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SHIRE OF DARDANUP

CEMETRIES ACT 1986

LOCAL GOVERNMENT ACT 1995

CEMETRIES LOCAL LAW 2022

LOCAL GOVERNMENT ACT 1995

EXTRACTIVE INDUSTRIES LOCAL LAW 2022

LOCAL GOVERNMENT ACT 1995

PARKING LOCAL LAW 2023

**CEMETERIES ACT 1986
LOCAL GOVERNMENT ACT 1995**

SHIRE OF DARDANUP

CEMETERIES LOCAL LAW 2022

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**CEMETERIES ACT 1986
LOCAL GOVERNMENT ACT 1995**

SHIRE OF DARDANUP

CEMETERIES LOCAL LAW 2022

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 Dardanup resolved on *23 November 2022* to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law is the *Shire of Dardanup Cemeteries Local Law 2022*.

1.2 Application

This local law applies to the Dardanup Cemetery and Ferguson Cemetery.

1.3 Commencement

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

1.4 Terms used

In this local law unless the context otherwise requires—

Act means the *Cemeteries Act 1986*;

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

assistance animal has the same meaning as in the *Disability Discrimination Act 1992* (Cth);

authorised person means an employee of the Board—

(a) appointed by the Board under section 9.10 of the *Local Government Act 1995* 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 Shire of Dardanup;

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

cemetery means, depending on the context, any or all of the Dardanup Cemetery, or the Ferguson Cemetery;

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;

cremation urn means a container used for holding the remains of a dead body after the due processes of cremation of which the volume does not exceed $.004\text{m}^3$ (4,000 cubic centimetres), or such greater volume as approved by the CEO in writing;

Dardanup Cemetery means the Dardanup Cemetery located within Reserve 19722 which the Governor by order has vested under the care, control and management of the Board;

disability has the same meaning as in the *Disability Discrimination Act 1992* (Cth);

district means the district of the Shire of Dardanup;

Ferguson Cemetery means the Ferguson Cemetery located at Lot 3 Ferguson Road, Ferguson;

funeral director means a person holding a current funeral director's licence issued by the Board under section 17 of the Act;

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

mausoleum means a burial chamber wholly above or partially above and below ground level with one or more sealed compartments;

memorial has the meaning set out in the Act and includes a headstone, memorial plaque and monument;

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

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

monumental mason licence means a licence issued under clause 7.21(1);

natural stone 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 and includes granite, but not porcelain, ceramics or any pottery;

plant includes trees, shrubs, annuals and perennials;

personal representative means the administrator or executor of an estate of a deceased person;

set fee means a fee or charge set by a resolution of the Board and published in the *Government Gazette*, under section 53 of the Act;

single funeral permit means a permit issued by the Board under section 20 or 21 of the Act which entitles the holder to conduct at a cemetery a funeral of a person named in the permit;

standard grave means a grave which does not exceed any of the following dimensions: 2m long, 1.2m wide and 2.1m deep;

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

vault means a below ground lined grave or burial chamber with one or more sealed compartments; and

vehicle includes every conveyance and every object capable of being propelled or drawn on wheels, tracks or otherwise (and includes a bicycle and a skateboard).

1.5 Interpretation

In this local law—

- (a) a reference to an application, approval, consent or permission means a written application, approval, consent or permission; and
- (b) a reference to a person does not include the Board.

1.6 Repeal

The *Shire of Dardanup Cemeteries Local Law 2014* published in the *Government Gazette* on 27 June 2014 is repealed.

PART 2—ADMINISTRATION

2.1 Powers and functions of CEO

Subject to any directions given by the Board, the CEO shall exercise all the powers and functions of the Board in respect of all cemeteries.

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 and placement of ashes;
- (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 a cemetery to which different requirements for memorials apply; and
- (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.

(2) The Board may from time to time 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.

PART 3—APPLICATION FOR FUNERALS

3.1 Application for burial

(1) A person may apply for approval to bury a dead body in a cemetery in the form determined by the Board from time to time.

(2) An application under subclause (1) shall be accompanied by the set fee.

3.2 Applications to be accompanied by certificates etc

(1) An application under clause 3.1 shall be accompanied by a certificate issued under clause 3.3, in respect of the dead body.

(2) The Board may require that an application under clause 3.1 be accompanied by either a medical certificate of death or a Coroner's order of burial, in respect of the dead body.

3.3 Certificate of identification

(1) After a dead body is placed in a coffin and prior to the dead body being removed to a cemetery, a person who personally knew the deceased shall identify the dead body and shall complete a certificate of identification in the form determined by the Board from time to time, 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 complete a certificate in the form determined by the Board from time to time, 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 to hold a funeral shall be made with the Board at least two business days prior to the day proposed for burial, otherwise an extra charge may be made.

3.5 Fixing times for funerals

(1) On receipt of a properly completed application form and the satisfaction of all other requirements of the Act and this local law, the Board may—

- (a) fix a time for the funeral; and
- (b) dig or re-open any grave that is required.

(2) The time fixed for a funeral is at the discretion of the Board but subject to this Part will be as near as possible to the time requested by the applicant.

3.6 Times for burials

A person shall not carry out a burial—

- (a) on a Saturday, a Sunday or a public holiday; or
- (b) at any time other than between the hours 9:00am to 3:00pm, except with the permission of the Board or an authorised person.

PART 4—FUNERAL DIRECTORS AND PERMIT HOLDERS

4.1 Funeral director's licence expiry

A funeral director's licence shall expire on 30 June in each year.

4.2 Single funeral permits

An application for a single funeral permit made under section 20 or 21 of the Act shall include coffin specifications and details of the vehicle transporting the dead body to the gravesite.

4.3 Application refusal

The Board may refuse an application for a single funeral permit 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 not structurally sound or are otherwise inadequate or inappropriate, or on any other grounds.

PART 5—FUNERALS

Division 1—General

5.1 Requirements for funerals and coffins

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 in accordance with Part 3 of this local law;
- (b) it is enclosed in a coffin which in the opinion of the Board is leak proof, structurally sound and bears the name of the deceased person indelibly inscribed in legible characters on a plate properly affixed in a clearly visible position on the exterior of the coffin; 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 10mm in height, for burial with the dead body.

5.2 Funeral processions

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

5.3 Vehicle entry restricted

(1) Subject to clause 5.3(2), a funeral procession shall enter by the principal entrance of the cemetery, and no vehicle shall enter the cemetery except—

- (a) the hearse;
- (b) official mourning coaches;
- (c) a vehicle carrying or transporting a person with a disability;
- (d) a device or equipment used to transport, carry or handle a coffin; and
- (e) a pram, baby carriage, stroller or a similar device.

(2) This clause does not apply to a vehicle approved by the CEO or an authorised person.

5.4 Vehicle access and speed limitation

- (1) A person shall drive or ride a vehicle only on a vehicular access way or the constructed roadway or other areas designated for the use of vehicles within the cemetery, unless otherwise authorised by the CEO.
- (2) A person driving or riding a vehicle in an area within a cemetery—
 - (a) shall not exceed the speed limit designated by a sign applying to that area; and
 - (b) shall comply with the signs and directions applying to that area.

5.5 Offenders may be ordered to leave

- (1) A person committing an offence under clause 5.4 may be ordered to leave the cemetery by the CEO or an authorised person.
- (2) A person who has been ordered to leave the cemetery by the CEO or an authorised person is to leave immediately in a peaceful manner and not cause a disruption or be a nuisance to the funeral congregation or ceremony or procession.

5.6 Conduct of funeral by the Board

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

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

*Division 2—Placement of Ashes***5.7 Disposal of ashes**

- (1) Except in accordance with an approved application under this clause, a person shall not bring or dispose of the ashes of a deceased person in a cemetery.
- (2) A funeral director or the personal representative of a deceased person whose body has been cremated may apply to the Board for permission to dispose of the ashes of that deceased person in a cemetery by one of the following methods, if that method is available—
 - (a) placed in a niche wall;
 - (b) placed under a family tree or shrub;
 - (c) placed under a bench seat;
 - (d) placed in a grave, vault or mausoleum;
 - (e) scattered in an area approved by the Board;
 - (f) placed in a memorial garden; or
 - (g) placed in or under other memorials approved by the Board
- (3) An application under subclause (2) shall be in writing and shall be accompanied by payment of the set fee.
- (4) The CEO or an authorised person may require a person making an application under subclause (2) to provide additional information reasonably related to the application before determining the application.
- (5) The CEO or an authorised person may—
 - (a) approve an application under subclause (2) unconditionally or subject to any conditions; or
 - (b) refuse to approve an application under subclause (2).
- (6) Where an application under subclause (2) has been approved subject to conditions, the applicant must comply with each of those conditions, as amended.
- (7) If the CEO or an authorised person refuses to approve an application under subclause (2), he or she is to give written notice of that refusal to the applicant.

PART 6—BURIALS**6.1 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 an authorised person.
- (2) The permission of the authorised person in subclause (1) shall not be granted unless in the opinion of the authorised person, exceptional circumstances require granting of that permission.

6.2 Preparation of graves

A person shall not dig or prepare a grave or fill a grave, unless that person has the permission of an authorised person.

6.3 Depth of graves

(1) A person shall not bury a dead body within a cemetery so that the distance from the top of the dead body to the original surface of the ground is—

- (a) subject to paragraph (b), less than 1600 mm, unless that person has the permission of an authorised person; or
- (b) in any circumstances less than 750 mm.

(2) The permission of the authorised person in subclause (1)(a) shall not be granted unless, in the opinion of the authorised person, exceptional circumstances require granting of that permission.

6.4 Vaults and Mausoleums

(1) A person shall not construct a vault or mausoleum within a cemetery.

(2) A person may request the Board to construct a vault or mausoleum within a cemetery.

(3) A person may construct a vault or mausoleum if authorised by the Board.

(4) A vault or mausoleum within a cemetery shall at all times remain the property of the Board.

(5) An application under subclause (2) shall be in writing and shall be accompanied by payment of the set fee.

(6) The CEO or an authorised person may require a person making an application under subclause (2) to provide additional information reasonably related to the application before determining the application.

(7) The CEO or an authorised person may—

- (a) approve an application under subclause (2) unconditionally or subject to any conditions; or
- (b) refuse to approve an application under subclause (2).

(8) Where an application under subclause (2) has been approved subject to conditions, the applicant must comply with each of those conditions, as amended.

(9) If the CEO or an authorised person refuses to approve an application under subclause (2), he or she is to give written notice of that refusal to the applicant.

(10) 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 (11).

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

PART 7—MEMORIALS AND OTHER WORK*Division 1—General***7.1 Application for memorial**

The Board may require the consent of the holder of the right of burial of the grave to accompany an application under section 30 of the Act.

7.2 Placement of memorial

Subject to Division 3 of this Part, a memorial shall be placed on proper and substantial foundations.

7.3 Removal of rubbish

All refuse, rubbish or surplus material remaining after memorial works are completed under a permission given under section 30 of the Act shall be immediately removed from the cemetery by the person carrying out the works.

7.4 Operation of work

All material required in the placement, erection or alteration of any memorial work shall, as far as possible, be prepared before being taken to the cemetery, and all materials required by tradesmen shall be admitted at such entrance as the CEO or an authorised person shall direct.

7.5 Removal of sand, soil or loam

A person shall not, without the consent of the Board—

- (a) take sand, gravel, stone, timber, trees or other material from a cemetery for use in connection with the placement, erection or alteration of any memorial or other work; or
- (b) subject to clause 7.3, remove or cause to be removed from a cemetery any sand, gravel, stone, timber, trees, shrubs, grass or other material.

7.6 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;

- (b) other than between the hours of 8.00am and 5.00pm on a business day; or
- (c) other than between the hours of 8.00am and 1.00pm on a Saturday.

7.7 Unfinished work

A mason or other person who does not complete any work before 5.00pm on a business day shall leave the work in a neat and safe condition to the satisfaction of the CEO or an authorised person.

7.8 Use of wood

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

7.9 Plants and trees

A plant or tree shall not be planted on any grave or within the cemetery except in accordance with an approval by the CEO.

7.10 Supervision

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

7.11 Australian War Graves

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

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

7.12 Placing of glass domes and vases

A person shall not place a glass dome, vase or other grave ornament—

- (a) outside the perimeter of a grave as defined in the plans kept and maintained under section 40(2) of the Act; or
- (b) on the lawn in an area set aside by the Board as a lawn section.

Division 2—Types of memorials permitted in different areas of a cemetery

7.13 Determination of types of memorials permitted in different areas of a cemetery

- (1) The Board may by resolution determine the types of memorials permitted in a cemetery and may impose different requirements for different areas of a cemetery.
- (2) Prior to a proposed determination under this clause 7.13 being made—
 - (a) there will be a public submission period of at least 21 days; and
 - (b) all submissions will be duly considered.
- (3) Where the Board makes a determination under subclause (1), the CEO must give local public notice to give effect to the determination.
- (4) A proposed determination is to have effect as a determination on and from the date of publication.
- (5) A determination made under this clause 7.13 shall be recorded in a publicly accessible register of determinations that must be maintained by the Board.
- (6) The determinations in Schedule 2—
 - (a) are to be taken to have been made in accordance with clause 7.13;
 - (b) may be amended or revoked in accordance with clause 7.15; and
 - (c) have effect on the day on which this local law commences under clause 1.3.
- (7) Notwithstanding clause 2.1, any determination made under this clause must be made by the Board and not delegated.

7.14 Memorials to be placed or erected in accordance with determination

The Board may refuse an application under section 30 of the Act if the type or location of the memorial applied for is not in accordance with a determination.

7.15 Amendment or revocation of determination

- (1) The Board may amend or revoke a determination.
- (2) The provisions of clauses 7.13(3), (4) and (5) are to apply to an amendment of a determination as if the amendment were a proposed determination.
- (3) If the Board revokes a determination, the CEO is to give local public notice of the revocation and the determination is to cease to have effect on the date of publication.

Division 3—Specifications and materials for memorials

7.16 Specification of a monument

- (1) A monument in a cemetery shall—
 - (a) be made of natural stone;
 - (b) be placed on a base of natural stone;
 - (c) comply with the following specifications—
 - (i) unless a greater height is approved by the CEO, 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 150 mm nor more than 450 mm;
 - (iii) the width of the base of the monument shall not exceed 1.2m;
 - (iv) the length of the base of the monument shall not exceed 2.4m; and
 - (v) the depth of the base of the monument shall not exceed 300 mm; 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 monument that has been or is being erected.
- (3) The provisions of clause 7.18 apply to a memorial plaque that is attached to a monument.

7.17 Specification of a headstone

- (1) A headstone shall—
- (a) be made of natural stone;
 - (b) be placed on a base of natural stone;
 - (c) comply with the following specifications—
 - (i) the height of the base of the headstone above the highest point of the original surface of the grave shall not be less than 150 mm nor more than 200 mm;
 - (ii) the overall height of the headstone, including the base, shall not exceed 1.2m;
 - (iii) the length of the base of the headstone measured across the width of the grave shall not exceed 1m;
 - (iv) the width of the base of the headstone shall not exceed 300mm; and
 - (v) that part of a headstone above its base shall not extend horizontally beyond that base.
 - (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 7.18 apply to a memorial plaque that is attached to a headstone.

7.18 Specification of a memorial plaque

- (1) A memorial plaque placed in a cemetery shall—
- (a) be made of admiralty bronze or any other material approved by the Board;
 - (b) if placed on a monument or headstone—not be less than the dimensions 140 mm width x 117 mm height, nor more than 560 mm width x 305 mm height; and
 - (c) if placed on any other memorial or in any other section of a cemetery—comply with the relevant specification in Schedule 2 relating to that section of the cemetery.
- (2) A memorial plaque—
- (a) made of admiralty bronze shall not exceed 20 mm in thickness;
 - (b) made of stone shall not exceed 50 mm in thickness; and
 - (c) shall be placed upon a standard concrete plinth with the relevant specification in Schedule 2 or a base mounting approved by the Board.

7.19 Display of trade names on memorials not allowed

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

Division 4—Licensing of Monumental Masons

7.20 Monumental mason's licence

- (1) The Board may on receipt of an application by any person and on payment of the set fee issue to the applicant a monumental mason's licence.
- (2) A licence issued under subclause (1) authorises the holder to carry out monumental works within a cemetery subject to the provisions of this local law and such conditions as the Board specifies on the licence.

7.21 Expiry date, non-transferability

A monumental mason's licence—

- (a) is valid from the date specified on the licence until 30 June next following; and
- (b) is not transferable.

7.22 Carrying out monumental work

A person shall not carry out monumental work within the cemetery unless that person—

- (a) is the holder of a current monumental mason's licence;
- (b) is an employee of a person who holds such a licence; or
- (c) is authorised by the Board to do so.

7.23 Responsibilities of the holder of a monumental mason's licence

A holder of a monumental mason's licence shall be responsible for the compliance by every person purporting to be authorised to carry out monumental works within a cemetery pursuant to that licence with all the requirements and conditions of the licence, this local law, the Act and any other written law which may affect the carrying out of monumental works.

7.24 Cancellation of a monumental mason's licence

(1) The Board may, by notice in writing to the holder of a monumental mason's licence, terminate the licence on any of the following grounds—

- (a) that the holder of the licence has committed a breach of the requirements or conditions of the licence, this local law, the Act or any other written law which may affect the carrying out of monumental works; or
- (b) that the holder of the licence has purported to transfer the licence issued to that holder.

(2) Upon the termination of a monumental mason's licence under this clause no part of any fee paid for the issue of that licence is refundable by the Board.

7.25 Application for single monumental work permit

(1) The Board may on receipt of an application by a person in the form prescribed and on payment of a set fee, issue to an applicant a single monumental work permit authorising the holder to place a monument within a cemetery subject to such conditions as the Board specifies on the permit.

(2) An application for a single monumental work permit under subclause (1) shall include an application for a monumental work in the form prescribed.

7.26 Numbering of graves

A person shall not carry out monumental work on a grave unless the number of that grave is, depending on the area where the grave is located, indelibly and legibly inscribed either on the base of the head of the monument or on the base of the headstone, or if this is not practicable, on the kerbing at the foot of the grave.

PART 8—GENERAL**8.1 Animals**

(1) Subject to subclause (2), a person shall not bring an animal, or the carcass or remains of a deceased animal, into a cemetery or permit an animal to enter or remain in a cemetery, other than with the approval of the CEO or an authorised person.

(2) Subclause (1) shall not apply to an assistance animal providing assistance to a person with a disability or alleviating the effect of a disability.

8.2 Utility services

(1) 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 a cemetery, other than with the approval of the CEO or an authorised person.

(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.

8.3 Damaging and removing of objects

Subject to clause 8.4, a person shall not damage, remove or pick any plant in a cemetery or any other object or thing on any grave or memorial or any property of the Board without the permission of the Board.

8.4 Withered flowers

A person may remove withered flowers from a grave or memorial and these are to be placed in a receptacle provided by the Board for that purpose.

8.5 Littering

A person shall not—

- (a) break or cause to be broken any glass, ceramic or other material in a cemetery; or
- (b) discard, deposit, leave or cause to be discarded, deposited or left any refuse or litter in a cemetery other than in a receptacle provided for that purpose.

8.6 Signs, advertising and vending

(1) A person shall not place or display any sign, advertisement or fixture of any nature, other than an approved memorial a cemetery, except with the permission of the Board.

(2) A person shall not advertise or carry on any trade, business or profession in the cemetery without the approval of the Board.

(3) The Board may consider and grant approval subject to such conditions as the Board thinks fit.

8.7 Board may close a cemetery

The Board may—

- (a) 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 the cemetery;
 - (iii) public safety; or
 - (iv) other operational reasons.

8.8 Obeying signs and directions

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

8.9 Removal from the 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, the CEO or an authorised person is inappropriate in the cemetery may in addition to any penalty provided by this local law be ordered to leave the cemetery by the Board, the CEO or an authorised person.
- (2) A person whom an order under sub clause (1) is given by the CEO or an authorised person is to leave immediately in a peaceful manner and not cause a disruption or be a nuisance to the funeral congregation or ceremony or procession.

8.10 Board may enter into an agreement for maintenance

The Board may enter into an agreement with the holder of a right of burial for the maintenance of an area of a cemetery at the expense of the holder.

PART 9—OFFENCES AND MODIFIED PENALTIES

9.1 General

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 \$500.00 and if the offence is a continuing one to a further penalty not exceeding \$20.00 for every day or part of a day during which the offence has continued.

9.2 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 prescribed form of the infringement notice referred to in Section 63(1) of the Act is set out in Schedule 3.
- (4) The prescribed form of the notice withdrawing an infringement notice referred to in Section 63(3) of the Act is set out in Schedule 4.

SCHEDULE 1 MODIFIED PENALTIES (Clause 9.2(1))

Item No	Clause No	Nature of Offence	Penalty \$
1	5.3	Unauthorised entrance of a vehicle	50.00
2	5.4(1)	Driving or riding a vehicle other than on a vehicular access way or the constructed roadway or other areas designated for the use of vehicles within the cemetery	50.00
3	5.4(2)	Excessive speed	50.00
4	5.7(1)	Bringing or disposing of the ashes of a deceased person in a cemetery	50.00
5	7.3	Failure to remove rubbish and surplus material from the cemetery	50.00
6	7.7	Leaving uncompleted works in an untidy or unsafe condition	50.00
7	7.9	Unauthorised planting of plants	50.00
8	7.12	Unauthorised placing of glass domes and vases	50.00
9	7.19	Displaying a trade name on a memorial	50.00

Item No	Clause No	Nature of Offence	Penalty \$
10	8.1	Unauthorised animal in cemetery	50.00
11	8.2(1)	Connect to or alter or interfere with utility services	50.00
12	8.3	Damage or removal of objects	50.00
13	8.5	Littering	50.00
14	8.6(1)	Place or display a sign or advertisement	50.00
15	8.6(2)	Unauthorised advertising, and/or trading	50.00
16	8.8	Disobeying sign or lawful direction	50.00

SCHEDULE 2

TYPES OF MEMORIALS PERMITTED IN DIFFERENT AREAS OF A CEMETERY

The following determinations are to be taken to have been made by the Board under clause 7.13.

Dardanup Cemetery

Area of cemetery	Type of memorial	Dimensions
General section / Grave sites	Monument or	As specified in clause 7.16
	Headstone or	As specified in clause 7.17
	Memorial Plaque on concrete plinth	As specified in clause 7.18 Dimensions of Memorial Plaque: 140mm to 145mm wide x 115mm to 120 mm high Dimensions of concrete plinth face for placement of single memorial plaque: 145mm wide x 120mm high.
Niche Wall	Memorial plaque	As specified in clause 7.18 Single: 140mm to 145mm wide x 115mm to 120 mm high Double: 275mm to 285mm wide x 120mm to 125mm high
Rose Garden	Memorial plaque mounted on a concrete plinth	As specified in clause 7.18 Dimensions of Memorial Plaque: 140mm to 145mm wide x 115mm to 120 mm high Dimensions of concrete plinth face for placement of single memorial plaque: 145mm wide x 120mm high.

Ferguson Cemetery

Area of cemetery	Type of memorial	Dimensions
General section / Grave sites	Monument or	As specified in clause 7.16
	Headstone or	As specified in clause 7.17
	Memorial Plaque on concrete plinth	As specified in clause 7.18

Area of cemetery	Type of memorial	Dimensions
		Dimensions of Memorial Plaque: 140mm to 145mm wide x 115mm to 120 mm high Dimensions of concrete plinth face for placement of single memorial plaque: 145mm wide x 120mm high.
Niche Wall	Memorial plaque	As specified in clause 7.18 Single: 140mm to 145mm wide x 115mm to 120 mm high Double: 275mm to 285mm wide x 120mm to 125mm high

SCHEDULE 3
INFRINGEMENT NOTICE
(Clause 9.2(3))

TO: _____
(Name)

(Address)

It is alleged that at _____ : _____ hours on _____ day
of _____ 20 _____ at _____

you committed the offence indicated below by an (x) in breach of clause of the Shire of Dardanup Cemeteries Local Law 2022

(Authorised Person)

Offence

5.3	Unauthorised entrance of a vehicle	\$50.00
5.4(1)	Driving or riding a vehicle other than on a vehicular access way or the constructed roadway or other areas designated for the use of vehicles within the cemetery	\$50.00
5.4(2)	Excessive speed	\$50.00
5.7(1)	Bringing or disposing of the ashes of a deceased person in a cemetery	\$50.00
7.3	Failure to remove rubbish and surplus material from the cemetery	\$50.00
7.7	Leaving uncompleted works in an untidy or unsafe condition	\$50.00
7.9	Unauthorised planting of plants	\$50.00
7.12	Unauthorised placing of glass domes and vases	\$50.00
7.19	Displaying a trade name on a memorial	\$50.00
8.1	Unauthorised animal in cemetery	\$50.00
8.2(1)	Connect to or alter or interfere with utility services	\$50.00
8.3	Damage or removal of objects	\$50.00
8.5	Littering	\$50.00
8.6(1)	Place or display a sign or advertisement	\$50.00
8.6(2)	Unauthorised advertising, and/or trading	\$50.00
8.8	Disobeying sign or lawful direction	\$50.00

Other Offence _____ \$ _____

you may dispose of this matter—

By payment of the penalty as shown within 21 days of the date of this notice (or the date of the giving of this notice if that is a different date) to the Chief Executive Officer of the Shire of Dardanup, 1 Council Drive, Eaton WA 6232 between the hours of 9am to 4.30pm Monday to Friday.

Please make cheques payable to Shire of Dardanup. Payments by mail should be addressed to—

The Chief Executive Officer
Shire of Dardanup
 1 Council Drive, Eaton WA 6232

If the penalty is not paid within the time specified, then a complaint of the alleged offence may be made and heard and determined by a court.

SCHEDULE 4
WITHDRAWAL OF INFRINGEMENT NOTICE
 (Clause 9.2(4))

No. _____ Date ____/____/____

To (1) _____

Infringement Notice No _____ dated ____/____/____ for the alleged offence of (2)

Penalty (3) \$ _____ is withdrawn.

(Delete whichever does not apply)

- * No further action will be taken.
- * It is proposed to institute court proceedings for the alleged offence.

-
- (1) Insert name and address of alleged offender.
 - (2) Insert short particulars of offence alleged.
 - (3) Insert amount of penalty prescribed.

 (Authorised Person)

 Dated 23 November 2022

The Common Seal of the Shire of Dardanup was affixed under the authority of a resolution of Council in the presence of—

 CR. MICHAEL THEODORE BENNETT, Shire President.
 MR ANDRIES STEFANUS SCHÖNFELDT, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995**SHIRE OF DARDANUP****EXTRACTIVE INDUSTRIES LOCAL LAW 2022****CONTENTS****PART 1 PRELIMINARY**

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SCHEDULE 1—PRESCRIBED OFFENCES

LOCAL GOVERNMENT ACT 1995**SHIRE OF DARDANUP****EXTRACTIVE INDUSTRIES LOCAL LAW 2022**

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Dardanup resolved on 23 November 2022 to make the following local law.

PART 1—PRELIMINARY**1.1 Citation**

This local law may be cited as the *Shire of Dardanup Extractive Industries Local Law 2022*.

1.2 Commencement

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

1.3 Definitions

In this local law unless the context otherwise requires—

Act means the *Local Government Act 1995*;

AS means an Australian Standard published by Standards Australia, as amended from time to time, and available for viewing free of charge at the Shire of Dardanup Administration office;

carry on an extractive industry means quarrying and excavating for stone, gravel, sand, and other material;

CEO means the Chief Executive Officer of the local government;

district means the district of the local government;

excavation includes quarry;

land unless the context otherwise requires, means the land on which the applicant proposes carrying on the extractive industry to which the licence application relates;

licence means a licence issued under this local law;

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

local government means the Shire of Dardanup;

occupier has the meaning given to it in the Act;

owner has the meaning given to it in the Act;

person does not include the local government;

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

secured sum means the sum required to be paid or the amount of a bond, guarantee or other security under clause 5.1;

Schedule means a schedule to this local law; and

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

1.4 Application

(1) The provisions of this local law—

(a) subject to paragraphs (b), (c), (d) and (e)—

(i) apply and have force and effect throughout the whole of the district; and

(ii) apply to every excavation whether commenced prior to or following the coming into operation of 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;

(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; and

(e) do not affect the validity of any licence issued under the local law repealed by clause 1.6 of this local law if that licence is currently in force at the date of gazettal of this local law.

(2) In subclause (1)(d), land includes adjoining lots or locations in the same occupation or ownership of the owner or occupier referred to in subclause (1)(d).

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 3.2), 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 3.1(5).

(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 Repeal

This local law repeals the *Shire of Dardanup Extractive Industries Local Law* as published in the *Government Gazette* on 15 October 1996.

PART 2—LICENSING REQUIREMENTS FOR AN EXTRACTIVE INDUSTRY

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.

2.2 Applicant to advertise proposal

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

- (a) forward by registered mail a notice in the form determined by the local government from time to time 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, advising of the application and specifying that they may, within 21 days from the date of service of the letter, object to or make representations in writing in respect of the issue of a licence by the local government;
 - (ii) every authority or person having control or jurisdiction over any of the things referred to in clause 2.3(1)(a)(vii) and (viii) 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 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 the form determined by the local government from time to time;
- (b) the content, size and construction of which have been approved by the CEO;
- (c) specifying particulars of the proposed excavation; and
- (d) inviting objections or comments within 21 days from the placement of the notice.

2.3 Application for licence

(1) Subject to subclause (3), a person seeking the issue of a licence in respect of any land shall apply in the form determined by the local government from time to time and must forward the application duly completed and signed by each of the applicants, the owner of the land and any occupier of the land to the CEO together with—

- (a) three (3) copies of a plan of the excavation site to a scale of between 1:500 and 1:2000 showing—
 - (i) the existing and proposed land contours based on the Australian Height Datum and plotted at 1 metre contour intervals;
 - (ii) the land on which the excavation site is to be located;
 - (iii) the external surface dimensions of the land;
 - (iv) the location and depth of the existing and proposed excavation of the land;
 - (v) 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;
 - (vi) the location of buildings, treatment plant, tanks and other improvements and developments existing on, approved for or proposed in respect of the land;
 - (vii) the location of existing power lines, telephone 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;
 - (viii) the location of all existing dams, watercourses, drains or sumps on or adjacent to the land;
 - (ix) the location and description of existing and proposed fences, gates and warning signs around the land; and
 - (x) the location of the areas proposed to be used for stockpiling excavated material, treated material, overburden and soil storage on the land and elsewhere;

- (b) Three (3) copies of a works and excavation programme containing—
- (i) the nature and estimated duration of the proposed excavation for which the licence is applied;
 - (ii) the stages and the timing of the stages in which it is proposed to carry out the excavation;
 - (iii) details of the methods to be employed in the proposed excavation and a description of any on-site processing works;
 - (iv) details of the depth and extent of the existing and proposed excavation of the site;
 - (v) an estimate of the depth of and description of the nature and quantity of the overburden to be removed;
 - (vi) a description of the methods by which existing vegetation is to be cleared and topsoil and overburden removed or stockpiled;
 - (vii) a description of the means of access to the excavation site and the types of thoroughfares to be constructed;
 - (viii) 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;
 - (ix) a description of any proposed buildings, water supply, treatment plant, tanks and other improvements;
 - (x) details of drainage conditions applicable to the land and methods by which the excavation site is to be kept drained;
 - (xi) a description of the measures to be taken to minimise sand drift, dust nuisance, erosion, watercourse siltation and dangers to the general public;
 - (xii) a description of the measures to be taken to comply with the *Environmental Protection (Noise) Regulations 1997*;
 - (xiii) 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;
 - (xiv) 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; and
 - (xv) 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;
- (c) Three (3) copies of a rehabilitation and decommissioning programme indicating—
- (i) the objectives of the programme, having due regard to the nature of the surrounding area and the proposed end-use of the excavation site;
 - (ii) whether restoration and reinstatement of the excavation site is to be undertaken progressively or upon completion of excavation operations;
 - (iii) how any face is to be made safe and batters sloped;
 - (iv) the method by which topsoil is to be replaced and revegetated;
 - (v) the numbers and types of trees and shrubs to be planted and other landscaping features to be developed;
 - (vi) how rehabilitated areas are to be maintained; and
 - (vii) the programme for the removal of buildings, plant, waste and final site clean-up;
- (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) certificate from a licensed surveyor certifying the correctness of—
- (i) the plan referred to in paragraph (a); and
 - (ii) the datum peg and related point referred to in paragraph (d);
- (f) where the applicant is required to display a notice, evidence that the requirements of clause 2.2 (2) 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) the consent in writing to the application from the owner of the excavation site;
- (k) the licence application fee specified by the local government from time to time; and
- (l) any other information that the local government may reasonably require.
- (2) All survey data supplied by an applicant for the purpose of subclause (1) shall comply with the Australian Height Datum and the Map Grid of Australia.
- (3) Where in relation to a proposed excavation—
- (a) the surface area is not to exceed 5000 square metres; and
 - (b) the extracted material is not to exceed 5000 cubic metres;

the local government may exempt a person making application for a licence under subclause (1) from supplying any of the data specified in paragraphs (b), (d), (e) and (i) of subclause (1).

PART 3—DETERMINATION OF APPLICATION**3.1 Determination of application**

- (1) The local government may refuse to consider an application for a licence that does not comply with the requirements of clause 2.3, and in any event shall refuse an application for a licence where planning approval for an extractive industry use of the land has not first been obtained.
- (2) The local government may, in respect of an application for a licence—
- (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) such terms and conditions, if any, as it sees fit.
- (3) Where the local government approves an application for a licence, it shall—
- (a) determine the licence period, not exceeding 5 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 upon receipt by the local government of—
- (a) payment of the annual licence fee, or the relevant proportion of the annual licence fee to 30 June, determined by the local government under and in accordance with sections 6.16 to 6.19 of the *Local Government Act 1995*;
 - (b) payment of the secured sum if any, imposed under clause 5.1;
 - (c) the documents, if any, executed to the satisfaction of the CEO, under clause 5.1; and
 - (d) a copy of the public liability insurance policy required under clause 7.1(1) shall issue the licence to the applicant.
- (5) Without limiting subclause (2), the local government may impose conditions in respect of the following matters—
- (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 thoroughfares 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 programme;
 - (q) requiring the licensee to enter into an agreement with the local government by which it agrees to pay any extraordinary expenses incurred by the local government in repairing damage caused to thoroughfares in the district by heavy or extraordinary traffic conducted by or on behalf of the licensee under the licence;
 - (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.

3.2 Payment of annual licence fee

On or before 30 June in each year, a licensee shall pay to the local government the annual licence fee determined by the local government from time to time under and in accordance with sections 6.16 to 6.19 of the Act.

PART 4—TRANSFER, CANCELLATION AND RENEWAL OF LICENCE**4.1 Transfer of licence**

- (1) An application for the transfer of a licence shall—
 - (a) be made in writing;
 - (b) be signed by the licensee and the proposed transferee of the licence;
 - (c) be accompanied by the current licence;
 - (d) be accompanied by the consent in writing to the transfer from the owner of the excavation site;
 - (e) include any information that the local government may reasonably require; and
 - (f) be forwarded to the CEO together with the fee determined by the local government from time to time.
- (2) Upon receipt of any application for the transfer of a licence, the local government may—
 - (a) refuse the application; or
 - (b) approve the application on such terms and conditions, if any, as it sees fit.
- (3) Where the local government approves an application for the transfer of a licence, the local government shall transfer the licence by an endorsement on the licence in the form determined by the local government from time to time, signed by the CEO.
- (4) Where the local government approves the transfer of a licence it shall not be required to refund any part of the fees paid by the former licensee in respect of the transferred licence.

4.2 Cancellation of licence

- (1) The local government may cancel a licence where the licensee has—
 - (a) been convicted of an offence against—
 - (i) this local law; or
 - (ii) any other law relating to carrying on an extractive industry;
 - (b) transferred or assigned or attempted to transfer or assign the licence without the consent of the local government;
 - (c) 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;
 - (d) failed to pay the annual licence fee under clause 3.2; or
 - (e) failed to have a current public liability insurance policy under clause 7.1(1) or 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 local government shall advise the licensee in writing of the cancellation;
 - (b) the cancellation takes effect on and from the day on which the licensee is served with the cancellation advice; and
 - (c) the local government shall not be required to refund any part of the fees paid by the licensee in respect of the cancelled licence.

4.3 Renewal of licence

- (1) A licensee who wishes to renew a licence must apply in writing to the local government at least 90 days before the date of expiry of the licence and shall submit with the application for renewal—
 - (a) the fee determined by the local government from time to time;
 - (b) a copy of the current licence;
 - (c) a plan showing the contours of the excavation carried out to the date of that application;
 - (d) details of 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 2.3(1)(b) and (c); and
 - (e) any other things referred to in clauses 2.3 and 3.1.
- (2) The local government may waive any of the requirements specified in clause 4.3 (1) (d) or (e).
- (3) 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, then 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 2.3 and 3.1.
- (4) Upon receipt of an application for the renewal of a licence, the local government may—
 - (a) refuse the application; or
 - (b) approve the application on such terms and conditions, if any, as it sees fit.

4.4 Notice of outcome

The local government will provide written notice to an applicant whenever it makes a decision regarding the issue, renewal, transfer or cancellation of a licence.

PART 5—SECURED SUM AND APPLICATION THEREOF**5.1 Security for restoration and reinstatement**

(1) For the purpose of ensuring that an excavation site is properly restored or reinstated, the local government may require that—

- (a) as a condition of a licence; or
- (b) before the issue of a licence, 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 from time to time.

(2) A bond required under subclause (1) is to be paid into a fund established by the local government for the purposes of this clause.

(3) Subject to clause 5.2, any interest accrued in respect of the bond paid into the fund under subclause (2) 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.

5.2 Use by the local government of secured sum

(1) If a licensee fails to 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—
- (c) the local government may carry out or cause to be carried out the required restoration and reinstatement work or so much of that work as remains undone; and
- (d) 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 5.1 towards its costs under this clause.

(3) The liability of a licensee to pay the local government's costs under this clause is not limited to the amount, if any, secured under clause 5.1.

PART 6—LIMITATIONS, OBLIGATIONS OF THE LICENSEE AND PROHIBITIONS**6.1 Limits on excavations 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) 20 metres of the boundary of any land on which the excavation site is located;
- (b) 20 metres of any land affected by a registered grant of easement;
- (c) 40 metres of any thoroughfare; or
- (d) 40 metres of any watercourse.

6.2 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 1.8 metres high and not less than 1 metre wide; and
 - (iii) 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 programme 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) otherwise comply with the conditions imposed by the local government in accordance with clause 3.1.

6.3 Prohibitions

A licensee shall not—

- (a) remove any trees or shrubs within 40 metres (or such lesser distance as may be allowed, in writing, by the local government) of the boundary of any thoroughfare on land in respect of which a licence has been granted, 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 3.1;
- (b) store, or permit to be stored, 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 programme approved by the local government.

6.4 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 AS2187.2-2006 Explosives—Storage and Use—Use of Explosives as amended from time to time, 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 7—MISCELLANEOUS PROVISIONS

7.1 Public liability

(1) A licensee shall have at all times a current public liability insurance policy taken out in the joint names of the licensee and the local government 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 renewal within 14 days of each renewal date.

7.2 Mines Safety and Inspection Act and Environmental Protection Act

(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 Notice of cessation of operations

(1) Where a licensee intends to cease carrying on an extractive industry—

- (a) temporarily for a period in excess of 12 months; or
- (b) permanently,

the licensee shall, as well as complying with clause 7.4, give the local government written notice of the cessation not later than 1 week after those operations have ceased.

(2) 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.

(3) The temporary or 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.

7.4 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 7.3—

- (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 programme 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 8—OBJECTIONS AND REVIEW

8.1 Objection and review rights

(1) 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—

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

(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*.

PART 9—OFFENCES, PENALTIES AND FORMS

9.1 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.

9.2 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 occurred.

9.3 Modified penalty

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

(2) The amount of the modified penalty for a prescribed offence is that specified adjacent to the clause in Schedule 1.

9.4 Forms

For the purposes of this local law—

- (a) 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
- (b) 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 1—PRESCRIBED OFFENCES

Extractive Industries Local Law 2022

(clause 9.3)

Item	Clause	Description	Modified Penalty \$
1	2.1	Carry on extractive industry without licence or in breach of terms and conditions	500
2	6.1	Excavate near boundary	500
3	6.2(a)	Gateways not kept locked where required	500
4	6.2(b)	Warning signs not erected or maintained as required	500
5	6.2(c)	Excavation not drained as required	500
6	6.2(e)	Failure to prevent the emission of dust, noise or other forms of nuisance	500
7	6.3(a)	Remove trees or shrubs near boundary without approval	500
8	6.3(b)	Store without required approval explosives or explosive devices	500
9	6.3(c)	Fill or excavate in breach of licence	500
10	6.4(1)(a)	Blasting without approval of the local government	500
11	6.4(1)(b)	Blasting outside times authorised	500
12	6.4(1)(d)	Blasting in breach of conditions imposed by the local government	500
13	6.4(2)	Blasting without approval on Saturday, Sunday or public holiday	500

Dated 23 November 2022

The Common Seal of the Shire of Dardanup was affixed under the authority of a resolution of Council in the presence of—

CR. MICHAEL THEODORE BENNETT, Shire President.
MR ANDRIES STEFANUS SCHÖNFELDT, Chief Executive Officer.

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LOCAL GOVERNMENT ACT 1995

SHIRE OF DARDANUP

PARKING LOCAL LAW 2023

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Dardanup resolved on 23 November 2022 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law is cited as the *Shire of Dardanup Parking Local Law 2023*.

1.2 Commencement

This local law comes into operation 14 days after it is published in the *Government Gazette*.

1.3 Repeal

The *Shire of Dardanup Parking and Parking Facilities Local Law 2009* published in the *Government Gazette* on 23 November 2009, is repealed.

1.4 Terms used

In this local law unless the context otherwise requires—

Act means the *Local Government Act 1995*;

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

authorised vehicle means a vehicle authorised by the local government, CEO, authorised person or under any written law to park on a thoroughfare or parking facility;

bicycle has the meaning given to it by the Code;

bicycle path has the meaning given to it by the Code;

built-up area has the meaning given to it by the Code;

bus has the meaning given to it by the Code;

bus embayment has the meaning given to it by the Code;

bus stop has the meaning given to it by the Code;

bus zone has the meaning given to it by the Code;

caravan has the same meaning given to it by the *Caravan Parks and Camping Grounds Act 1995*;

carriageway has the meaning given to it by the Code;

centre, in relation to a carriageway, has the meaning given to it by the Code;

children's crossing has the meaning given to it by the Code;

CEO means the Chief Executive Officer of the local government;

Code means the *Road Traffic Code 2000*;

commercial vehicle means a motor vehicle constructed for the conveyance of goods or merchandise, or for the conveyance of materials used in any trade, business, industry or work whatsoever, other than a motor vehicle for the conveyance of passengers, and includes any motor vehicle that is designed primarily for the carriage of persons but which has been fitted or adapted for the conveyance of the goods, merchandise or materials referred to, and is in fact used for that purpose;

Council means the Council of the Shire of Dardanup;

disability parking permit has the meaning given to it by the Code;

district means the district of the local government;

driver means any person driving or in control of a vehicle;

edge line, for a carriageway, has the meaning given to it by the Code;

emergency vehicle has the meaning given to it by the Code;

footpath has the meaning given to it by the Code;

GVM (which stands for gross vehicle mass) has the meaning given to it in the *Road Traffic (Vehicles) Act 2012*;

loading zone has the meaning given to it by the Code;

local government means the Shire of Dardanup;

local government property means anything—

- (a) which belongs to, is owned by or is under the care, control and management of the local government;

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

mail zone has the meaning given to it by the Code;

median strip has the meaning given to it by the Code;

motorcycle has the meaning given to it by the Code;

motor vehicle has the meaning given to it by the *Road Traffic (Administration) Act 2008*;

motorised scooter has the meaning given to it by the Code;

nature strip has the meaning given to it by the Code;

no parking area has the meaning given to it by the Code;

no parking sign means a sign with the words 'no parking' in red letters on a white background, or the letter P within a red annulus and a red diagonal line across it on a white background;

no stopping area has the meaning given to it by the Code;

no stopping sign means a sign with the words 'no stopping' or 'no standing' in red letters on a white background or the letter S within a red annulus and a red diagonal line across it on a white background;

obstructing means causing or allowing a motor vehicle, trailer, or other object to stand on a road in such a way that it is likely to impede other road users;

occupier has the meaning given to it by the Act;

owner—

- (a) where used in relation to a vehicle licensed under the Road Traffic Act, means the person in whose name the vehicle has been registered under the Road Traffic Act;
- (b) where used in relation to any other vehicle, means the person who owns, or is entitled to possession of that vehicle; and
- (c) where used in relation to land, has the meaning given to it by the Act;

painted island has the meaning given to it by the Code;

park has the meaning given to it by the Code;

parking area has the meaning given to it by the Code;

parking facilities—

- (a) means land, buildings, shelters, parking stalls and other facilities open to the public generally for the parking of vehicles with or without charge; and
- (b) includes signs, notices and facilities used in connection with the parking of vehicles;

parking region means the area described in Schedule 1;

parking stall means a section or part of a thoroughfare or of a parking facility which is marked or defined by painted lines, metallic studs, coloured bricks or pavers or similar devices for the purpose of indicating where a vehicle may be parked;

parking station means any land, or structure provided for the purpose of accommodating vehicles with or without charge;

path has the same meaning given to it by the Code;

pedestrian crossing has the meaning given to it by the Code;

public bus has the same meaning given to it by the Code;

public place means any place to which the public has access whether or not that place is on private property;

reserve means any land—

- (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;

road has the meaning given to it by the *Road Traffic (Administration) Act 2008*;

Road Traffic Act means the *Road Traffic Act 1974*;

Schedule means a Schedule to this local law;

shared zone has the meaning given to it by the Code;

sign includes a traffic sign, inscription, road marking, mark, structure or device, on which may be shown words, numbers, expressions or symbols, that is—

- (a) approved by the CEO or an authorised person; and
- (b) placed on or near a thoroughfare or within a parking station or reserve for the purpose of prohibiting, regulating, guiding, directing or restricting the parking and stopping of vehicles;

special purpose vehicle has the meaning given to it by the Code;

stop in relation to a vehicle means to stop a vehicle and permit it to remain stationary, except for the purposes of avoiding conflict with other traffic or of complying with the provisions of any law;

symbol includes any symbol specified by Australian Standard 1742.11-2016 and any symbol specified from time to time by Standards Australia for use in the regulation of parking and any reference to the wording of any sign in this local law shall be also deemed to include a reference to the corresponding symbol;

taxi has the meaning given to it by the Code;

taxi zone has the meaning given to it by the Code;

thoroughfare has the meaning given to it by the Act;

traffic island has the meaning given to it by the Code;

trailer has the meaning given to it by the Code;

vehicle has the meaning given to it by the Code;

verge means the portion of a thoroughfare which lies between the boundary of a carriageway and the adjacent property line and includes any part of the verge designed for or intended for use by vehicles but does not include a footpath;

1.5 Application of particular definitions

(1) For the purposes of the application of the definitions ‘**no parking area**’ and ‘**parking area**’, an arrow inscribed on a traffic sign erected at an angle to the boundary of the carriageway is deemed to be pointing in the direction in which it would point, if the signs were turned at an angle of less than 90 degrees until parallel with the boundary.

(2) Unless the context otherwise requires, where a term is used, but not defined, in this local law, and that term is defined in the Road Traffic Act or in the Code, then the term has the meaning given to it in that Act or the Code.

1.6 Application

(1) Subject to subclause (2), this local law applies to the parking region.

(2) This local law does not apply to a parking facility that is not occupied by the local government, unless the local government and the owner or occupier of that facility have agreed in writing that this local law will apply to that facility.

(3) The agreement referred to in subclause (2) may be made on such terms and conditions as the parties may agree.

(4) The provisions of Parts 2, 3, and 4 do not apply to a bicycle parked at a bicycle rail or bicycle rack.

1.7 Pre-existing signs

(1) A sign that—

(a) was erected by the local government or the Commissioner of Main Roads prior to the coming into operation of this local law; and

(b) relates to the parking of vehicles within the parking region,

is deemed for the purposes of this local law to have been erected by the local government under the authority of this local law.

(2) An inscription or symbol on a sign referred to in subclause (1) operates and has effect according to its tenor, and where the inscription or symbol relates to the stopping of vehicles, it is deemed for the purposes of this local law to operate and have effect as if it related to the parking of vehicles.

1.8 Classes of vehicles

For the purpose of this local law, vehicles are divided into classes as follows—

(a) buses;

(b) commercial vehicles;

(c) motorcycles and bicycles;

(d) taxis; and

(e) all other vehicles.

1.9 Part of thoroughfare to which sign applies

Where under this local law the parking of vehicles in a thoroughfare is controlled by a sign, the sign must be read as applying to that part of the thoroughfare which—

(a) lies beyond the sign;

(b) lies between the sign and the next sign beyond that sign; and

(c) is on that side of the thoroughfare nearest to the sign.

1.10 Powers of the local government

The Council may prohibit or regulate by signs or otherwise, the stopping or parking of any vehicle or any class of vehicles in any part of the parking region but must do so consistently with this local law.

PART 2—PARKING STALLS AND PARKING FACILITIES**2.1 Determination of parking stalls and parking facilities**

- (1) The Council may by resolution constitute, determine and vary—
- (a) parking stalls;
 - (b) parking facilities;
 - (c) permitted time and conditions of parking in parking stalls and parking facilities which may vary with the locality;
 - (d) permitted classes of vehicles which may park in parking stalls and parking facilities;
 - (e) permitted classes of persons who may park in specified parking stalls or parking facilities; and
 - (f) the manner of parking in parking stalls and parking facilities.
- (2) Where the Council makes a resolution under subclause (1) it will erect signs to give effect to the determination.

2.2 Vehicles to be within parking stall on a thoroughfare

- (1) Subject to subclauses (2), (3) and (4), a person must not park a vehicle in a parking stall in a thoroughfare otherwise than—
- (a) parallel to and as close to the kerb as is practicable;
 - (b) wholly within the stall; and
 - (c) headed in the direction of the movement of traffic on the side of the thoroughfare in which the stall is situated.
- (2) Subject to subclause (3), where a parking stall in a thoroughfare is set out otherwise than parallel to the kerb, then a person must park a vehicle in that stall wholly within it.
- (3) If a vehicle is too long or too wide to fit completely within a single parking stall then the person parking the vehicle must do so within the minimum number of parking stalls needed to park that vehicle.
- (4) A person must not park a vehicle partly within and partly outside a parking area.

2.3 Payment of fee to park in a parking facility

A person must not park a vehicle or permit a vehicle to remain parked in any parking facility during any period for which a fee is payable unless—

- (a) in the case of a parking facility having an authorised person on duty, the appropriate fee is paid when demanded; or
- (b) in the case of a parking facility equipped with parking meters, the appropriate fee is inserted in the meter or the required payment is made in such other form as may be permitted.

2.4 Suspension of parking facility restrictions

The Council may by resolution declare that the provisions of clause 3.3 do not apply during periods on particular days in relation to particular parking facilities as specified in such resolution.

2.5 Vehicle not to be removed until fee paid

A person must not remove a vehicle which has been parked in a parking facility until the appropriate fee has been paid for the period for which the vehicle has been parked.

2.6 Entitlement to receipt

A person paying a fee at a parking facility is entitled to receive a receipt on demand showing the period of parking covered by such payment.

2.7 Parking prohibitions and restrictions

- (1) A person must not—
- (a) park a vehicle so as to obstruct an entrance to, or an exit from a parking facility, or an access way within a parking facility;
 - (b) except with the permission of the local government or an authorised person, park a vehicle on any part of a parking facility contrary to a sign referable to that part;
 - (c) permit a vehicle to park on any part of a parking facility, if an authorised person directs the driver of such vehicle to move the vehicle; or
 - (d) park or attempt to park a vehicle in a parking stall in which another vehicle is parked, but this paragraph does not prevent the parking of a motorcycle and a bicycle together in a stall marked 'M/C', if the bicycle is parked in accordance with subclause (2).
- (2) A person must not park any bicycle—
- (a) in a parking stall other than in a stall marked 'M/C'; and
 - (b) in such stall, other than against the kerb.

PART 3—PARKING GENERALLY**3.1 Restrictions on parking in particular areas**

(1) A person must not park a vehicle in a thoroughfare or part of a thoroughfare, or part of a parking facility—

- (a) if by a sign it is set apart for the parking of vehicles of a different class;
- (b) if by a sign it is set apart for the parking of vehicles by persons of a different class; or
- (c) during any period when the parking of vehicles is prohibited by a sign.

(2) A person must not park a vehicle—

- (a) in a no parking area;
- (b) in a parking area, except in accordance with both the signs associated with the parking area and with this local law;
- (c) in a stall marked 'M/C' unless it is a motorcycle without a sidecar or a trailer, or it is a bicycle.

(3) A person must not park a motorcycle without a sidecar or a trailer, or a bicycle in a parking stall not marked 'M/C', except where there are no stalls marked 'M/C' within 500 metres of the parking stall.

(4) A person must not, without the prior permission of the local government, the CEO, or an authorised person, park a vehicle in an area designated by a sign stating 'Authorised Vehicles Only'.

3.2 Parking vehicle on a carriageway

(1) A person parking a vehicle on a carriageway other than in a parking stall must park it—

- (a) in the case of a two-way carriageway, so that it is as near as practicable to, and parallel with, the left boundary of the carriageway and headed in the direction of the movement of traffic on the side of the thoroughfare on which the vehicle is parked;
- (b) in the case of a one-way carriageway, so that it is as near as practicable to and parallel with either boundary of the carriageway and headed in the direction of the movement of traffic on the side of the thoroughfare on which the vehicle is parked;
- (c) so that at least 3 metres of the width of the carriageway lies between the vehicle and the farther boundary of the carriageway, or any continuous line or median strip, or between the vehicle and a vehicle parked on the farther side of the carriageway;
- (d) so that the front and the rear of the vehicle respectively is not less than 1 metre from any other vehicle, except a motorcycle without a trailer or a bicycle parked in accordance with this local law; and
- (e) so that it does not obstruct any vehicle on the carriageway,

unless otherwise indicated on a parking regulation sign or markings on the carriageway.

(2) In this clause continuous dividing line means—

- (a) a single continuous dividing line only;
- (b) a single continuous dividing line to the left or right of a broken dividing line; or
- (c) 2 parallel continuous dividing lines.

3.3 When parallel and right-angled parking apply

Where a traffic sign associated with a parking area is not inscribed with the words 'angle parking', or with an equivalent symbol depicting this purpose, then unless a sign associated with the parking area or marks on the carriageway indicate that vehicles have to park in a different position, then—

- (a) where the parking area is adjacent to the boundary of a carriageway, a person parking a vehicle in the parking area must park it as near as practicable to and parallel with that boundary; and
- (b) where the parking area is at or near the centre of the carriageway, a person parking a vehicle in that parking area must park it at approximately right angles to the centre of the carriageway.

3.4 When angle parking applies

(1) This clause does not apply to—

- (a) a passenger vehicle or a commercial vehicle with a mass, including any load, of over 3 tonnes; or
- (b) a person parking either a motor cycle without a trailer or a bicycle.

(2) Where a sign associated with a parking area is inscribed with the words 'angle parking' or with an equivalent symbol depicting this purpose, a person parking a vehicle in the area must park the vehicle at an angle of approximately 45 degrees to the centre of the carriageway unless otherwise indicated by the inscription on the parking sign or by marks on the carriageway.

3.5 General prohibitions on parking

(1) This clause does not apply to a vehicle parked in a parking stall or to a bicycle in a bicycle rack.

(2) Subclauses (3)(c), (e) and (g) do not apply to a vehicle which parks in a bus embayment.

(3) Subject to any law relating to intersections with traffic control signals, a person must not park a vehicle so that any portion of the vehicle is—

- (a) between any other stationary vehicles and the centre of the carriageway;
- (b) on or adjacent to a median strip;

- (c) obstructing a right of way, private driveway or carriageway or so close as to deny a vehicle reasonable access to or egress from the right of way, private driveway or carriageway;
 - (d) alongside or opposite any excavation, works, hoarding, scaffolding or obstruction on the carriageway, if the vehicle would obstruct traffic;
 - (e) on or within 10 metres of any portion of a carriageway bounded by a traffic island;
 - (f) on any footpath or pedestrian crossing;
 - (g) between the boundaries of a carriageway and any double longitudinal line consisting of 2 continuous lines or between a double longitudinal line consisting of a continuous line and a broken or dotted line and the boundary of a carriageway nearer to the continuous line, unless there is a distance of at least 3 metres clear between the vehicle and the double longitudinal line;
 - (h) on an intersection, except adjacent to a carriageway boundary that is not broken by an intersecting carriageway;
 - (i) within 1 metre of a fire hydrant or fire plug, or of any sign or mark indicating the existence of a fire hydrant or fire plug;
 - (j) within 3 metres of a public letter pillar box located on a thoroughfare, unless the vehicle is being used for the purposes of collecting postal articles from the pillar box; or
 - (k) within 10 metres of the nearer property line of any thoroughfare intersecting the thoroughfare on the side on which the vehicle is parked, unless a sign or markings on the carriageway indicate otherwise.
- (4) A person must not park a vehicle so that any portion of the vehicle is within 10 metres of the departure side of—
- (a) a sign inscribed with the words ‘Bus Stop’ or ‘Hail Bus Here’, or with equivalent symbols depicting these purposes, unless the vehicle is a bus stopped to take up or set down passengers; or
 - (b) a children’s crossing or pedestrian crossing.
- (5) A person must not park a vehicle so that any portion of the vehicle is within 20 metres of the approach side of—
- (a) a sign inscribed with the words ‘Bus Stop’ or ‘Hail Bus Here’, or with equivalent symbols depicting these purposes, unless the vehicle is a bus stopped to take up or set down passengers; or
 - (b) a children’s crossing or pedestrian crossing.
- (6) A person must not park a vehicle so that any portion of the vehicle is within 20 metres of either the approach side or the departure side of the nearest rail of a railway level crossing.
- (7) A person shall not park on a verge unless that portion of the verge has been approved in writing by the local government as a parking area.
- (8) Subclause (7) does not apply to a verge adjacent to a premises zoned industry, light and service industry or residential under the local planning scheme if the person is the owner or occupier of the premises adjacent to that portion of the verge, or is a person authorised by the occupier to park on that portion of the verge.

3.6 Authorised person may order vehicle on thoroughfare to be moved

The driver of a vehicle must not park that vehicle on any part of a thoroughfare in contravention of this local law after an authorised person has directed the driver to move it.

3.7 Authorised person may mark the tyres of a vehicle

- (1) An authorised person may mark the tyres of a vehicle parked in a parking stall or parking facility with chalk or any other non-indelible substance for a purpose connected with or arising out of his or her duties or powers.
- (2) A person must not remove a mark made by an authorised person so that the purpose of the affixing of such a mark is defeated or likely to be defeated.

3.8 No movement of vehicles to avoid time limitation

- (1) Where the parking of vehicles in a parking facility is permitted for a limited time, a person must not move a vehicle within the parking facility so that the total time of parking exceeds the maximum time allowed for parking in the parking facility.
- (2) Where the parking of vehicles in a thoroughfare is permitted for a limited time, a person must not move a vehicle along that thoroughfare so that the total time of parking exceeds the maximum time permitted, unless the vehicle has first been removed from the thoroughfare for at least 2 hours.

3.9 No parking of vehicles exposed for sale and in other circumstances

A person must not park a vehicle on any portion of a thoroughfare—

- (a) for the purpose of exposing it for sale;
- (b) if that vehicle is not licensed under the Road Traffic Act;
- (c) if that vehicle is a trailer or a caravan unattached to a motor vehicle; or
- (d) for the purpose of effecting repairs to it, other than the minimum repairs necessary to enable the vehicle to be moved to a place other than a thoroughfare.

3.10 Parking on private land

- (1) In this clause a reference to 'land' does not include land—
- (a) which is local government property;
 - (b) which is the subject of an agreement referred to in subclause 1.6(2); or
 - (c) which is identified in a Schedule.
- (2) A person must not park a vehicle on land without the consent of the owner or occupier of the land on which the vehicle is parked.
- (3) Where the owner or occupier of the land, by a sign referable to that land or otherwise, consents to the parking of vehicles of a specified class or classes on the land for a limited period, a person must not park a vehicle on the land otherwise than in accordance with the consent.

3.11 Parking on local government property

No person other than an employee of the local government in the course of his or her duties or a person authorised by the local government shall drive or park a vehicle upon or over any portion of a local government property other than upon an area specifically set aside for that purpose.

3.12 Suspension of parking limitations for urgent, essential or official duties

- (1) Where, by a sign, the parking of vehicles is permitted for a limited time on a portion of a thoroughfare or parking facility, the local government, the CEO or an authorised person may permit a person to park a vehicle in that portion of the thoroughfare or parking facility for longer than the permitted time in order that the person may carry out urgent, essential or official duties.
- (2) Where permission is granted under subclause (1), the local government, the CEO or an authorised person may prohibit the use by any other vehicle of that portion of the thoroughfare or parking facility to which the permission relates, for the duration of that permission.

PART 4—PARKING AND STOPPING GENERALLY**4.1 No stopping and no parking signs, and yellow edge lines**

- (1) A driver shall not stop on a length of carriageway, or in an area, to which a no stopping sign applies.
- (2) A driver must not stop on a length of carriageway or in an area to which a no parking sign applies, unless the driver—
- (a) is dropping off, or picking up, passengers or goods;
 - (b) does not leave the vehicle unattended; and
 - (c) completes the dropping off, or picking up, of the passengers or goods within 2 minutes of stopping and drives on.
- (3) A driver must not stop at the side of a carriageway marked with a continuous yellow edge line.
- (4) In this clause a driver leaves the vehicle unattended if the driver leaves the vehicle so the driver is over 3 metres from the closest point of the vehicle.

PART 5—STOPPING IN ZONES FOR PARTICULAR VEHICLES**5.1 Stopping in a loading zone**

A person must not stop a vehicle in a loading zone unless it is—

- (a) a motor vehicle used for commercial or trade purposes engaged in the picking up or setting down of goods; or
- (b) a motor vehicle taking up or setting down passengers, but, in any event, must not remain in that loading zone—
- (c) for longer than a time indicated on the sign designating the loading zone; or
- (d) longer than 30 minutes if no time is indicated on the sign.

5.2 Stopping in a taxi zone or a bus zone

- (1) A driver must not stop in a taxi zone, unless the driver is driving a taxi.
- (2) A driver must not stop in a bus zone, unless the driver is driving a public bus, or a bus of a type that is permitted to stop at the bus zone by information on or with the 'bus zone' sign applying to the bus zone.

5.3 Stopping in a mail zone

A person must not stop a vehicle in a mail zone.

5.4 Other limitations in zones

A person must not stop a vehicle in a zone to which a traffic sign applies if stopping the vehicle would be contrary to any limitation in respect to classes of persons or vehicles, or specific activities allowed, as indicated by additional words on a traffic sign that applies to the zone.

PART 6—OTHER PLACES WHERE STOPPING IS RESTRICTED**6.1 Stopping in a shared zone**

A driver must not stop in a shared zone unless—

- (a) the driver stops at a place on a length of carriageway, or in an area, to which a parking control sign applies and the driver is permitted to stop at that place under this local law;
- (b) the driver stops in a parking stall and the driver is permitted to stop in the parking stall under this local law;
- (c) the driver is dropping off, or picking up, passengers or goods; or
- (d) the driver is engaged in door-to-door delivery or collection of goods, or in the collection of waste or garbage.

6.2 Double parking

(1) A driver must not stop a vehicle so that any portion of the vehicle is between any other stopped vehicle and the centre of the carriageway.

(2) This clause does not apply to—

- (a) a driver stopped in traffic; or
- (b) a driver angle parking on the side of the carriageway or in a median strip parking area, in accordance with this local law.

6.3 Stopping near an obstruction

A driver must not stop on a carriageway near an obstruction on the carriageway in a position that further obstructs traffic on the carriageway.

6.4 Stopping on a bridge or in a tunnel, etc.

(1) A driver must not stop a vehicle on a bridge, causeway, ramp or similar structure unless—

- (a) the carriageway is at least as wide on the structure as it is on each of the approaches and a traffic sign does not prohibit stopping or parking; or
- (b) the driver stops at a place on a length of carriageway, or in an area, to which a parking control sign applies and the driver is permitted to stop at that place under this local law.

(2) A driver must not stop a vehicle in a tunnel or underpass unless—

- (a) the carriageway is at least as wide in the tunnel or underpass as it is on each of the approaches and a traffic sign does not prohibit stopping or parking; or
- (b) the driver of a motor vehicle stops at a bus stop, or in a bus zone or parking area marked on the carriageway, for the purpose of setting down or taking up passengers.

6.5 Stopping on crests, curves, etc.

(1) Subject to subclause (2), a driver must not stop a vehicle on, or partly on, a carriageway in any position where it is not visible to the driver of an overtaking vehicle from a distance of 50 metres within a built-up area and from a distance of 150 metres outside a built-up area.

(2) A driver may stop on a crest or curve on a carriageway that is not in a built-up area if the driver stops at a place on the carriageway, or in an area, to which a parking control sign applies and the driver is permitted to stop at that place under this local law.

6.6 Stopping near a fire hydrant etc.

(1) A driver must not stop a vehicle so that any portion of the vehicle is within 1 metre of a fire hydrant or fire plug, or of any sign or mark indicating the existence of a fire hydrant or fire plug, unless—

- (a) the driver is driving a public bus, and the driver stops in a bus zone or at a bus stop and does not leave the bus unattended; or
- (b) the driver is driving a taxi, and the driver stops in a taxi zone and does not leave the taxi unattended.

(2) In this clause a driver leaves the vehicle unattended if the driver leaves the vehicle so the driver is over 3 metres from the closest point of the vehicle.

6.7 Stopping at or near a bus stop

(1) A driver must not stop a vehicle so that any portion of the vehicle is within 20 metres of the approach side of a bus stop, or within 10 metres of the departure side of a bus stop, unless—

- (a) the vehicle is a public bus stopped to take up or set down passengers; or
- (b) the driver stops at a place on a length of carriageway or in an area to which a parking control sign applies and the driver is permitted to stop at that place under this local law.

(2) In this clause—

- (a) distances are measured in the direction in which the driver is driving; and
- (b) a trailer attached to a public bus is deemed to be a part of the public bus.

6.8 Stopping on a path, median strip, or traffic island

The driver of a vehicle (other than a bicycle or an animal) must not stop so that any portion of the vehicle is on a footpath, traffic island or median strip, unless the driver stops in an area to which a parking control sign applies and the driver is permitted to stop at that place under this local law.

6.9 Stopping on verge

(1) A person must not—

- (a) stop a vehicle other than a bicycle;
- (b) stop a commercial vehicle or bus, or a trailer or caravan unattached to a motor vehicle; or
- (c) stop a vehicle during any period when the stopping of vehicles on that verge is prohibited by a sign adjacent and referable to that verge, so that any portion of it is on a verge.

(2) Subclause (1)(a) does not apply to the person if he or she is the owner or occupier of the premises adjacent to that verge, or is a person authorised by the occupier of those premises to stop the vehicle so that any portion of it is on the verge.

(3) Subclause (1)(b) does not apply to a commercial vehicle when it is being loaded or unloaded with reasonable expedition with goods, merchandise or materials collected from or delivered to the premises adjacent to the portion of the verge on which the commercial vehicle is parked, provided no obstruction is caused to the passage of any vehicle or person using a carriageway or a footpath.

6.10 Obstructing access to and from a footpath, driveway, etc.

(1) A driver must not stop a vehicle so that any portion of the vehicle is in front of a footpath or in a position that obstructs access by vehicles or pedestrians to or from that footpath, unless—

- (a) the driver is dropping off, or picking up, passengers; or
- (b) the driver stops in a parking stall and the driver is permitted to stop in the parking stall under this local law.

(2) A driver must not stop a vehicle on or across a driveway or other way of access for vehicles travelling to or from adjacent land, unless—

- (a) the driver is dropping off, or picking up, passengers; or
- (b) the driver stops in a parking stall and the driver is permitted to stop in the parking stall under this local law.

6.11 Stopping near a letter box

A driver must not stop a vehicle so that any portion of the vehicle is within 3 metres of a public letter pillar box, unless the driver—

- (a) is dropping off, or picking up, passengers or mail; or
- (b) stops at a place on a length of carriageway or in an area to which a parking control sign applies and the driver is permitted to stop at that place under this local law.

6.12 Stopping on a carriageway—heavy and long vehicles

(1) A person must not park a vehicle or any combination of vehicles that, together with any projection on, or load carried by, the vehicle or combination of vehicles, is 7.5 metres or more in length or exceeds a GVM of 4.5 tonnes—

- (a) on a carriageway in a built-up area for any period exceeding 1 hour, unless engaged in the picking up or setting down of goods; or
- (b) on a carriageway outside a built-up area, except on the shoulder of the carriageway or in a truck bay or other area set aside for the parking of goods vehicles.

(2) Nothing in this clause affects or overrides the limitations or conditions imposed by any other clause in this local law, or by any other local law or traffic sign relating to the parking or stopping of vehicles.

6.13 Stopping on a carriageway with a bicycle parking sign

The driver of a vehicle, other than a bicycle, must not stop on a length of carriageway to which a 'bicycle parking' sign applies, unless the driver is dropping off or picking up passengers.

6.14 Stopping on a carriageway with motor cycle parking sign

The driver of a vehicle must not stop on a length of carriageway or in an area to which a 'motor cycle parking' sign applies, or an area marked 'M/C' unless—

- (a) the vehicle is a motor cycle; or
- (b) the driver is dropping off, or picking up, passengers.

PART 7—MISCELLANEOUS**7.1 Removal of notices on vehicle**

A person, other than the driver of the vehicle or a person acting under the direction of the driver of the vehicle, must not remove from the vehicle any notice put on the vehicle by an authorised person.

7.2 Unauthorised signs and defacing of signs

A person must not, without the authority of the local government—

- (a) mark, set up or exhibit a sign purporting to be or resembling a sign marked, set up or exhibited by the local government under this local law;
- (b) remove, deface or misuse a sign or property, set up or exhibited by the local government under this local law, or attempt to do any such act; or
- (c) affix a board, sign, placard, notice or other thing to or paint or write upon any part of a sign set up or exhibited by the local government under this local law.

7.3 Signs must be complied with

An inscription or symbol on a sign operates and has effect according to its tenor and a person contravening the direction on a sign commits an offence under this local law.

7.4 General provisions about signs

(1) A sign marked, erected, set up, established or displayed on or near a thoroughfare is, in the absence of evidence to the contrary, presumed to be a sign marked, erected, set up, established or displayed under the authority of this local law.

(2) The first 3 letters of any day of the week when used on a sign indicate that day of the week.

7.5 Special purpose and emergency vehicles

Notwithstanding anything to the contrary in this local law, the driver of—

- (a) a special purpose vehicle may, only in the course of his or her duties and when it is expedient and safe to do so, stop or park the vehicle in any place, at any time; and
- (b) an emergency vehicle may, in the course of his or her duties and when it is expedient and safe to do so or where he or she honestly and reasonably believes that it is expedient and safe to do so, stop or park the vehicle at any place, at any time.

7.6 Vehicles not to obstruct a public place

(1) A person must not leave 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 without the permission of the local government or unless authorised under any written law.

(2) A person will not contravene subclause (1) where the vehicle is left for a period not exceeding 24 hours.

7.7 Hindrance of an authorised person

A person shall not in any way obstruct or hinder an authorised person in the execution of his or her duties.

PART 8—PENALTIES

8.1 Offences and penalties

(1) A person who breaches a provision of this local law commits an offence.

(2) An offence against any provision of this local law is a prescribed offence for the purposes of section 9.16(1) of the Act.

(3) Any person who commits an offence under this local law will be liable, upon conviction, to a penalty not exceeding \$5,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

(4) The amount appearing in the final column of Schedule 2 directly opposite a clause specified in that Schedule is the modified penalty for an offence against that clause.

8.2 Form of notices

For the purposes of this local law—

- (a) the form of the notice referred to in section 9.13 of the Act is Form 1 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*;
- (b) the form of the infringement notice referred to in section 9.17 of the Act is Form 2 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*; and
- (c) the form of the infringement withdrawal notice referred to in section 9.20 of the Act is Form 3 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

SCHEDULE 1—PARKING REGION

[cl 1.6(1)]

The parking region is the whole of the district, but excludes the following portions of the district—

(1) the approach and departure prohibition areas of all existing and future traffic control signal installations as determined by the Commissioner of Main Roads;

(2) prohibition areas applicable to all existing and future bridges and subways as determined by the Commissioner of Main Roads; and

(3) any road which comes under the control of the Commissioner of Main Roads, unless the control of parking and parking facilities on that road is carried out subject to the control and direction of the Commissioner of Main Roads, or has been delegated by the Commissioner to the local government.

SCHEDULE 2—PRESCRIBED OFFENCES

[cl 8.1(4)]

OFFENCES AND MODIFIED PENALTIES

ITEM NO.	CLAUSE NO.	NATURE OF OFFENCE	MODIFIED PENALTY \$
1	2.2(1)	Failure to park wholly within parking stall	60
2	2.2(4)	Failure to park wholly within parking area	60
3	2.7(1)(a)	Causing obstruction in a parking facility	60
4	2.7(1)(b)	Parking contrary to sign in a parking facility	60
5	2.7(1)(c)	Parking contrary to directions of authorised person	100
6	2.7(1)(d)	Parking or attempting to park a vehicle in a parking stall occupied by another vehicle	60
7	3.1(1)(a)	Parking wrong class of vehicle	60
8	3.1(1)(b)	Parking by persons of a different class	60
9	3.1(1)(c)	Parking during prohibited period	60
10	3.1(2)(a)	Parking in no parking area	60
11	3.1(2)(b)	Parking contrary to signs or limitations	60
12	3.1(2)(c)	Parking vehicle in motor cycle only area	60
13	3.1(3)	Parking motor cycle in stall not marked 'M/C'	60
14	3.1(4)	Parking without permission in an area designated with a sign 'Authorised Vehicles Only'	60
15	3.2(1)(a)	Failure to park on the left of two-way carriageway	60
16	3.2(1)(a)	Parking against the flow of traffic	100
17	3.2(1)(b)	Failure to park on boundary of one-way carriageway	60
18	3.2(1)(c)	Parking when distance from farther boundary less than 3 metres	60
19	3.2(1)(d)	Parking closer than 1 metre from another vehicle	60
20	3.2(1)(e)	Causing obstruction	100
21	3.3(b)	Failure to park at approximate right angle	60
22	3.4(2)	Failure to park at an appropriate angle	60
23	3.5(3)(a) and 6.2	Double parking	100
24	3.5(3)(b)	Parking on or adjacent to a median strip	100
25	3.5(3)(c)	Denying access to private drive or right of way	100
26	3.5(3)(d)	Parking beside excavation or obstruction so as to obstruct traffic	100
27	3.5(3)(e)	Parking within 10 metres of traffic island	60
28	3.5(3)(f)	Parking on footpath/pedestrian crossing	100
29	3.5(3)(g)	Parking contrary to continuous line markings	100
30	3.5(3)(h)	Parking on intersection	100
31	3.5(3)(i)	Parking within 1 metre of fire hydrant or fire plug	100
32	3.5(3)(j)	Parking within 3 metres of public letter box	60
33	3.5(3)(k)	Parking within 10 metres of intersection	100
34	3.5(4)	Parking vehicle within 10 metres of departure side of bus stop, children's crossing or pedestrian crossing	100
35	3.5(5)	Parking vehicle within 20 metres of approach side of bus stop, children's crossing or pedestrian crossing	60
36	3.5(6)	Parking vehicle within 20 metres of approach side or departure side of railway level crossing	100
37	3.5(7)	Parking on a verge that is not an approved parking area	60
38	3.6	Parking contrary to direction of authorised person	100
39	3.7(2)	Removing mark of authorised person	100
40	3.8	Moving vehicle to avoid time limitation	100
41	3.9(a)	Parking in thoroughfare for purpose of sale	60
42	3.9(b)	Parking unlicensed vehicle in thoroughfare	60
43	3.9(c)	Parking a trailer/caravan on a thoroughfare	60

ITEM NO.	CLAUSE NO.	NATURE OF OFFENCE	MODIFIED PENALTY \$
44	3.9(d)	Parking in thoroughfare for purpose of repairs	60
45	3.10(2)	Parking on land that is not a parking facility without consent	100
46	3.10(3)	Parking on land not in accordance with consent	100
47	3.11	Driving or parking on local government property	100
48	4.1(1)	Stopping contrary to a no stopping sign	100
49	4.1(2)	Parking contrary to a no parking sign	100
50	4.1(3)	Stopping within continuous yellow lines	60
51	5.1	Stopping unlawfully in a loading zone	60
52	5.2	Stopping unlawfully in a taxi zone or bus zone	100
53	5.3	Stopping unlawfully in a mail zone	100
54	5.4	Stopping in a zone contrary to a sign	100
55	6.1	Stopping in a shared zone	60
56	6.3	Stopping near an obstruction	60
57	6.4	Stopping on a bridge or tunnel	100
58	6.5	Stopping on crests/curves etc	100
59	6.6	Stopping near fire hydrant	100
60	6.7	Stopping near bus stop	60
61	6.8	Stopping on path, median strip or traffic island	100
62	6.9	Stopping on verge	100
63	6.10	Obstructing path, a driveway etc	100
64	6.11	Stopping near letter box	100
65	6.12	Stopping heavy or long vehicles on carriageway	60
66	6.13	Stopping in bicycle parking area	60
67	6.14	Stopping in motorcycle parking area	60
68	7.6	Leaving vehicle so as to obstruct a public place	100
69	7.7	Hindrance to an authorised officer	200
70	8.1(1)	All other offences not specified	100

Dated 23 November 2022

The Common Seal of the Shire of Dardanup was affixed under the authority of a resolution of Council in the presence of—

CR. MICHAEL THEODORE BENNETT, Shire President.
MR ANDRIES STEFANUS SCHÖNFELDT, Chief Executive Officer.