the Committee was conducting an inquiry into a similar signs local law, the *Shire of Denmark Signs Local Law 1999*. The Committee had some concerns with the Local Law but resolved to defer a detailed review until it had considered the issue of signs local laws made under the *Local Government Act 1995* and had reported to the House in relation to the *Shire of Denmark Signs Local Law 1999*.
- 2.5 The Committee was of the view that the tabling and publication of its Forty-Second Report would be of assistance to the Shire of Northampton and other local governments which had already gazetted or were intending to make local laws for the regulation of signs and advertising devices under the *Local Government Act 1995* or indeed by any other regulatory method.

¹ Explanatory memorandum attached to letter from the Shire of Northampton dated 27 May 1999.

- 2.6 With the gazettal by six local governments² of signs local laws made under the *Local Government Act 1995* since March 1999 and the possibility of more to follow, the Committee was concerned that a consistent approach should be taken to this regulation to ensure that existing rights and liberties of citizens were protected and that local laws did not include provisions which were *ultra vires*. An example of the latter was the attempt by the Shire of Denmark to prohibit election signs contrary to the freedom of communication on political matters protected by the Commonwealth Constitution.³
- 2.7 The Committee resolved to move a “protective” notice of motion for disallowance of the *Shire of Northampton Signs Local Law* so as to provide it with adequate time to report to the House in relation to the *Shire of Denmark Signs Local Law 1999* and to then consider the Local Law in detail. Notice was given of the motion for disallowance on Tuesday 17 August 1999. The motion was moved on Tuesday 7 September 1999. Under Standing Order 153(c) of the Standing Orders of the Legislative Council, the Motion for Disallowance, if not withdrawn, would be put to a vote of the House on Wednesday 13 October 1999.
- 2.8 The Shire was advised of the Committee’s motion for disallowance by letter from the Chairman dated 19 August 1999. The Shire responded by letter dated 24 August 1999. Copies of this correspondence are attached to this report and marked “Annexure B” and “Annexure C” respectively.
- 2.9 On Wednesday 22 September 1999, the Committee tabled its Forty-Second Report in relation to the *Shire of Denmark Signs Local Law 1999*. Many of the issues dealt with in the Committee’s Forty-Second Report were relevant to the Committee’s concerns regarding the *Shire of Northampton Signs Local Law*.
- 2.10 The Committee considered the *Shire of Northampton Signs Local Law* in detail at its next meeting on Tuesday 28 September 1999 and resolved to write to the Shire expressing its concerns regarding several clauses of the Local Law and to seek the Shire’s urgent response. A copy of the Committee’s letter to the Shire of Northampton dated 30 September 1999 expressing these concerns and which enclosed a copy of the Committee’s Forty-Second Report is attached to this report and marked “Annexure D”.

² Shire of Denmark, gazetted 15 March 1999; Shire of Serpentine-Jarrahdale, gazetted 26 March 1999; Shire of Northampton, gazetted 4 June 1999; Shire of Mundaring gazetted 16 August 1999; City of Wanneroo gazetted 27 August 1999 and City of Joondalup gazetted 27 August 1999.

³ See the Committee’s Forty-Second Report in relation to *Shire of Denmark Signs Local Law 1999*, pp 14-16.

This letter was sent to the Shire by way of facsimile on 30 September 1999. The original was delivered by courier.

- 2.11 A copy of the Shire's response dated 4 October 1999 is attached and marked "Annexure E". The Shire was not able to address the Committee's concerns as it was not scheduled to meet until late October 1999.
- 2.12 The Committee was disappointed that the Shire could not address its concerns prior to the motion for disallowance being put to a vote of the House on Wednesday 13 October 1999. A favourable response from the Shire, including a suitable written undertaking to amend the Local Law in terms acceptable to the Committee, would have given the Committee the opportunity to consider seeking the leave of the House to withdraw its motion for disallowance.

3 CONCLUSION

- 3.1 Unfortunately, in the absence of a substantive response and suitable undertaking from the Shire and in light of the concerns regarding the Local Law raised in its letter dated 30 September 1999 attached at Annexure D, the Committee must reluctantly recommend disallowance of the Local Law in its entirety.
- 3.2 The outcome is regrettable as the Committee would have welcomed the opportunity to attempt to negotiate an acceptable outcome with the Shire rather than having to recommend disallowance of the Local Law.
- 3.3 The Committee trusts that the Shire of Northampton will take heed of the views expressed by the Committee in its Forty-Second Report and in its letter dated 30 September 1999 should the Shire intend to proceed with the regulation of signs and advertising devices by way of local laws made under the *Local Government Act 1995*.

Hon. Bob Wiese MLA
Chairman

13 October 1999

ANNEXURE A

Shire of Northampton

Local Law Relating to Signs

Under the powers conferred upon it by the Local Government Act 1995, and all other powers enabling it, the Council of the Shire of Northampton resolved on 21 November 1997 to make the following local law-

1. Citation

This Local Law may be cited as the Shire of Northampton Local Law Relating to Signs.

2. Interpretation

In this Local Law, unless the context otherwise requires-

"Act" means the Local Government Act 1995;

"advertisement" has the same meaning as "sign";

"advertising device" means any object on which words or numbers or figures are written, printed, affixed, illustrated or painted for the purpose of advertising any business, function, operation, event or undertaking or any product or thing and includes any vehicle or trailer or other similar stationery object placed or located so as to serve the purpose of advertising any business, function, event or undertaking or any product or thing;

"bill" means any material on which words, numbers or figures are written, placed, printed, illustrated or painted;

"business" includes the conduct of a profession, trade or occupation;

"business direction sign" means a sign erected in a public thoroughfare or public place which indicates the nature of the business that may be located by following the direction indicated by the sign, but does not include any such sign erected by the Commissioner of Main Roads under regulation 301 of the Road Traffic Code 1975;

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

"Council" means the Council of the Shire of Northampton;

"development sign" means a sign erected on an area of land which has been approved for subdivision into a number of smaller lots, advertising the lots for sale but upon which no building development has taken place at the time of the approval of the sign;

"district" means the district of the Shire;

"electoral sign" means a sign containing an advertisement relating to an election or to a referendum;

"exempt sign" means a sign referred to in Clause 5;

"fascia sign" means a sign erected or displayed on the fascia of a building or the fascia of a verandah;

"fly posting" means advertising by means of posters placed on fences, walls, trees and like structures;

"freestanding sign" means any sign not attached to a structure or permanently fixed to the ground or pavement;

"hoarding" means a detached or detachable structure other than a pylon sign that is erected for the sole purpose of displaying a sign or signs and includes a poster panel or an illuminated panel; but does not include a hoarding within the

- meaning of Section 377 of the Local Government (Miscellaneous Provisions) Act 1960;
- "horizontal sign" means a sign fixed parallel to the wall of a building to which it is attached and with its largest dimension being horizontal;
- "illuminated sign" means a sign which can be lighted either from within or without the sign by artificial light provided, or mainly provided for that purpose and which does not emit a flashing light;
- "institutional sign" means a sign erected or placed on any land or building used for or in connection with a surgery, clinic, hospital, rest home, home for the aged, or other institution or place of a similar nature;
- "licensee" means the person to whom a licence is issued under this Local Law;
- "planning consent" means the approval granted by Shire for the erection or display of a sign pursuant to the Town Planning Scheme;
- "premises" means land and, unless the context otherwise requires, the buildings upon that land;
- "public thoroughfare" includes a street, road, footpath, carriageway and all other parts of a road reserve;
- "pylon sign" means a sign supported by one or more piers and not attached to a building and includes a detached sign framework supported by one or more piers to which sign infills may be added;
- "reserve" includes land vested in, or under the care, control and management of the Shire;
- "roof sign" means a sign erected on or above the roof of a building;
- "rural producer sign" means a sign erected on land zoned rural under Town Planning Scheme indicating the products grown, reared or produced on the property;
- "sale sign" means a sign displayed on premises advertising the sale, letting or auction of the premises;
- "semaphore sign" means a sign affixed and supported at, or by, one of its ends only;
- "Shire" means the Shire of Northampton;
- "sign" includes any advertising device or other sign type defined in this Local Law;
- "sign infill" means a panel which can be fitted into a pylon sign framework;
- "Surveyor" means the Building Surveyor of the Shire;
- "tower sign" means a sign affixed to or placed on a chimney stack or an open structural mast or tower;
- "Town Planning Scheme" means an existing town planning scheme of the Shire made under the Town Planning and Development Act 1928;
- "verandah" includes cantilever verandahs and balconies whether over thoroughfares or over private land;
- "verandah sign" includes any sign, above or below a verandah fascia;
- "vertical sign" means a sign fixed parallel to the wall of a building to which it is attached and with its largest dimension being vertical;
- "window sign" means any sign fixed to or painted on the glazed area of a window of a building.

3. Application of Local Law

This Local Law applies throughout the whole of the district.

4. Sign Standards

All signs or advertising devices (including an exempt sign) erected or displayed within the district shall-

- a) be securely fixed to any structure which supports it;
- b) be structurally sound and capable of withstanding any forces to which it would be reasonably subjected to without collapsing, deforming or moving from the position on which it was erected or displayed;
- c) be constructed and erected to the satisfaction of the Surveyor;
- d) not be erected or displayed in a position so as to obstruct the passage of or so as to create a hazard for vehicles or pedestrians;
- e) comply with the regulation 301(4) of the Road Traffic Code 1975;
- f) not be erected or displayed in a position that in the opinion of the Shire adversely affects the local amenity;
- g) not be erected or displayed in a position that significantly obstructs or impedes all or part of a view of a river, the sea or other place or feature which in Council's opinion is of significance to the district;
- h) be maintained in good order and a clean condition;
- i) other than a business direction sign, be erected or displayed directly on the premises the subject of the planning consent or licence granted under this Local Law;
- j) not be affixed to a street tree.

5. Prohibited Signs

5.1 Clause 5.2 does not apply to an exempt sign.

5.2 No sign or advertising device shall be erected or displayed unless it is the subject of:

- a) a current planning consent; and
- b) a current licence granted under this Local Law.

6. Exempt Signs

An exempt sign for the purpose of this Local Law is-

- a) any sign which is classified as exempt under a Town Planning Scheme;
- b) any sign which is the subject of an existing approval made prior to the date of effect of this Local Law;

- c) any advertisement affixed to or painted on a shop window by the occupier of the shop and relating to the business carried on in the shop;
- d) any sign within a building;
- e) any building name sign on residential flats or home units which has a single line of letters not exceeding 300mm in height, fixed to the facade of the building;
- f) any newspaper poster;
- g) a rural producer sign.

7. Applications for Licences

- 7.1 An application for a licence under this Local Law shall be made in the form set out in the First Schedule to this Local Law.
- 7.2 An application for a licence in respect of a sign shall be accompanied by a plan drawn at a scale to the satisfaction of the Surveyor showing the position, design, method of construction, colours to be used on and the method of illumination of the sign for which the licence is sought
- 7.3 An applicant for a licence shall furnish, in writing, any further particulars as required by the Shire to enable the application to be considered.

8. Approval of Application

- 8.1 In accordance with this Local Law, the Shire may approve or refuse to approve an application for a licence.
- 8.2 The Shire may impose any conditions it thinks fit upon its approval of an application for a licence, including a condition limiting the period within which the sign must be erected or displayed.
- 8.3 The licensee shall comply with any conditions imposed under clause 8.2.
- 8.4 A licence shall be in the form set out in the Second Schedule to this Local Law.
- 8.5 Prior to the issuing of a licence by the Shire, the applicant must pay the fee determined by the Council under Clause 10 in respect of that licence.

9. Alteration of Sign

A licensee shall not alter a sign unless, prior to altering the sign:

- a) the licensee has applied under the provisions of this Local Law for a new licence for the sign as altered; and
- b) the Shire has approved the application.

10. Licence Fees

The Council may determine by resolution from time to time, the fees payable on the issue of any licence under this Local Law and the fees may vary with the type of licence issued.

11. Licence Numbers

11.1 A licensee shall cause to be painted or stencilled on the face of the sign the licence number in figures of at least 25mm in height.

11.2 The Shire may exempt a licensee from compliance with clause 11.1.

12. Licence to be Produced

The owner or occupier of premises on which a sign is erected or displayed shall, on demand by the Shire or an authorised Officer of the Shire, produce the licence for inspection.

13. Revocation of Licence

13.1 This clause is subject to Division 1 of Part 9 of the Act.

13.2 Where a licensee is found guilty of an offence against this Local Law the Shire may revoke her or his licence by a written notice to that effect given to the licensee.

13.3 A licence shall be revoked when the notice is given to the licensee.

13.4 Unless the licensee appeals against the revocation of her or his licence under section 9.7 of the Act, the licensee shall remove, or cause the sign the subject of the revoked licence to be removed as soon as practicable, and, in any event, within 28 days from the date of revocation.

14. Sign Designs

14.1 Every sign shall be designed to be compatible with the proposed surroundings, including buildings, landscaping and other signs

14.2 Every sign attached to buildings shall be incorporated into the architectural features of the building in placement, style, proportions, materials and finish and shall be designed, constructed, finished, installed and professionally maintained.

15. Bill Posting

15.1 This clause does not apply to:

a) an advertisement affixed to, or painted on a shop window by the occupier of the shop and relating to the business carried on in the shop; or

b) any sign within a building.

15.2 A person shall not post a bill or paint, stencil, place or affix an advertisement on a street or on a building, structure, fence, wall, sign, post, blind or awning.

16. Information on Signs

Every sign shall contain the following information only -

- a) the name of the occupier;
- b) the business carried on in the premises;
- c) the occupier's telephone number;
- d) a description of the goods sold or offered for sale in the premises to which the sign is affixed or to which it relates;
- e) any other matter specifically approved by the Shire.

17. Business Direction Signs

17.1 The Shire may erect, on the application of a person, a business direction sign.

17.2 A business direction sign shall;

- a) be 200mm wide;
- b) have a maximum length of 1 metre;
- c) bear white letters 160 mm high on a blue background; and
- d) bear a description of the nature of the business which has been approved by the Shire.

17.3 An applicant for a business direction sign shall pay to the Shire all costs associated with the provision and installation of that sign.

18. Temporary Licences

18.1 Notwithstanding anything contained in this Local Law, the CEO may issue a temporary licence for the display of an advertisement of a meeting, charitable function, art or cultural activity, or other event of public interest.

18.2 An application for a temporary licence shall be made to the CEO in the form contained in the Third Schedule to this Local Law.

18.3 The CEO may impose any conditions he or she thinks fit upon the issue of a temporary licence, and the licensee shall comply with these conditions.

18.4 It is a condition of every temporary licence that the licensee shall cause the advertisement to which it relates to be removed not later than 48 hours after the conclusion of the meeting, function, activity or event of public interest.

19. Fly Posting

- 19.1 No person shall fly post at any place or location within the district.
- 19.2 Where a person is alleged to have committed an offence against this Local Law in respect of fly posting, the person authorising the advertisement shall be deemed to be the person who committed the offence.

20. Development Signs

A development sign shall be removed from the site within 2 years from the date of the licence or when 80 per cent of the lots in the subdivision have been sold, whichever is the sooner.

21. Hoardings

No person shall erect or display a hoarding at any place or location within the district.

22. Horizontal Signs

22.1 A horizontal sign shall -

- a) be fixed parallel to the wall of the building to which it is attached;
- b) not project more than 150mm from the wall to which it is attached; and
- c) conform to the following table:

<u>Minimum Distance of Sign above Street</u>	<u>Maximum Depth of Sign</u>
Less than 7.5m	600mm
7.5m to 9m	750mm
9m to 12m	1000mm

22.2 There shall be not more than one line of horizontal signs on any elevation.

23. Illuminated Signs

Every illuminated sign shall -

- a) have any boxing or casing in which it is enclosed constructed of incombustible material;
- b) where comprising glass (other than fluorescent tubing) have the glass so protected as to prevent its falling into a public place in the event of breakage;
- c) have its electrical installation constructed and maintained to the satisfaction of the appropriate electricity supply authority and in accordance with any written law with respect to the construction and maintenance of electrical installations for illuminated signs;
- d) be maintained to operate as an illuminated sign;

- e) not have a light of such intensity as to cause annoyance to the public or be a traffic hazard, and
- f) not emit a flashing light.

24. Information Panels

The Shire may provide tourist or other information panels or bays of varying sizes and charge fees for the inclusion of advertisements in such panels or bays.

25. Pylon Signs

25.1 A pylon sign shall -

- a) not have any part more than 6000mm above the level of the ground immediately below it;
- b) not exceed 4sqm in area unless approved by the Shire;
- c) be supported on one or more piers or columns of brick, stone, concrete, timber or steel of sufficient size and strength to support the sign under all conditions;
- d) not be within 2000mm of the side boundaries of the lot on which it is erected unless the lot on which the pylon sign is erected abuts an intersecting street or right-of-way, where the Shire may authorise the erection of the sign at a distance less than 2000mm;
- e) not have any part less than 6000mm from any part of another sign erected on the same lot.

25.2 Where pylon signs are to be erected on a lot on which a factory tenement building or small shops are erected or are to be erected the Shire may require all the pylon signs to be incorporated into one sign in which case:

- a) all of the constituent or infill signs are of an equal size; and
- b) one constituent or infill sign is provided for each business, shop or unit on the lot.

26. Roof Signs

A roof sign shall comply with the following table -

Height of Main Building above Ground level at Point where Sign is to be fixed	Maximum Height of Sign
4m and under 5m	1250mm
5m and under 6m	1800mm
6m and under 12m	3000mm

27. Rural Producer Signs

27.1 A rural producer sign shall -

- a) not indicate or display any matter otherwise than for the purpose of indicating the products grown, reared or produced on the property on which the sign is erected;
- b) be erected within the boundaries of the property; and
- c) not exceed 2sqm in area.

28. Verandah Signs

28.1 Signs On Verandah Fascias: A sign fixed to the fascia of a verandah shall -

- a) shall not exceed 600mm in depth; and
- b) shall not project beyond the fascia.

28.2 Signs under Verandahs: A sign under a verandah shall -

- a) not exceed 2500mm in length or 400mm in depth;
- b) be fixed at right angles to the front wall of the building before which it is erected except on a corner of a building at a street intersection where the sign may be placed at an angle with the wall so as to be visible from both streets; and
- c) be so placed that the centre of its base longitudinally is equidistant from the outer edge of the verandah and the vertical plane of the shop front directly opposite the end of such sign.

29. Vertical Signs

29.1 A vertical sign shall -

- a) not project more than 50mm from the face of the building to which it is attached;
- b) not be within 600mm of either end of the wall to which it is attached;
- c) be of a height of at least twice its width;
- d) not be placed on a corner of building, except at a street intersection where it may be placed at an angle with the walls so as to be visible from both streets;
- e) not exceed 750mm in width exclusive of the back projection; and
- f) not exceed 2sqm in total area on premises being a shop or office or both.

30. Municipal Heritage Inventory

The Shire shall consider the recommendations contained within the municipal heritage inventory and place conditions on issuing a licence for any property identified on the inventory

31. State Register of Heritage Places

The Shire shall consider the recommendations of the Heritage Council of Western Australia and place conditions on issuing a licence for any property classified on the State Register of Heritage Places.

32. Notice

In addition to any other power conferred by this Local Law, the Shire may give to the owner or occupier of any premises on which any sign is erected, affixed or maintained, contrary to this Local Law, notice to remove the sign within such time as may be specified in the notice; and any person failing to comply with the terms of a notice served pursuant to this Local Law commits an offence.

33. Public Places

- 33.1 An Officer authorised by the Shire may remove to a place nominated by the Shire any sign, hoarding or sign board placed on or erected or displayed in contravention of this Local Law on any public thoroughfare or other place vested in, or under the care, control and management of the Shire.
- 33.2 The Shire may, without being liable in damages or otherwise, store or dispose of any sign, hoarding or sign board removed under clause 33.1, and may re-instate the public thoroughfare or place from which the sign, hoarding or sign board was removed.
- 33.3 The Shire may recover both the costs of removing, storing or disposing of a sign, hoarding or sign board and the costs of re-instating the public thoroughfare or place from the person who erected or displayed, or caused to be erected or displayed, the sign, hoarding or sign board.

34. Offences

Any person who fails to do any act required to be done under this Local Law, or who does any act in contravention of this Local Law commits an offence.

35. Penalties

Any person convicted of an offence against this Local Law is liable to -

- a) a penalty not exceeding \$2000; and
- b) a daily penalty not exceeding \$50.

FIRST SCHEDULE

Shire of Northampton

LOCAL LAW RELATING TO SIGNS

APPLICATION FOR A SIGN LICENCE

1. Name of Applicant _____

2. Address of Applicant _____

3. Details of Proposed Sign:

Type of Sign _____

Inscription/Design on Sign _____

Height _____ (mm) Width _____ (mm) Depth _____ (mm)

Colours to be used _____

Materials to be used _____

Illuminated: Yes/No

If Yes, state intensity of light source _____

4. Premises on which Sign is to be Erected

The Applicant abovementioned applies for the issue of a licence in respect of the abovementioned sign.

Signature of Applicant(s) _____ Date _____

NOTE: Applications should be supported by a photograph or photographs of the premises showing superimposed thereon the proposed position for the advertisement.

SECOND SCHEDULE

Shire of Northampton

LOCAL LAW RELATING TO SIGNS

SIGN LICENCE

_____ of _____

is licensed to erect and maintain a sign on the premises specified below subject to compliance with the Local Law relating to Signs.

Licence Number _____

Type of Sign _____

Premises on which Sign is to be Erected

Conditions of Licence

Dated this _____ day of _____ 19 _____

Chief Executive Officer

This licence remains valid until any alteration is made to the sign, in which case the licensee must apply for a new licence.

THIRD SCHEDULE

Shire of Northampton

LOCAL LAW RELATING TO SIGNS

APPLICATION FOR A TEMPORARY SIGN LICENCE for the
ADVERTISEMENT of a MEETING, CULTURAL ACTIVITY or EVENT of
PUBLIC INTEREST

1. Name of Applicant _____

2. Address of Applicant _____

3. Details of Proposed Sign:

Type of Sign _____

Inscription/Design on Sign _____

Height _____ (mm) Width _____ (mm) Depth _____ (mm)

Colours to be used _____

Materials to be used _____

Illuminated: Yes/No

If Yes, state intensity of light source _____

4. Premises on which Sign is to be Erected

The Applicant abovementioned applies for the issue of a licence in respect of the
abovementioned sign.

Signature of Applicant(s) _____ Date _____

NOTE: Applications should be supported by a photograph or photographs of the
premises showing superimposed thereon the proposed position for the
advertisement.

FOURTH SCHEDULE

Shire of Northampton

LOCAL LAW RELATING TO SIGNS

TEMPORARY LICENCE for the ADVERTISEMENT of a MEETING,
CULTURAL ACTIVITY or EVENT of PUBLIC INTEREST

_____ of _____

is licensed to erect and maintain a sign on the premises specified below subject to compliance with the Local Law relating to Signs.

Licence Number _____

Type of Sign _____

Premises on which Sign is to be Erected

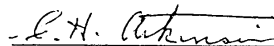
Conditions of Licence

Dated this _____ day of _____ 19_____

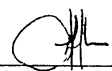
Chief Executive Officer

This licence remains valid until any alteration is made to the sign, in which case the licensee must apply for a new licence.

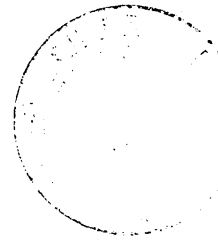
The Common Seal of the Shire of Northampton was affixed by authority of a resolution of the Council in the presence of -



C Atkinson
Shire President



G L Keefe
Chief Executive Officer



ANNEXURE B



JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION

Our Ref: 3532/36

19 August 1999

Mr G L Keefe
Chief Executive Officer
Shire of Northampton
PO Box 61
Northampton WA 6535

By Facsimile: 9934 1072

Dear Mr Keefe

Shire of Northampton Local Law Relating to Signs

I refer to your letter to the Joint Standing Committee on Delegated Legislation ('Committee') dated 27 May 1999 which enclosed copies of the above Local Law and the explanatory memoranda.

The Committee reviewed the *Shire of Northampton Local Law Relating to Signs* ("Local Law") at its meeting on Tuesday 17 August 1999 and resolved to move a "protective" notice of motion for disallowance of the Local Law. Notice of motion was given in the Legislative Council that afternoon. The motion will move on Tuesday 24 August 1999.

The Committee has recently undertaken an inquiry at Denmark, Western Australia, into a similar signs local law gazetted on 15 March 1999 by the Shire of Denmark. This local law was "automatically" disallowed by the operation of Standing Order 153(c) when Parliament prorogued on 6 August 1999 and is no longer law. The motion for disallowance in relation to your Local Law was moved to enable this Committee sufficient time to conclude its inquiry and consider the whole issue of local laws made under the *Local Government Act 1995* for the regulation of signs and advertisements.

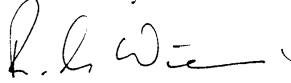
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PARLIAMENT HOUSE PERTH WA 6000 TELEPHONE +61 8 9222 7222 FACSIMILE +61 8 9222 7809
E-MAIL(GENERAL OFFICE): council@parliament.wa.gov.au

It is anticipated that the Committee will report to the House in September 1999 at which time its findings and recommendations will be available for you to consider. The Committee will then also be in a position to properly address your Local Law in detail and advise whether it has any concerns in light of its previous findings and recommendations.

At this stage the motion for disallowance should not be taken as indicating that the Committee has resolved to recommend disallowance of the Local Law. If you have any questions regarding the above, please contact Nigel Pratt, the Committee's Advisory/Research Officer, on **9222 7406**.

Yours sincerely



Hon. Bob Wiese
Chairman
Joint Standing Committee on Delegated Legislation

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ANNEXURE C



SHIRE OF NORTHAMPTON

P.O. BOX 61, NORTHAMPTON W.A. 6535
TELEPHONE (08) 9934 1202
FACSIMILE (08) 9934 1072

Our Ref: 4.2.3
Your Ref: 3532/36

Hon Bob Weise (Chairman)
Joint Standing Committee on Delegated Legislation
Legislative Council Committee Office
Parliament House
PERTH WA 6000

Attn: Nigel Pratt (Advisory/Research Officer)

Dear Sir

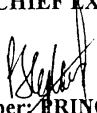
SHIRE OF NORTHAMPTON LOCAL LAW – SIGNS.

Council at its August 1999 meeting considered your facsimile of 19 August 1999 regarding the above matter and resolved to advise the Joint Standing Committee for Delegated Legislation that:

- 1) Council will not utilise the Local Law – Signs until their review is concluded.
- 2) Council requests that the Local Law – Signs are considered on its individual merit rather than be disallowed due to the other Local Government Authorities preparing unsuitable Local Laws.
- 3) Council request advice as to any appeal rights from an adverse decision of the Joint Standing Committee.
- 4) Council requests the Joint Standing Committee that if they are not prepared to allow the Local Law, then they undertake to consider and recommend to Parliament that changes be made to the *Town Planning and Development Act* to enable Council's to enforce the Scheme requirements for signs without the need for lengthy court proceedings by way of infringement notice.

Should you have any further queries regarding this matter, or need to clarify any particular requirement or condition, please don't hesitate to contact our Principal Planner, Phil Shephard at this office on (08) 9934 1202.

Yours faithfully
G L KEEFFE
CHIEF EXECUTIVE OFFICER


per: **PRINCIPAL PLANNER**
24 AUGUST, 1999

ANNEXURE D



JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION

Our Ref: 3532/36
Your Ref: 4.2.3

30 September 1999

Mr G L Keefe
Chief Executive Officer
Shire of Northampton
PO Box 61
Northampton WA 6535

By Express Post

URGENT

Dear Mr Keefe

Shire of Northampton Local Law Relating to Signs

I refer to your letter to the Joint Standing Committee on Delegated Legislation ('Committee') dated 24 August 1999.

The Committee has recently completed an inquiry at Denmark, Western Australia, into a similar signs local law gazetted on 15 March 1999 by the Shire of Denmark. The Committee's Forty Second Report in relation to the *Shire of Denmark Signs Local Law 1999* was tabled in the Legislative Council on Wednesday 22 September 1999. I enclose a copy of the report for your perusal. You will note the Committee is in agreement with the advice provided to local governments by the Western Australian Municipal Association and the Department of Local Government that signs laws are best dealt with under the provisions of the *Town Planning and Development Act 1928* and town planning schemes made under that Act.

The Committee reviewed the *Shire of Northampton Local Law Relating to Signs* ("Local Law") in detail at its meeting on Tuesday 27 September 1999. At its meeting the Committee resolved to write to you regarding a number of concerns it has with the Local Law as follows;

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Clause 2

The Committee is concerned with the breadth of the definition of “advertising device”.

It would appear that the definition would encompass a tradesman’s vehicle with the usual advertising painted on it. The owner of such a vehicle would be in breach of the Local Law when the vehicle was parked on the street as the sign does not appear to fall within any of the exemptions listed in clause 6 and would therefore require both planning consent **and** a current licence under clause 5 of the Local Law. Such a result is unacceptable to the committee and trespasses on well recognised freedoms and liberties.

The Committee notes that the apparent intention of the broad definition is to prevent persons parking a vehicle on the road with an advertising device mounted on it. This practice is already largely controlled by the provisions of the *Main Roads (Control of Signs) Regulations 1983*.

Clause 5

Why is there a requirement for both planning consent and a licence for signs not subject to the exemption provided in clause 6. What are the requirements of obtaining both planning consent and a licence under the Local Law and what cost is involved to the applicant in each case.

The Committee is concerned that under the Local Law, there is a need for two approval processes which would place unfair financial and administrative burdens on the citizen. The Committee is also concerned that such a system would result in confusion as persons who had obtained planning approval for their sign but omitted to obtain a licence would be in breach of the Local Law and subject to the penalties in clause 36. Surely if a applicant for a sign has obtained planing consent there should be no need for a further application, licence and fee!

Please justify to the Committee why two approval processes are required.

The Committee notes that Part 9 of your Town Planning Scheme already gives the Shire the power to control advertisements. The Scheme includes the “...erection, placement and display of advertisements...” as “development” as defined under the *Town Planning and Development Act 1928*. Why is there a need for a local law made under the *Local Government Act 1995* given these existing powers.

Clause 6

Electoral signs are included in the definition clause but are not otherwise mentioned. Electoral signs erected by political parties, candidates and electors do not appear to be included as exempt signs and will therefore require both planning consent and a licence.

The requirement of clause 5(2) amounts to a prohibition coupled with a discretion to grant a licence. The grounds upon which such a discretion is to be exercised are set out in clause 8 of the Local Law but give the Shire absolute discretion as to whether a licence will be granted or refused. The Committee is of the view that such a prohibition infringes the implied freedom of

communication on political and government matters protected by the Commonwealth Constitution. This does not mean that conditions cannot be placed on the erection, size and placement of electoral signs. However, the Committee is of the view that electoral signs should be specifically exempted from the requirements of clause 5.

Clause 8

Although clause 13 is stated to be subject to the appeal provisions in Division 1 of Part 9 of the *Local Government Act 1995*, this clause is silent on the matter. The Committee is aware that the appeal provisions would apply to the Local Law generally in any event. However, the Local Law is not clear that it will apply to all decisions in relation to the grant, approval, variation or refusal of an "authorisation" made under the Local Law and will include "a licence, permit, approval, or other means of authorizing a person to do anything".

The Committee suggests that clause 8 should be amended to ensure that it is subject to the appeal provisions. Alternatively, a separate clause should state that the local law is subject to the appeal provisions in Division 1 of Part 9 of the *Local Government Act 1995*.

Clause 9

This clause requires the owner to apply for and obtain a licence (after paying the usual fee) for even minor changes to a sign such as a change of telephone number, or the inclusion of an e-mail address or website address. It would even result in an owner breaching the local law by making the sign safe after being damaged by a storm if he did not first apply for a licence.

The Committee is of the view that the provision should only apply to a significant and material alteration of the sign so that the examples listed above would not require the application and issue of a further licence.

Clause 10

What is the proposed fee for the issue of a licence under the Local Law.

Clause 12

The Committee considers that this clause is unnecessary, particularly given that clause 11 requires licence numbers to be displayed on the sign and the fact that the Shire will have a record of the licence on its files. The Committee suggests that this clause be deleted from the Local Law.

Clause 15

This clause is so broadly worded that it would appear to include many cases where temporary signage is used by citizens on their own property. The Committee understands the mischief attempted to be prohibited by the clause and the need to exempt businesses from the prohibition, but the Committee is concerned that the clause catches non-commercial activities involving

temporary signage such as a “garage sale” sign or “birthday party” sign or a meeting sign attached to a residential property and obviously only of a temporary nature.

The Committee notes the provision of temporary licences in clause 18 but is strongly of the view that the burden on the citizen in having to obtain a temporary licence for undertaking such activities unduly infringes upon the citizen’s existing rights and is unacceptable.

The Committee is of the view that the Local Law should contain an exemption for temporary signage of this type, when of a limited size and located or erected on private property. Clause 15 should make it clear that the prohibition does not apply to these activities and the other exemptions in the Local Law.

Clause 16

The Committee believes that this clause is overly restrictive by requiring approval of the Shire in respect of matters other than those listed in (a) to (d). This would result in an owner having to obtain Shire approval to place a fax number, e-mail address, website or business logo on the sign. The “name of the occupier” in (a) should also include “business”. The Local Law already has provision for the protection of amenity (clause 14) so the Committee cannot see why such a restrictive clause should be included. In the Committee’s view, the clause trespasses on well recognised freedoms and liberties.

Clause 18

Is there a fee for a Temporary Licence and if so what is it?

The Committee’s comments in relation to a prohibition coupled with a discretion as referred to under clause 6 above is relevant to this clause. The absence of the requirements upon which the discretion would be exercised (other than the condition in sub-clause 18.4), coupled with the absolute discretion given to the CEO to either grant or refuse an application could result in the discretion being exercised on any basis whatsoever.

In the Committee’s view, the *Local Government Act 1995* does not authorise the grant of absolute discretionary power to local governments or their CEO’s to determine such matters in the absence of conditions for the grant of such licences contained within the Local Law.

What conditions are contemplated to be imposed for the issue of a temporary licence under sub-clause 18.3. It would appear that a temporary licence would be required for a home owner to place a sign on his property for an “open garden” display or for a meeting of the local CWA, bowling club etc. The Committee considers such a requirement on the citizen to be a significant infringement on long standing rights and practice.

Clause 19

It is the Committee’s opinion that sub-clause 19.2 is clearly beyond the power of the Shire and offends the common law presumption of innocence and the established right of the citizen for

due process at law. The attempt to subvert this is *ultra vires* the *Local Government Act 1995* and the sub-clause should be deleted.

Clause 28

It would appear to be impossible to comply with the requirement of sub-clause 28.1(b) as it would be expected that the sign if placed on a verandah fascia would project, at least to some extent, beyond the fascia. Sub-clause 28.2 has no minimum clearance.

Clause 29

The Committee found this clause extremely difficult to comprehend and requests that you explain the requirements for vertical signs more clearly. A diagram would be of assistance.

Clauses 30 and 31

The Committee is of the view that there should not be an absolute requirement to place conditions on the issuing of a licence in these circumstances and the word "may" should be inserted between "and" and "place" in each clause.

Clause 32

It is the Committee's view that there should be a time requirement in this clause. The words "within such time..." should be replaced by a specific time limit. The Committee notes that the usual time limits for compliance with notice provisions is 28 days.

Clause 35

The Committee is concerned that the penalty provisions in this clause do not include infringement notices and modified penalties.

As you are aware from my letter to you dated 19 August 1999, the Committee has moved a "protective" motion for disallowance of the Local Law on Tuesday 24 August 1999. Under the Standing Orders of the Legislative Council, the motion must be put and voted upon by the House at the expiry of 10 sitting days after the motion was first moved. In the absence of the House giving leave to withdraw the motion, the motion will be put to a vote on **Wednesday 13 October 1999**.

The Committee may consider seeking leave to withdraw its motion if its above concerns can be addressed in your reply and a suitable written undertaking obtained. Such an undertaking should include a commitment that the Local Law will be amended in terms acceptable to the Committee as soon as possible. To enable the Committee to consider the matter prior to the vote in the House you will need to respond by no later than **4pm, Friday 8 October 1999**.

In answer to your questions, the Committee only has the power to recommend disallowance of a local law. Section 42(2) of the *Interpretation Act 1984* provides that either House of

Parliament may disallow a local law. The practice is that a motion for disallowance is usually dealt with by the Legislative Council of the Western Australian Parliament. There is no right of appeal from such a decision.

You will note from the legal opinion to the Western Australian Municipal Association at "Annexure E" of the Committee's Forty Second Report that enforcement provisions under a town planning scheme allowing infringement notices and modified penalties would not be inconsistent with the *Town Planning and Development Act 1928*. The Committee may consider your request further should the Local Law be disallowed.

If you have any questions regarding the above, please contact Nigel Pratt, the Committee's Advisory/Research Officer, on 9222 7406.

Yours sincerely



Hon. Bob Wiese
Chairman
Joint Standing Committee on Delegated Legislation

ANNEXURE E



SHIRE OF NORTHAMPTON

P.O. BOX 61, NORTHAMPTON W.A. 6535
TELEPHONE (08) 9934 1202
FACSIMILE (08) 9934 1072

Our Ref: 4.2.3
Your Ref: 3532/36

Hon Bob Weise (Chairman)
Joint Standing Committee on Delegated Legislation
Legislative Council Committee Office
Parliament House
PERTH WA 6000

Attn: Nigel Pratt (Advisory/Research Officer)

Dear Sir

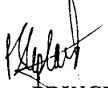
SHIRE OF NORTHAMPTON LOCAL LAW – SIGNS.

Council has now received your correspondence of 30 September 1999 regarding the above Local Law. As per our telephone conversation of earlier today, Council Officers are not able to provide a written undertaking that Council will accept the Committee's requirements and unfortunately, Council will not consider the matters formally until later in October.

Council will advise you further in due course.

Should you have any further queries regarding this matter, please don't hesitate to contact our Principal Planner, Phil Shephard at this office on (08) 9934 1202.

Yours faithfully
G L KEEFFE
CHIEF EXECUTIVE OFFICER


per: **PRINCIPAL PLANNER**
4 OCTOBER, 1999