

**BIOSECURITY AND AGRICULTURE MANAGEMENT ACT 2007
LOCAL GOVERNMENT ACT 1995**

SHIRE OF WAROONA

Pest Plant Local Law 2024

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PEST PLANT LOCAL LAW 2024

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**BIOSECURITY AND AGRICULTURE MANAGEMENT ACT 2007
LOCAL GOVERNMENT ACT 1995**

Shire of Waroona

Pest Plant Local Law 2024

Under the powers conferred by the *Biosecurity and Agriculture Management Act 2007*, the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Waroona resolved on <date of council resolution> to make the following local law.

Part 1 - Preliminary

1.1 Citation

This local law is the *Shire of Waroona Pest Plant Local Law 2024*.

1.2 Commencement

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

1.3 Application

This local law applies throughout the district.

1.4 Definitions

In this local law –

Act means the *Biosecurity and Agriculture Management Act 2007*;

authorised person means a person appointed by the local government under Section 9.10 of the *Local Government Act 1995* to perform any of the functions of an authorised person under this local law;

district means the district of the local government;

Local Government means the Shire of Waroona;

occupier has the same meaning as in the *Local Government Act 1995*;

owner has the same meaning as in the *Local Government Act 1995*;

pest plant means a plant referred to in clause 2.1;

Schedule means a schedule in this local law, unless specified as a schedule under the *Local Government Act 1995*;

treat means to take action to either –

- (a) destroy the plant so that the plant is fully and continuously suppressed and destroyed;
- (b) eradicate the plant from the land so that the land is kept free of the plant; or
- (c) control the growth of the plant so that the plant does not spread.

Part 2 - General

2.1 Pest plants

Every plant described in Schedule 1 is a pest plant.

Part 3 - Notice

3.1 Notice

The local government or an authorised person may serve a notice on the owner or occupier of private land within the district requiring the owner or occupier to treat the identified pest plant on that land in the manner specified in the notice.

3.2 Form

A notice served under clause 3.1 must be in the form indicated in Schedule 2 and contain all necessary information.

3.3 Compliance with a notice

An owner or occupier served with a notice under clause 3.1 shall comply with that notice within the time and in the manner specified in the notice.

3.4 Non-compliance with a notice

Where an owner or occupier fails to comply with a notice served to them under clause 3.1, the local government may –

- (a) without payment of any compensation, take the action that was required by the notice; and
- (b) recover in a court of competent jurisdiction the amount of the expense of the action from that owner or occupier.

Part 3 - Offences and Penalties

4.1 Offences and penalties

- (1) A person who—
 - (a) fails to do anything required or directed to be done under this local law;
 - (b) fails to comply with the requirements of a notice issued under this local law by an authorised person; or
 - (c) does anything which under this local law that person is prohibited from doing; commits an offence.
- (2) Where, under this local law, an act is required to be done or forbidden to be done in relation to any land or premises, the owner or occupier of the land or premises has the duty of causing to

be done the act so required to be done, or of preventing from being done the act forbidden to be done.

(3) A person who commits an offence under this local law is liable to a maximum penalty of \$5,000 and a maximum daily penalty of \$500 in respect of each day or part of a day during which the offence has continued.

4.2 Prescribed offences

(1) An offence against a clause specified in Schedule 3 is a prescribed offence for the purposes of section 9.16(1) of the Act.

(2) The amount of the modified penalty for a prescribed offence is that specified adjacent to the clause in Schedule 3:

- (a) in the case of a first offence the modified penalty will be that prescribed in column 4 of Schedule 3;
- (b) in the case of a subsequent offence the modified penalty will be that prescribed in column 5 of Schedule 3.

(3) An authorised person should be satisfied that—

- (a) commission of the prescribed offence is a relatively minor matter; and
- (b) only straightforward issues of law and fact are involved in determining whether the prescribed offence was committed, and the facts in issue are readily ascertainable,

before giving an infringement notice to a person in respect of the commission of a prescribed offence.

4.3 Form of infringement notices

For the purposes of this local law—

- (1) the form of the infringement notice given under section 9.16 of the Act is that of Form 2 in Schedule 2 of the *Local Government (Functions and General) Regulations 1996*; and
- (2) the form of the notice given under section 9.20 of the Act withdrawing an infringement notice is that of Form 3 in Schedule 2 of the *Local Government (Functions and General) Regulations 1996*.

Schedule 1 – Pest Plants

[Clause 2.1]

Common Name

Scientific Name

White Weeping Broom

Retama raetam

DRAFT

Schedule 2 – Pest Plant Notice

[Clause 3.2]

BIOSECURITY AND AGRICULTURE MANAGEMENT ACT 2007

PEST PLANT NOTICE

No.

To

(Full name)

of

(Address)

You are hereby given notice under the Shire of Waroona Pest Plant Local Law 2024 that you are required

to

(specify whether required to destroy, eradicate or otherwise control) the following pest plant—

.....

(Common Name)

(Scientific Name)

(here specify the land) of which you are the

(owner or occupier)

This notice may be complied with by

(specify manner of achieving destruction, eradication or control)

Such measures shall be commenced not later than (date)

and shall be completed by (date)

Upon failure to comply with this notice within the times specified, the local government may destroy, eradicate or control, as the case may be, any specified pest plant at your expense, and if necessary recover the same in a court of competent jurisdiction.

Date of service of notice ____/____/20____

.....

Signature of authorised person

Schedule 3 – Prescribed Offences

[Clause 4.2]

BIOSECURITY AND AGRICULTURE MANAGEMENT ACT 2007

PRESCRIBED OFFENCES

Item No.	Clause	Description	Modified Penalty – First Offence	Modified Penalty – Subsequent Offences
1	3.1	Failure to comply with Pest Plant Notice	\$250	\$500

Dated this _____ day of _____ 2024.

The Common Seal of the **Shire of Waroona** was affixed by the authority of a resolution of Council in the presence of:

CR JOHN MICHAEL SCOTT WALMSLEY, Shire President

MARK ANDREW GOODLET, Chief Executive Officer