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SHIRE OF VICTORIA PLAINS

BUSH FIRES ACT 1954
LOCAL GOVERNMENT ACT 1995

BUSH FIRES ACT AMENDMENT LOCAL LAW 2018

CEMETERIES ACT 1986
LOCAL GOVERNMENT ACT 1995

CEMETERIES LOCAL LAW 2018

LOCAL GOVERNMENT ACT 1995

EXTRACTIVE INDUSTRIES LOCAL LAW 2018

PUBLIC PLACES AND LOCAL GOVERNMENT PROPERTY LOCAL LAW 2018

**BUSH FIRES ACT 1954
LOCAL GOVERNMENT ACT 1995**

SHIRE OF VICTORIA PLAINS

BUSH FIRES ACT AMENDMENT LOCAL LAW 2018

Under the powers conferred by the *Bush Fires Act 1954* and the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Victoria Plains resolved on 16 May 2018 to adopt the following local law.

1. Citation

This local law may be cited as the *Shire of Victoria Plains Bush Fire Brigades Amendment Local Law 2018*.

2. Commencement

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

3. Principal local law amended

This local law amends the *Shire of Victoria Plains Bush Fire Brigades Local Law 2017* as published in the *Government Gazette* on 29 August 2017.

4. Table of Contents amended

In the Contents, delete reference to clauses 3.3, 3.5 and 4.4 and insert in order—

- 3.3 Election and appointment of bush fire brigade officers
- 3.5 Duties of CBFCO and Captain
- 3.6 Training of officers
- 4.4 Right to object to or review of decision

5. Clause 1.5 amended

In clause 1.5, delete the definitions of *brigade area*, *brigade member*, *brigade officer* and *Regulations* and insert the following definitions in alphabetical order—

bush fire brigade area has the meaning given to it in clause 2.2(b);

bush fire brigade member means a volunteer fire fighter having current membership of a bush fire brigade;

bush fire brigade officer means a person holding a position referred to in clause 3.3(1), irrespective of method of appointment to the position;

Regulations means Regulations made under the Act; and

6. Clause 2.4 amended

Delete subclause 2.4(1)(b) and insert—

- (b) bush fire brigade officers in order of seniority; and

7. Clause 2.7 amended

Delete clause 2.7 and insert—

2.7 New arrangement after dissolution

If the local government cancels the registration of a bush fire brigade, alternative fire control arrangements are to be made in respect of the bush fire brigade area.

8. Clause 3.3 amended

Delete clause 3.3 and insert—

3.3 Election and appointment of bush fire brigade officers

- (1) Subject to subclause (2), the members of a bush fire brigade shall elect—
 - (a) a Captain;
 - (b) a first lieutenant;

- (c) a second lieutenant; and
 - (d) any additional lieutenants or officers considered appropriate for the effective management of normal brigade activities.
- (2) If the members of a bush fire brigade have not elected a bush fire brigade member to a position, the local government may make an appointment to the position it sees fit and as considered appropriate.
- (3) When considering the election or appointment of persons to the positions in subclause (1), the bush fire brigade members or the local government as the case may be, are to have regard to the qualifications, training and experience which may be advisable to fill each position.
- (4) The local government may remove any person elected or appointed from any position.

9. Clause 3.5 amended

- (a) Delete the title of clause 3.5 and insert—
 - 3.5 Duties of CBFCO and Captain**
- (b) Delete subclauses 3.5(c) and (d) and insert—
 - (c) to liaise with the local government concerning fire prevention or fire suppression matters generally and directions issued by the local government to bush fire control officers (including those who issue permits to burn), bush fire brigades or bush fire brigade officers;
 - (d) to ensure that lists of bush fire brigade members are maintained in accordance with clause 4.3;

10. Clause 3.6 inserted

After clause 3.5 insert the following—

3.6 Training of officers

- (1) The local government is to supply each bush fire control officer and Captain with a copy of the Act, the Regulations, any Bush Fire Operating Procedures adopted, this local law and any other written laws which may be relevant to the performance of the bush fire brigade officers' functions, and any amendments made from time to time.
- (2) Bush fire control officers are to complete a Bush Fire Control Officers course conducted by an organisation approved by the CEO, within 12 months of appointment, unless a course has been completed within the 4 years prior to appointment as a bush fire control officer.
- (3) Bush fire control officers are required to complete a bush fire control officers course or a bush fire control officers refresher course at least once every 5 years.

11. Clause 4.3 amended

Delete subclause 4.3(1) and insert—

- (1) The Captain is to review the membership and report to the CEO and CBFCO the name and contact details of each bush fire brigade member.

12. Clause 4.4 amended

Delete clause 4.4 and insert—

4.4 Right to object to or review of decision

- (1) If an application for membership is refused under clause 4.2, the CEO is to notify the applicant in writing as soon as practicable after the decision is made, of—
 - (a) the reasons for the refusal; and
 - (b) the right to object to the local government within 14 days of the date of notice.
- (2) If it is proposed that a bush fire brigade member is to be suspended under clause 4.3(2) or terminated under clause 4.3(3)(c) or (d), the CEO is to notify the bush fire brigade member in writing as soon as practicable after the decision is made, of—
 - (a) the reasons for the intention to suspend or terminate the bush fire brigade member;
 - (b) the opportunity to respond and answer any matters which might give grounds for suspension or dismissal—
 - (i) in person or in writing to the CEO; or
 - (ii) to meet with a minimum of any three of the Captain, CBFCO, CEO, or President; and
 - (c) the right to object to the local government within 14 days of the date of notice, or such other time as may be agreed.
- (3) The decisions of any meeting in accordance with subclause (2)(b)(ii), of a bush fire brigade member with a minimum of any three of the Captain, CBFCO, CEO, or President—
 - (a) are to be made by simple majority; and
 - (b) may revoke, vary or confirm the original decision to suspend or terminate the bush fire brigade member.
- (4) The bush fire brigade member is to be notified in writing as soon as practical after a decision under subclause (3) is made, of—
 - (a) the decision and the reasons for the decision; and
 - (b) the right to object to the local government within 14 days of the date of notice.

- (5) The local government may dispose of an objection by—
- (a) dismissing the objection;
 - (b) varying the decision objected to; or
 - (c) revoking the decision objected to, with or without—
 - (i) substituting for it another decision; or
 - (ii) referring the matter, with or without directions, for another decision by a minimum of any three of the Captain, CBFCO, CEO, or President.
- (6) The local government shall give written advice of the decision made under subclause (5) to the person.

13. Clause 4.5 amended

Delete clause 4.5 and insert—

4.5 Existing liabilities to continue

The resignation, suspension or termination of a member under clause 4.3 does not affect any liability of the bush fire brigade member arising prior to the date of resignation, suspension or termination of membership.

14. Clause 4.6 amended

Delete subclause 4.6(1) and insert—

(1) Any disagreement between bush fire brigade members regarding normal brigade activities may be referred to the Captain.

15. Clauses 5.1 and 5.2 amended

Delete clauses 5.1 and 5.2 and insert—

5.1 Administration

All administrative matters of a bush fire brigade are to be managed by the local government, other than bush fire brigade specific internal arrangements.

5.2 Finances

All financial matters of a bush fire brigade are to be managed by the local government, other than bush fire brigade specific internal arrangements.

Dated: 8 June 2018.

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

D. S. LOVELOCK, President.
G. M. TEEDE, Chief Executive Officer.

**CEMETERIES ACT 1986
LOCAL GOVERNMENT ACT 1995**

SHIRE OF VICTORIA PLAINS

CEMETERIES LOCAL LAW 2018

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**CEMETERIES ACT 1986
LOCAL GOVERNMENT ACT 1995**

SHIRE OF VICTORIA PLAINS

CEMETERIES LOCAL LAW 2018

Under the powers conferred by the *Cemeteries Act 1986* and the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Victoria Plains resolved on 16 May 2018 to adopt the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Victoria Plains Cemeteries 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 to the following cemeteries located in the district—

- (a) Calingiri Cemetery situated on a portion of Reserve 16738 and a portion of Reserve 37801 as indicated by signs or fencing; and
- (b) Bolgart Cemetery situated on a portion Reserve 47876 as indicated by signs or fencing.

1.4 Repeal

The *Shire of Victoria Plains Local Law No. 2 Calingiri Cemetery Local Laws* published in the *Government Gazette* on 17 March 1998 is repealed.

1.5 Definitions

In this local law, unless the context otherwise requires—

Act means the *Cemeteries Act 1986*;

approved material means—

- (a) any variety of non-fabricated, naturally occurring stone or rock; or
- (b) any fabricated compound or fabricated aggregate which, in the opinion of the Board, has similar durability and aesthetic qualities as the materials specified in paragraph (a) above, suitable for decorative purposes and monumental sculpture, but not glass, porcelain, ceramics or any pottery;

ashes means so much of the remains of a dead body after the due processes of cremation as may be contained in a standard sized cremation urn;

authorised person means a person—

- (a) appointed by the Board for the purposes of performing any function or exercising any power, other than the giving of infringement notices, conferred upon an authorised person by this local law; or
- (b) authorised under section 64 of the Act to give infringement notices;

Board means the local government;

business day means any week day other than a public holiday in Western Australia;

cemetery means a cemetery under the care and control of the Board;

CEO means the chief executive officer, for the time being, of the Board;

coffin means a coffin or other receptacle used for the transportation of a dead body to the grave site, or the receptacle used for the burial of a dead body in a grave;

Commissioner of Police means the Commissioner of Police for the time being appointed under the *Police Act 1892* and includes any person for the time being acting in that capacity;

district means the district of the local government;

funeral has the meaning given to it by the Act;

funeral director means a person—

- (a) holding current membership of—
 - (i) the Australian Funeral Directors Association, or
 - (ii) the National Funeral Directors Association; or
- (b) a person authorised by the personal representative of a deceased person, and approved by the CEO;

grant of right of burial means a right granted under clause 2.3 for immediate burial of a dead body, and for the purposes of this local law, includes placement of ashes in a grave, niche wall, memorial garden or under a memorial plaque, or scattering of ashes within the cemetery;

headstone means a memorial designed for placement at the head of a grave, commemorating a grave or the placement of ashes;

interment includes, as the case may be—

- (a) burial of a dead body;
- (b) placement of ashes in a grave, niche wall, memorial garden or under a commemorative plaque; or
- (c) scattering of ashes;

interment permit means a single funeral permit issued by the Board under section 20 or 21 of the Act which entitles the holder to conduct the interment of a person named in the permit, and includes placement or scattering of ashes;

local government means the Shire of Victoria Plains;

mausoleum means a burial chamber wholly above or partially above and below ground level, so constructed as to allow the deposition of dead bodies into a compartment in the wall or floor and being sealed from view;

memorial has the meaning set out in the Act;

memorial plaque means a panel, plate or tablet designed or used for purposes of bearing a commemorative inscription;

memorial work means to install, repair, renovate or remove a memorial;

monument means a sculpture, statue, cover of a grave or other form of memorial approved by the Board commemorating a grave or the placement of ashes, other than a headstone or memorial plaque;

niche wall means a structure for the placement of a container of ashes in a compartment secured with a covering memorial plaque;

personal representative means—

- (a) the administrator or executor of an estate of a deceased person;
- (b) the person who, by law of practice, has the right to apply for administration of the estate of the deceased person; or
- (c) a person having the lawful custody of a dead body;

pre-need certificate means the purchase of a certificate made under clause 2.4 setting aside for use of the person who wishes to secure the use of the grave, niche or memorial position, prior to any grant of right of burial made under clause 2.3;

Schedule means a Schedule to this local law;

set fee refers to fees and charges set by a resolution of the Board and published in the *Government Gazette*, under section 53 of the Act;

standard grave means a grave which does not exceed any of the following dimensions—

- (a) 2m long;
- (b) 1.2m wide; and
- (c) 2.1m deep;

utility services means municipal or public services and includes the supply of water, electrical power and gas and also includes refuse, building waste and sewerage disposal services;

vault means a below ground lined grave with 1 or more sealed compartments constructed to specifications approved from time to time by the Board; and

vehicle includes every conveyance and every object capable of being propelled or drawn on wheels, tracks or otherwise, other than a wheelchair or baby stroller, and includes a bicycle and a skateboard.

PART 2—ADMINISTRATION

2.1 Powers and functions of CEO

Unless a matter is specified to be determined by the Board, the CEO shall exercise all the powers and functions of the Board in respect of a cemetery.

2.2 Plans

- (1) The Board shall establish and maintain a plan of each cemetery showing—
- (a) the location of areas set aside for burials, niche walls, memorial gardens, and placement of ashes in a garden;
 - (b) the location of an area to be used only for burials of persons of a particular religious denomination;
 - (c) the location of different areas of the cemetery to which different requirements for memorials apply;
 - (d) the location of areas set aside for the works and other uses as specified in sections 24(2)(a) and (b) of the Act; and
 - (e) any restricted areas.
- (2) The Board may from time to time establish and vary the boundaries of any area referred to in subclause (1).
- (3) The plans referred to in subclause (1) shall be open for inspection by members of the public during normal office hours of the Board.

2.3 Grant of right of burial

- (1) Upon payment of the set fee, a grave, niche compartment or memorial location shall be granted right of burial for a period in accordance with section 25(1) of the Act.
- (2) Upon payment of the set fee, a grant of right of burial shall be extended for a further period in accordance with section 25(2) or (4) of the Act.
- (3) A grant of right of burial made and recorded at the commencement of this local law, shall remain valid for the periods specified by the Act.
- (4) If the Board refuses to grant an application under subclause (1) or (2), written notice of the refusal is to be given to the applicant.

2.4 Pre-need certificate

- (1) Prior to issue of a grant of right of burial, and upon payment of the set fee, purchase of a pre-need certificate for a specific position of gravesite, niche compartment or memorial location may be approved for a period not exceeding 5 years.
- (2) Upon payment of the set fee, a pre-need certificate may be renewed for a further period not exceeding 5 years.
- (3) Cancellation of a pre-need certificate may be made by the person holding the pre-need certificate or authorised representative at any time.
- (4) For avoidance of doubt, a pre-need certificate is not a grant of right of burial.
- (5) If the Board refuses to grant an application under subclause (1) or (2), written notice of the refusal is to be given to the applicant.

2.5 Board may enter into an agreement for maintenance

The Board may enter into an agreement with the holder of a grant of right of burial under clause 2.3 or holder of a pre-need certificate under clause 2.4 for the maintenance of an area of a cemetery at the expense of the holder.

PART 3—APPLICATION FOR INTERMENT**3.1 Application for interment permit**

- (1) A funeral director may apply for approval for an interment of a dead body in a cemetery.
- (2) A funeral director, the personal representative of a deceased person whose body has been cremated, or other person approved by an authorised person may apply for approval for interment of ashes in a cemetery.
- (3) An application for an interment permit under subclause (1) or (2) of—
- (a) a dead body shall include details of—
 - (i) proposed burial method for the dead body in accordance with clause 5.1; and
 - (ii) the vehicle transporting the dead body to the gravesite; or
 - (b) ashes shall include details of the proposed interment arrangements for the ashes in accordance with clause 5.4(2).
- (4) An application under subclauses (1) or (2) shall be accompanied by the set fee.

3.2 Applications to be accompanied by certificates etc.

An application under clause 3.1(1) shall be accompanied by—

- (a) a certificate issued under clause 3.3; and
- (b) either a medical certificate of death or a Coroner's order of burial.

3.3 Certificate of identification

- (1) Prior to the dead body being removed to a cemetery, a person who personally knew the deceased shall identify the dead body and shall provide a certificate of identification, unless—
- (a) in the opinion of the funeral director, the dead body is not in a fit state to be viewed; or
 - (b) after reasonable effort the funeral director is unable to arrange for a person to identify the dead body.

- (2) A funeral director shall provide a certificate, where—
- (a) in the opinion of the funeral director, the dead body is not in a fit state to be viewed; or
 - (b) after reasonable effort the funeral director is unable to arrange for a person to identify the dead body.

3.4 Minimum notice required

An application for interment shall be made to the Board at least 4 business days prior to the day proposed for interment, otherwise an extra fee may be charged.

3.5 Refusal of application

- (1) The Board may refuse an application for a interment permit—
- (a) if in the opinion of the Board, either the coffin specifications or the details of the vehicle transporting the dead body to the gravesite are inadequate or inappropriate; or
 - (b) on any other grounds.
- (2) The Board may refuse an application for a pre-need certificate.
- (3) If the Board refuses to approve an application under subclause (1) or (2), written notice of the refusal is to be given to the applicant.

PART 4—FUNERALS AND MEMORIAL SERVICES

4.1 Fixing times for interments

- (1) On receipt of a completed application form and the satisfaction of all other requirements of the Act and this local law, the Board may—
- (a) approve a time for the interment; and
 - (b) dig or re-open any grave that is required.
- (2) The time approved for an interment is at the discretion of the Board but will be as near as possible to the time requested by the applicant.
- (3) Except with the permission of the Board and subject to such conditions as may be applied, a person shall not carry out a burial—
- (a) on a Saturday, a Sunday or a public holiday;
 - (b) commencing at any time other than between the hours 9:00 am to 2.00 pm; or
 - (c) to conclude later than 3.00 pm.

4.2 Memorial services or processions

A person shall not conduct a memorial service or procession within a cemetery unless that person has the permission of the Board.

4.3 Processions

The time fixed by the Board for interment shall be the time at which the procession is to arrive at the cemetery gates, and, if not punctually observed, then the applicant who applied to hold the interment under clause 3.1 shall if required, pay the set fee for being late.

4.4 Conduct of interments by the Board

When conducting an interment, or for the purposes of deciding whether to conduct an interment, under section 22 of the Act the Board may—

- (a) require a written request to be made for the Board to conduct an interment;
- (b) in its absolute discretion, charge any person requesting it to conduct an interment the set fee for the conduct of that funeral;
- (c) where no fee is applicable or a reduced fee has been charged by it for the conduct of the interment, determine the manner in which the interment shall be conducted;
- (d) specify an area in a cemetery for the interment;
- (e) conduct the funeral notwithstanding the failure of a person to make any application or to obtain any consent required under this local law; and
- (f) do or require anything which is considered necessary or convenient for the conduct of the funeral by the Board.

PART 5—INTERMENTS

5.1 Requirements for burials

A person shall not bring a dead body into a cemetery unless—

- (a) the Board has approved an application for the burial of that dead body made under clause 3.1(1);
- (b) it is enclosed in a coffin which bears the name of the deceased person indelibly inscribed in legible characters on a plate affixed in a clearly visible position; and
- (c) under the plate referred to in paragraph (b) there is a substantive lead strip bearing the surname of the deceased person stamped in legible characters, each character being not less than 10 mm in height.

5.2 Requirement for preparation of graves

- (1) A person shall not dig or prepare a grave or fill a grave, unless that person has the permission of the Board.
- (2) Regardless of prior grant of right of burial under clause 2.3 or gravesite approved upon application made under clause 3.1, the Board may direct the digging or preparation of a grave in an alternate position, where—
 - (a) evidence of a prior interment is found, or known to have occurred;
 - (b) access to the position is constrained;
 - (c) the digging or preparation of the grave is unreasonably difficult; or
 - (d) utility services may be interfered with.
- (3) Where an alternative position for the grave is directed under subclause (2), the Board is to advise the funeral director immediately.

5.3 Requirements for dimensions of graves

- (1) A person shall not bury a dead body in a cemetery other than in a standard grave, unless that person has the permission of the Board.
- (2) Every grave prepared by the Board shall be dug at least 1.8m deep and shall not exceed 2.3m in depth, unless otherwise determined by the Board.
- (3) A person shall not bury a dead body within the cemetery so that the distance from the top of the coffin to the original surface of the ground is—
 - (a) subject to paragraph (b), less than 1600mm, unless that person has the permission of an authorised person; or
 - (b) in any circumstances less than 750mm.
- (4) The permission of the authorised person in subclause (3) shall not be granted unless in the opinion of the authorised person exceptional circumstances require granting of that permission.

5.4 Requirements for disposal of ashes

- (1) Except in accordance with an approved application under clause 3.1(2), a person shall not bring or dispose of the ashes of a deceased person into a cemetery.
- (2) The person approved under clause 3.1(2) may dispose of the ashes of that deceased person in a cemetery by one of the following methods, if that method is available—
 - (a) placed within the perimeter of an authorised gravesite's at a depth of at least 600mm;
 - (b) placed in a vault or mausoleum;
 - (c) placed in a niche wall;
 - (d) scattered in an area approved by the Board; or
 - (e) placed in a memorial garden.
- (3) The Board may require a person making an application under clause 3.1(2) to provide additional information reasonably related to the application before determining the application.
- (4) The Board may—
 - (a) approve an application under clause 3.1(2) unconditionally or subject to any conditions; or
 - (b) refuse to approve an application under subclause(2).
- (5) Where an application under clause 3.1(2) has been approved subject to conditions, the applicant must comply with each of those conditions, as amended.
- (6) If the Board refuses to approve an application under clause 3.1(2), written notice of the refusal is to be given to the applicant.

5.5 Requirements for vaults and mausoleums

- (1) A person shall not construct a vault or mausoleum within a cemetery, except with the specific approval of the Board.
- (2) A vault or mausoleum within a cemetery shall at all times remain the property of the Board.
- (3) An application under subclause (1) shall be in writing and shall be accompanied by payment of the set fee.
- (4) The Board may require a person making an application under subclause (1) to provide additional information reasonably related to the application before determining the application.
- (5) The Board may—
 - (a) approve an application under subclause (1) unconditionally or subject to any conditions; or
 - (b) refuse to approve an application under subclause (1).
- (6) Where an application under subclause (1) has been approved subject to conditions, the applicant must comply with each of those conditions, as amended.
- (7) If the Board refuses to approve an application under subclause (1), written notice of that refusal is to be provided to the applicant.
- (8) A person shall not place a dead body in a vault or mausoleum except—
 - (a) in a closed coffin;
 - (b) in a soundly constructed and sealed chamber; and
 - (c) in accordance with subclause (9).

(9) The number of burials in a chamber must not exceed the number for which the chamber was designed.

5.6 Requirement for re-opening a grave

- (1) A person shall not reopen a grave without the approval of the Board.
- (2) If for the purpose of re-opening a grave in a cemetery, the Board finds it necessary to remove plants, grass, shrubs or other like matter from the grave, then the person ordering the re-opening of that grave shall bear the cost of the removal and any necessary reinstatement.

5.7 Requirements for exhumation

- (1) Subject to subclause (2), a person shall not exhume a coffin in a cemetery for the purposes of reburial within 12 months after the date of its interment.
- (2) Subclause (1) shall not apply where the exhumation is ordered or authorised pursuant to the Act.
- (3) Subject to subclause (1) and (2) prior to any other exhumation, the holder of a grant of right of burial must have applied in writing to the CEO requesting the exhumation and an authorised person has authorised the exhumation.

5.8 Requirements for opening of coffin or removal of shroud

A person shall not open a coffin in a cemetery unless—

- (a) the coffin is opened for the purposes of the exhumation of a dead body; or
- (b) that person has produced to the Board an order signed or authorised pursuant to the Act and an authorised person has approved the opening of that coffin or removal of the shroud.

5.9 Ashes not to be held by the Board

The Board shall not accept custody of ashes of a deceased person.

PART 6—APPLICATIONS FOR MEMORIALS

6.1 Application to place memorial

- (1) Upon payment of the set fee, the Board may approve an application to place a memorial with or without conditions, including restricting use of materials such as wood, dimensions of a memorial etc, so as not to detract from the amenity of a cemetery.
- (2) The Board may require the written consent of the holder of the grant of right of burial of the grave, the personal representative of a deceased person, or other person to the satisfaction of the CEO to accompany an application for a memorial made under section 30 of the Act.
- (3) Where written consent is not able to be produced, the Board may approve with or without conditions or decline an application in its absolute discretion.
- (4) If the Board refuses to approve an application under subclause (2), written notice of that refusal is to be provided to the applicant.

6.2 Australian War Graves

Notwithstanding anything in this local law to the contrary, the Office of Australian War Graves—

- (a) may place a complying memorial on a military grave; and
- (b) is not required to pay the set fee for any memorial that is placed upon a military grave.

PART 7—MEMORIALS PERMITTED

7.1 Limitation on dimensions of memorials

- (1) No part of a memorial, including any grave cover, kerbing, boundary marker or enclosure is to extend beyond the standard dimensions of a gravesite.
- (2) No part of a monument above its base shall extend horizontally beyond its base.
- (3) Notwithstanding subclause (1), on request of the personal representative, the Board may approve a memorial over adjoining multiple gravesites—
 - (a) where the persons interred are of the same family; or
 - (b) for another acceptable reason.

7.2 Specification for monument

- (1) A monument in a cemetery—
 - (a) shall be made of approved material;
 - (b) shall be placed on a base of approved material;
 - (c) the portion not being a grave cover, shall comply with the following specifications—
 - (i) unless a greater height is approved by the Board, the overall height of a monument above the original surface of the grave shall not exceed 1.2m;
 - (ii) the height of the base of the monument above the original surface of the grave shall not be less than 150mm nor more than 450mm;
 - (iii) the width of the base of the monument shall not exceed 1.2m;
 - (iv) the length of the base of the monument measured along the length of the grave shall not exceed 600m;

- (d) the portion being a grave cover, shall comply with the following specifications
 - (i) unless a greater height is approved by the Board, the overall height of a monument above the original surface of the grave shall not exceed 300mm;
 - (ii) the width of the grave cover shall not exceed 1.2m;
 - (iii) the length of the grave cover shall not exceed 2.4m; and
 - (e) shall have foundations extending to a depth of 1m unless concrete beam foundations are approved by the Board.
- (2) Subject to subclause (3) a memorial plaque may be attached to a monument that has been or is being erected.
- (3) The provisions of clause 7.5 apply to plaques that are attached to a monument.

7.3 Specification for headstone

- (1) A headstone shall—
- (a) be made of approved material;
 - (b) be placed on a base of approved material;
 - (c) comply with the following specifications—
 - (i) be placed on proper and substantial foundations extending to a depth of 1m unless concrete beam foundations are provided;
 - (ii) the height of the base of the headstone above the highest point of the original surface of the grave shall not be less than 150mm nor more than 200mm;
 - (iii) the overall height of the headstone, including the base, shall not exceed 1.2m;
 - (iv) the length of the base of the headstone measured across the width of the grave shall not exceed 1.2m;
 - (v) the width of the base of the headstone measured along the length of the grave shall not exceed 300mm; and
 - (vi) no part of a headstone above its base shall extend horizontally beyond that base; and
 - (d) have foundations extending to the bottom of the grave unless concrete beam foundations are approved by the Board.
- (2) Subject to subclause (3) a memorial plaque may be attached to a headstone erected or being erected within a cemetery.
- (3) The provisions of clause 7.5 apply to plaques that are attached to a headstone.

7.4 Specification for memorial plaque base

- (1) A memorial plaque base shall—
- (a) have the following dimensions—
 - (i) at ground level of 85mm wide and 105mm long;
 - (ii) front elevation of 30mm;
 - (iii) back elevation of 85mm; and
 - (iv) all measurements to be within 5mm;
 - (b) be constructed of materials approved by the Board;
 - (c) be in a position approved by the Board; and
 - (d) have foundations as approved by the Board.
- (2) The provisions of clause 7.5 apply to plaques that are attached to a memorial plaque base.
- (3) Upon application, the Board may permit an exemption from any of the requirements of subclause (1)(a), but shall not delegate the decision to permit an exemption to the CEO.

7.5 Specification for memorial plaque

- (1) A memorial plaque shall be made of—
- (a) admiralty bronze not exceeding 20mm in thickness;
 - (b) polished or brushed stainless steel not exceeding 8mm in thickness;
 - (c) stone, and—
 - (i) if placed upon a headstone, monument or memorial plaque base, shall not exceed 50mm in thickness; or
 - (ii) if it is not to be placed upon a headstone, monument or memorial plaque base, shall not be less than 100mm in thickness; or
 - (d) other material approved by the Board.
- (2) A memorial plaque placed on a monument, headstone or other item shall not extend beyond the physical dimensions of the monument, headstone or other item on which it is affixed.
- (3) A memorial plaque to be placed on a commemorative wall shall—
- (a) have the following dimensions—
 - (i) individual plaques—to be of a size and appearance consistent with other memorial plaques used in that location or for that purpose, as determined by the Board;

- (ii) if a backing plate with multiple plaques attached—multiple plaques to be not more than 2 plaques wide subject to allowing a 10mm border and a maximum of 10mm between plaques; and
 - (iii) all measurements to be within 5mm; and
- (b) be placed in such a manner and in a position approved by the Board.
- (4) Upon application, the Board may permit an exemption from any of the requirements of subclause (3)(a) but shall not delegate the decision to permit an exemption to the CEO.

7.6 Specification for gravesite fencing

Any fencing used as a memorial or part of a memorial shall—

- (a) be a picket fence made of white powder coated aluminium or other materials approved by the Board;
- (b) have concrete foundations not less than 250mm square and 750mm deep not more than 1200mm apart, or concrete beam foundations approved by the Board;
- (c) unless otherwise approved by the Board, comply with the following specification—
 - (i) in length, not be more than 2400mm in length, nor less than 900mm;
 - (ii) in width, not be more than 1200mm in width, nor less than 900mm; and
 - (iii) in height, not less than 450mm, nor more than 550mm from the original surface of the grave.

7.7 Display of trade names on memorials not allowed

A person shall not display any trade names or marks on a memorial.

7.8 Use of wood

No wooden fence, railing or construction other than a cross, shall be allowed on or around a grave, other than as a temporary marker or with the permission of the Board.

PART 8—MEMORIALS AND OTHER WORK

8.1 Carrying out memorial work

- (1) A person shall not carry out memorial work within a cemetery unless that person is authorised by the Board to do so under clause 6.1.
- (2) All material required in the erection and completion of any memorial work shall be prepared before being taken to a cemetery.
- (3) The Board may place restrictions on the hours of work, access to a cemetery or other matters considered appropriate.
- (4) Memorial works shall be suspended during the conduct of any funeral within a cemetery.
- (5) Work is not permitted to be left unattended in an untidy or unsafe state.

8.2 Removal of sand, soil or loam

No sand, earth or other material shall be taken from any part of a cemetery for use in the construction of any memorial or other work, or cause any material to be removed from a cemetery except with the written approval of the Board.

8.3 Removal of rubbish

All refuse, rubbish or surplus material remaining after approved memorial works are completed shall be immediately removed from a cemetery by the person carrying out the same.

8.4 Plants and trees

No trees or shrubs shall be planted on any grave or within a cemetery except such as shall be approved by the Board.

8.5 Supervision

All workers, whether employed by the Board or by any other person, shall at all times while within the boundaries of a cemetery be subject to the supervision of the Board and shall obey any directions of the Board.

8.6 Placing of grave ornaments

- (1) A person shall not place vases or other grave ornaments—
 - (a) outside the perimeter of a grave in a cemetery as defined in the plans kept and maintained under section 40(2) of the Act; or
 - (b) outside of an area set aside by the Board as a memorial plaque section.
- (2) The use of glass, porcelain, ceramics or pottery is not permitted, other than that already in place at commencement of this local law.

8.7 Hours of work

Except in accordance with the permission of an authorised person, a person shall not carry out memorial or other work within a cemetery—

- (a) during a funeral; or
- (b) other than between the hours of 8:00 am and 5:00 pm on a business day.

8.8 Unfinished work

A person who does not complete any work before 5:00 pm on a business day shall leave the work in a neat and safe condition to the satisfaction of the Board.

PART 9—GENERAL**9.1 Vehicle access and speed limitation**

- (1) A person must only drive a vehicle on a vehicular access way or the constructed roadway or other areas designated for the use of vehicles within a cemetery, unless otherwise authorised by the Board.
- (2) A person driving a vehicle, within a cemetery, shall not exceed the speed limit of 20km per hour, and shall comply with the signs and directions in the cemetery.

9.2 Assistance animals

This local law is subject to any written law and law of the Commonwealth about assistance animals as defined in the *Disability Discrimination Act 1992 (Commonwealth)* section 9(2).

9.3 Utility services

- (1) Other than with the approval of the Board, a person shall not—
 - (a) connect any device or equipment to any utility services supplied on or at a cemetery; or
 - (b) alter or interfere with utility services infrastructure located in the cemetery.
- (2) The Board may recover from a person the reasonable costs incurred by the Board for the supply to and use of any utility services by that person at a cemetery.

9.4 Damaging and removing of objects

Subject to clause 9.5, a person shall not damage, remove or pick any tree, plant, shrub or flower in a cemetery or any other object or thing on any grave or memorial or which is the property of the Board without the permission of the Board.

9.5 Withered flowers

A person may remove withered flowers from a grave or memorial and these are to be disposed of in an appropriate manner.

9.6 Littering and vandalism

A person shall not—

- (a) damage, deface or interfere with any monument or gravesite in any manner whatsoever;
- (b) break or cause to be broken any glass, ceramic or other material in or upon a cemetery; or
- (c) discard, deposit, leave or cause to be discarded, deposited or leave any refuse or litter in a cemetery other than in a receptacle provided for that purpose.

9.7 Advertising

- (1) A person shall not advertise or carry on any trade, business or profession in a cemetery without the approval of the Board.
- (2) Upon payment of the set fee, the Board may consider and give approval subject to such conditions as the Board thinks fit.

9.8 Signs and directions of the Board

- (1) The Board may display, mark, place or erect a sign within a cemetery specifying conditions relating to the use of that cemetery.
- (2) A person shall obey all signs displayed, marked, placed or erected by the Board within a cemetery and any other lawful direction by the Board.

9.9 Removal from a cemetery

- (1) Any person failing to comply with any provisions of this local law or behaving in a manner that in the opinion of the Board is inappropriate in a cemetery may in addition to any penalty provided by this local law be ordered to leave the cemetery by an authorised person.
- (2) A person to whom an order under subclause (1) is given must comply with that order.

9.10 Board may close cemetery

The Board may—

- (a) temporarily close a cemetery or any part of it;
- (b) exclude from a cemetery the public and all persons or so many of the public or so many persons as the Board consider to be necessary;
- (c) regulate, prohibit or restrict access to a cemetery or any part of it; or
- (d) direct persons to leave a cemetery or any part of it, for purposes of—
 - (i) a funeral or public convenience;
 - (ii) maintenance, redevelopment or extension of a cemetery;
 - (iii) public safety; or
 - (iv) other operational reasons.

9.11 Firearms

Upon application, and subject to the approval of the Commissioner of Police, an authorised person may permit an honour guard and discharge of firearms in a volley salute for a deceased military or police officer.

9.12 Liability for damage or works required to comply

(1) Where a person—

- (a) causes damage to any grave, memorial, structure, building, furniture, plant or any other item or thing in a cemetery;
- (b) does a thing not authorised by this local law; or
- (c) does not do a thing required by this local law,

the Board may by notice in writing to that person require that person within the time required in the notice to, at the option of the Board—

- (d) pay the costs of reinstating the property to the state it was in prior to the occurrence of the damage;
- (e) pay the costs of replacing that property;
- (f) pay the costs of works required to comply with this local law; or
- (g) carry out works required to comply with this local law.

(2) On a failure to comply with a notice issued under subclause (1), the Board may recover the costs referred to in the notice as a debt due to it.

9.13 Offence to fail to comply with notice

Whenever the Board gives a notice under this local law requiring a person to do any thing, if a person fails to comply with the notice, that person commits an offence.

9.14 Board may undertake requirements of notice

Where a person fails to comply with a notice referred to in clause 9.13, the Board may do the thing specified in the notice and recover from the person to whom the notice was given, as a debt, the costs incurred in so doing.

PART 10—OFFENCES AND MODIFIED PENALTIES**10.1 General penalties**

A person who commits a breach of any provisions of this local law commits an offence and shall on conviction be liable to a penalty not exceeding \$500, and if the offence is a continuing one to a further penalty not exceeding \$20 for every day or part of a day during which the offence has continued.

10.2 Modified penalties

(1) The offences specified in Schedule 1 are offences which may be dealt with under section 63 of the Act.

(2) The modified penalty payable in respect of an offence specified in Schedule 1 is set out in the fourth column of Schedule 1.

(3) The infringement notice referred to in section 63(1) of the Act shall be in the form set out in Schedule 2.

(4) The notice withdrawing an infringement notice referred to in section 63(3) of the Act shall be in the form set out in Schedule 3.

SCHEDULE 1—MODIFIED PENALTIES

[cl. 10.2]

Item	Clause	Nature of offence	Modified Penalty \$
1	4.2	Conducting a memorial service or procession without permission	50
2	5.1	Failure to obtain approval to bring a dead body into a cemetery	50
3	5.2(1)	Unauthorised digging, preparation or filling of grave	50
4	5.3(1)	Unauthorised burial of dead body	50
5	5.4(1)	Unauthorised disposal of ashes	50
6	5.5(1)	Unauthorised construction of vault or mausoleum	50
7	5.6(1)	Unauthorised reopening of a grave	50
8	5.7(1)	Unauthorised exhumation of a coffin	50

Item	Clause	Nature of offence	Modified Penalty \$
9	5.8	Unauthorised opening of a coffin or shroud	50
10	7.7	Use of trade name or mark on a memorial	50
11	7.8	Unauthorised use of wood on a gravesite	50
12	8.1	Unauthorised construction of a memorial	50
13	8.2	Unauthorised use of materials taken from within a cemetery	50
14	8.3	Failure to remove rubbish and surplus materials	50
15	8.4	Unauthorised planting of tree or shrub	50
16	8.5	Failure to comply with direction of the Board	50
17	8.6	Unauthorised placing of grave ornaments	50
18	8.7	Works carried out during unauthorised times	50
19	8.8	Failure to leave uncompleted works in a tidy and safe condition	50
20	9.1(1)	Driving vehicle other than on vehicular access way or constructed roadways or within designated areas	50
21	9.1(2)	Exceeding speed limit	50
22	9.3	Interference with utility services	50
23	9.4	Damaging or removing object	50
24	9.5	Failure to dispose of withered flowers appropriately	50
25	9.6	Littering and/or vandalism	50
26	9.7	Unauthorised advertising and/or trading	50
27	9.8(2)	Failure to obey sign or lawful direction within cemetery	50
28	9.9(2)	Failure to comply with order to leave cemetery	50
29	9.13	Failure to comply with notice within specified period	50

—————

SCHEDULE 2—INFRINGEMENT NOTICE

[cl. 10.2(3)]

Shire of Victoria Plains

INFRINGEMENT NUMBER:		
To:		
Address:		
	It is alleged that:	
At:		
On:	Day	Date
Location:	Calingiri Cemetery	Bolgart Cemetery
	You committed the following offence:	
Contrary to:	<i>Shire of Victoria Plains Cemeteries Local Law 2018</i>	
Schedule 1 reference:	Item No:	Clause:
Offence:		

Brief description:	
The modified penalty for the offence is:	\$
	If you do not wish to have a complaint of the alleged offence heard and determined by a court, the amount of the modified penalty may be paid at the Shire of Victoria Plains within a period of 28 days after the giving of this notice.
Name of authorised person:	
Position:	
Signature:	
Date:	
	Payments may be made— (a) EFT to BSB—633 000 A/c—118 278 670 (b) In person at—Shire of Victoria Plains, 28 Cavell Street, Calingiri during business hours (c) By mail to—Shire of Victoria Plains PO Box 21, Calingiri 6569 Please make cheques payable to Shire of Victoria Plains.

SCHEDULE 3—WITHDRAWAL OF INFRINGEMENT NOTICE

[cl. 10.2(4)]

Shire of Victoria Plains

To:	
Address:	
	It is advised that:
Infringement Notice No:	
Dated:	
For the alleged offence of:	
	has been withdrawn.
The modified penalty of:	\$
Reason for withdrawal: (Delete whichever does not apply)	No further action will be taken. <hr/> It is proposed to institute court proceedings for the alleged offence.
Name of authorised person:	
Position:	
Signature:	
Date:	

Dated: 8 June 2018.

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

D. S. LOVELOCK, President.
G. M. TEEDE, Chief Executive Officer

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SCHEDULE—PRESCRIBED OFFENCES

LOCAL GOVERNMENT ACT 1995**SHIRE OF VICTORIA PLAINS****EXTRACTIVE INDUSTRIES 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 Victoria Plains 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 Victoria Plains Extractive Industries 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

The provisions of this local law—

- (a) subject to paragraphs (b), (c) and (d)—
 - (i) apply and have force and effect throughout the whole of the district;
 - (ii) apply to every excavation whether commenced prior to or following the coming into operation of this local law; and
 - (iii) apply to a previous licence as if it was issued under this local law;
- (b) do not apply to the extraction of minerals under the *Mining Act 1978*;
- (c) do not apply to the carrying on of an extractive industry on Crown land; and
- (d) do not apply to the carrying on of an extractive industry on land by the owner or occupier of that land for use on that land.

1.4 Repeal

The *Municipality of the Shire of Victoria Plains By-laws Relating to Extractive Industries* as published in the *Government Gazette* on 25 November 1988, are repealed.

1.5 Transitional provisions

(1) Within 90 days of commencement of this local law or within 90 days of the date of the annual licence fee of a previous licence becoming due and payable (under clause 7.3), the local government may in respect of the licence—

- (a) vary or delete a condition; or
- (b) impose one or more other conditions, as specified in clause 4.3(2).

(2) A condition that is varied, deleted or imposed under subclause (1) does not become effective until 90 days (or longer period that is specified by the local government) after written notice of the condition is given by the local government to the licensee.

1.6 Definitions

In this local law unless the context otherwise requires—

Act means the *Local Government Act 1995*;

application for licence includes application to renew, transfer, vary or cancel a licence as the context requires;

authorised person means a person appointed by the local government to perform all or any of the functions conferred on an authorised person under this local law;

carry on an extractive industry means quarrying and excavating for stone, gravel, sand and other material, and the transporting of the material off the site, but excludes extractive activities undertaken by statutory authorities;

CEO means the Chief Executive Officer of the local government;

cessation of operations means termination of activities associated with the extraction and transport of the materials, whether permanent or temporary, but does not include activities under clause 6.3 for the care and maintenance of the site, or clause 6.4;

district means the district of the Shire of Victoria Plains;

excavation includes quarry;

infringement notice means the notice referred to in clause 10.4(a);

land unless the context requires otherwise, means the land on which the applicant proposes carrying on the extractive industry to which the licence application relates, and includes adjoining lots or locations in the same occupation or ownership;

licence means a licence issued under this local law and a previous licence;

licensee means the person named in the licence as the licensee;

local government means the Shire of Victoria Plains;

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

owner has the meaning given to it in section 1.4 of the Act;

occupier has the meaning given to it in section 1.4 of the Act;

person does not include the local government;

planning approval means an approval for a development or a land use that is issued under a local planning scheme administered by the local government;

previous licence means a licence that is in force at the date of commencement of this local law;

Schedule means a Schedule to this local law;

secured sum means the sum required to be paid or the amount of a bond, bank guarantee or other security under clause 3.7;

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

site means the land specified by the local government in a licence;

thoroughfare has the meaning given to it in section 1.4 of the Act; and

transferee means a person who applies for the transfer of a licence to her or him under clause 4.8.

PART 2—REQUIREMENT FOR LICENCE

2.1 Extractive industries prohibited without licence

A person must not carry on an extractive industry—

- (a) unless the person is the holder of a valid and current licence; and
- (b) otherwise than in accordance with any terms and conditions set out in, or applying in respect of, the licence.

PART 3—APPLICATION REQUIREMENTS

3.1 Applicant to advertise proposal

(1) Unless the local government first approves otherwise, a person seeking the issue of a licence shall, before making an application for a licence—

- (a) forward a notice to—
 - (i) the owners and occupiers of all land adjoining the land upon which it is proposed to excavate, or within an area determined by the local government as likely to be affected by the granting of a licence; and
 - (ii) every authority or person having control or jurisdiction over any of the things referred to in clause 3.3(1)(g) and (h) within 500 metres from the boundaries of the land, or within an area determined by the local government as likely to be affected by the granting of a licence; and
- (b) as soon as practicable after complying with the requirements of paragraph (a)—
 - (i) forward a copy of the notice to the CEO; and
 - (ii) publish the notice in a newspaper circulating in the area in which the proposed excavation is located.

(2) The information contained in the notice referred to in subclause (1) shall include but is not limited to—

- (a) particulars of the proposed excavation; and
- (b) inviting objections or comments to be made to the CEO within 21 days of date of receipt of the notice.

(3) The local government may undertake a public consultation process including but not limited to—

- (a) provision of information by mail or similar;
- (b) electronically through a website or similar; and
- (c) public meetings.

(4) The local government may, within 14 days after receiving a copy of a notice referred to in subclause (1), cause to be displayed, or require the proposed applicant to display, in a prominent position on the land one or more notices—

- (a) in a form approved by the local government;
- (b) the content, size, construction and position of which have been approved by the local government;
- (c) specifying particulars of the proposed excavation; and
- (d) inviting objections or comments within 21 days from the placement of the notice.

3.2 Application for licence

(1) An application for a licence shall—

- (a) be made in writing;
- (b) state—
 - (i) name of person or company for whom the application is being lodged;
 - (ii) name of primary contact person for the company and in relation to the application;
 - (iii) telephone, mobile phone and email contact details; and
 - (iv) postal and street address;
- (c) be accompanied by—
 - (i) the set fee;
 - (ii) a current certificate of currency for public liability policy in accordance with clause 7.1;
 - (iii) the consent in writing to the application from the owner of the excavation site; and
 - (iv) a copy of the planning approval for an extractive industry to be conducted on the land;
- (d) include any information that the local government may reasonably require; and
- (e) be signed by the applicant.

(2) An application for a licence must be lodged with the local government together with details of the proposed excavation, including but not limited to—

- (a) a plan of the excavation site in accordance with clause 3.3;
- (b) a works and excavation program in accordance with clause 3.4;
- (c) a rehabilitation and decommissioning program in accordance with clause 3.5;
- (d) evidence that a datum peg has been established on the land related to a point approved by the local government on the surface of a constructed public thoroughfare or such other land in the vicinity;
- (e) a certificate from a licensed surveyor;
- (f) evidence that the requirements of clause 3.1(1), (3) and (4) have been carried out;
- (g) copies of all land use planning approvals required under any planning legislation;
- (h) copies of any environmental approval required under any environmental legislation;
- (i) copies of any geotechnical information relating to the excavation site;
- (j) evidence that an application for a clearing permit has been lodged with the Department of Water and Environmental Regulation if that is required under regulation 5 of the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004*; and
- (k) any other information that the local government may reasonably require.

(3) The application under subclause (1) and detailed information under subclause (2) shall consist of one signed paper copy, and an electronic copy.

(4) The local government may exempt a person making an application for a licence from supplying any of the data specified in subclause (2)(c), (d), (e) or (i), where—

- (a) the surface area does not exceed 2000 square metres; and
- (b) the material to be extracted from the proposed excavation does not exceed 2000 cubic metres.

3.3 Plan of excavation site

(1) The plan referred to in clause 3.2(2)(a) shall be in a scale of between 1:500 and 1:2000 showing—

- (a) the existing and proposed land contours based on the Australian Height Datum and plotted at one metre contour intervals;
- (b) the land on which the excavation site is to be located;
- (c) the external surface dimensions of the land;
- (d) the location and depth of the existing and proposed excavation of the land;
- (e) the location of existing and proposed thoroughfares or other means of vehicle access to and egress from the land and to public thoroughfares in the vicinity of the land;
- (f) the location of buildings, treatment plant, tanks and other improvements and developments existing on, approved for or proposed in respect of the land;
- (g) the location of existing infrastructure services including but not limited to powerlines and communication cables, and any associated poles or pylons, sewers, pipelines, reserves, bridges, railway lines and registered grants of easement or other encumbrances over, on, under or adjacent to or in the vicinity of the land;

- (h) the location of all existing bores, dams, watercourses, drains or sumps on or adjacent to the land;
- (i) the location and description of existing and proposed fences, gates and warning signs around the land; and
- (j) the location of the areas proposed to be used for stockpiling excavated material, treated material, overburden and soil storage on the land and elsewhere.

(2) All survey data supplied by an applicant for the purpose of subclause (1) shall comply with Australian Height Datum and Australian Map Grid standards.

3.4 Works and excavation program

The works and excavation program referred to in clause 3.2(2)(b) shall contain—

- (a) the nature and estimated duration of the proposed excavation for which the licence is applied;
- (b) the stages and the timing of the stages in which it is proposed to carry out the excavation;
- (c) details of the methods to be employed in the proposed excavation and a description of any on-site processing works;
- (d) details of the depth and extent of the existing and proposed excavation of the site;
- (e) an estimate of the depth of and description of the nature and quantity of the overburden to be removed;
- (f) a description of the methods by which existing vegetation is to be cleared and topsoil and overburden removed or stockpiled;
- (g) a description of the means of access to the excavation site and the types of thoroughfares to be constructed;
- (h) details of the proposed number and size of trucks entering and leaving the site each day and the route or routes to be taken by those vehicles;
- (i) a description of any proposed buildings, water supply, treatment plant, tanks and other improvements;
- (j) details of drainage conditions applicable to the land and methods by which the excavation site is to be kept drained;
- (k) a description of the measures to be taken to minimise sand drift, dust nuisance, erosion, watercourse siltation and dangers to the general public;
- (l) a noise management plan, including a description of the measures to be taken to comply with the *Environmental Protection Act 1986* and the *Environmental Protection (Noise) Regulations 1997*;
- (m) a description of the existing site environment and a report on the anticipated effect that the proposed excavation will have on the environment in the vicinity of the land;
- (n) details of the nature of existing vegetation, shrubs and trees and a description of measures to be taken to minimise the destruction of existing vegetation;
- (o) a description of the measures to be taken in screening the excavation site, or otherwise minimising adverse visual impacts, from nearby thoroughfares or other areas; and
- (p) details of measures to reduce impact on the adjoining owners and occupiers, and the wider community.

3.5 Rehabilitation and decommissioning program

The rehabilitation and decommissioning program referred to in clause 3.2(2)(c) shall indicate—

- (a) the objectives of the program, having due regard to the nature of the surrounding area and the proposed end-use of the excavation site;
- (b) whether restoration and reinstatement of the excavation site is to be undertaken progressively or upon completion of excavation operations;
- (c) how any face is to be made safe and batters sloped;
- (d) the method by which topsoil is to be replaced and revegetated;
- (e) the numbers and types of trees and shrubs to be planted and other landscaping features to be developed;
- (f) how rehabilitated areas are to be maintained; and
- (g) the program for the removal of buildings, plant, waste and final site clean up.

3.6 Certificate of a licensed surveyor

The certificate in subclause 3.2(2)(e) shall certify the correctness of—

- (a) the datum peg and related point referred to in subclause 3.2(2)(d); and
- (b) the plan referred to in subclause 3.2(2)(a).

3.7 Security for restoration and reinstatement

(1) The local government may require that the licensee shall give to the local government a bond, bank guarantee or other security, of a kind and in a form acceptable to the local government, in or for a sum determined by the local government, for the purposes of—

- (a) ensuring that an excavation site is properly restored or reinstated, and
- (b) ensuring that road infrastructure is repaired and maintained to the standard agreed in accordance with subclauses 4.5(2) and (3).

- (2) The security required under subclause (1) may be required to be provided by the applicant to the local government—
- (a) as a condition of a licence; or
 - (b) before the issue of a licence.
- (3) A bond required under subclause (1) is to be paid into a fund established by the local government for the purposes of this clause.
- (4) If a bank guarantee or other security required under subclause (1) ceases to be current, excavation is to cease until a further security in a form acceptable to the local government has been provided.
- (5) Subject to clause 7.4, any interest accrued in respect of the bond paid into the fund under subclause (3) is to be returned to the licensee at the completion of the restoration and reinstatement works required by the licence conditions or otherwise under this local law.

PART 4—LICENCING

4.1 When an application may be determined

An application for a licence is not to be determined by the local government until—

- (a) the applicant submits proof that the requirements for notices, public information and consultation have been undertaken in accordance with subclauses 3.1(1) and (2);
- (b) the applicant has made an application for licence in accordance with subclause 3.2(1) and (2);
- (c) the local government has considered any written submissions received within the time specified in subclauses 3.1(2)(b) and 3.1(4), and
- (d) planning approval for an extractive industry use of the land has been obtained.

4.2 Determination of application

- (1) Upon receipt of an application, the local government may—
 - (a) refuse the application; or
 - (b) approve the application—
 - (i) over the whole or part of the land in respect of which the application is made; and
 - (ii) on such terms and conditions, if any, as it sees fit.
- (2) The local government may refuse to consider an application for a licence that does not comply with the requirements of clause 3.2.
- (3) Where the local government approves an application for a licence, it shall—
 - (a) determine the licence period, not exceeding 21 years from the date of issue; and
 - (b) approve the issue of a licence in the form determined by the local government from time to time.
- (4) Where the local government approves the issue of a licence, the CEO shall issue the licence to the applicant upon receipt by the local government of—
 - (a) payment of the annual set fee;
 - (b) payment of the secured sum if any, imposed under clause 3.7;
 - (c) the documents, if any, executed to the satisfaction of the CEO, under clause 3.7; and
 - (d) a copy of the public liability insurance policy required under clause 7.1(1).

4.3 Conditions which may be imposed

- (1) Clause 4.5 applies as a condition to all licences.
- (2) Without limiting subclause 4.2(1), the local government may impose conditions in respect of the following matters, including but not limited to—
 - (a) the orientation of the excavation to reduce visibility from other land;
 - (b) the appropriate siting of access thoroughfares, buildings and plant;
 - (c) the stockpiling of material;
 - (d) the hours during which any excavation work may be carried out;
 - (e) the hours during which any processing plant associated with, or located on, the site may be operated;
 - (f) requiring all crushing and treatment plant to be enclosed within suitable buildings to minimise the emission of noise, dust, vapour and general nuisance to the satisfaction of the local government;
 - (g) the depths below which a person shall not excavate;
 - (h) distances from adjoining land or roads within which a person must not excavate;
 - (i) the safety of persons employed at or visiting the excavation site;
 - (j) the control of dust and wind-blown material;
 - (k) the planting, care and maintenance of trees, shrubs and other landscaping features during the time in which the extractive industry is carried out in order to effectively screen the area to be excavated and to provide for progressive rehabilitation;
 - (l) the prevention of the spread of dieback or other disease;
 - (m) the drainage of the excavation site and the disposal of water;

- (n) the restoration and reinstatement of the excavation site, the staging of such works, and the minimising of the destruction of vegetation;
- (o) the provision of retaining walls to prevent subsidence of any portion of the excavation or of land abutting the excavation;
- (p) requiring the licensee to furnish to the local government a surveyor's certificate each year, prior to the renewal fee being payable, to certify the quantity of material extracted and that material has not been excavated below the final contour levels outlined within the approved excavation program;
- (q) requiring the licensee to enter into an agreement with the local government to pay a contribution in respect of thoroughfares in the district used by heavy or extraordinary traffic conducted by or on behalf of the licensee under the licence, in accordance with subclauses 4.5(2) and (3)—
 - (i) any extraordinary expenses incurred by the local government;
 - (ii) requirement for increased maintenance; and
 - (iii) repair of damage caused;
- (r) requiring the licensee to enter into an agreement with the local government in respect of any condition or conditions imposed under this local law; and
- (s) any other matter for properly regulating the carrying on of an extractive industry.

4.4 Variation of conditions

(1) Within 30 days of the date of the annual licence fee becoming due and payable (under clause 7.3), the local government may, in respect of the licence—

- (a) vary or delete a condition; and
- (b) may impose one or more other conditions, as specified in clause 4.3(2).

(2) A condition that is varied, deleted or imposed under subclause (1) does not become effective until 90 days (or such longer period as is specified by the local government) after written notice of the condition is given by the local government to the licensee.

4.5 Transport of materials

(1) The local government may, from time to time, prescribe by giving written notice to the licensee—

- (a) determine routes to be taken by the licensee for the transport of materials from the site through the roads within the district, if the proposed routes are not suitable for the proposed haulage;
- (b) the tonnage limits to be transported along a particular route; and
- (c) the times during which materials from the site may be transported through the roads within the district.

(2) If a road on a route prescribed under subclause (1) is inadequate for the transport of materials from the site, the local government may require the licensee to pay all or part of the costs or estimated costs, as determined by the local government, of upgrading the road to the standard required by the local government for these purposes.

(3) The licensee must pay to the local government, as and when required by the local government, the costs or estimated costs, as determined by the local government, of repairs and maintenance to any road that are required as a result of the transport of materials from the site.

(4) Each licence is to be taken to be subject to a condition requiring the licensee to comply with this clause.

4.6 Renewal of licence

(1) An application to renew a licence is not to be determined by the local government until the applicant has complied with subclause (2).

(2) An application to renew a licence shall—

- (a) be made in writing;
- (b) state—
 - (i) name of person or company for whom the application is being lodged;
 - (ii) name of primary contact person for the company and in relation to the application;
 - (iii) telephone, mobile phone and email contact details; and
 - (iv) postal and street address;
- (c) be accompanied by—
 - (i) the set fee;
 - (ii) by a copy of the current licence; and
 - (iii) a current certificate of currency for public liability policy in accordance with clause 7.1;
- (d) be lodged by the licensee at least 90 days before the date of expiry of the licence;
- (e) include a plan showing the contours of the excavation carried out to the date of that application;
- (f) detail the works, excavation and rehabilitation stages reached and of any changes or proposed changes with respect to any of the things referred to in subclauses 3.2(2)(b) and (c); and
- (g) submit any other things referred to in clauses 3.2 and 4.2.

- (3) The local government may waive any of the requirements specified in subclause (2)(f) or (g).
- (4) The applicant shall not be obliged, unless otherwise required by the local government to submit details of any of the things referred to in clauses 3.2 and 4.2 if—
- (a) an application to renew a licence is in relation to land in respect of which the current licence was issued less than 12 months prior to the date from which the new licence if granted would apply; and
 - (b) the methods to be employed in the proposed land excavation are identical to those being employed at the date of the application.
- (5) Upon receipt of an application for renewal of a licence, the local government may—
- (a) refuse the application; or
 - (b) approve the application on such terms and conditions as it sees fit.
- (6) Where the local government renews a licence under subclause (5), it shall notify the licensee in writing.

4.7 Variation of licence

- (1) An application to vary a licence by a licensee—
- (a) may be made at any time; and
 - (b) is not to be determined by the local government until the applicant has complied with subclause (2).
- (2) An application to vary a licence shall—
- (a) be made in writing;
 - (b) state—
 - (i) name of person or company for whom the application is being lodged;
 - (ii) name of primary contact person for the company and in relation to the application;
 - (iii) telephone, mobile phone and email contact details; and
 - (iv) postal and street address;
 - (c) be accompanied by—
 - (i) the set fee;
 - (ii) by a copy of the current licence; and
 - (iii) a current certificate of currency for public liability policy in accordance with clause 7.1;
 - (d) be lodged by the licensee at least 90 days before the date of expiry of the licence;
 - (e) include a plan showing the contours of the excavation carried out to the date of that application;
 - (f) detail the works, excavation and rehabilitation stages reached and of any changes or proposed changes with respect to any of the things referred to in clauses 3.2(2)(b) and (c);
 - (g) any other things referred to in clauses 3.2 and 4.2;
 - (h) include any information that the local government may reasonably require; and
 - (i) be signed by the licensee and the owner of the excavation site (if different to the licensee).
- (3) The local government may waive any of the requirements specified in subclause (2)(f) or (g).
- (4) The applicant shall not be obliged, unless otherwise required by the local government to submit details of any of the things referred to in clauses 3.2 and 4.2 if—
- (a) an application to vary a licence is in relation to land in respect of which the current licence was issued less than 12 months prior to the date from which the new licence if granted would apply; and
 - (b) the methods to be employed in the proposed land excavation are identical to those being employed at the date of the application.
- (5) Upon receipt of an application to vary a licence, the local government may—
- (a) refuse the application; or
 - (b) approve the application on such terms and conditions as it sees fit.
- (6) Where the local government approves a licence variation under subclause (5), it shall notify the licensee and owner of the excavation site in writing.

4.8 Transfer of licence

- (1) An application to transfer a licence is not to be determined by the local government until the applicant has complied with subclause (2).
- (2) An application to transfer a licence shall—
- (a) be made in writing;
 - (b) state—
 - (i) name of person or company for whom the application is being lodged;
 - (ii) name of primary contact person for the company and in relation to the application;
 - (iii) telephone, mobile phone and email contact details; and
 - (iv) postal and street address;

- (c) be accompanied by—
 - (i) the set fee;
 - (ii) a copy of the current licence;
 - (iii) a certificate of currency in the name of the proposed transferee for a public liability insurance policy in accordance with clause 7.1; and
 - (iv) the consent in writing to the transfer from the owner of the excavation site;
 - (d) be lodged by the licensee at least 90 days before the date of proposed transfer of the licence;
 - (e) comply with and satisfy all conditions and requirements of the current licence;
 - (f) provide equivalent security under clause 3.7 as is required by the current licence;
 - (g) include any information that the local government may reasonably require; and
 - (h) be signed by the licensee and the proposed transferee.
- (3) Upon receipt of an application to transfer a licence, the local government may—
- (a) refuse the application; or
 - (b) approve the application on such terms and conditions as it sees fit.
- (4) Where the local government approves the transfer of a licence under subclause (3), it shall notify the licensee and owner of the excavation site in writing.
- (5) Where the local government approves the transfer of a licence it shall not be required to refund any part of the fees and charges paid by the former licensee in respect of the transferred licence.
- (6) Where the local government does not approve the transfer of a licence—
- (a) the local government may cancel the licence in accordance with clause 4.9; or
 - (b) the licensee may—
 - (i) continue operations in accordance with the licence issued;
 - (ii) give notice of cessation of operations in accordance with clauses 6.1; or
 - (iii) give notice of temporary cessation of operations in accordance with clause 6.3.

4.9 Cancellation of licence by the local government

- (1) The local government may cancel a licence where the licensee has—
- (a) ceased to substantially carry on the extractive industry for a period in excess of 12 months or has not advised the local government of cessation of operations under clause 6.1;
 - (b) been convicted of an offence against—
 - (i) this local law; or
 - (ii) any other law relating to carrying on an extractive industry;
 - (c) failed to comply with—
 - (i) any of the conditions of the licence;
 - (ii) any provisions of this local law; or
 - (iii) any term of an agreement made with the local government in accordance with this local law and default continues for a period of 14 days from service on the licensee of written notice of default;
 - (d) transferred or assigned or attempted to transfer or assign the licence without the consent of the local government;
 - (e) permitted another person to carry on an extractive industry otherwise than in accordance with the terms and conditions of the licence and of the provisions of this local law;
 - (f) failed to pay the annual licence fee under clause 7.3;
 - (g) failed to have a current public liability insurance policy under clause 7.1(1); or
 - (h) failed to provide a copy of the policy or evidence of its renewal as the case may be, under clause 7.1(2).
- (2) Where the local government cancels a licence under this clause—
- (a) the cancellation takes effect on and from the day on which the licensee is served with the notice; and
 - (b) the local government shall advise the licensee and owner of the excavation site in writing.
- (3) Where a local government cancels a licence under subclause (1), the local government shall not be required to refund any part of the fees and charges paid by the licensee in respect of the cancelled licence.
- (4) Where the local government cancels a licence under subclause (1), the licensee shall comply with clause 6.4, unless otherwise approved by the local government.

PART 5—LIMITATIONS, OBLIGATIONS AND PROHIBITIONS ON LICENSEE

5.1 Obligations of the licensee

A licensee shall—

- (a) where the local government so requires, securely fence the excavation to a standard determined by the local government and keep the gateways locked when not actually in use in order to prevent unauthorised entry;

- (b) erect and maintain warning signs along each of the boundaries of the area excavated under the licence so that each sign—
 - (i) is not more than 200 metres apart;
 - (ii) is not less than 300 mm high and not less than 450 mm wide;
 - (iii) the top of the sign is between 1 metre and 1.8 metres above ground level; and
 - (iv) bears the words “DANGER EXCAVATIONS—KEEP OUT”;
- (c) except where the local government approves otherwise, drain and keep drained to the local government’s satisfaction any excavation to which the licence applies so as to prevent the accumulation of water;
- (d) restore and reinstate the excavation site in accordance with the terms and conditions of the licence, the site plans and the works and excavation program approved by the local government;
- (e) take all reasonable steps to prevent the emission of dust, noise, vibration and other forms of nuisance from the excavation site; and
- (f) comply with the conditions imposed by the local government in accordance with clause 4.3.

5.2 Limits on excavation near boundary

Subject to any licence conditions imposed by the local government, a person shall not, without the written approval of the local government, excavate within—

- (a) 500 metres of any residence unless with the consent of the adjoining neighbours;
- (b) 50 metres of any bore, watercourse, wetland, swamp or other water reserve;
- (c) 50 metres of any thoroughfare;
- (d) 20 metres of the boundary of any land on which the excavation site is located;
- (e) 20 metres of any land affected by a registered grant of easement; or
- (f) 2 metres of the estimated maximum groundwater level as determined from time to time by the Department of Water and Environmental Regulation or otherwise as adopted by the local government.

5.3 Prohibitions

A licensee shall not—

- (a) remove any trees or shrubs within 40 metres of the boundary of any thoroughfare on land in respect of which a licence has been granted without written permission from the local government and if required, the Department of Water and Environmental Regulation, except for the purpose of constructing access thoroughfares, erecting buildings or installing plant for use in connection with the excavation and then only with the express approval of the local government and subject to any conditions which the local government may impose in accordance with clause 4.3;
- (b) store, or permit to be stored, except in the case of approved rock quarry sites, any explosives or explosive devices on the site to which the licence applies other than with the approval of the local government and the Department of Mines, Industry Regulation and Safety; or
- (c) fill or excavate, other than in accordance with the terms and conditions of the licence, the site plans and the works and excavation program approved by the local government.

5.4 Blasting

(1) A person shall not carry out or permit to be carried out any blasting in the course of excavating unless—

- (a) the local government has otherwise given approval in respect of blasting generally or in the case of each blast;
- (b) subject to subclause (2), the blasting takes place only between the hours of 8.00am and 5.00pm, or as determined by the local government, on Mondays to Fridays inclusive;
- (c) the blasting is carried out in strict accordance with the *Mines Safety and Inspection Act 1994*, the *Environmental Protection Act 1986*, and all relevant local laws of the local government; and
- (d) in compliance with any other conditions imposed by the local government concerning—
 - (i) the time and duration of blasting;
 - (ii) the purposes for which the blasting may be used; and
 - (iii) such other matters as the local government may reasonably require in the interests of the safety and protection of members of the public and of property within the district.

(2) A person shall not carry out or permit to be carried out any blasting on a Saturday, Sunday or public holiday except with the prior approval of the local government.

PART 6—CESSATION OF OPERATIONS

6.1 Notice of cessation of operations by licensee

(1) A notice of cessation shall—

- (a) be made in writing;

- (b) state—
 - (i) name of person or company for whom the application is being lodged;
 - (ii) name of primary contact person for the company and in relation to the application;
 - (iii) telephone, mobile phone and email contact details; and
 - (iv) postal and street address;
 - (c) be accompanied by—
 - (i) a copy of the current licence; and
 - (ii) a current certificate of currency for public liability policy in accordance with clause 7.1;
 - (d) advise if the cessation is to be—
 - (i) temporary and the expected duration or circumstances for re-commencement; or
 - (ii) permanent;
 - (e) detail arrangements for meeting any ongoing liabilities or environmental obligations—
 - (i) name of person or company to whom matters are to be referred;
 - (ii) name of primary contact person for the company;
 - (iii) telephone, mobile phone and email contact details; and
 - (iv) postal and street address;
 - (f) be lodged by the licensee as soon as cessation of operations has been determined by the licensee and not more than seven days after the operations have ceased in any event;
 - (g) include a plan showing the contours of the excavation carried out to the date of that application;
 - (h) detail the works, excavation and rehabilitation stages reached and of any changes or proposed changes with respect to any of the things referred to in clauses 3.2(2)(b) and (c);
 - (i) any other things referred to in clauses 3.2 and 4.2;
 - (j) include any information that the local government may reasonably require; and
 - (k) be signed by the licensee.
- (2) Upon notice of cessation of operations, the local government shall—
- (a) acknowledge the notice of cessation of operations; and
 - (b) confirm the acceptability or otherwise of the arrangements for the cessation of operation.

6.2 Cessation of operations—permanent

- (1) Where a licensee has given written notice to the local government of the intention to permanently cease carrying on an extractive industry on the site to which the licence applies the licence is deemed to have expired on the date such cessation is so notified.
- (2) The permanent cessation of the carrying on of an extractive industry on a site or the deemed expiration or cancellation of a licence does not entitle the licensee to any refund of any licence fee.

6.3 Cessation of operation—temporary

- (1) Where a licensee has given written notice of temporary cessation of operations, then on or before the annual licence date each year, the licensee shall—
- (a) confirm to the local government the matters in subclauses 6.1(1)(d) and (e); and
 - (b) provide a copy of the current public liability insurance policy required under clause 7.1.
- (2) For the duration of the cessation—
- (a) contributions or payments agreed under subclauses 4.3(2)(q) or (r) are suspended until such time as operations are resumed, but all other conditions and obligations remain in place; and
 - (b) the annual licence fee under clause 7.3 is suspended.
- (3) The licence granted under clause 4.2 shall remain valid for the term of the licence and shall not be extended by the duration of cessation of operations.
- (4) The temporary cessation of the carrying on of an extractive industry on a site or the deemed expiration or cancellation of a licence does not entitle the licensee to any refund of any licence fee.

6.4 Works to be carried out on cessation of operations

Where the carrying on of an extractive industry on the site permanently ceases or on the expiration or cancellation of the licence applicable to the site, whichever first occurs, the licensee shall, as well as complying with the provisions of clause 6.1—

- (a) restore and reinstate the excavated site in accordance with the proposals approved by the local government or in such other manner as the local government may subsequently agree in writing with the licensee;
- (b) ensure that any face permitted to remain upon the excavation site is left safe with all loose materials removed and where the excavation site is—
 - (i) sand, the sides are sloped to a batter of not more than 1:3 (vertical : horizontal); and
 - (ii) limestone or material other than sand, the sides are sloped to a batter which, in the opinion of the local government, would enable the site to be left in a stable condition;
- (c) ensure that the agreed floor level of the excavation is graded to an even surface or is otherwise in accordance with the rehabilitation and decommissioning program approved by the local government;

- (d) ensure that all stockpiles or dumps of stone, sand or other materials are left so that no portion of that material can escape onto land not owned or occupied by the licensee nor into any stream, watercourse or drain that is not wholly situated within the land owned or occupied by the licensee;
- (e) erect retaining walls where necessary to prevent subsidence of land in the vicinity of any excavation;
- (f) remove from the site all buildings, plant and equipment erected, installed or used for or in relation to the carrying on of an extractive industry on the site and fill all holes remaining after such removal to the level of the surrounding ground and compact such filled holes sufficiently to prevent settling; and
- (g) break up, scarify, cover with topsoil and plant with grass, trees and shrubs all parts of the site where buildings, plant and equipment were erected or installed and all areas which were used for stockpiling unless otherwise specified under this local law.

PART 7—MISCELLANEOUS

7.1 Public liability

- (1) A licensee shall have at all times a current public liability insurance policy naming the local government and indemnifying the licensee and the local government for a sum of not less than \$20,000,000 in respect of any one claim relating to any of the excavation operations.
- (2) The licensee shall provide to the local government a copy of the policy taken out under subclause (1), within 14 days after the issue of that policy and shall provide to the local government evidence of policy renewal within 14 days of each policy renewal date.

7.2 *Mines Safety and Inspection Act 1994 and Environmental Protection Act 1986*

- (1) In any case where the *Mines Safety and Inspection Act 1994* or the *Environmental Protection Act 1986* applies to any excavation carried on or proposed to be carried on at a site, the licensee in respect of that site shall provide to the local government within 14 days full particulars of any inspection or report made under that Act or those Acts.
- (2) In this clause, the *Mines Safety and Inspection Act 1994* and the *Environmental Protection Act 1986* include all subsidiary legislation made under those Acts.

7.3 Annual licence fee

On or before 30 June in each year, a licensee must pay to the local government the set fee for the annual licence.

7.4 Use of secured sum by the local government

- (1) If a licensee fails to pay any fees and charges or carry out or complete the restoration and reinstatement works required by the licence conditions either—
 - (a) within the time specified in those conditions; or
 - (b) where no such time has been specified, within 60 days of the completion of the excavation or portion of the excavation specified in the licence conditions, then, subject to the local government giving the licensee 14 days notice of its intention to do so—
 - (i) the local government may carry out or cause to be carried out the required work or so much of that work as remains undone; and
 - (ii) the licensee shall pay to the local government on demand all costs incurred by the local government or which the local government may be required to pay under this clause.
- (2) The local government may apply the proceeds of any bond, bank guarantee or other security provided by the licensee under clause 3.7 towards its costs under this clause.
- (3) The liability of a licensee to pay the local government's costs or any outstanding fees and charges under this clause is not limited to the amount, if any, secured under clause 3.7.
- (4) For avoidance of doubt, the local government's powers under this clause are in addition to its other enforcement powers under this local law.

PART 8—NOTICES

8.1 Notice to remedy non-compliance

Where any thing is required to be done or not permitted to be done by this local law, an authorised person may give the licensee a notice in writing requiring the licensee to comply with the requirements of this local law.

8.2 Notice requirements

A notice given must—

- (a) be in writing;
- (b) specify the reason for giving the notice, the work or action that is required to be undertaken; and
- (c) the time within which the work or action is to be undertaken.

8.3 Local government may undertake requirements of notice

- (1) If a person fails to comply with a notice referred to in clause 8.1, the local government may—
- do the thing specified in the notice;
 - take whatever remedial action it considers appropriate and which would have been if the breach or failure had not occurred; and
 - recover all costs from the licensee, as a debt.
- (2) 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*.

8.4 Offence to fail to comply with notice

A person who fails to comply with a notice given under this local law commits an offence.

PART 9—OBJECTIONS AND REVIEW

9.1 Objection and review rights

The provisions of Division 1 of Part 9 of the Act and regulation 33 of the *Local Government (Functions and General) Regulations 1996* shall apply when the local government makes a decision as to whether it will—

- grant a person a licence under this local law; or
- renew, vary, or cancel a licence that a person has under this local law.

PART 10—OFFENCES AND PENALTIES

10.1 Offences

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.

10.2 General penalty

A person who commits an offence under this local law is liable, on 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 the day during which the offence has continued.

10.3 Modified penalties

- An offence against a clause specified in the Schedule is a prescribed offence for the purposes of section 9.16(1) of the Act.
- The amount of the modified penalty for a prescribed offence is that specified adjacent to the clause in the Schedule.

10.4 Forms

For the purposes of this local law—

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

SCHEDULE—PRESCRIBED OFFENCES

[clause 10.3]

Item	Clause	Nature of offence	Modified penalty \$
1	2.1(a)	Carry on an extractive industry without a valid and current licence	500
2	2.1(b)	Carry on an extractive industry not in accordance with conditions of licence	500
3	4.5(1)	Failure to comply with notice regarding transport of materials	500
4	5.1(a)	Failure to securely fence or keep gateways locked	500
5	5.1(b)	Failure to comply with boundary signage requirements	500
6	5.1(c)	Failure to provide adequate drainage	500
7	5.1(d)	Failure to restore and reinstate site in accordance with approved plan	500

Item	Clause	Nature of offence	Modified penalty \$
8	5.1(e)	Failure to control dust, noise, vibration and other nuisances	500
9	5.1(f)	Failure to comply with conditions of licence	500
10	5.2(a)	Excavate within 500 metres of a residence without approval	500
11	5.2(b)	Excavate within 50 metres of a bore, watercourse, wetland swamp or other water reserve without approval	500
12	5.2(c)	Excavate within 50 metres of a thoroughfare without approval	500
13	5.2(d)	Excavate within 20 metres of the boundary of any land on which the excavation is situated without approval	500
14	5.2(e)	Excavate within 20 metres of land affected by a registered grant of easement without approval	500
15	5.2(f)	Excavate within 2 metres of estimated maximum groundwater level without approval	500
16	5.3(a)	Removal of trees or shrubs within 40 metres of any boundary with a thoroughfare reserve without approval	500
17	5.3(b)	Store or permit to be stored explosives or explosive devices without approval	500
18	5.3(c)	Fill or excavate other than in accordance with the conditions of licence	500
19	5.4(1)(a)	Carry out or permit to be carried out blasting without approval	500
20	5.4(1)(b)	Carry out or permit to be carried out blasting outside the hours approved by the local government	500
21	5.4(1)(d)	Failure to comply with conditions relating to blasting imposed by the local government	500
22	5.4(2)	Carry out or permit to be carried out blasting on a Saturday, Sunday or public holiday without approval	500
23	6.1(1)	Failure to provide notice of cessation of operations	500
24	6.3(1)	Failure to provide annual confirmation of details during period of temporary cessation of operations	500
25	6.4	Failure to undertake restoration and reinstatement as required on cessation of operations	500
26	8.4	Failure to comply with requirements of notice	500
27	10.1	Other offences not specified	500

Dated: 3 July 2018.

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

D. S. LOVELOCK, President.
G. M. TEEDE, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995

SHIRE OF VICTORIA PLAINS

**PUBLIC PLACES AND LOCAL GOVERNMENT PROPERTY
LOCAL LAW 2018**

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LOCAL GOVERNMENT ACT 1995

SHIRE OF VICTORIA PLAINS

PUBLIC PLACES AND LOCAL GOVERNMENT PROPERTY
LOCAL LAW 2018

Under the powers conferred by the *Local Government Act 1995* and under all powers enabling it, the Council of the Shire of Victoria Plains resolved on 16 May 2018 to adopt the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Victoria Plains Public Places and Local Government Property Local Law 2018*.

1.2 Commencement

The 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 Repeal

The following local laws are repealed—

- (a) *Victoria Plains Road Board By-law—Pipes and Pipelines Beneath Roads and Footpaths* published in the *Government Gazette* on 12 December 1958;
- (b) The *Municipality of the Shire of Victoria Plains Adoption of Draft Model By-law Relating to Prevention of Damage to Streets* published in the *Government Gazette* on 27 August 1969; and
- (c) The *Municipality of the Shire of Victoria Plains Adoption of Draft Model By-laws Relating to Removal and Disposal of Obstructing Animals or Vehicles* published in the *Government Gazette* on 27 August 1969.

1.5 Transitional provisions

(1) An application for, or the renewal of a licence, permit or other authorisation made under a repealed local law that has not been finally determined before the commencement day is to be dealt with and determined as if it were an application under this local law.

(2) A licence, permit or other authorisation under a repealed local law that is in force before the commencement day is to be regarded on and after that day as a licence under this local law and may be dealt with accordingly.

1.6 Definitions

(1) In this local law—

Act means the *Local Government Act 1995*;

animal means any living thing that is not a human being or plant but excludes dogs and cats;

applicant means a person who applies for a licence under this local law;

application means an application for a licence under this local law;

authorised person means a person appointed by the local government under section 9.10 of the Act to perform any of the functions of an authorised person under this local law;

building means any building which is local government property and includes any—

(a) hall or room; and

(b) corridor, stairway or annexe of any hall or room;

building permit means a permit granted under section 20 of the *Building Act 2011*;

built-up area has the meaning given to it by the *Road Traffic Code 2000*;

carriageway has the meaning given to it in the *Road Traffic Code 2000*;

CEO means the Chief Executive Officer of the local government;

children's playground means an area set aside for use by children and noted by the presence of any of the following—

- (a) dedicated children's playground equipment,
- (b) the presence of either sand or other form of soft fall surface; or
- (c) a sign indicating the area is a children's playground;

closed thoroughfare means a thoroughfare wholly or partially closed under section 3.50 or 3.50A of the Act;

commencement day means the day on which this local law comes into operation;

costs means all expenses directly associated with reinstatement or replacement, and includes administrative expenses, associated with reinstatement or replacement;

Council means the council of the local government;

crossover means an areas of the verge, constructed and used for the purpose of enabling a vehicle to access the adjacent property;

district means the district of the local government and includes any area placed under the jurisdiction of the local government under section 295 of the *Public Health Act 2016*;

entertainment means conduct any form of theatrical, artistic, musical, audio or visual performance and includes busk;

firearm has the same meaning as in section 4 of the *Firearms Act 1973*;

food has the meaning given by the *Food Act 2008*;

footpath has the meaning given to it in the *Road Traffic Code 2000*;

function means an event or activity characterised by all or any of the following—

- (a) formal organisation and preparation;
- (b) its occurrence is generally advertised or notified in writing to particular persons;
- (c) organisation by or on behalf of a club;
- (d) payment of a fee to attend it; and
- (e) systematic recurrence in relation to the day, time and place;

garden means any part of a thoroughfare planted, developed or treated, otherwise than as a lawn, with one or more plants;

hire includes offer to hire and expose for hire;

intersection has the meaning given to it in the *Road Traffic Code 2000*;

kerb includes the edge of a carriageway;

lawn means any part of a thoroughfare which is planted only with grass, or with a similar plant, but will include any other plant provided that it has been planted by the local government;

licence means a licence, permit or approval issued by the local government under this local law;

licence document means a licence document issued under this local law;

licensed premises has the same meaning as is given to it in section 3 of the Liquor Control Act;

licensee means a person who holds a licence;

liquor has the meaning given to it in section 3 of the Liquor Control Act;

Liquor Control Act means the *Liquor Control Act 1988*;

local government means the Shire of Victoria Plains;

local government property means anything except a thoroughfare—

- (a) which belongs to the local government;
- (b) of which the local government is the management body under the *Land Administration Act 1997*; or
- (c) which is an otherwise unvested facility within section 3.53 of the Act;

local public notice has the meaning given to it in section 1.7 of the Act;

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

manager means the person for the time being employed or engaged by the local government to control and manage a facility which is local government property, and includes the person's assistant or deputy;

market means a collection of stalls, stands or displays erected for the purpose of selling or hiring goods or services or carrying out any other transaction;

missile has the same meaning as in section 4 of the *Firearms Act 1973*;

owner or occupier in relation to land, does not include the local government;

permitted verge treatment means any one of the treatments described in clause 5.7(3), and includes any reticulation pipes and sprinklers;

person does not include the local government;

prohibited drug is given its meaning under section 3 of the *Misuse of Drugs Act 1981*;

public place means—

- (a) a thoroughfare;
- (b) any local government property; or
- (c) a place to which the public have access;

repealed local law means a local law repealed under clause 1.4;

retailer means the owner or occupier of a shop in respect of which shopping trolleys are provided for the use of customers of the shop;

Schedule means a schedule to this local law;

sell includes—

- (a) offer or attempt to sell;
- (b) display for sale;
- (c) send, forward or deliver for sale or on sale;
- (d) barter or exchange;
- (e) dispose, by lot or chance or by auction;
- (f) supply, or offer, agree or attempt to supply—
 - (i) in circumstances which the supplier derives or would be likely to derive a direct or indirect pecuniary benefit; or
 - (ii) gratuitously, but with a view to gaining or maintaining custom or other commercial advantage; or
- (g) authorise, direct, cause or permit to be done any act referred to in this definition;

set fee refers to fees and charges imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act;

sign includes a notice, flag, mark, structure or device approved by the local government on which may be shown words, numbers, expressions or symbols;

stall means a movable or temporarily fixed structure, stand or table in, on or from which goods or services are sold and includes a vehicle;

street tree means any tree planted or self sown in a thoroughfare, of an appropriate species and in an appropriate location, for the purposes of contributing to the appearance of the thoroughfare;

thoroughfare means any highway, thoroughfare or land used for vehicular or pedestrian traffic, and includes all the land lying between property lines, including the verge and footpath;

trading means selling or hiring goods or services and includes the setting up of a stall and conducting business at a stall;

UAV means unmanned aircraft, other than a balloon or kite, as defined by the *Civil Aviation Regulations 1998* (Commonwealth);

vehicle includes—

- (a) every conveyance and every object capable of being propelled or drawn on wheels, tracks or otherwise; and
 - (b) where the context permits, an animal being ridden or driven,
- but excludes—
- (c) a wheelchair or any device designed for use by a physically impaired person on a footpath; and
 - (d) a pram, stroller or similar device; and

verge means that part of a thoroughfare between the carriageway and the land which abuts the thoroughfare, but does not include any footpath.

1.7 Interpretation

In this local law, a reference to local government property includes a reference to any part of local government property.

1.8 Types of licences

For the purposes of this local law—

- (a) a licence which authorises trading on any thoroughfare or local government property is to be referred to as a trading licence;
- (b) a licence which authorises the conduct or setting up of a market on any thoroughfare or local government property is to be referred to as a market licence;
- (c) a licence which authorises entertainment on any thoroughfare or local government property is to be referred to as an entertainment licence; and
- (d) a licence which authorises the sale of food on any thoroughfare or local government property is to be referred to as a food sales licence.

1.9 Assistance animals

This local law is subject to any written law and any law of the Commonwealth about assistance animals as defined in section 9(2) of the *Disability Discrimination Act 1992* (Commonwealth).

1.10 Overriding power to hire and agree

Despite anything to the contrary in this local law, an authorised person, on behalf of the local government, may—

- (a) hire local government property to any person; or
- (b) enter into an agreement with any person regarding the use of any local government property.

**PART 2—ACTIVITIES ON LOCAL GOVERNMENT PROPERTY
REQUIRING A LICENCE**

2.1 Activities requiring a licence

- (1) A person must not without a licence—
- (a) subject to subclause (3) hire local government property;
 - (b) advertise anything by any means on local government property;
 - (c) erect, on local government property a structure for public amusement or for any performance, whether for gain or otherwise;
 - (d) teach, coach or train, for profit, any person in any facility which is local government property;
 - (e) plant any plant or sow any seeds on local government property;
 - (f) carry on any trading on local government property unless the trading is conducted—
 - (i) with the consent of a person who holds a licence to conduct a function, and where the trading is carried on under and in accordance with the licence; or
 - (ii) by a person who has a licence or permit to carry on trading on local government property under any written law;
 - (g) conduct a function or entertainment event on local government property;
 - (h) charge any person for entry to local government property, unless the charge is for entry to land or a building hired by a voluntary non-profit organisation;
 - (i) light a fire on local government property except in a facility provided for that purpose;
 - (j) light or set off any firework or conduct a fireworks display on local government property;
 - (k) use a UAV on local government property;
 - (l) parachute, hang glide, abseil or base jump from or on to local government property;
 - (m) play or practise—
 - (i) golf or archery; or;
 - (ii) pistol or rifle shooting, but subject to the compliance of that person with the *Firearms Act 1973*;
 - (n) erect a building or a refuelling site on local government property;
 - (o) make any excavation on or erect or remove any fence on local government property;
 - (p) erect or install any structure above or below ground, which is local government property, for the purpose of supplying any water, power, sewer, communication, television or similar service to a person;
 - (q) depasture any horse, sheep, cattle, goat, camel, ass or mule on local government property;
 - (r) conduct or take part in any gambling game or contest or bet, or offer to bet, publicly; or
 - (s) erect, install, operate or use any broadcasting, public address system, loudspeaker or other device for the amplification of sound on local government property.
- (2) The local government may exempt a person from compliance with subclause (1) on the application of that person.
- (3) The local government may exempt specified local government property or a class of local government property from the application of subclause (1)(a).

2.2 Licence to erect structures or camp

- (1) This clause does not apply to a caravan park or camping ground operated by the local government.
- (2) A person must not without a licence—
- (a) camp on, lodge at or occupy any structure at night for the purpose of sleeping on local government property;
 - (b) erect any tent, camp, hut or similar structure on local government property other than a beach shade or windbreak erected for use during the hours of daylight and which is dismantled during those hours on the same day; or
 - (c) park a vehicle on local government property, thoroughfare or public place for the purpose of sleeping in the vehicle.
- (3) The maximum period for which the local government may approve an application for a licence in respect of subclause (2)(a) or (b) is that provided in regulation 11(2)(a) of the *Caravan Parks and Camping Grounds Regulations 1997*.
- (4) Any tent, camp, hut or similar structure erected in contravention of subclause (2)(b) and any associated goods may be impounded, subject to Regulation 29 of the *Local Government (Functions and General) Regulations 1996*.
- (5) A vehicle parked in contravention of subclause (2)(c) may, subject to the provisions of Regulation 29 of the *Local Government (Functions and General) Regulations 1996*, be impounded by immobilising the vehicle by the use of a wheel clamping device.
- (6) An authorised person who impounds a vehicle under subclause (5) shall attach a notice to a vehicle advising the owner of the vehicle that the vehicle will be released upon payment of the costs of impounding by use of a wheel clamping device and the place where and hours during which the costs can be paid.

(7) The notice attached to the impounded vehicle under subclause (6) shall also advise the owner that if the impounding costs are not paid within 24 hours the vehicle may be removed to the local government pound.

(8) Notices issued under this clause shall be in the form determined from time to time by the local government.

2.3 Licence required for possession and consumption of liquor

(1) A person, on local government property, must not consume any liquor, have in her or his possession or under her or his control, or sell any liquor, unless—

- (a) permitted under the Liquor Control Act; and
- (b) a licence has been obtained for that purpose from the local government.

(2) Subclause (1) does not apply where the liquor is in a sealed container.

PART 3—BEHAVIOUR ON LOCAL GOVERNMENT PROPERTY AND THOROUGHFARES

3.1 Behaviour which interferes with others

In or on any local government property or thoroughfare, a person must not, behave in a manner which—

- (a) is likely to interfere with the enjoyment of a person who might use or who might be on the property or thoroughfare; or
- (b) interferes with the enjoyment of a person using the property or thoroughfare.

3.2 Behaviour detrimental to property

A person must not behave in or on local government property or thoroughfare in a way which is or might be detrimental to the property, including but not limited to—

- (a) removing any thing from the local government property or thoroughfare including a rock, a plant or a seat provided for the use of any person; and
- (b) destroying, defacing or damaging any thing on the local government property or thoroughfare, including a plant, a seat provided for the use of any person or a building.

3.3 No unauthorised entry to function

(1) A person must not enter local government property on such days or during such times as the property is set aside for a function, except—

- (a) through the proper entrance for that purpose; and
- (b) on payment of any fee chargeable for admission as determined by the hirer at the time.

(2) An authorised person may exempt a person from compliance with subclause (1)(b).

3.4 Taking or injuring fauna

(1) In this clause—

fauna means any animal indigenous to or which periodically migrates to any State or Territory of the Commonwealth or the territorial waters of the Commonwealth and includes in relation to any such animal—

- (a) any class of animal or individual member;
- (b) the eggs or larvae; or
- (c) the carcass, skin, plumage or fur unless it has been shed or discarded by the fauna in a normal or natural manner.

(2) A person must not, take, injure or kill or attempt to take, injure or kill any fauna which is on or above any local government property or thoroughfare, unless that person is authorised under a written law to do so.

3.5 Flora

(1) In this clause—

flora means all vascular plants, seeds and other flora, whether living or dead.

(2) On or above any local government property or thoroughfare, unless authorised to do so under a written law or with the written approval of an authorised person, a person must not—

- (a) remove, damage or interfere with any flora; or
- (b) plant or deposit any flora.

3.6 Vehicles on local government property

(1) Unless authorised by a licence, a person must not take or cause a vehicle to be taken onto or driven on local government property unless—

- (a) subject to subclause (3), the local government property is clearly designated as a road, access way, or car park;
- (b) the vehicle is driven by a local government employee, authorised person or contractor engaged by the local government, who is engaged in—
 - (i) providing a service or making a delivery in connection with the local government property; or
 - (ii) maintaining the local government property;

- (c) the person is driving an emergency vehicle in the course of his or her duties;
- (d) the vehicle is—
 - (i) used in accordance with the conditions set down by the local government or an authorised person; and
 - (ii) of a type allowed to be taken onto the local government property by the local government or an authorised person; or
- (e) the vehicle is a motorised wheelchair, and the driver of that vehicle is a person with a disability.

(2) A person must not drive a vehicle or allow a vehicle to be driven on local government property at a speed exceeding 20 kilometres per hour or as otherwise indicated by a sign, or in such a manner as to cause danger to any person.

(3) Other than in accordance with subclause (1)(b),(c),(d) or (e), a person must not drive a vehicle on local government property or part of it that is being used for a function for which a licence has been obtained unless permitted to do so by the licence holder or an authorised person.

PART 4—MATTERS RELATING TO PARTICULAR LOCAL GOVERNMENT PROPERTY

4.1 No entry to fenced or closed local government property

A person must not enter local government property which has been fenced off or closed to the public by a sign or otherwise, unless that person is authorised to do so by an authorised person.

4.2 Only specified gender to use entry of toilet block or change room

(1) Where a sign on a toilet block or change room specifies that a particular entry of the toilet block or change room is to be used by—

- (a) females—then a person of the male gender must not use that entry of the toilet block or change room;
- (b) males—then a person of the female gender must not use that entry of the toilet block or change room; or
- (c) families—then, where the toilet block or change room is being used by a family, only an immediate member of that family may use that entry of the toilet block or change room.

(2) Subclause (1)(a) and (b) does not apply to a child, when accompanied by a parent, guardian or caregiver, where the child is—

- (a) under the age of 8 years; or
- (b) otherwise permitted by an authorised person to use the relevant entry.

4.3 Use of shower or bath facilities

A person may use a shower or bath facility in change rooms only on conditions that—

- (a) the facilities must be used by the person only for the purpose of cleansing, bathing and washing themselves; and
- (b) the facilities must not be used for the purpose of laundering of clothing or washing of other articles.

PART 5—ACTIVITIES IN THOROUGHFARES

Division 1—General

5.1 General prohibitions

A person must not—

- (a) plant, or allow to remain, in a thoroughfare a plant that by virtue of its height, position or density obstructs a reasonable sight line for a driver of any vehicle negotiating or using the thoroughfare;
- (b) damage a lawn or a garden, or remove any plant or part of a plant from a lawn or a garden, in a thoroughfare unless—
 - (i) the person is the owner or the occupier of the lot abutting that portion of the thoroughfare and the lawn or the garden or the particular plant has not been installed or planted by the local government; or
 - (ii) the person is acting under the authority of a written law;
- (c) damage, or remove a street tree, or part of a street tree, irrespective of whether it was planted by the owner or occupier of the lot abutting the thoroughfare or by the local government, unless—
 - (i) the damage to, or removal of, the street tree is authorised by an authorised person in writing; or
 - (ii) the person is acting under authority of written law;
- (d) except as permitted by this local law place, or allow to be placed or remain, on a thoroughfare any thing (except water) that—
 - (i) obstructs the thoroughfare; or
 - (ii) results in a hazard for any person using the thoroughfare;

- (e) unless at the direction of an authorised person, damage, remove or interfere with any part of a thoroughfare, or any structure erected on a thoroughfare, by the local government or a person acting under the authority of a written law; or
- (f) play or participate in any game or sport so as to cause danger to any person or thing or unreasonably impede the movement of vehicles or persons on a thoroughfare.

5.2 Activities allowed with a licence

(1) A person must not, without a licence—

- (a) dig or otherwise create a trench through or under a kerb or footpath;
- (b) cause any obstruction to a water channel or a water course in a thoroughfare;
- (c) throw, place or drain offensive, noxious or dangerous fluid onto a thoroughfare;
- (d) damage a thoroughfare;
- (e) fell or damage any street tree;
- (f) unless installing, or in order to maintain, a permitted verge treatment—
 - (i) lay pipes under or provide taps on any verge; or
 - (ii) place or install, on any part of a thoroughfare, any thing such as gravel, stone, flagstone, cement, concrete slabs, blocks, bricks, pebbles, plastic sheeting, kerbing, wood chips, bark or sawdust;
- (g) cause any obstruction to a vehicle or a person using a thoroughfare;
- (h) fell any tree onto a thoroughfare;
- (i) light any fire or burn any thing on a thoroughfare other than in a stove or fireplace provided for that purpose;
- (j) provide, erect, install or use in or on any building, structure or land abutting on a thoroughfare any hoist or other thing for use over the thoroughfare;
- (k) on a thoroughfare use anything or do anything so as to create a nuisance;
- (l) interfere with the soil of, or anything in, a thoroughfare or take anything from a thoroughfare;
- (m) carry on any trading on a thoroughfare;
- (n) conduct or set up a market on a thoroughfare; or
- (o) conduct an entertainment event on a thoroughfare.

(2) An authorised person may exempt a person from compliance with subclause (1) on the application of that person.

5.3 Assignment of numbers

(1) In this clause—

number means a number with or without an alphabetical suffix indicating the street address of land as assigned by the local government from time to time, in accordance with this local law.

(2) An authorised person may assign a number to a lot in the district and may assign another number to the lot instead of that previously assigned.

5.4 No driving on closed thoroughfare

A person must not drive or take a vehicle on a thoroughfare wholly or partially closed under section 3.50 or 3.50A of the Act unless—

- (a) it is in accordance with any limit or exception specified in the order made under section 3.50 of the Act; or
- (b) the person has first obtained a licence.

5.5 Fencing of public place—Item 4(1) of Division 1, Schedule 3.1 of Act

A public place, as that term is defined in clause 1.6, is specified as a public place for the purpose of item 4(1) of Division 1 of Schedule 3.1 of the Act.

Division 2—Permitted verge treatments

5.6 Application

This Division only applies to within a built-up area.

5.7 Permitted verge treatments

- (1) A person must not install or maintain a verge treatment which is not a permitted verge treatment.
- (2) An owner or occupier of land which abuts on a verge may install a permitted verge treatment, on that part of the verge directly in front of her or his land.
- (3) A permitted verge treatment is—
 - (a) the planting and maintenance of a lawn;
 - (b) the planting and maintenance of a garden provided that—
 - (i) clear sight visibility is maintained at all times for a person using the abutting thoroughfare in the vicinity of an intersection or bend in the thoroughfare or using a driveway on land adjacent to the thoroughfare for access to or from the thoroughfare;

- (ii) where there is no footpath, a pedestrian has safe and clear access of a minimum width of 2m along that part of the verge immediately adjacent to the kerb;
 - (iii) it does not include a wall or built structure; and
 - (iv) is not of a thorny, poisonous or hazardous nature; and
 - (c) subject to subclause (4), the installation of material which do not detract from the amenity of the area, including but not limited to—
 - (i) bituminous surface or in-situ concrete, subject to reduction of the area shedding storm water or flooding;
 - (ii) use of paving bricks or concrete slabs; and
 - (iii) all forms of loose aggregate materials such as pebbles, stones and gravel, not larger than 50mm and contained within the verge area at all times; and
 - (d) other treatment approved by the local government.
- (4) Where installation of material which would create a hard surface has been installed or is intended, an authorised person may by written notice, require—
- (i) a reduction of area covered or to be covered, if shedding of storm water or flooding is likely to cause a nuisance to neighbours or users of a thoroughfare; and
 - (ii) an area of open space to a maximum of 1m from the edge of a street trees.
- (5) The owner and occupier of the lot abutting a verge treatment referred to in subclause (1) are each to be taken to have installed and maintained that verge treatment for the purposes of this clause and clause 5.9.

5.8 Obligations of owner or occupier

An owner or occupier who installs or maintains a permitted verge treatment must—

- (a) keep the permitted verge treatment in a good and tidy condition and, where the verge treatment is a garden or lawn, ensure that a footpath on the verge and a carriageway adjoining the verge is not obstructed by the verge treatment;
- (b) not disturb a footpath on the verge;
- (c) ensure that the verge treatment does not damage or obstruct a drain, manhole, gully, inspection pit, channel, kerb or tree planted by the local government;
- (d) ensure that clear sight visibility is maintained at all times for a person using the abutting thoroughfare in the vicinity of an intersection or bend in a carriageway, or using a driveway on land adjacent to the thoroughfare for access to or from the thoroughfare;
- (e) not place any obstruction on or around the verge treatment; and
- (f) ensure that any sprinklers or pipes installed to irrigate a verge treatment—
 - (i) do not protrude above the level of the lawn or verge treatment when not in use;
 - (ii) are not used at such times so as to cause unreasonable inconvenience to pedestrians or other persons; and
 - (iii) do not otherwise present a hazard to pedestrians or other persons.

5.9 Transitional provision

(1) In this clause—

former provisions means the provisions of the repealed local laws which permitted certain types of verge treatments, whether with or without the consent of the local government.

(2) A verge treatment is to be taken to be a permitted verge treatment for so long as the verge treatment remains of the same type and continues to comply with the former provisions which—

- (a) was installed prior to the commencement day; and
- (b) on the commencement day is a type of verge treatment which was permitted under and complied with the former provisions.

5.10 Power to carry out public works on verge

Where the local government or an authority empowered to do so under a written law disturbs a verge, the local government or the authority—

- (a) is not liable to compensate any person for that disturbance;
- (b) may backfill with sand, if necessary, any garden or lawn; and
- (c) is not liable to replace or restore any—
 - (i) verge treatment and, in particular, any plant or any material or other hard surface; or
 - (ii) sprinklers, pipes or other reticulation equipment.

Division 3—Vehicle crossovers

5.11 Temporary crossovers

(1) Where it is likely that works on a lot will involve vehicles leaving a thoroughfare and entering the lot, the person responsible for the works must obtain a licence for the construction of a temporary crossover to protect the existing carriageway, kerb, drains, footpath, existing materials and street trees, where—

- (a) a crossover does not exist; or
- (b) a crossover does exist, but the nature of the vehicles and their loads is such that they are likely to cause damage to the crossover.

- (2) The person responsible for the works in subclause (1) is to be taken to be—
- (a) the builder named on the building permit issued under the *Building Act 2011*, if one has been issued in relation to the works; or
 - (b) the owner of the lot, if no building permit has been issued under the *Building Act 2011* in relation to the works.
- (3) If an authorised person approves an application for a licence for the purpose of subclause (1), the licence is taken to be issued on the condition that until such time as the temporary crossover is removed, the licensee must keep the temporary crossover in good repair and in such a condition so as not to create any danger or obstruction to persons using the thoroughfare.

5.12 Removal of redundant crossover

- (1) Where works on a lot will result in a crossover no longer giving access to a lot, the crossover is to be removed and the kerb, drain, footpath, verge and any other part of the thoroughfare affected by the removal are to be reinstated to the satisfaction of an authorised person.
- (2) An authorised person may give written notice to the owner or occupier of a lot requiring her or him to—
- (a) remove any part of or all of a crossover which does not give access to the lot; and
 - (b) reinstate the kerb, drain, footpath, verge and any other part of the thoroughfare, which may be affected by the removal, within the period of time stated in the notice, and the owner or occupier of the lot must comply with that notice.

5.13 Crossovers in unsafe locations

- (1) Where a crossover is in an unsafe location, Council may give notice to the owner or occupier to—
- (a) remove the crossover; or
 - (b) make the crossover safe.
- (2) In determining whether the crossover is in an unsafe location, Council shall have regard to—
- (a) any guidelines or advice of Main Roads Western Australia sought or published from time to time;
 - (b) the usage of the thoroughfare; and
 - (c) alternative treatments available to make the crossover safe.
- (3) Any notice issued under subclause (1) is to give a minimum period of 28 days to remove or make the crossover safe, provided immediate measures are taken to advise users of the thoroughfare of the circumstances deemed unsafe.

PART 6—ACTIVITIES IN PUBLIC PLACES

6.1 Leaving animal or vehicle in public place

- (1) A person must not leave an animal or a vehicle, or any part of a vehicle, in a public place so that it obstructs the use of any part of that public place, unless that person has first obtained a licence or is authorised to do so under a written law.
- (2) A person does not contravene subclause (1) where the animal is secured or tethered for a period not exceeding 1 hour.
- (3) A person does not contravene subclause (1) where the vehicle is left for a period not exceeding 24 hours.

6.2 Prohibitions relating to animals

- (1) In this clause, *owner* in relation to an animal includes—
- (a) an owner of it;
 - (b) a person in possession of it;
 - (c) a person who has control of it; and
 - (d) a person who ordinarily occupies the premises where the animal is permitted to stay and who has care and control of the animal.
- (2) An owner of an animal must not—
- (a) allow the animal to enter or remain for any time on any public place except for the use of the public place as a thoroughfare and unless it is led, ridden or driven;
 - (b) allow an animal which has a contagious or infectious disease to be led, ridden or driven in a public place; or
 - (c) train or race the animal in a public place.

PART 7—TEMPORARY SIGNS AND TRADE DISPLAYS

7.1 Definitions

In this Part, unless the context otherwise requires—

advertising sign means a temporary sign or poster which advertises a business, products or services for commercial gain;

election sign means a temporary sign or poster which advertises any aspect of a forthcoming Federal, State or local government election;

event sign means a temporary sign or poster which advertises an festival, function or activity;

temporary sign means a sign used for the purpose of advertisement or notification, whether free standing or requiring to be affixed to a structure of any type, and includes—

- (a) a bill, poster and the like;
- (b) an advertising sign;
- (c) an event sign; and
- (d) an election sign; and

trade display means the display for sale or as samples, the goods and services available in, or with the permission of the adjoining premises.

7.2 Application

(1) This Part applies—

- (a) to temporary signs complying with clause 7.5; and
- (b) to temporary trade displays complying with clause 7.10.

(2) Any advertising sign or trade display that is to be a permanent structure or fixture is to comply with—

- (a) the Building Code as defined in section 3 of the *Building Regulations 2012*;
- (b) any Local Planning Scheme; and
- (c) any other written law regulating of signs within the district.

7.3 Temporary signs and trade displays

(1) A person shall not on local government property or in a thoroughfare, without a licence—

- (a) place an temporary sign;
- (b) place a trade display; or
- (c) post any bill or paint, place or affix any advertisement.

(2) Notwithstanding subclause (1), a licence is not required for—

- (a) the first and second advertising signs where each—
 - (i) does not exceed an area of 1 square metre;
 - (ii) does not exceed 750mm horizontally;
 - (iii) has a minimum height of 300mm;
 - (iv) is placed against the property boundary; and
 - (v) complies in all other respects with clauses 7.5, 7.6 and 7.7;
- (b) not more than 5 free standing event signs where each—
 - (i) does not exceed an area of 1 square metre;
 - (ii) does not exceed 750mm horizontally;
 - (iii) has a minimum height of 300mm; and
 - (iv) complies in all other respects with clauses 7.5, 7.6 and 7.8;
- (c) not more than 5 event signs requiring support where each—
 - (i) does not exceed an area of 5 square metres individually or an aggregate of 15 square metres;
 - (ii) has a maximum height of 1.2m above ground level;
 - (iii) is placed flat against a wall or constructed fence for the full length and height of the sign;
 - (iv) is for the purposes of a sporting, charitable or not for profit organisation; and
 - (v) complies in all other respects with clauses 7.5, 7.6 and 7.8;
- (d) an election sign which—
 - (i) complies with the requirements of subclause (2)(b)(i) to (iii) or (2)(c)(i) to (iii); and
 - (ii) complies in all other respects with clauses 7.5, 7.6 and 7.9; and
- (e) a trade display which—
 - (i) does not exceed 1m in width from the property boundary;
 - (ii) is placed against the property boundary, or if no adjoining business, does not exceed 5m in length;
 - (iii) does not extend beyond the frontage of the business; and
 - (iv) complies in all other respects with clause 7.10.

7.4 Matters to be considered in determining application for licence

In determining an application for a licence for the purpose of clause 7.3(1), matters the local government is to have regard to include—

- (a) any other written law regulating the construction or placement of signs or trade displays within the district;
- (b) the dimensions of the sign or trade display;
- (c) whether or not the sign or trade display may create a hazard to persons using a thoroughfare;

- (d) other signs or trade displays already approved or erected in the vicinity of the proposed location of the sign or trade display; and
- (e) the amount of the public liability insurance cover, if any, to be obtained by the applicant.

7.5 Conditions for temporary signs

Temporary signs shall—

- (a) be portable and free-standing or temporarily affixed so as there is no resulting damage to any thing;
- (b) be secured in position in accordance with any requirements of the local government;
- (c) be placed so as not to impede or obstruct either vehicle or pedestrian traffic, or access to a place by any person;
- (d) be placed so as not to obstruct lines of sight for vehicle traffic;
- (e) not be unduly distracting, in the opinion of an authorised person, if illuminated or incorporating reflective or fluorescent materials;
- (f) not display only part of a message which is to be read with other separate signs in order to obtain the whole message;
- (g) be maintained in good condition; and
- (h) be in compliance with any limitation of the number of signs notified in writing by the local government.

7.6 Prohibition on placement of temporary signs

An temporary sign shall not be placed—

- (a) over any footpath where the resulting vertical clearance between the sign and the footpath is less than 2.5 metres;
- (b) on any natural feature, including a rock or tree, on a thoroughfare; or
- (c) on any bridge or the structural approaches to a bridge.

7.7 Additional conditions for advertising signs

An advertising sign shall—

- (a) relate only to the business activity, or placed with the consent of the owner or occupier of the adjoining premises; and
- (b) be in place only during the hours of the business activity or the event being advertised.

7.8 Additional conditions for event signs

An event sign shall—

- (a) relate only to the event, function or activity advertised;
- (b) not be placed more than 28 days prior to the event, function or activity being advertised; and
- (c) be removed within 48 hours of the conclusion of the event, function or activity advertised.

7.9 Additional conditions for election signs

An election sign shall—

- (a) not be erected until the election to which it relates has been officially announced;
- (b) be removed within 7 days of the close of polls; and
- (c) be placed at least 2.5 metres from the trafficable surface of a thoroughfare.

7.10 Conditions for trade displays

A trade display shall—

- (a) relate to the adjoining business activity;
- (b) be in place only during the hours of the business activity;
- (c) be constructed only to a such a height that it remains stable, in the opinion of an authorised person;
- (d) be secured in position in accordance with any requirements of the local government;
- (e) be placed so as not to impede or obstruct either vehicle or pedestrian traffic, or access to a place by any person;
- (f) be placed so as not to obstruct lines of sight for vehicle traffic; and
- (g) be maintained in a neat and tidy manner.

PART 8—LICENCING

Division 1—Applying for a licence

8.1 Application for licence

- (1) Where a person is required to obtain a licence under this local law, that person must apply for the licence in accordance with subclause (2).
- (2) An application for a licence under this local law must—
 - (a) be in the form determined from time to time by the local government;
 - (b) be signed by the applicant;

- (c) provide the information required by the form; and
 - (d) be forwarded to the local government together with any set fee.
- (3) An authorised person may require an applicant to provide additional information reasonably related to an application before determining an application for a licence.
- (4) An authorised person may require an applicant to give local public notice of the application for a licence.
- (5) An authorised person may refuse to consider an application for a licence which is not in accordance with subclause (2) or where the requirements of subclause (3) or (4) have not been satisfied.

8.2 Decision on application for licence

- (1) An authorised person may—
- (a) approve an application for a licence unconditionally or subject to any conditions; or
 - (b) refuse to approve an application for a licence.
- (2) If an authorised person approves an application for a licence, the licence is to be issued to the applicant in the form determined from time to time by the local government.
- (3) If an authorised person refuses to approve an application for a licence, written notice of that refusal is to be given to the applicant.
- (4) An authorised person may, at any time, amend a condition of approval and the amended condition takes effect when written notice of it is given to the licensee.

8.3 General restrictions on grant of licence

- (1) An authorised person must not grant a licence if there are reasonable grounds for believing that the provision of the activity to which the application relates would constitute an unacceptable risk to the safety of the public.
- (2) An authorised person must not grant a licence unless an authorised person is satisfied that—
- (a) the applicant is capable of carrying on the activity in accordance with this local law and the terms and conditions of the licence;
 - (b) the public place at which the activity is to be provided is suitable for that purpose;
 - (c) a licence or similar authority granted or issued to the applicant has not been cancelled in the period of 5 years before the application is made; and
 - (d) the applicant is a fit and proper person to carry on the activity.

8.4 Examples of conditions

- (1) Examples of the conditions that an authorised person may impose on a licence under clause 8.2(1)(a) or 8.7(1)(a) are conditions relating to—
- (a) the payment of a set fee;
 - (b) compliance with a standard or a policy adopted by the local government;
 - (c) the duration and commencement of the licence;
 - (d) the commencement of the licence being contingent on the happening of an event;
 - (e) the rectification, remedying or restoration of a situation or circumstance reasonably related to the application;
 - (f) the approval of another application for a licence which may be required by the local government under any written law;
 - (g) the area of the district to which the licence applies;
 - (h) where a licence is issued for an activity which will or may cause damage to local government property, the payment of a deposit or bond against such damage; and
 - (i) the obtaining of public risk insurance in an amount and on terms reasonably required by an authorised person.
- (2) Examples of the type and content of the conditions on which a licence to hire local government property may be issued include—
- (a) when set fees and charges are to be paid;
 - (b) payment of a bond against possible damage or cleaning expenses or both;
 - (c) restrictions on the erection of material or external decorations;
 - (d) rules about the use of furniture, plant and effects;
 - (e) limitations on the number of persons who may attend any function in or on local government property;
 - (f) the duration of the hire;
 - (g) the right of an authorised person to cancel a booking during the course of an annual or seasonal booking, if an authorised person sees fit;
 - (h) a prohibition on the sale, supply or consumption of liquor unless a liquor licence is first obtained for that purpose under the Liquor Control Act;
 - (i) whether or not the hire is for the exclusive use of the local government property;
 - (j) the obtaining of a policy of insurance in the names of both the local government and the hirer, indemnifying the local government in respect of any injury to any person or any damage to

any property which may occur in connection with the hire of the local government property by the hirer; and

- (k) the provision of an indemnity from the hirer, indemnifying the local government in respect of any injury to any person or any damage to any property which may occur in connection with the hire of the local government property by the hirer.

8.5 Imposing conditions under a policy

(1) In this clause—

policy means a local government policy adopted by the Council under section 2.7(2)(b) of the Act containing conditions subject to which an application for a licence may be approved under clause 8.2(1)(a).

(2) Under clause 8.2(1)(a) an authorised person may approve an application subject to conditions by reference to a policy.

(3) An authorised person must give to the licensee a copy of the policy or the part of the policy which is relevant to the application for a licence, with the form of licence referred to in clause 8.2(2).

(4) An application for a licence is not to be taken to have been approved subject to the conditions contained in a policy until an authorised person gives the licensee a copy of the policy or the part of the policy which is relevant to the application.

(5) Sections 5.94 and 5.95 of the Act apply to a policy and, for that purpose, a policy is deemed to be information within section 5.94(u)(i) of the Act.

8.6 Compliance with conditions

Where an application for a licence has been approved subject to conditions, the licensee must comply with each of those conditions, as amended.

8.7 Variation of licence

(1) The local government may, by written notice given to the licensee, vary a licence—

- (a) imposing any new condition; or
- (b) change or remove any existing condition.

(2) An amendment may be made on application by the licensee or on the local government's initiative.

(3) An amendment will come into effect on the day that written notice is given to the licensee, or some other date as specified in the notice.

Division 2—Duration of licences

8.8 Duration of licence

A licence is valid for one year from the date on which it is issued, unless it is—

- (a) otherwise stated in this local law or in the licence; or
- (b) suspended or cancelled under this Division.

8.9 Renewal of licence

(1) A licensee may apply to the local government for the renewal of a licence.

(2) An application for renewal must—

- (a) be in the form determined from time to time by the local government;
- (b) be signed by the licensee;
- (c) provide the information required by the form;
- (d) be forwarded to the local government no later than 28 days before the expiry of the licence, or within a shorter period that the local government in a particular case permits; and
- (e) be accompanied by any set fee.

(3) The provisions of this Part that apply to an application for a licence also apply to an application for the renewal of a licence as though it were an application for a licence.

8.10 Transfer of licence

(1) An application for the transfer of a valid licence is—

- (a) to be made in writing;
- (b) to be signed by the licensee and the proposed transferee of the licence;
- (c) to include such information as an authorised person may require to enable the application to be determined; and
- (d) to be forwarded to the local government together with any set fee.

(2) An authorised person may approve an application for the transfer of a licence, refuse to approve it or approve it subject to any conditions.

(3) Where an authorised person approves an application for the transfer of a licence, the transfer may be effected by an endorsement on the licence signed by an authorised person.

(4) Where an authorised person approves the transfer of a licence, the local government is not required to refund any part of any set fee paid by the former licensee.

8.11 Suspension of licence

(1) The local government may, subject to clause 8.12, by written notice given to the licensee, suspend a licence if there are reasonable grounds for believing that—

- (a) the licensee has contravened a term or condition of a licence;
- (b) the licensee has contravened a provision of this local law; or
- (c) the continued provision of the activity authorised by the licence constitutes or will constitute an unacceptable risk to the safety, health or welfare of the public.

(2) The suspension notice must—

- (a) state the day, or the day and time, on or at which the suspension takes effect;
- (b) state the reasons for the local government's decision to suspend the licence; and
- (c) where appropriate, indicate what steps need to be taken to ensure that there is compliance with the relevant provision, term or condition or that there is no longer a risk as described in subclause (1)(c); and
- (d) inform the licensee that the licensee has a right to apply under the Act for a review of the local government's decision to suspend the licence.

8.12 Proposed suspension

(1) If the local government proposes to suspend a licence under clause 8.11(1)(a), the local government must give written notice to the licensee of the proposed suspension.

(2) The notice must—

- (a) state that the local government proposes to suspend the licence;
- (b) state the reasons for the proposed suspension; and
- (c) inform the licensee that the licensee is entitled to make representation to the local government in respect of the proposed suspension within 7 days after the day on which the licensee is given the notice.

(3) In considering whether to suspend the licence, the local government must have regard to any representations made by the licensee within the period referred to in subclause (2)(c).

8.13 Revocation of suspension

(1) The local government must, by written notice given to the licensee revoke the suspension of a licence if the local government is satisfied that the steps specified in the suspension notice have been taken.

(2) The local government may, by written notice given to the licensee, revoke the suspension of the licence if it is appropriate to do so in the circumstances of a particular case.

8.14 Period of suspension

The suspension of a licence has effect on the day, or the day and time, specified in the suspension notice until one of the following happens—

- (a) the suspension is revoked under clause 8.13;
- (b) the licence is cancelled under clause 8.15 or expires; or
- (c) the licence is surrendered in accordance with the provisions of this local law.

8.15 Cancellation of licence

A licence may be cancelled by the local government if—

- (a) the licence was obtained improperly;
- (b) the licensee has persistently or frequently contravened a term or condition of the licence, or a provision of this local law, whether or not the licence is or has been suspended on the grounds of a contravention; or
- (c) there are reasonable grounds for believing that the continued provision of the activity constitutes or would constitute an unacceptable risk to the safety of the public, whether or not the licence has been suspended on the grounds of that risk.

8.16 Surrender of licence

A licensee may, at any time by notice in writing to the local government, surrender the licence.

Division 3—Responsibilities of licensees and others

8.17 Production of licence

A licensee must produce to an authorised person her or his licence immediately after being required to do so by that authorised person.

8.18 Production of licence document for amendment

If the local government amends or renews a licence, the licensee must, if required by the local government, produce the licence document to the local government for amendment within the period specified by the local government.

8.19 Advertising

A person must not advertise, or otherwise hold out in any way, that the person conducts a commercial activity in any public place unless that person holds a licence authorising that commercial activity.

8.20 False or misleading statement

A person must not make a false or misleading statement in connection with an application in respect of a licence under this local law.

8.21 Other responsibilities of licensee

A licensee must, in respect of local government property to which the licence relates—

- (a) ensure that an authorised person has unobstructed access to the local government property for the purpose of inspecting the property or enforcing any provision of this local law;
- (b) comply with an instruction from an authorised person to take the action specified in the instruction for the purpose of maintaining public safety;
- (c) leave the local government property in a clean and tidy condition after its use;
- (d) report any damage or defacement of the local government property to an authorised person; and
- (e) take all reasonable action to prevent the consumption of any liquor on the local government property unless the licence allows it and a licence has been obtained under the Liquor Control Act for that purpose.

PART 9—LOCAL GOVERNMENT SIGNS AND POWERS TO GIVE DIRECTIONS**9.1 Signs installed by the local government**

- (1) The local government may install a sign in public places, on local government property or in thoroughfares specifying any conditions of use which apply to that property or thoroughfare.
- (2) A person must comply with a sign erected under subclause (1).
- (3) A condition of use specified on a sign erected under subclause (1) is—
 - (a) not to be inconsistent with any provision of this local law; and
 - (b) to be for the purpose of giving notice of the effect of a provision of this local law.

9.2 Pre-existing signs

Where a sign in a public place, property or thoroughfare or has been erected under a repealed local law then, on and from the commencement day, it is to be taken to be a sign erected under clause 9.1 if—

- (a) the sign specifies a condition of use relating to the thoroughfare which gives notice of the effect of a provision of this local law; and
- (b) the condition of use specified is not inconsistent with any provision of this local law.

9.3 Authorised person to be obeyed

- (1) A person on or in local government property that is given a lawful direction by an authorised person shall comply with that direction.
- (2) A person shall not obstruct or hinder an authorised person in the performance of that person's duties.

9.4 Refusal of entry and removal

- (1) An authorised person may refuse to allow entry, or suspend admission, to a specific venue of local government property except for the venue where local government council meetings are held, by any person who he or she believes has behaved in a manner contrary to the provisions of this Part.
- (2) If an authorised person considers that a person has behaved in a manner contrary to the provisions of this Part or reasonably suspects that a person has contravened a provision of a written law, the authorised person may direct the person to leave the local government property.
- (3) A person who has been refused entry or who has been directed to leave under subclause (1) or (2) must immediately leave the local government property quickly and peaceably.
- (4) If a person fails to comply with subclause (1) or (2), an authorised person may remove the person, or arrange for the person to be removed, from the local government property.
- (5) This refusal or suspension of entry can be for any period of up to 12 months as decided by that authorised person.

9.5 Disposal of lost property

An article left on any local government property, and not claimed within a period of 2 months, may be disposed of by the local government in any manner it thinks fit.

PART 10—OBJECTIONS AND REVIEW**10.1 Objection and review rights**

Division 1 of Part 9 of the Act applies to a decision under this local law in respect of the grant, renewal, transfer, amendment, suspension or cancellation of a licence, consent, approval or authorisation.

PART 11—NOTICES**11.1 Notice to remedy non-compliance**

Where any thing is required to be done or not permitted to be done by this local law, an authorised person may give a notice in writing—

- (a) to the owner or the occupier of the property which abuts that portion of the thoroughfare where the thing has been done or not done; or
- (b) to any other person who may be responsible for the thing done or not done, requiring the person to comply with the requirements of this local law.

11.2 Notice regarding damage to local government property

If a person unlawfully removes, damages or interferes with local government property or portion of a thoroughfare, an authorised person may give the person a notice requiring that person to do any one or more of the following (at the local government's option)—

- (a) reinstate the property to the state it was in before the removal, damage or interference;
- (b) replace that property; or
- (c) pay for the costs of reinstatement or replacement.

11.3 Notice requirements

A notice given must—

- (a) be in writing;
- (b) specify the reason for giving the notice;
- (c) specify the work or action that is required to be undertaken; and
- (d) the time within which the work or action is to be undertaken.

11.4 Local government may undertake requirements of notice

If a person fails to comply with a notice referred to in clauses 11.1 or 11.2, the local government may—

- (a) do the thing specified in the notice, including replace the property, or reinstate the property to the state it was in before the removal, damage or interference;
- (a) take whatever remedial action it considers appropriate to put the local government in the position it would have been in if the breach or failure had not occurred; and
- (b) recover all costs from the person, as a debt.

11.5 Offence to fail to comply with notice

A person who fails to comply with a notice given to him or her under this local law commits an offence.

PART 12—OFFENCES AND PENALTIES**12.1 Offences and general penalty**

(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) A person who commits an offence under this local law is liable, on 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.

12.2 Prescribed offences

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

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

12.3 Form of notices

For the purposes of this local law—

- (a) where a vehicle is involved in the commission of an offence, the form of the notice referred to in section 9.13 of the Act is that of Form 1 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*;
- (b) the form of the infringement notice given under section 9.16 of the Act is that of Form 2 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*; and
- (c) the form of the notice referred to in section 9.20 of the Act is that of Form 3 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

SCHEDULE—PRESCRIBED OFFENCES

[cl. 12.2]

Offences in respect of which a modified penalty applies

Item	Clause	Nature of offence	Modified penalty \$
Part 2—Activities on local government property			
1	2.1	Undertaking activity on local government property without a licence	100
2	2.2(2)	Camping on local government property or erecting an unauthorised structure without a licence	100
3	2.3(1)	Failure to obtain licence to possess, consume or sell liquor	100
Part 3—Behaviour on all local government property and thoroughfares			
4	3.1	Behaviour interfering with others	100
5	3.2	Behaviour detrimental to property	200
6	3.3	Unauthorised entry to function	100
7	3.4(2)	Taking or injuring fauna without authorisation	200
8	3.5(2)	Removing, damaging or depositing flora without authorisation	200
9	3.6(1)	Unauthorised vehicle on local government property	100
10	3.6(2)	Unauthorised driving of a vehicle at more than 20km/hr on local government property or more than is otherwise indicated by a sign	100
11	3.6(3)	Unauthorised driving of a vehicle on local government property during a function	100
Part 4—Matters relating to particular local government property			
12	4.1	Unauthorised entry to closed or fenced local government property	100
13	4.2	Unauthorised entry to gender specific toilet block or change room	200
14	4.3	Unauthorised use of showers or bath facilities in change room	50
Part 5—Activities in thoroughfares			
15	5.1(a)	Planting or allowing plant or verge treatment in thoroughfare to become a sightline hazard	100
16	5.1(b)	Damaging a lawn or garden in a thoroughfare or removal of a plant	100
17	5.1(c)	Damaging or removing whole or part of a street tree without authorisation	200
18	5.1(d)	Obstruction of or permitting a hazard in a thoroughfare	100
19	5.1(e)	Damaging, removing or interfering with thoroughfare, part of thoroughfare or structure in a thoroughfare without authorisation	100
20	5.1(f)	Playing games in thoroughfare so as to impede vehicles or persons	100
21	5.2(1) (a),(b),(c), (d),(e),(f)	Unauthorised activity in a thoroughfare causing damage	200
22	5.2(1), (g),(h),(i), (j),(k),(l), (m),(n),(o)	Unauthorised activity in a thoroughfare causing inconvenience	100

Item	Clause	Nature of offence	Modified penalty \$
23	5.4	Driving on a closed thoroughfare	100
24	5.7(1)	Unauthorised verge treatment	100
25	5.8(a)	Failure to keep permitted verge treatment in good and tidy condition, or from obstructing a thoroughfare or footpath	100
26	5.8(b)	Unauthorised disturbance of a footpath	100
27	5.8(c)	Verge treatment obstructing or damaging a drain, manhole, gully, inspection pit, channel, kerb or tree planted by the local government	100
28	5.8(d)	Failure to maintain clear sight visibility	100
29	5.8(e)	Placing an obstruction on or around a verge treatment	50
30	5.8(f)	Failure to ensure sprinklers or reticulation pipes do not protrude, do not cause inconvenience to pedestrians, or present a hazard	100
31	5.11(1)	Failure to obtain licence for a temporary crossover	200
32	5.12	Failure to remove redundant crossover or reinstate kerb, drain, footpath, verge or thoroughfare	200
33	5.13	Failure to remove crossover in unsafe location	500

Part 6—Activities in public places

34	6.1(1)	Animal or vehicle obstructing public place without authorisation	100
35	6.2(2)(a)	Animal in a public place when not led, ridden or driven	100
36	6.2(2)(b)	Animal in a public place that is contagious or has an infectious disease	100
37	6.2(2)(c)	Animal in a public place being trained or raced	100

Part 7—Temporary signs and trade displays

38	7.3(1)	Placement of non-compliant temporary sign or trade display, or posting a bill or painting, or placing an advertisement without authorisation	100
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Part 8—Licencing

39	8.1(1)	Failure to obtain a licence when required	100
40	8.6	Failure to comply with licence condition	100
41	8.17	Failure to produce licence for inspection when required	100
42	8.18	Failure to produce licence for amendment when required	100
43	8.19	Advertising of commercial activity in a public space without holding a licence	200
44	8.20	False or misleading statement in application for a licence	200

Part 9—Signs and powers to give directions

45	9.1(2)	Failure to comply with condition of use indicated by a sign	100
46	9.3(1)	Failure to comply with direction of authorised person	100
47	9.3(2)	Obstruction or hindrance of an authorised person	100
48	9.4(3)	Failure to leave a venue when instructed by an authorised person	200
49	9.4(5)	Failure to comply with period of refusal or suspension	200

Item	Clause	Nature of offence	Modified penalty \$
Part 11—Notices			
50	11.5	Failure to comply with notice	100
Part 12—Offences and penalties			
51	12.1	Offence not elsewhere specified	100

Dated: 8 June 2018.

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

D. S. LOVELOCK, President.
G. M. TEEDE, Chief Executive Officer.
