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## SHIRE OF PLANTAGENET

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CEMETERIES ACT 1986  
LOCAL GOVERNMENT ACT 1995

### CEMETERIES LOCAL LAW 2020

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BUSH FIRES ACT 1954  
LOCAL GOVERNMENT ACT 1995

### BUSH FIRE BRIGADES LOCAL LAW 2020

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LOCAL GOVERNMENT ACT 1995

### EXTRACTIVE INDUSTRIES LOCAL LAW 2020

### STANDING ORDERS LOCAL LAW 2020

### REPEAL LOCAL LAW 2020

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**CEMETERIES ACT 1986  
LOCAL GOVERNMENT ACT 1995**

SHIRE OF PLANTAGENET

**CEMETERIES LOCAL LAW 2020**

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**CEMETERIES ACT 1986  
LOCAL GOVERNMENT ACT 1995**

SHIRE OF PLANTAGENET

**CEMETERIES LOCAL LAW 2020**

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 Plantagenet resolved on 28 January 2020 to adopt the following local law.

**PART 1—PRELIMINARY**

**1.1 Citation**

This local law may be cited as the *Shire of Plantagenet Cemeteries Local Law 2020*.

**1.2 Application**

This local law applies to the Mt Barker (West), Mt Barker (East), Kendenup and Rocky Gully Cemeteries.

**1.3 Commencement**

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

**1.4 Repeal**

This local law repeals the *Shire of Plantagenet Cemeteries Local Law 2008* as published in the *Government Gazette* on 11 April 2008 and as amended in the *Government Gazette* on 8 October 2010, 8 July 2011 and 6 January 2015.

**1.5 Interpretations**

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 standard sized cremation urn;

*authorised officer* means an employee of the Board authorised by the Board for the purposes of performing any function or exercising any power conferred upon an authorised officer by this local law;

*Board* means the local government;

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

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

*crypt* has the same meaning as vault;

*district* means the district of the local government;

*funeral director* means a person holding a current funeral director's licence;

*local government* means the Shire of Plantagenet;

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

*memorial* includes headstone, plaque, tombstone, monumental work, inscription, kerbing, enclosure and any other fixture or thing commemorating a grave or placement of ashes;

*monument* means a sculpture, statue, headstone, plaque, grave boundary marker, fence or cover, approved by the Board, commemorating a grave or placement of ashes;

*monumental mason* means a person holding a current monumental mason's licence;

*monumental mason's licence* means a licence issued under clause 7.16;

*monumental work* when the term is used as an abstract noun shall include the erection, alteration or removal of or other working upon a monument on a grave;

**nuisance** means—

- (a) an activity or condition which is harmful or annoying and which gives rise to legal liability in the tort of public or private nuisance at law;
- (b) an unreasonable interference with the use and enjoyment of a person of his or her ownership or occupation of land; or
- (c) interference which causes material damage to land or other property on the land affected by the interference;

**personal representative** means—

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

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

**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 the cemetery a funeral of a person named in the permit;

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

**vehicle** has the same meaning as is given to that word in the *Road Traffic (Administration) Act 2008* (as amended from time to time), and includes trail bikes, beach buggies and other recreational vehicles licensed or unlicensed, but excludes a wheelchair being used by a physically impaired person.

## 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 the Shire of Plantagenet cemeteries.

## PART 3—APPLICATION FOR FUNERALS

### 3.1 Application for burial

- (1) A person may apply for approval to bury a dead body in the cemetery in the form determined by the Board from time to time.
- (2) An application under subclause (1) is to be accompanied by the set fee.

### 3.2 Applications to be accompanied by certificates etc

All applications referred to in clause 3.1 shall be accompanied by either a medical certificate of death or a Coroner's order of burial, and a certificate issued under clause 3.3, in respect of the body.

### 3.3 Certificates of identification

(1) After a dead body is placed in a coffin and prior to a dead body being removed to the 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 a 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

All bookings to hold a funeral shall be made with the Board at least 48 hours prior to the time proposed for burial on the application, otherwise an extra charge may be made.

## PART 4—FUNERAL DIRECTORS

### 4.1 Funeral Director's licence expiry

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

### 4.2 Single funeral permits

Every 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 the 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 structurally sound and bears the name of the deceased person indelibly inscribed in legible characters on a plate on the coffin's lid; and
- (c) under the plate referred to in paragraph (b) there is a substantive lead strip bearing the surname of the deceased person stamped in legible characters, each character being not less than 10 mm in height.

#### 5.2 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), every funeral procession shall enter by the principal entrance, and no vehicle except the hearse, and official mourning coaches, shall be permitted to enter the cemetery unless prior approval is granted by the CEO or an authorised officer.

(2) This clause shall not apply to persons using wheelchairs or motorised wheelchairs.

#### 5.4 Vehicle access and speed limitations

(1) A person shall drive a vehicle 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 a vehicle within a cemetery, shall not exceed the speed limit of 25 km per hour, and shall comply with the signs and directions in the cemetery.

#### 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 officer.

(2) A person who has been ordered to leave the cemetery by the CEO or an authorised officer 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 Board

When conducting 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) conduct the funeral notwithstanding the failure of a person to make any application or to obtain any consent required under this local law;
- (f) do or require anything which it considers is necessary or convenient for the conduct of a funeral by it.

### *Division 2—Placement of ashes*

#### 5.7 Disposal of ashes

(1) The personal representative of a deceased person whose body has been cremated may apply, in an application under clause 3.1 or otherwise, for permission to dispose of the ashes in the cemetery and upon payment of the set fee, the Board may grant permission for the ashes to be disposed of in a manner approved by the Board.

(2) Subject to subclauses (3) and (4), a person shall not place the ashes of a deceased person in the cemetery.

(3) An authorised officer may place the ashes of a deceased person in a cemetery in accordance with the Board approval provided—

- (a) the person requesting the placement of the ashes has the permission of the Board; and
- (b) the ashes are placed within an area set aside for that purpose by the Board.

(4) An authorised officer may place the ashes of a deceased person within a grave in accordance with the Board approval, provided the person requesting the placement of the ashes has the written permission of the Board and the approval of the holder of the right of burial of the grave.

## **PART 6—BURIALS**

### **6.1 Depth of graves**

(1) A person shall not bury a coffin within the cemetery so that the distance between the top of the coffin and the original surface of the ground is—

- (a) Subject to paragraph (b), less than 750 mm, unless that person has the permission of an authorised officer; or
- (b) in any circumstances less than 600 mm.

(2) The permission of the authorised officer will only be granted where, in the opinion of the authorised officer, exceptional circumstances require granting of that permission.

### **6.2 Mausoleum etc**

(1) A person other than the board shall not construct a brick grave, crypt, vault or mausoleum within the cemetery.

(2) A person may request the Board to construct a vault or mausoleum within the cemetery which vault or mausoleum shall at all times remain the property of the Board.

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

(4) A person shall not place a dead body in a mausoleum except—

- (a) in a closed coffin; and
- (b) in a soundly constructed chamber; and
- (c) in accordance with subclause (5).

(5) 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 monumental work**

A Board may require the written 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 monumental work**

Every 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 permit issued under section 30 of the Act shall be immediately removed from the cemetery by the person carrying out the memorial works.

#### **7.4 Operation of work**

All material required in the erection and completion of any 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 officer shall direct.

#### **7.5 Removal of sand, soil or loam**

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

#### **7.6 Hours of work**

Persons shall not be permitted to carry out memorial or other work on graves within the cemetery other than during the hours of 8.00am and 6.00pm on weekdays, and 8.00am and noon on Saturdays, without the written permission of the Board.

#### **7.7 Unfinished work**

Should any work by masons or others be not completed before 6 p.m. on weekdays and noon on Saturdays, they shall be required to leave the work in a neat and safe condition to the satisfaction of the CEO or an authorised officer.

#### **7.8 Use of wood**

No wooden fence, railing, cross or other wooden erection shall be allowed on or around any grave, other than as a temporary marker and with the prior approval of the Board.

#### **7.9 Plants and trees**

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



### 7.10 Supervision

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

### 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 upon a military grave.

### 7.12 Placing of glass domes and vases

A person shall not place glass domes, vases or other grave ornaments—

- (a) outside the perimeter of a grave in the cemetery as defined in the plans kept and maintained under section 40(2) of the Act; or
- (b) in the Mt Barker (West) cemetery, except on a headstone plinth, where one has been installed; or
- (c) in an area set aside by the Board as a memorial plaque, lawn or natural earth burials section.

#### *Division 2—Lawn section*

### 7.13 Specifications of monuments

All monuments in the lawn section of a cemetery shall be supplied by the Board.

### 7.14 Headstones

In the lawn section of the cemetery, that part of a headstone above its base shall not extend horizontally beyond that base.

#### *Division 3—Memorial plaque section*

### 7.15 Requirements of a memorial plaque

All memorial plaques placed in a memorial plaque section of the cemetery shall be supplied by the Board.

#### *Division 4—Licensing of Monumental Masons*

### 7.16 Monumental mason's licence

- (1) The Board may upon receipt of an application in writing by any person and upon 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 the cemetery subject to the provisions of this local law and such conditions as the Board shall specify upon the issue of that licence.

### 7.17 Expiry date, non-transferability

A monumental mason's licence—

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

### 7.18 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 issued pursuant to clause 7.16; or
- (b) is an employee of a person who holds such a licence; or
- (c) is authorised by the Board to do so.

### 7.19 Responsibility of holder of a monumental mason's licence

The 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 the 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.

### 7.20 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 the grounds that the holder of the licence has committed a breach of the requirements and conditions of the licence, this local law, the Act or any other written law which may affect the carrying out of monumental works.
- (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.

## PART 8—GENERAL

### 8.1 Animals

A person shall not bring an animal into or permit an animal to enter or remain in the cemetery, other than an *assistance animal* as defined in section 9(2) of the *Disability Discrimination Act 1992* (Cth) or with the approval of the CEO or an authorised officer.

**8.2 Damaging and removing objects**

Subject to clause 8.3, a person shall not damage, remove or pick any tree, plant, shrub or flower in the cemetery or any other object or thing on any grave or memorial or which is the property of the Board without the permission of the Board.

**8.3 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.

**8.4 Littering and vandalism**

A person shall not—

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

**8.5 Advertising**

(1) A person shall not advertise or carry on any trade, business or profession within the cemetery without the prior written approval of the Board.

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

**8.6 Obeying signs and directions**

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 officer.

**8.7 Removal from cemetery**

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 officer is inappropriate in the cemetery may in addition to any penalty provided by this local law be given a direction to leave the cemetery by the Board, the CEO or an authorised officer. Failure to comply will be an offence under clause 8.6 above.

**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 2.

(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 3.

**SCHEDULE 1—MODIFIED PENALTIES**

[clause 9.2(1)]

**OFFENCES AND MODIFIED PENALTIES**

Item No.	Clause	Nature of offence	Modified penalty
1	5.4(1)	Not driving vehicle on vehicular access way or constructed roadways or within designated areas	\$50
2	5.4(2)	Exceeding speed limit	\$50
3	7.3	Not removing rubbish and surplus materials	\$50
4	7.5	Unauthorised use of sand, earth or other material taken from another part of the cemetery	\$50
5	7.6	Works carried out during unauthorised time	\$50
6	7.7	Leaving uncompleted works in an untidy or unsafe condition	\$50
7	8.1	Unauthorised bringing in of animal into cemetery or permitting animal to remain in cemetery	\$50
8	8.2	Damaging and removing of objects	\$50
9	8.4	Littering and vandalism	\$50
10	8.5	Unauthorised advertising and/or trading	\$50
11	8.6	Disobeying sign or lawful direction	\$50

## SCHEDULE 2—INFRINGEMENT NOTICE

[clause 9.2(3)]

## INFRINGEMENT NOTICE

<b>INFRINGEMENT NUMBER—</b>		
<b>To—</b>		
<b>Address—</b>		
		It is alleged that—
<b>Cemetery address—</b>		
<b>At—</b>		Time
<b>On—</b>		Date
		You committed the following offence—
<b>Contrary to—</b>		<i>Shire of Plantagenet Cemeteries Local Law 2020</i>
<b>Schedule 1 reference—</b>		Item No.—      Clause—
<b>Offence—</b>		
<b>Brief description—</b>		
<b>The modified penalty for the offence is—</b>		\$
		If you do not wish to have a complaint of the alleged offence heard and determined by a court, the amount of the modified penalty may be paid at the Shire of Plantagenet within a period of 28 days after the giving of this notice.
<b>Name of authorised person—</b>		
<b>Position—</b>		
<b>Signature—</b>		
<b>Date—</b>		
<b>Payments may be made—</b>		(a) EFT to the Shire of Plantagenet specifying the infringement number. (b) In person at—Shire of Plantagenet, 22-24 Lowood Street, Mt Barker during business hours. (c) By mail to—Shire of Plantagenet, PO Box 48, Mt Barker 6324. Please make cheques payable to Shire of Plantagenet.

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 3—INFRINGEMENT WITHDRAWAL NOTICE

[clause 9.2(4)]

No. .... Date ..... / ..... / .....

To: <sup>[1]</sup>

Infringement Notice No dated \_\_\_\_/\_\_\_\_/\_\_\_\_ for the alleged offence of <sup>[2]</sup>

Penalty <sup>[3]</sup> \$\_\_\_\_\_ is withdrawn.

(Delete whichever does not apply)

\* No further action will be taken.

\* It is proposed to institute court proceedings for the alleged offence.

(Authorised Person)

<sup>[1]</sup> Insert name and address of alleged offender.

<sup>[2]</sup> Insert short particulars of offence alleged.

<sup>[3]</sup> Insert amount of penalty prescribed.

Dated: 28 January 2020.

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

CHRIS PAVLOVICH, Shire President.  
ROB STEWART, Chief Executive Officer.



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

SHIRE OF PLANTAGENET

**BUSH FIRE BRIGADES LOCAL LAW 2020**

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

SHIRE OF PLANTAGENET

**BUSH FIRE BRIGADES LOCAL LAW 2020**

Under the powers conferred by the *Bush Fires Act 1954* the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Plantagenet resolved on 28 January 2020 to make the following local law.

**PART 1—PRELIMINARY**

**1.1 Citation**

This local law may be cited as the *Shire of Plantagenet Bush Fire Brigade Local Law 2020*.

**1.2 Commencement**

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

**1.3 Definitions and interpretations**

(1) In this local law unless the context otherwise requires—

*Act* means the *Bush Fires Act 1954*;

*Active Member* has the meaning given in clause 4.12 of the Rules;

*Auxiliary Member* has the meaning given in clause 4.3 of the Rules;

*brigade area* is defined in clause 2.2(1)(b);

*brigade member* means a volunteer fire fighter of a bush fire brigade;

*brigade administration officer* means a person holding a position referred to in clause 2.2(1)(c), whether or not he or she was appointed by the local government or elected at an annual general meeting of a bush fire brigade or otherwise appointed to the position;

*bush fire brigade* is defined in section 7 of the Act;

*bush fire control officer* means a person appointed to that office by the local government in accordance with section 38 of the Act;

*Bush Fire Operating Procedures* means the Bush Fire Operating Procedures adopted by the local government as amended from time to time;

*cadet* means any adolescent member of the Brigade who has attained the age of 11 years but not the age of 16 years;

*Chief Bush Fire Control Officer* means the Chief Bush Fire Control Officer appointed by the local government in accordance with section 38 of the Act;

*CEO* means the Chief Executive Officer of the Shire of Plantagenet;

*Council* means the Council of the local government;

*Department* means the Department of Fire and Emergency Services Western Australia, established by section 3 of the *Fire and Emergency Services Act 1998*;

*district* means the district of the local government;

*fire fighting member* is defined in clause 4.2 of the Rules;

*grievance* has the meaning given in Schedule 1 clause 4.16 (2);

*local government* means the Shire of Plantagenet;

*normal brigade activities* means all normal brigade activities relating to a live bush fire which is active in the district, and includes burning off, creating fire breaks and other methods for the control of bush fires;

*Regulations* means Regulations made under the Act;

*Rules* means the rules governing the operation of Bush Fire Brigades as set out in Schedule 1; and

*volunteer fire brigade* has the meaning given in the *Fire Brigades Act 1942*.

(2) In this local law unless the context otherwise requires, a reference to—

- (a) a Captain;
- (b) a Brigade Training Officer;
- (c) a Fire Control Officer;
- (d) a First Lieutenant;
- (e) a Second Lieutenant;
- (f) any additional Lieutenants;
- (g) an Equipment Officer;
- (h) a Secretary;
- (i) a Treasurer;

means a person holding that position in a bush fire brigade.

#### **1.4 Repeal**

This local law repeals the *Shire of Plantagenet Bush Fire Brigades Local Law 2004* as published in the *Government Gazette* on 7 April 2004, and as amended in the *Government Gazette* on 17 March 2006 and 11 April 2008.

#### **1.5 Application**

This local law applies throughout the district.

### **PART 2—ESTABLISHMENT OF BUSH FIRE BRIGADES**

#### *Division 1—Establishment of bush fire brigades*

##### **2.1 Establishment of a bush fire brigade**

(1) The local government may establish a bush fire brigade for the purpose of carrying out normal brigade activities.

(2) A bush fire brigade is established on the date of the local government's decision under subclause (1).

##### **2.2 Brigade name and confirmed appointment of officers of bush fire brigade**

(1) On establishing a bush fire brigade under clause 2.1(1) the local government is to—

- (a) give a name to the bush fire brigade;
- (b) specify the area in which the bush fire brigade is primarily responsible for carrying out the normal brigade activities; and
- (c) appoint—
  - (i) a Captain;
  - (ii) a Fire Control Officer;
  - (iii) a First Lieutenant;
  - (iv) a Second Lieutenant;
  - (v) additional Lieutenants if the local government considers it necessary;
  - (vi) an Equipment Officer;
  - (vii) a Secretary;
  - (viii) a Treasurer.

(2) When considering the appointment of persons to the positions in subclause (1)(c), the local government is to have regard to the qualifications and experience which may be required to fill each position which are defined in the Rules.

(3) A person appointed to a position in subclause (1)(c) is to be a registered brigade member.

(4) The appointments referred to in subclause (1)(c) expire at the completion of the first annual general meeting of the bush fire brigade.

(5) If a position referred to in subclause (1)(c) becomes vacant prior to the completion of the first annual general meeting, then the local government is to appoint a person to fill the vacancy in accordance with subclause (2).

#### *Division 2—Command at a fire*

##### **2.3 Ranks within the bush fire brigade**

(1) Where under the Act and Bush Fire Operating Procedures members of the bush fire brigade have command of a fire, unless a bush fire control officer is in attendance at the fire, the Captain has full control over other persons fighting the fire, and is to issue instructions as to the methods to be adopted by the fire fighters. In the absence of the Captain, the Fire Control Officer, in the order of seniority determined, is to exercise all the powers and duties of the Captain.

(2) Where a bush fire control officer is in attendance at a fire which the members of the bush fire brigade have command of under the Act and the Bush Fire Operating Procedures, the most senior bush fire control officer has full control over other persons fighting the fire and is to issue instructions as to the methods to be adopted by the fire fighters.



*Division 3—Transitional***2.4 Existing Bush Fire Brigades**

(1) Where a local government has established a bush fire brigade prior to the commencement date, then on and from the commencement day—

- (a) the bush fire brigade is to be taken to be a bush fire brigade established under and in accordance with this local law;
- (b) the provisions of this local law apply to the bush fire brigade save for clause 2.2; and
- (c) any rules governing the operation of the bush fire brigade are to be taken to have been repealed and substituted with the Rules.

(2) In this clause—

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

*Division 4—Dissolution of bush fire brigade***2.5 Dissolution of bush fire brigade**

In accordance with section 41(3) of the Act, the local government may cancel the registration of a bush fire brigade if it is of the opinion that the bush fire brigade is not complying with the Act, this local law, the Bush Fire Operating Procedures, the Rules, or is not achieving the objectives of the Bush Fire Operating Procedures.

**2.6 New arrangement after dissolution**

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

**PART 3—ORGANISATION AND MAINTENANCE OF BUSH FIRE BRIGADES***Division 1—Local government responsibility***3.1 Local government responsible for structure, Rules and operating procedures**

(1) The local government is to ensure that there is an appropriate structure through which the organisation of bush fire brigades is maintained.

(2) The local government is to prepare and adopt a Bush Fire Operating Procedures.

(3) The local government may make other applicable rules, policies and procedures as determined necessary by the local government.

*Division 2—Rules operating procedures and policies***3.2 Application of the Rules, procedures, policies and local law**

(1) The Rules and Bush Fire Operating Procedures govern the operation of a bush fire brigade.

(2) A bush fire brigade and each brigade member is to comply with the Rules and the provisions of this Local Law.

**3.3 Variation of procedures, policies and constitution**

(1) The local government may vary the Bush Fire Operating Procedures and policies at any time.

(2) The local government is to notify a bush fire brigade of any variation to the Bush Fire Operating Procedures and Policies as soon as practicable after making a decision under subclause (1).

**3.4 Brigades and officers to be supplied with Act, Rules, procedures and policies**

The local government is to supply each bush fire brigade and brigade officer with a copy of the Act, the Regulations, this local law, the Bush Fire Operating Procedures, policies and any other written laws which may be relevant to the performance of the brigades or brigade officers' functions, and any amendments which are made thereto from time to time.

*Division 3—Chief Bush Fire Control Officer***3.5 Managerial role of Chief Bush Fire Control Officer**

Subject to any directions by the local government the Chief Bush Fire Control Officer has primary managerial responsibility for the organisation and administration of bush fire brigades.

**3.6 Chief Bush Fire Control Officer may attend meetings**

The Chief Bush Fire Control Officer or her or his nominee (who is to be a bush fire control officer) may attend as a non-voting representative of the local government at any meeting of a bush fire brigade.

**3.7 Duties of Chief Bush Fire Control Officer**

The duties of the Chief Bush Fire Control Officer are to—

- (a) provide leadership to volunteer fire brigades;
- (b) monitor bush fire brigades' resourcing, equipment (including protective clothing) and training levels and report thereon with recommendations at least once a year to the local government; and

- (c) liaise with the local government concerning fire prevention or fire suppression matters generally and directions to be issued by the local government to bush fire control officers (including those who issue permits to burn), bush fire brigades or brigade officers.

## **PART 4—ADMINISTRATION OF BUSH FIRE BRIGADES**

### *Division 1—Bush fire brigade membership*

#### **4.1 Types of membership of bush fire brigade**

The types of membership of a bush fire brigade shall be accordance with the definitions contained in the Rules.

#### **4.2 Brigade membership**

- (1) The appointment, determination, dismissal and management of bush fire brigade membership are governed by the Rules and the Bush Fire Operating Procedures.
- (2) Application for membership, including registration of bush fire brigade members, is to be in accordance with the Rules and Bush Fire Operating Procedures.
- (3) Membership of the bush fire brigade terminates in accordance with the Rules.
- (4) The local government may terminate the membership of a brigade member in accordance with the Rules and Bush Fire Operating Procedures.
- (5) Membership of the bush fire brigade may be suspended at any time if, in the opinion of the Executive Committee, circumstances warrant suspending the member. The period of suspension shall be at the discretion of the Executive Committee.
- (6) Upon the expiry of the period of suspension the Executive Committee may—
  - (a) extend the period of suspension;
  - (b) terminate the membership; or
  - (c) reinstate the membership.
- (7) The resignation or termination of a member under clause 4.17 of Schedule 1 or clause 4.2(3) of this local law, does not affect any liability of the brigade member arising prior to the date of resignation or termination.

#### **4.3 Notification of membership**

No later than 31 May in each year, the bush fire brigade is to report to the local government, the name, contact details and type of membership of each brigade member.

#### **4.4 Grievance**

- (1) Grievances shall be managed in accordance with the Rules, Bush Fire Operating Procedures and Policies.
- (2) In respect to grievance complaints or submissions, where the complaint relates to or is made against the Chief Bushfire Control Officer, Deputy Chief Bushfire Control Officer or a Brigade Captain, the matter may be referred to an independent investigator as determined by the local government.
- (3) The CEO of the local government shall be the final ‘decision making authority’ in regards to the administration of a grievance.

### *Division 2—Meetings of bush fire brigades*

#### **4.5 Conduct of brigade meetings**

- (1) All bush fire brigade meetings are to be conducted in accordance with the Rules and the Bush Fire Operating Procedures.
- (2) In this clause, a reference to a bush fire brigade meeting means an—
  - (a) Annual general meeting of a bush fire brigade to be held in May of each year;
  - (b) Ordinary meeting of a bush fire brigade; or
  - (c) Special meeting of a bush fire brigade.

#### **4.6 Nomination of bush fire control officers to local government**

At the annual general meeting of a bush fire brigade, the brigade may nominate preferred candidates for the position of bush fire control officer to the Chief Bush Fire Control Officer and to the local government for consideration and recommendation to the Council.

#### **4.7 Minutes to be tabled before the Bush Fire Advisory Committee**

- (1) The Secretary is to forward a copy of the minutes of the annual general meeting of a bush fire brigade to the local government within one month after the meeting.
- (2) The Brigade is to table the minutes of a bush fire brigade’s annual general meeting at the next meeting of the—
  - (a) Bush Fire Advisory Committee; or
  - (b) The Council, if there is no Bush Fire Advisory Committee.

*Division 3—Bush Fire Advisory Committee***4.8 Functions of Advisory Committee**

The Bush Fire Advisory Committee is to have the functions set out in section 67 of the Act and is to include such number of nominees of the bush fire brigades as is determined by the local government.

**4.9 Advisory Committee to consider bush fire brigade motions**

The Bush Fire Advisory Committee may make recommendations to the local government on all motions received by the Bush Fire Advisory Committee from bush fire brigades.

**PART 5—EQUIPMENT OF BUSH FIRE BRIGADES****5.1 Policies and bush fire operating procedures of local government**

The local government may make policies and bush fire operating procedures under which it—

- (a) provides funding to bush fire brigades for the purchase of protective clothing, equipment and appliances; and
- (b) keeps bush fire brigades informed of opportunities for funding from other bodies.

**PART 6—FUNDING OF BUSH FIRE BRIGADES****6.1 Funding under the Local Government Grant Scheme or equivalent**

(a) Requests by the local government for funding under the Local Government Grant Scheme or its equivalent shall be in accordance with the Local Government Grant Scheme Manual and the Bush Fire Operating Procedures.

(b) Expenditure of funds under the Local Government Grant Scheme or its equivalent shall be managed by the local government in accordance with the Local Government Grant Scheme Manual and the Bush Fire Operating Procedures.

**6.2 Funding from local government budget**

(a) Where an item is not eligible or is not otherwise able to be funded through the Local Government Grant Scheme or its equivalent a bush fire brigade may submit a request to the local government for funding from the local government budget.

(b) A request for funding under clause (a) must be received in writing no later than 31 March for consideration in the forthcoming local government budget for the following financial year.

(c) The local government may approve or refuse an application for funding made under clause (a) depending upon the assessment of budget priorities for the year in question.

**6.3 Management and expenditure of bush fire brigade**

The management and expenditure of bush fire brigade funds shall be in accordance with the Rules and the Bush Fire Operating Procedures.

**SCHEDULE 1****RULES GOVERNING THE OPERATION OF BUSH FIRE BRIGADES****Part 1—Preliminary****1. Interpretation**

In these Rules, unless the context otherwise requires—

***absolute majority*** means more than half of the total votes of those eligible to vote (including those absent and those present but not voting);

***active member*** is defined under the requirements of clause 4.12 of the Rules;

***AGM*** means Annual General Meeting;

***BFAC*** means the Shire of Plantagenet Bush Fire Advisory Committee;

***brigade*** means a Volunteer Bush Fire Brigade including any Incident Support Brigade currently registered with the local government;

***CBFCO*** means the Chief Bush Fire Control Officer appointed by the local government according to the Act;

***committee*** consists of Office Bearers of the brigade as provided for under clause 6 of the Rules;

***Executive Committee*** (if appointed) consists of Office Bearers of the Brigade as provided for under clause 6 of the Rules;

***DFES*** means the Department of Fire and Emergency Services;

***FCO*** means a Fire Control Officer;

***financial year*** means the period commencing on 1 July each year and ending on 30 June in the following year;

***fire fighter*** means a male or female member of a Brigade with the competency and currency to carry out operational fire fighting duties and be a minimum of sixteen (16) years of age. The member will be entitled to one (1) vote at their Brigade meetings;

**fire season** means the period of the Restrictive and Prohibited burning periods or as extended or shortened by the CBFCO and endorsed by the local government;

**local laws** means the *Shire of Plantagenet Bush Fire Brigades Local Law 2020*;

**management support** means a male or female member of the Incident Support Brigade with the competency and currency to carry out operational support duties and be a minimum of sixteen (16) years of age;

**non-fire season** means the period not already defined as the fire season for that year;

**normal brigade activities** as defined in section 35A of the Act;

**office bearers** means those appointed in accordance with clause 3 of the Rules;

**proxy vote** means the written authority given to a member present to cast a vote for another member who is absent from the meeting.

## Part 2—Objectives and Values

### 2.1 Objectives

- (1) The Brigade shall undertake the following objectives—
  - (a) provide timely, efficient and effective emergency services;
  - (b) minimise the impact of emergencies on the community;
  - (c) work with the community to increase bush fire awareness and fire prevention;
  - (d) ensure that active Members' training requirements are maintained and documented to meet DFES standards;
  - (e) ensure all operational equipment is serviceable and available for normal brigade activities;
  - (f) provide an environment where every individual is treated with respect, and which is free from discrimination or harassment; and
  - (g) service the needs of the community and work cohesively with other agencies.
- (2) Members are to adopt the Brigade values at all times when representing the Brigade.
- (3) The Brigade values include—
  - (a) Put the community first;
  - (b) Act with integrity and honesty;
  - (c) Work together as a committed team;
  - (d) Strive to keep ourselves and others safe;
  - (e) Respect and value the contribution of others;
  - (f) Have open and honest two way communication; and
  - (g) Continuously develop our skills to improve our service to the community.

## Part 3—Duties and Responsibilities of Brigade Office Bearers

### 3.1 General

- (1) The Office Bearers of the brigade should be able to demonstrate current competencies for the position of office they are nominated for, or give an undertaking to complete any training requirements prior to accepting the nomination or undertaking the duties and responsibilities of the said position.
- (2) Nominations are subject to the approval of the CBFCO. Such approval may be conditional on the nominee undertaking further training or other necessary arrangements to satisfy the competency requirements.
- (3) An Office Bearer is entitled to hold a maximum of one (1) additional administrative position within the brigade, however, the Captain cannot also be a Lieutenant and vice versa.

### 3.2 Captain

- (1) The Captain of the brigade shall be responsible for the leadership and management of brigade operations.
- (2) As a role model and mentor for members, the Captain should always act with integrity and consider each member equally. All decisions should be in the interest of the Brigade and its members.
- (3) The position reports to the CBFCO on brigade related matters.
- (4) Duties and responsibilities of the Captain include—
  - (a) Demonstrate positive leadership and mentor members;
  - (b) If the Captain is the senior officer at an incident—
    - (i) command, control and confidently manage activities at emergency incidents;
    - (ii) ensure incident control systems and management principles are implemented and maintained during all emergency incidents if required;
    - (iii) maintain some form of personal incident diary with a record of events and decisions that occur at an incident;
    - (iv) conduct Brigade briefings and post incident analysis of any incident involving fire fighting, incident support or management issues;

- (v) endeavour to ensure members deployed for operational duties have the competencies to complete the task or duty assigned and hold currency in training to carry out the functions required, in accordance with training recommendations;
- (vi) undertake responsibility for the proper management and maintenance of Brigade property and equipment to the best of their ability; and
- (vii) report any injuries of personnel or damage to fire fighting vehicles or equipment immediately to the CBFCO.

(5) In the absence of the Captain, the next senior officer of the brigade has authority to exercise the powers of the Act delegated to the Captain (Part IV Section 44(1)).

(6) Qualifications—

Qualifications	Experience	Competency Required
Fire fighting and or support experience	Minimum 3 years	Competent
Induction and Introduction to Fire fighting		Competent
Bush Fire fighting Modules		Competent
Structural Fire fighting theory and/or practical		Competent
Sector Commander		Competent
AIIMS Awareness		Competent

### 3.3 Fire Control Officer

(1) A FCO is a delegated representative of the local government responsible for the administration of provisions within the Act. The position is required to perform active operational duties in relation to both fire defence and fire prevention strategies within the local community.

(2) A member of the Brigade may be nominated for this position at the Brigade AGM.

(3) Fire Control Officers are nominated by the brigade to the Bush Fire Advisory Committee. The nomination is considered by BFAC and the CBFCO and if appropriate it is forwarded to the local government for its consideration and ratification.

(4) Duties and responsibilities of the FCO include—

- (a) authorise permits for hazard reduction burns within the local government in accordance with the Act;
- (b) identify and conduct risk assessments of fire hazards within the local government;
- (c) perform duties prescribed by the Act and authorised by the local government;
- (d) may take overall control of fire suppression activities or operational incidents where the local government is the Controlling Agency;
- (e) maintain a personal incident diary to include a record of events and decisions during an incident;
- (f) conduct brigade briefings and post incident analysis of any incident involving fire fighting or management issues.

(5) Qualifications—

Qualifications	Experience	Competency Required
Fire fighting and or support experience	Minimum 4 years	Competent
Induction and Introduction to Fire fighting		Competent
Bush Fire fighting Modules		Competent
Structural Fire fighting		Competent
Sector Commander		Competent
AIIMS Awareness		Competent
Fire Control Officer		Competent

### 3.4 Lieutenant

(1) The Lieutenant of a brigade is responsible for the operational management of members during brigade activities. The position is required to provide operational support to the Captain in managing the brigade. The position reports to the Captain on all matters relevant to the functioning of the Brigade and/or personnel they are supervising.

(2) The Brigade should appoint a minimum of two (2) Lieutenants. Additional Lieutenants may be appointed according to the needs of the Brigade. If operational circumstances require the number of Lieutenants for a brigade to be more than four (4), as decided by the Committee, a request is to be submitted in writing to the CBFCO for endorsement.

(3) The brigade must rank all Lieutenants numerically according to seniority including length of service and relevant skills.

(4) Duties and Responsibilities of a Lieutenant include—

- (a) provide support to the Captain and assist with the operational management of the brigade;
- (b) in the absence of the Captain administer all powers and responsibilities of the Act (Part IV Section 44(1));
- (c) command and manage members during normal brigade activities and other brigade related incidents and activities;

- (d) maintain a personal incident diary with a record of events that occur during all incidents if assuming the role of the most Senior Officer;
- (e) in the absence of a more Senior Officer, conduct brigade briefings and post incident analysis of any incident involving fire fighting or management issues;
- (f) encourage positive interaction and teamwork between members;
- (g) ensure DFES standing operating procedures are adhered to at brigade activities;
- (h) endeavour to ensure active members engaged in brigade activities are allocated tasks relevant to their competencies;
- (i) work cohesively with the Brigade Training Officer to conduct training activities for active members; and
- (j) ensure the behaviour of members is in accordance with the *Code of Conduct Policy*.

(5) Qualifications—

Qualifications	Experience	Competency Required
Fire fighting and or support experience	Minimum 3 years	Competent
Induction and Introduction to Fire fighting		Competent
Bush Fire fighting Modules		Competent
Structural Fire fighting theory and/or practical		Competent
Sector Commander		Competent

### 3.5 President

- (1) The President presides over all brigade meetings. The position is not required to perform active operational duties and may be inclusive to an additional position held within the brigade.
- (2) The position reports to the Captain on administrative matters pertinent to the brigade. In the absence of the President, the Captain or next most Senior Officer may preside over a meeting.
- (3) The President shall perform the following functions—
  - (a) preside over all brigade meetings;
  - (b) ensure meeting procedure and protocol is maintained;
  - (c) promote the aims and objectives of the brigade where possible;
  - (d) advise the brigade on administrative matters;
  - (e) report brigade matters to the Captain;
  - (f) promote open fair discussion during debate in relation to brigade matters; and
  - (g) ensure minutes of meetings are signed and dated by the President.
- (4) Qualifications must include—
  - (a) Understanding of meeting procedures; and
  - (b) Demonstrated ability to conduct and manage meetings.

### 3.6 Secretary

- (1) The Secretary is to record and manage administrative matters of the brigade. The position is not required to perform active operational duties and may be inclusive to an additional position held within the brigade.
- (2) The position reports to the President on administrative matters relevant to the brigade. This position may be held in conjunction with the Treasurer position.
- (3) The Secretary shall perform the following functions—
  - (a) Ensure members receive notification of brigade meetings in accordance with Part 5—Meetings of the brigades;
  - (b) Where deemed appropriate, prepare an agenda for brigade meetings and distribute to members prior to meetings;
  - (c) Ensure minutes of brigade meetings are recorded and where ever possible, distributed to all members prior to next meeting;
  - (d) Document and record all brigade correspondence;
  - (e) Ensure brigade information is disseminated to all listed members;
  - (f) Make available circulars and other information to members; and
  - (g) Work cohesively with local government management and administration staff on matters relevant to brigade administration.
- (4) Qualifications must include—
  - (a) Demonstrated ability to take minutes;
  - (b) Demonstrated record keeping and filing skills;
  - (c) An understanding of meeting procedures; and
  - (d) Developing computer skills.

### 3.7 Treasurer

- (1) The role of the Treasurer is to manage and report on all financial matters relevant to the brigade. The position is not required to perform active operational duties and may be inclusive to an

operational position held within the brigade. The position reports to the President on financial matters relevant to the brigade. This position may be held in conjunction with the Secretary position.

(2) The Treasurer shall perform the following functions—

- (a) Manage financial affairs including budgets of the brigade;
- (b) Maintain brigade financial records and provide detailed reports of income and expenditure at meetings; and
- (c) Work cohesively with the local government management and administration staff on matters pertinent to brigade financial matters, including providing copies of financial statements if required.

(3) Qualifications must include—

- (a) Knowledge and understanding of accounting principles; and
- (b) Developing computer skills.

### **3.8 Brigade Training Officer**

(1) The Brigade Training Officer is responsible for the management and co-ordination of brigade training in conjunction with the Local Government Training Coordinator, including the documentation of these activities. The position is not required to perform active operational duties and may be inclusive to an operational position held within the brigade.

(2) Duties and Responsibilities of the Brigade Training Officer may include—

- (a) Endeavour to ensure brigade members maintain necessary skill levels equivalent to the competency standards required by the local government and as recommended by DFES;
- (b) Endeavour to ensure regular training sessions are conducted within the brigade to maintain currency of qualifications and skills;
- (c) Maintain accurate records of training undertaken by members and ensure that qualification and training updates are forwarded to the Local Government Training Coordinator as required;
- (d) Provide mentoring for members who express an interest in training to encourage future facilitators; and
- (e) Represent the brigade at Plantagenet Fire Services training committee meetings.

### **3.9 Assistant Training Officer (Optional)**

(1) The brigade may nominate an Assistant Training Officer to provide support to the substantive position. In the absence of the Brigade Training Officer the Assistant Training Officer assumes the responsibilities of that position and shall have a Proxy Vote at the training committee meetings.

(2) Duties and Responsibilities of the Assistant Training Officer are the same as those for the Brigade Training Officer.

### **3.10 Brigade Equipment Officer**

(1) The role of the Brigade Equipment Officer is to manage brigade property, fleet vehicles, general equipment and stock levels of personal protective equipment. The position is not required to perform active operational duties but may be able to demonstrate a degree of knowledge of brigade equipment. The position may be inclusive to an operational position held within the brigade.

(2) The equipment officer shall perform the following functions—

- (a) Manage brigade equipment and maintain a register of all assets;
- (b) Coordinate and record maintenance of brigade equipment;
- (c) Report all damage of brigade equipment or property to the Captain immediately;
- (d) Manage brigade requests for replacement items and equipment; and
- (e) Compile documentation of replacement items and submit to the CBFCO.

### **3.11 Assistant Equipment Officer (Optional)**

(1) The brigade may nominate an Assistant Equipment Officer to provide support to the substantive position. In the absence of the Brigade Equipment Officer the Assistant Equipment Officer assumes the responsibilities of that position and shall have a Proxy Vote at equipment committee meetings.

(2) Duties and Responsibilities of the Assistant Equipment Officer are the same as those for the Brigade Equipment Officer.

## **Part 4—Membership**

### **4.1 Types of membership of bush fire brigade**

The membership of a bush fire brigade consists of the following—

- (a) fire fighting members;
- (b) auxiliary members;
- (c) cadet members; and
- (d) honorary life members.

### **4.2 Fire fighting members**

(1) Fire fighting members are those persons being at least 16 years of age who undertake all normal brigade activities.

(2) Notwithstanding subclause (1), a fire fighting member between the age of 16 and 18 must not attend a fire or other normal brigade activities incident unless the member has the consent of their parent or guardian and is accompanied by an appropriately trained fire fighting member over the age of 18.

#### **4.3 Auxiliary members**

Auxiliary members are those persons who are willing to supply free vehicular transport for fire fighting members or fire fighting equipment, or who are prepared to render other assistance required by the bush fire brigade.

#### **4.4 Cadet members**

Cadet members are—

- (a) to be aged 11 but not yet 16 years;
- (b) to be admitted to membership only with the consent of their parent or guardian;
- (c) admitted for the purpose of training and are not to attend or be in attendance at an uncontrolled fire or other emergency incident;
- (d) to be supervised by a fire fighting member when undertaking normal brigade activities as defined by paragraphs (c), (d), (e), (f) and (g) of section 35A of the Act;
- (e) ineligible to vote at bush fire brigade meetings; and
- (f) not to be assigned ranks under the Department's rank structure.

#### **4.5 Honorary life members**

(1) The bush fire brigade may by a simple majority resolution appoint a person as an honorary life member in recognition of services by that person to the bush fire brigade.

(2) No membership fees are to be payable by an honorary life member.

#### **4.6 New Membership Application**

(1) A new member is to complete a DFES volunteer nomination form and accept the conditions for membership.

(2) A minimum of two (2) Committee members, including the Captain, should decide whether to recommend the application to the CBFCO.

(3) The CBFCO must endorse the application.

#### **4.7 Dual Membership**

(1) A member may be a member of another local government brigade.

(2) A member may not be a member of another brigade within the local government unless they have the written permission of the CBFCO. This permission may be conditional.

#### **4.8 Conditions of Membership**

(1) The conditions of membership shall refer to—

- (a) Fire Fighters;
- (b) Management Support;
- (c) Auxiliary Members; and
- (d) Cadets.

(2) A new member is required to complete the necessary Fire Fighter Training Courses as required by the local government prior to commencing active and unsupervised Fire Fighter duties.

(3) Competency in these Training Courses shall be the minimum acceptable standard required for a Fire Fighter to perform active and unsupervised fire fighting duties. Currently this includes Induction, Introduction to Fire Fighting and Bush Fire Fighting training Courses—

- (a) Members must comply with the legislative requirements of the—
  - (i) *Bush Fires Act 1954 (WA)*;
  - (ii) *Fire and Emergency Services Act 1998 (WA)*; and
  - (iii) *Equal Opportunity Act 1984 (WA)*.
- (b) Members must act within the—
  - (i) Local guidelines and policies of individual brigade;
  - (ii) Brigade's local policies;
  - (iii) Competency and commitment requirements for an active volunteer Fire Fighter or Operation and Management Support roles as required by the CBFCO; and
  - (iv) State Hazard Plan—Fire (Interim).
- (c) Members must maintain currency of the appropriate licences to be able to operate brigade vehicles. Any traffic offence that results in a suspension or loss of licence must be reported to the CBFCO and the member must comply with the terms of their suspension.

#### **4.9 Decision on Application for Membership**

(1) At the meeting of the Committee, the brigade Office Bearers may—

- (a) Accept the application;
- (b) Defer the application for further consideration; or
- (c) Refer the application to the CBFCO for consideration.



(2) The President must contact the applicant in writing within fourteen (14) days of a final decision by the brigade or the CBFCO.

(3) The applicant has the right to appeal the decision of the Committee. The appeal should be in writing addressed to the CBFCO.

#### **4.10 Notification of Membership**

No later than 31 May in each year, the bush fire brigade is to report to the Chief Bush Fire Control Officer the name, contact details and type of membership of each brigade member.

#### **4.11 Induction**

All new members shall be—

- (a) introduced to brigade members and shown all brigade facilities during induction;
- (b) instructed about any safety requirements;
- (c) made aware of brigade duties and responsibilities;
- (d) provided with a mentor/s until such time as they are familiar with Normal Brigade Activities; and
- (e) made aware of local brigade guidelines and policies if any exist within that brigade.

#### **4.12 Membership Requirements (Brigade Commitments)**

(1) Members are required to maintain currency in brigade activities and training to be deemed as an Active Member and or be granted special considerations due to extenuating circumstances.

(2) Brigade Activities—

- (a) During the Fire Season members are required to attend a minimum of one (1) brigade ordinary meeting or other brigade activity or incident.
- (b) During the Non-Fire Season members are required to attend a minimum of one (1) brigade ordinary meeting or other brigade activity or incident.

(3) Brigade Training—

- (a) During the Fire Season members are required to attend and participate at a minimum of one (1) brigade training activity or incident.
- (b) During the Non-Fire Season members are required to attend and participate at a minimum of one (1) brigade training activity or incident.

(4) If extenuating circumstances apply that a member is unable to meet brigade commitments, it shall be the responsibility of the member to notify the Committee, in writing to advise of the circumstance, and the Committee will acknowledge in writing any special considerations to the member.

(5) The Training Officer should endeavour to make alternative arrangements for the member to meet the requirements wherever possible.

#### **4.13 Failure to Comply with Commitments**

(1) Should an active member of a brigade fail to comply with clause 4.12 of the Rules, correspondence will be forwarded to the member requesting contact be made with the brigade to indicate the intentions of the member's status.

(2) The Brigade Member may—

- (a) respond to the correspondence providing a reasonable explanation and request for alternative arrangements to be made for training or meeting obligations;
- (b) request in writing for Leave of Absence from brigade commitments due to personal circumstances; or
- (c) terminate their membership.

(3) If a member fails to respond to the correspondence within fourteen (14) days a subsequent letter will be forwarded from the Committee putting the member on final notice. Should a member fail to acknowledge the final notice within fourteen (14) days, the membership shall be terminated, to take effect from the date of the final notice.

#### **4.14 Change of Members Details**

The local government and DFES are to be notified of any change of personal details of a member. The brigade will complete a DFES volunteer application form and forward it to the CBFCO within fourteen (14) days of the change.

#### **4.15 Leave of Absence**

(1) A member may at any time request a Leave of Absence from all brigade commitments for a period not to exceed twelve (12) consecutive months.

(2) The application should be made in writing and addressed to the Captain.

(3) On completion of the Leave of Absence period the member must complete a Membership Update Form if deemed necessary providing any change of details and forward to the Captain and CBFCO.

(4) On completion of the Leave of Absence period the member must undertake any refresher training required before resuming active fire fighting duties. If the request for Leave of Absence is for a medical condition the member must provide confirmation of fitness to the satisfaction of the CBFCO to be able to resume active duties.

#### **4.16 Grievance Process/Disciplinary Action**

(1) The brigade is committed to providing an environment in which all persons can expect to be treated equally and with respect.

(2) All members are to have an understanding of the *Shire of Plantagenet Policy and Procedures Grievance Staff and Volunteers* and any other brigade policies as applicable. These hard copy documents are to be made available at each fire station or can be obtained from the local government.

(3) A grievance is any serious allegation, dispute or claim, arising during any training or activity involving the brigade, in relation to an act committed by a member. Examples that may be considered a grievance include acts that—

- (a) constitute a breach of the Rules;
- (b) bring the brigade and or the Plantagenet Fire Service into disrepute;
- (c) contravene any reasonable direction given by the Captain or the delegated authority;
- (d) disregard brigade regulations and policies or procedures;
- (e) jeopardise the safety of the member or others; and/or
- (f) result in the member being convicted of, an offence for which an offender may be imprisoned.

(4) Where a grievance arises, an investigation must be conducted by the Committee (and the CBFCO if necessary) in accordance with the Grievance Process.

(5) During the investigation it may be determined that the member should be suspended from all or part of brigade activities, subject to the CBFCO's approval. If a member is to be suspended during the investigation the CBFCO should notify the member in writing of the terms of the suspension, including the reason for the suspension and the time period. The time period for suspension during an investigation, should not exceed three (3) consecutive months.

When an investigation is complete a report will be provided by the investigating officer to the CBFCO outlining the process of the investigation, the conclusions drawn and any recommended action.

(6) Disciplinary action in relation to the member may include—

- (a) suspension of membership;
- (b) termination of membership; or
- (c) any other reasonable disciplinary action as determined by the Committee in consultation with the CBFCO.

(7) If a disciplinary suspension is imposed, the CBFCO must notify the member in writing that they are suspended, including the suspension period and reason for suspension. Suspension may be from complete or specific brigade duties and activities.

(8) The period of disciplinary suspension shall be determined by the CBFCO in consultation with the President.

(9) On completion of the suspension period the member may be required to undertake refresher training before resuming active fire fighting duties which will be supervised and or acknowledged by the Captain.

(10) If a membership is to be terminated, the President with the approval of the CBFCO will notify the member in writing, and provide a reason for termination.

(11) Where a membership is terminated, all property owned by the local government should be returned to the local government within fourteen (14) days of giving notice. Failure to meet these conditions may require the local government to seek reimbursement of costs against the member.

#### **4.17 Termination by the Member**

(1) A member can decide to resign from brigade activities and terminate their membership by providing written notification to the Committee.

(2) Where a member resigns, all property owned by the local government should be returned to the local government within fourteen (14) days of giving notice. Failure to meet these conditions may require the local government to seek reimbursement of costs against the member.

#### **4.18 Rights of a Volunteer Member**

(1) A member shall not be suspended or dismissed from any brigade duty without an opportunity to defend the allegation.

(2) Any member may lodge a written objection to the CBFCO should they consider they have been unfairly dealt with by the Committee.

(3) The CBFCO shall consider the objection and deal with it in consultation with the Committee. This may include either—

- (a) dismissing the objection;
- (b) variation to the decision; or
- (c) revoking the original decision; and
  - (i) imposing an independent decision; or
  - (ii) referring the matter back to the Committee to reconsider the decision.

### **Part 5—Meetings of the Brigade**

#### **5.1 Ordinary meetings**

(1) Ordinary meetings may be called at any time by the Secretary by giving notice to all brigade members and to the Chief Bush Fire Control Officer, for the purpose of—

- (a) organising and checking equipment;

- (b) requisitioning new or replacement equipment;
  - (c) organising field excursions, training sessions, hazard reduction programs, and the preparation of fire-breaks;
  - (d) establishing new procedures in respect of any of the normal brigade activities; and
  - (e) dealing with any general business.
- (2) In a notice given under subclause (1), the Secretary is to specify the business which is to be conducted at the meeting.
- (3) Business may be conducted at an ordinary meeting of the bush fire brigade notwithstanding that it was not specified in a notice given under subclause (1) in relation to that meeting.
- (4) The brigade shall hold a minimum of one (1) Ordinary Meeting between 1 July and 30 June each year.

### **5.2 Annual General Meeting (AGM)**

- (1) The brigade shall hold an AGM in the month of May each calendar year.
- (2) A report may be presented to the membership by each Committee Member.
- (3) At this meeting all Committee and Brigade Officer positions will be declared vacant.
- (4) All equipment and documentation relevant to each position is to be made available for auditing at the AGM.
- (5) The CBFCO or proxy will act as returning officer during the election of the new Committee and brigade officer positions.
- (6) The incoming Committee will assume the positions at the close of the AGM.
- (7) Any outgoing Committee Member is to conduct a handover to the new incumbent.
- (8) All minutes of the AGM including financial statements are to be lodged with the CBFCO for submission to the local government within a period no later than twenty-one (21) days of the AGM.

### **5.3 Special Meeting**

- (1) The President may at any time convene a special meeting of the brigade.
- (2) The Secretary of the brigade must convene a special meeting when a written request is made by not less than ten (10) or fifty (50) percent (whichever is least) active members of the brigade.
- (3) The names of the members requesting the special meeting are to be recorded in the minutes of the meeting.

### **5.4 Notice of a Meeting**

- (1) Notice of any special meeting of the brigade, must be given to all members of the brigade eligible to vote at least seventy two (72) hours before the commencement of the meeting.
- (2) Notice of the AGM of the brigade must be given to all members of the brigade eligible to vote, as well as the CBFCO, at least thirty (30) days before the commencement of the meeting.
- (3) Notice of any Ordinary Meeting of the brigade must be given to all members of the brigade eligible to vote, as well as the CBFCO, at least seven (7) days before the commencement of the meeting.
- (4) Notice of a special meeting or AGM—
- (a) must be given by the Secretary;
  - (b) be given by written notice to each member—
    - (i) Personally, by post or electronic email; or
    - (ii) By a notice published in a newspaper circulating in the area of the brigade;
  - (c) must set out the date, time, and venue of the meeting;
  - (d) must be signed by the Secretary or, in the case of a special meeting, by the person convening the meeting; and
  - (e) must set out an agenda for the meeting.

### **5.5 Quorum**

A quorum for all brigade meetings—

- (a) shall consist of not less than six (6) Active Members who are eligible to vote or thirty (30) percent of Active members whichever is least. This shall include a minimum of two (2) Committee members.
- (b) No formal business is to be transacted at a meeting of the brigade unless a quorum of members is present.
- (c) A member is not deemed to be active and cannot be considered as a quorum number, unless special considerations due to extenuating circumstances as mentioned under clause 4.12 (4) of the Rules or Leave of Absence have been granted.

### **5.6 Voting**

- (1) Each Active Member shall be entitled to one (1) vote.
- (2) In the event of an equality of votes, the President may exercise the deciding vote.
- (3) Votes may be counted by either—
- (a) secret ballot; or
  - (b) show of hands.

(4) A member is not deemed to be active and is unable to cast a vote at any meeting of the brigade, unless all requirements in regards to brigade training and activities as set out under clause 4.12 of the Rules have been satisfied.

(5) Each Auxiliary Member shall be entitled to one (1) vote at all brigade meetings.

### 5.7 Procedure at Meetings

Meeting procedures and protocols are to be in accordance with the brigade's meeting procedures and protocol guidelines.

## Part 6—Committee

### 6.1 Meetings

- (1) Each brigade shall have a Committee.
- (2) The Committee shall convene a meeting of all members each calendar month or as required.
- (3) Any functions of the brigade may be delegated to the Committee provided that a motion approving of the delegation has been carried at either an Ordinary Meeting or AGM.
- (4) The Committee shall consist of the following Office Bearers—
  - (a) President
  - (b) Secretary
  - (c) Treasurer
  - (d) Captain
  - (e) Additional members at the decision of the Committee.
- (5) The Committee will be responsible for the management and administration of the brigade.
- (6) The brigade officers are responsible for all operational requirements of the brigade.
- (7) A motion carried by the vote of a majority of those present at a Committee meeting shall be accepted as the decision of the Committee.
- (8) Each registered Committee Member present at a meeting of the Committee shall be entitled to one (1) vote. In the event of an equality of votes the President will be entitled to a second or casting vote.
- (9) The Secretary must keep accurate minutes of the meeting.
- (10) Minutes of these meetings shall be made available to members of the brigade.
- (11) All elected positions are for a term of twelve (12) consecutive months.

## Part 7—Brigade Elections

### 7.1 Nomination of Candidates for Brigade Elections

- (1) Any person accepting a nomination for a Committee position must be competent and qualified to perform the duties and responsibilities of that position.
- (2) The Secretary shall advise the President of the brigade at the general meeting prior to the AGM that nominations are required to be presented at the AGM.
- (3) A person can only be nominated by an Active Member.
- (4) A nomination must be endorsed by a second Active Member filling out a Nomination Form in the form of Schedule 2.
- (5) Each member is only entitled to nominate one (1) person per position.
- (6) A nomination may be made—
  - (a) in writing to be received by the Committee before the official close of nominations; or
  - (b) verbally at a general meeting prior to the AGM.
- (7) Nominees must sign or indicate acceptance of nomination.
- (8) Nominees for operational Brigade Officer positions must meet the minimum requirements for training as set out under Part 3 of the Rules.
- (9) Nominees for Brigade Officer positions must accept all requirements imposed by the brigade or legislation.
- (10) The Committee will assist and mentor new Brigade Officers in their new roles.
- (11) The CBFCO or a proxy may act in the position as returning officer during the election of office bearers at the AGM if requested by the brigade.

### 7.2 Conduct of Elections

- (1) Positions should be determined by vote in the ascending order of preference—

Order	Officer	Term
1	President	1 year
2	Secretary	1 year
3	Treasurer	1 year
4	Brigade Captain	1 year
5	Lieutenants	1 year

Order	Officer	Term
6	Training Officer	1 year
7	Equipment Officer	1 year
8	FCO Nominations Only	2 year
9	Other	1 year

(2) Any additional positions to the Committee or the Brigade Officers must be authorised by the CBFCO prior to the appointment of the position.

(3) All positions are to be elected in accordance with clause 7.1 of the Rules.

(4) The BFAC will consider all nominations for the position of the Fire Control Officers based on the delegates nominated by the brigades and refer those nominations to the local government for approval.

### 7.3 Supplementary Elections

Where a supplementary election must be held due to a vacancy in a position as a result of an early resignation or other reason, the Committee, by majority vote, will appoint a temporary office to an agreeable consenting Active Member for the remaining term of the vacant position.

## Part 8—General Accounting Matters

### 8.1 Accounts at Financial Institutions

(1) The brigade must disclose where brigade account(s) are to be held for the ensuing Financial Year at each AGM and record this information within the minutes of the AGM.

(2) The brigade must have three (3) Committee Members to act as signatories for the brigade accounts each Financial Year.

(3) A minimum of two (2) signatures is required on any brigade account cheque or bank transaction form.

(4) All brigade purchases are to be approved by the Committee.

(5) All accounts raised, works undertaken or goods to be purchased by the brigade must be authorised in advance by the President or, if the President is not available, then the next senior committee person.

(6) All accounts raised, works undertaken or goods to be purchased need to be ratified by the brigade at the next Ordinary Meeting.

(7) All funds raised by the brigade are to be used for the purpose of improving the profile and operation of the brigade and its members.

(8) All cheques issued must be accompanied by the appropriate documentation (invoice or monthly account).

(9) All money received by the brigade or by a member on behalf of the brigade must be recorded in the brigade financial records.

### 8.2 Financial Reports

(1) The brigade must, at each AGM, present an independently audited financial report for the previous 12-month period or since the last AGM.

(2) The financial report must include—

- a Statement of Receipts and Payments;
- a Bank Reconciliation Statement;
- notes detailing any outstanding receipts or payments; and
- a Balance Sheet and Inventory of Assets held by the brigade.

(3) The brigade, in conjunction with the local government will appoint an auditor not being a brigade member for the ensuing financial year.

(4) If an auditor resigns during the financial year, the brigade in conjunction with the local government must appoint a replacement at its next Ordinary Meeting.

(5) The Treasurer must present the auditor's report to the AGM.

(6) The audited report will be forwarded to the CBFCO for the information of the local government.

## SCHEDULE 2 NOMINATION FORM

(Clause 7.1(4) of Schedule 1)

Shire of Plantagenet ..... Volunteer Bush Fire Brigade  
(Name of Brigade)

I ..... as an active member of  
..... Volunteer Bush Fire Brigade hereby nominate for the position of—

Captain		Lieutenant	
Fire Control Officer		President	

Secretary		Treasurer	
Training Officer		Equipment/Comms Officer	
First Aid Officer		Station/Callout Attendant	

*(If nominating for more than one position, separate forms are required)*

I ..... as an active member of ..... Volunteer Bush Fire Brigade hereby endorse the above nomination.

Full name of Nominee: .....

Address: .....

Contact Details—

Home: .....

Mobile: .....

E-mail: .....

DFES Identification Number: .....

I certify that I have read and understand the duties and responsibilities for the position I have been nominated as specified under the Volunteer Bush Fire Brigade Rules and that I have currency in all the competencies required. I understand that if I do not have currency in all the competencies required I can still be nominated subject to the approval of the CBFCA. Such approval may be conditional on further training or other arrangements as deemed necessary.

.....  
Signature Date

Received by Secretary/Returning Officer—

.....  
Signature Date

Received by Secretary/Returning Officer—

.....  
Signature Date

Dated: 28 January 2020.

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

CHRIS PAVLOVICH, Shire President.  
ROB STEWART, Chief Executive Officer.

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**LOCAL GOVERNMENT ACT 1995**

## SHIRE OF PLANTAGENET

**EXTRACTIVE INDUSTRIES LOCAL LAW 2020**

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## LOCAL GOVERNMENT ACT 1995

## SHIRE OF PLANTAGENET

## EXTRACTIVE INDUSTRIES LOCAL LAW 2020

Under the powers conferred by the *Local Government Act 1995* and by all other powers, the local government of the Shire of Plantagenet resolved on 28 January 2020 to make the following local law.

## PART 1—PRELIMINARY

## 1.1 Citation

This local law may be cited as the *Shire of Plantagenet Extractive Industries Local Law 2020*.

## 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 and available for viewing free of charge at the Shire of Plantagenet Administration offices;

**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 Plantagenet;

**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 Plantagenet Extractive Industries Local Law 2008* as published in the *Government Gazette* on 11 April 2008.

## 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 applicant, 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 Australian Height Datum and Australian Map Grid standards.
- (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) on 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 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 45 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 SAA Explosives Code 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, 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 no 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 the Schedule 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**

(clause 9.3)

<b>Item</b>	<b>Clause</b>	<b>Description</b>	<b>Modified Penalty \$</b>
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	6.3(a)	Remove trees or shrubs near boundary without approval	500
7	6.3(b)	Store without required approval explosives or explosive devices	500
8	6.3(c)	Fill or excavate in breach of licence	500
9	6.4(1)(a)	Blasting without approval of the local government	500
10	6.4(1)(b)	Blasting outside times authorised	500
11	6.4(1)(d)	Blasting in breach of conditions imposed by the local government	500
12	6.4(2)	Blasting without approval on Saturday, Sunday or public holiday	500

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Dated: 28 January 2020.

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

CHRIS PAVLOVICH, Shire President.  
ROB STEWART, Chief Executive Officer.

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**LOCAL GOVERNMENT ACT 1995**

## SHIRE OF PLANTAGENET

**STANDING ORDERS LOCAL LAW 2020**

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## LOCAL GOVERNMENT ACT 1995

## SHIRE OF PLANTAGENET

## STANDING ORDERS LOCAL LAW 2020

Under the powers conferred by the *Local Government Act 1955* and under all other powers enabling it, the Council of the Shire of Plantagenet resolved on 28 January 2020 to make the following local law.

## PART 1—PRELIMINARY

**1.1 Citation**

This local law may be cited as the *Shire of Plantagenet Standing Orders Local Law 2020*.

**1.2 Commencement**

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

**1.3 Purpose and intent**

- (1) The purpose of the local law is to provide for the conduct of meetings of the Council, Committees and electors.
- (2) This local law is intended to result in—
  - (a) better decision-making at meetings;
  - (b) the orderly and efficient conduct of meetings;
  - (c) greater community participation and understanding of the business of the Council; and
  - (d) more open and accountable local government.

**1.4 Application**

All meetings of the Council, committees and the electors are to be conducted in accordance with the Act, the Regulations and this local law.

**1.5 Repeal**

This local law repeals the *Shire of Plantagenet Local Law Relating to Standing Orders* as published in the *Government Gazette* on 11 September 2000 and as amended in the *Government Gazette* on 11 April 2008.

**1.6 Interpretation**

In this local law, unless the contrary intention appears—

***absolute majority*** has the meaning given to it in the Act;

***Act*** means the *Local Government Act 1995*;

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

***committee*** means a committee of the council (established under section 5.8 of the Act);

***Council*** means the Council of the Shire;

***Councillor*** has the same meaning as is given to it in the Act;

***Deputy President*** means the deputy president of the Shire;

***district*** means the district of the local government;

***employee*** has the same meaning as is given to it in the Act;

***Local Government*** means the Shire;

***meeting*** means a meeting of the Council or of a committee, or an electors' meeting, as the context requires;

***member*** has the same meaning as given to it in the Act;

***Minister*** means the Minister responsible for administering the Act;

***minor amendment*** in relation to a motion, means an amendment which does not alter the basic intent of the motion to which the amendment applies;

**President** means the president of the Shire;

**presiding person** means the person presiding at a meeting;

**Regulations** means the *Local Government (Administration) Regulations 1996*;

**Rules of Conduct Regulations** means the *Local Government (Rules of Conduct) Regulations 2007*;

**Shire** means the Shire of Plantagenet;

**simple majority** means more than 50% of the members present and voting;

**substantive motion** means an original motion, or an original motion as amended, but does not include an amendment motion or a procedural motion.

## PART 2—ESTABLISHMENT AND MEMBERSHIP OF COMMITTEES

### 2.1 Establishment of committees

(1) The establishment of committees is dealt with in the Act.

(2) A Council resolution to establish a committee under section 5.8 of the Act is to include—

- (a) the terms of reference of the committee;
- (b) the number of Council members, employees and other persons to be appointed to the committee;
- (c) the names or titles of the Council members and employees to be appointed to the committee;
- (d) the names of other persons to be appointed to the committee or an explanation of the procedure to be followed to determine the appointments; and
- (e) details of the delegation of any powers or duties to the committee under section 5.16 of the Act.

(3) This local law is to apply to the conduct of committee meetings.

### 2.2 Types of committees

The types of committees are dealt with in the Act.

### 2.3 Delegation of some powers and duties to certain committees

The delegation of some powers and duties to certain committees is dealt with in the Act.

### 2.4 Limits on delegation of powers and duties to certain committees

The limits on the delegation of powers and duties to certain committees are dealt with in the Act.

### 2.5 Appointment of committee members

The appointment of committee members is dealt with in the Act.

### 2.6 Tenure of committee membership

Tenure of committee membership is dealt with in the Act.

### 2.7 Resignation of committee members

The resignation of committee members is dealt with in the Regulations.

### 2.8 Register of delegations to committees

The register of delegations to committees is dealt with in the Act.

### 2.9 Committees to report

A committee—

- (a) is answerable to the Council; and
- (b) is to report on its activities when, and to the extent, required by the Council.

## PART 3—CALLING AND CONVENING MEETINGS

### 3.1 Ordinary and special Council meetings

(1) Ordinary and special Council meetings are dealt with in the Act.

(2) An ordinary meeting of the Council, held on a monthly basis or otherwise as determined by the Council, is for the purpose of considering and dealing with the ordinary business of the Council.

(3) A special meeting of the Council is held for the purpose of considering and dealing with Council business that is urgent, complex in nature, for a particular purpose or confidential.

### 3.2 Calling Council meetings

The calling of Council meetings is dealt with in the Act.

### 3.3 Convening Council meetings

(1) The convening of a Council meeting is dealt with in the Act.

(2) Subject to subclause (3), the CEO is to give at least 72 hours' notice, for the purposes of section 5.5 of the Act, in convening a special meeting of the Council.

(3) Where, in the opinion of the President or at least one-third of the members, there is a need to meet urgently, the CEO may give a lesser period of notice of a special Council meeting.



**3.4 Calling committee meetings**

A meeting of a committee is to be held—

- (1) If called for in a verbal or written request to the CEO by the President or the presiding member of the committee, advising the date and purpose of the proposed meeting;
- (2) If called for by at least one-third of the members of the committee in a notice to the CEO, setting out the date and purpose of the proposed meeting; or
- (3) In accordance with a decision of the Council or the committee.

**3.5 Convening committee meetings**

- (1) The CEO is to convene a committee meeting by giving each member of the committee notice of the date, time and place of the meeting and an agenda for the meeting.
- (2) Subject to subclause (3), the CEO is to give at least 72 hours' notice, for the purposes of subclause (1), in convening a meeting of a committee.
- (3) Where, in the opinion of the President, the presiding member of the committee or at least one-third of the members of the committee, there is a need to meet urgently, the CEO may give a lesser period of notice of a committee meeting.

**3.6 Public notice of meetings**

Public notice of meetings is dealt with in the Regulations.

**PART 4—PRESIDING MEMBER AND QUORUM***Division 1—Who presides***4.1 Who presides**

Who presides at a Council meeting is dealt with in the Act.

**4.2 When the Deputy President can act**

When the Deputy President can act is dealt with in the Act.

**4.3 Who acts if no President**

Who acts if there is no President is dealt with in the Act.

**4.4 Election of presiding members of committees**

The election of presiding members of committees and their deputies is dealt with in the Act.

**4.5 Election of deputy presiding members of committees**

The election of deputy presiding members of committees is dealt with in the Act.

**4.6 Functions of deputy presiding members**

The functions of deputy presiding members are dealt with in the Act.

**4.7 Who acts if no presiding member**

Who acts if no presiding member is dealt with in the Act.

*Division 2—Quorum***4.8 Quorum for meetings**

The quorum for meetings is dealt with in the Act.

**4.9 Reduction of quorum for Council meetings**

The power of the Minister to reduce the number for a quorum and certain majorities is dealt with in the Act.

**4.10 Reduction of quorum for committee meetings**

The reduction of a quorum for committee meetings is dealt with in the Act.

**4.11 Procedure where no quorum to begin a meeting**

The procedure where there is no quorum to begin a meeting is dealt with in the Regulations.

**4.12 Procedure where quorum not present during a meeting**

If at any time during a meeting a quorum is not present, the presiding member is—

- (a) immediately to suspend the proceedings of the meeting for a period of up to 15 minutes; and
- (b) if a quorum is not present at the expiry of that period, the presiding member is to adjourn the meeting to some future time or date.

**4.13 Names to be recorded**

At any meeting—

- (a) at which there is not a quorum present; or
- (b) which is adjourned for want of a quorum,

the names of the members then present are to be recorded in the minutes.

**PART 5—BUSINESS OF A MEETING****5.1 Business to be specified**

- (1) No business is to be transacted at any ordinary meeting of the Council other than that specified in the agenda, without the approval of the presiding member or the Council.
- (2) No business is to be transacted at a special meeting of the Council other than that given in the notice as the purpose of the meeting.
- (3) No business is to be transacted at a committee meeting other than that specified in the agenda or in the notice of the meeting as the purpose of the meeting, without the approval of the presiding member or the committee.
- (4) Where a Council meeting is adjourned to the next ordinary meeting of the Council, the business unresolved at the meeting that is adjourned is to be dealt with as soon as practicable after the confirmation of the minutes of the previous meeting.
- (5) Where a committee meeting is adjourned to the next ordinary committee meeting, the business unresolved at the meeting that is adjourned is to be dealt with as soon as practicable after the confirmation of the minutes of the previous meeting.
- (6) Where a Council or committee meeting is adjourned to a meeting not described in subclauses (4) or (5), no business is to be transacted at that later meeting other than that—
  - (a) is specified in the notice of the meeting that is adjourned; and
  - (b) which remains unresolved.

**5.2 Order of business**

- (1) The order of business of an ordinary meeting of the Council or a committee must be determined by the Council from time to time.
- (2) Unless otherwise decided by the Council, the order of business at any special meeting of the Council is to be the order in which that business stands in the agenda of the meeting.
- (3) In determining the order of business for any meeting of the Council or a committee, the provisions of the Act and Regulations relating to the time at which public question time is to be held are to be observed.

**5.3 Motions of which previous notice has been given**

- (1) Unless the Act, Regulations or this local law otherwise provide, a member may raise at a meeting such business as he or she considers appropriate, in the form of a motion, of which notice has been given in writing to the CEO and which has been included on the agenda.
- (2) A notice of motion under subclause (1) is to be given at least 5 clear working days before the meeting at which the motion is moved.
- (3) A notice of motion is to relate to the good governance of the district.
- (4) The CEO—
  - (a) with the concurrence of the President, may exclude from the notice paper any notice of motion deemed to be, or likely to involve, a breach of any of this local law or any other written law;
  - (b) must inform members on each occasion that a notice has been excluded and the reasons for that exclusion;
  - (c) may, after consultation with the member where this is practicable, make such amendments to the form but not the substance as will bring the notice of motion into due form; and
  - (d) may provide to the meeting relevant and material facts and circumstances pertaining to the notice of motion on such matters as policy, budget and law.
- (5) A motion of which notice has been given is to lapse unless—
  - (a) the member who gave notice of it, or some other member authorised by the originating member in writing, moves the motion when called on; or
  - (b) the meeting on a motion agrees to defer consideration of the motion to a later stage or date.
- (6) If a notice of motion is given and lapses under subclause (5), notice of a motion in the same terms or to the same effect is not to be given again for at least 3 months from the date of such lapse.

**5.4 New business of an urgent nature**

- (1) In cases of extreme urgency or other special circumstances, matters may, on a motion by the presiding member that is carried by the meeting, be raised without notice and decided by the meeting.
- (2) In subclause (1), 'cases of extreme urgency or other special circumstances' means matters—
  - (a) that have arisen after the preparation of the agenda that are considered by the presiding member to be of such importance and urgency that they are unable to be dealt with administratively by the Local Government and must be considered and dealt with by the Council or committee before the next meeting; and
  - (b) that, if not dealt with at the meeting, are likely to—
    - (i) have a significant adverse effect (financially or otherwise) on the Local Government; or
    - (ii) result in a contravention of a written law.

(3) Before debate begins on a matter under this clause that is not the subject of a written employee report to the meeting—

- (a) the presiding member is to ask the CEO to give; and
- (b) the CEO, or the CEO's nominee, is to give,

a verbal report to the meeting.

(4) The minutes of the meeting are to include—

- (a) a summary of the verbal report and any recommendations of the CEO or the CEO's nominee; and
- (b) the reasons for any decision made at the meeting that is significantly different from any advice or recommendations of the CEO or the CEO's nominee.

### **5.5 Motions without notice**

A motion moved without notice, must be worded so as to refer to a particular matter for investigation and report to a committee for consideration of the Council at a later date, or directly to Council.

### **5.6 Adoption by exception resolution**

(1) In this clause 'adoption by exception resolution' means a resolution of the Council that has the effect of adopting, recommendations from any committee or, for a number of specifically identified reports, the employee recommendation as the Council resolution.

(2) Subject to subclause (3), the Council may pass an adoption by exception resolution.

(3) An adoption by exception resolution may not be used for a matter—

- (a) that requires an absolute majority;
- (b) in which an interest has been disclosed;
- (c) that has been the subject of a petition or deputation;
- (d) that is a matter on which a member wishes to make a statement; or
- (e) that is a matter on which a member wishes to move a motion that is different to the recommendation.

## **PART 6—PUBLIC PARTICIPATION**

### **6.1 Meetings generally open to the public**

Meetings being generally open to the public is dealt with in the Act.

### **6.2 Meetings not open to the public**

(1) The CEO may, at any time, recommend that a meeting or part of a meeting be closed to members of the public.

(2) The Council or a committee, in one or more of the circumstances dealt with in the Act, may at any time, by resolution, decide to close a meeting or part of a meeting.

(3) If a resolution under subclause (2) is carried—

- (a) the presiding member is to direct everyone to leave the meeting except—
  - (i) the members;
  - (ii) the CEO;
  - (iii) any employee specified by the presiding member; and
- (b) the meeting is to be closed to the public until, at the conclusion of the matter justifying the closure of the meeting to the public, the Council or the committee, by resolution, decides otherwise.

(4) A person who fails to comply with a direction under subclause (3)(a) may, by order of the presiding member, be removed from the meeting.

(5) While the resolution under subclause (2) remains in force, the operation of clause 8.9 is to be suspended until the Council or the committee, by resolution, decides otherwise.

(6) A resolution under this clause may be made without notice.

(7) Unless the Council resolves otherwise, once the meeting is reopened to members of the public, the presiding member is to ensure that any resolution of the Council made while the meeting was closed is to be read out including the vote of a member or members that is required under clause 13.4(3) to be included in the minutes.

### **6.3 Question time for the public**

Question time for the public is dealt with in the Act.

### **6.4 Question time for the public at certain meetings**

Question time for the public at certain meetings is dealt with in the Regulations.

### **6.5 Minimum question time for the public**

Minimum question time for the public is dealt with in the Regulations.

### **6.6 Procedures for question time for the public**

Procedures for question time for the public are dealt with in the Regulations.

### 6.7 Other procedures for question time for the public

- (1) A member of the public who raises a question during question time, is to state his or her name and address.
- (2) A question may be taken on notice by the Council or a committee for later response.
- (3) When a question is taken on notice the CEO is to ensure that—
  - (a) a response is given to the member of the public in writing; and
  - (b) a summary of the response is included in the agenda of the next meeting of the Council or the committee.
- (4) Where a question relating to a matter in which a relevant person has an interest is directed to the relevant person, the relevant person is to—
  - (a) declare that he or she has an interest in the matter; and
  - (b) allow another person to respond to the question.
- (5) Where a member of the public provides written questions then the presiding member may elect for the questions to be responded to as normal business correspondence.
- (6) The presiding member may decide that a public question must not be responded to where—
  - (a) the same or similar question was asked at a previous meeting, a response was provided and the member of the public is directed to the minutes of the meeting at which the response was provided;
  - (b) the member of the public uses public question time to make a statement, provided that the presiding member has taken reasonable steps to assist the member of the public to phrase the statement as a question; or
  - (c) the member of the public asks a question that is offensive or defamatory in nature, provided that the presiding member has taken reasonable steps to assist the member of the public to phrase the question in a manner that is not offensive or defamatory.
- (7) The presiding member may agree to extend public question time.
- (8) Where an answer to a question is given at a meeting, a summary of the question and the answer is to be included in the minutes.
- (9) In this clause: “**relevant person**” has the same meaning as in section 5.59 of the Act.

### 6.8 Distinguished visitors

If a distinguished visitor is present at a meeting of the Council, the presiding member may acknowledge the presence of the distinguished visitor at an appropriate time during the meeting, and the presence of that visitor must be recorded in the minutes.

### 6.9 Deputations

- (1) Any person or group wishing to be received as a deputation by the Council or a committee, is to either—
  - (a) apply, before the meeting, to the President for approval; or
  - (b) with the approval of the presiding member, at the meeting, address the Council or a committee.
- (2) Any application for a deputation is to include details of the topic on which the deputation is to be made and a brief outline of the contents of the proposed submission which will be made during the deputation.
- (3) The President may either—
  - (a) approve the request and invite the deputation to attend a meeting of the Council or committee; or
  - (b) refer the request to the Council or the committee to decide by simple majority whether or not to receive the deputation.
- (4) Unless the Council or committee resolves otherwise, a deputation invited to attend a Council or committee meeting—
  - (a) is not to exceed 5 persons, only 2 of whom may address the Council or a committee, although others may respond to specific questions from members;
  - (b) is not to address the Council or a committee for a period exceeding 10 minutes without the agreement of the Council; and
  - (c) an extension of time and the increase in number of speaking members of the deputation may be allowed with the leave of the presiding member.
- (5) Unless decided otherwise by the President or presiding member of a committee, the number of deputations approved for any meeting must not exceed four.
- (6) Any matter which is the subject of a deputation to the Council or a committee is not to be decided by the Council or the committee until the deputation has completed its presentation.

### 6.10 Petitions

- (1) Where a member or the CEO receives a petition conforming to the requirements of clause 6.10 (2), that petition is to be presented to the next Council meeting.
- (2) Except where required by the Act, the Regulations or any other written law, any petition to the Council—
  - (a) must be addressed to the Council;

- (b) state the name and address of the person to whom correspondence in respect of the petition may be served; and
  - (c) be in the form detailed in Schedule 1 of this local law.
- (3) Once a petition is presented to the Council, a motion may be moved to receive the petition and refer it to the CEO for action.

#### **6.11 Presentations**

- (1) In this clause, a **presentation** means the acceptance of a gift or an award by the Council on behalf of the Local Government or the community.
- (2) A presentation may be made to the Council at a meeting only with the prior approval of the President.

#### **6.12 Participation at committee meetings**

- (1) In this clause a reference to a **person** is to a person who—
- (a) is entitled to attend a committee meeting;
  - (b) attends a committee meeting; and
  - (c) is not a member of that committee.
- (2) Without the consent of the presiding member, no person is to address a committee meeting.
- (3) The presiding member of a committee may allow a person to make an oral submission to the committee for up to 3 minutes on a recommendation contained in a report to the committee, with a maximum of 3 speakers for the recommendation and 3 speakers against the recommendation.
- (4) A person addressing the committee with the consent of the presiding member is to cease that address immediately after being directed to do so by the presiding member.
- (5) A person who fails to comply with a direction of the presiding member under subclause (4) may, by order of the presiding member, be removed from the committee room.
- (6) The Council may make a policy dealing with the circumstances in which a person may be given consent to address a committee meeting.

#### **6.13 Council may meet to hear public submissions**

- (1) Where an item on the agenda at a Council meeting is contentious and is likely to be the subject of a number of deputations, the Council may resolve to meet at another time to provide a greater opportunity to be heard.
- (2) The CEO and the President must set the time and date of the meeting to provide the opportunity to be heard.
- (3) Where the Council resolves to meet to provide the opportunity to be heard under subclause (1), the presiding member must—
- (a) instruct the CEO to provide local public notice of the time and date when the Council will meet to provide an opportunity to be heard;
  - (b) provide a written invitation to attend the meeting to provide the opportunity to be heard to all members of the public who have applied under clause 6.9 to make a deputation on the issue; and
  - (c) cause minutes to be kept of the meeting to provide the opportunity to be heard.
- (4) A meeting held under subclause (1) must be conducted only to hear submissions but a member may, at any time with leave of the presiding member, ask a question to seek to clarify any aspect of a submission. The Council must not make resolutions at a meeting held under subclause (1).
- (5) At a meeting held under subclause (1), each person making a submission must be provided with the opportunity to fully state his or her case.
- (6) A member of the public must be limited to 10 minutes in making an oral submission, but this period may be extended at the discretion of the presiding member.
- (7) Once every member of the public has had the opportunity to make a submission the presiding member is to close the meeting.
- (8) The CEO is to ensure that a report is included on the agenda of the next Council meeting summarising each submission made at the meeting.
- (9) The Council must not resolve on the matter that is the subject of a meeting to provide the opportunity to be heard until it has received the CEO's report under subclause (8).

#### **6.14 Public Inspection of agenda materials**

The right of the public to inspect the documents referred to, and in accordance with, regulation 14 of the Regulations may be exercised at the Shire's administration office, any Shire library or on the Local Government's website.

#### **6.15 Confidentiality of information withheld**

- (1) Information withheld by the CEO from the public under regulation 14(2) of the Regulations is to be—
- (a) identified in the agenda of a Council meeting under the item "Matters for which meeting may be closed"; and
  - (b) marked "*Confidential*" in the agenda.

- (2) A member or an employee who has—
- (a) confidential information under subclause (1); or
  - (b) information that is provided or disclosed during a meeting or part of a meeting that is closed to the public,

is not to disclose any of that information to any person other than a member or employee to the extent necessary for the purpose of carrying out his or her functions.

- (3) Subclause (2) does not prevent a member or employee from disclosing the information—
- (a) at a closed meeting;
  - (b) to the extent specified by the Council and subject to such other conditions as the Council determines;
  - (c) that is already in the public domain;
  - (d) to an officer of the Department;
  - (e) to the Minister;
  - (f) to a legal practitioner for the purpose of obtaining legal advice; or
  - (g) if the disclosure is required or permitted by law.

- (4) The Council may by resolution declare that any information withheld under clause 6.15 (1) must remain confidential for a specified period or indefinitely.

#### **6.16 Recording of proceedings**

(1) A person is not to use any electronic, visual or audio recording device or instrument to record the proceedings of the Council, any committee or electors meeting without the permission of the presiding member.

(2) If the presiding member gives permission under subclause (1), the presiding member is to advise the meeting, immediately before the recording is commenced, that such permission has been given and the nature and extent of that permission.

#### **6.17 Standard of conduct**

(1) A reference in this clause to a person is to a person other than a member.

- (2) A person at a meeting—
- (a) addressing the Council or a committee must, when invited to speak, extend due courtesy and respect to the person presiding and others at the meeting;
  - (b) must not reflect adversely on the character or actions of any member or employee;
  - (c) must not impute any motive to a member or employee;
  - (d) must not use offensive or objectionable expressions;
  - (e) must not create a disturbance, by interrupting or interfering with the orderly conduct of the proceedings, whether expressing approval or dissent, by conversing or by any other means;
  - (f) must ensure that his or her mobile telephone or audible pager is not switched on or used; and
  - (g) must not behave in a manner that is contrary to section 75 of the Criminal Code.

(3) The presiding person may warn a person who fails to comply with this clause.

- (4) If a person—
- (a) after being warned, acts contrary to this clause, or to this local law; or
  - (b) refuses or fails to comply with a direction by the presiding member,

the presiding member may expel the person from the meeting by ordering him or her to leave the meeting room.

(5) A person who is ordered to leave the meeting room and fails to do so may, by order of the presiding person, be removed from the meeting room and, if the presiding person orders, from the premises.

#### **6.18 Right of reply**

(1) A member who is aggrieved by a statement made (including a question asked) by a member of the public at a meeting may, with the leave of the presiding member, reply to that statement.

(2) A reply under this clause is to be confined to a succinct response to the specific part of the statement in respect of which the member is aggrieved.

### **PART 7—QUESTIONS BY MEMBERS**

#### **7.1 With due notice**

(1) A question on notice is to be given by a member in writing to the CEO at least four (4) clear business days before the meeting at which it is raised.

(2) If the question referred to in subclause (1) is in order, the answer is, so far as practicable, to be included in written form in the agenda of the meeting, or otherwise tabled at that meeting.

(3) Every question and answer is to be submitted as briefly and concisely as possible and no discussion is to be allowed thereon, unless with the consent of the presiding member.

#### **7.2 Without due notice**

(1) Members may ask questions relating to an item on the notice paper or on matters related to the good government of persons in the district.

(2) A member requesting general information from an employee at a Council or committee meeting may ask a question without notice and with the consent of the presiding member, may ask one or more further questions of that employee or another employee present at the meeting.

(3) Where possible the employee must endeavour to answer the question to the best of his or her knowledge and ability, however, if the information is unavailable or the answer requires research or investigation, the employee may ask that—

- (a) the question be placed on notice for the next meeting of Council or committee; and
- (b) the answer to the question be given to the member who asked it within 14 days.

(4) Every question and answer—

- (a) is to be brief and concise; and
- (b) is not to be accompanied by argument, expression of opinion or statement of facts, except to the extent necessary to explain the question or answer.

(5) In answering any question, an employee may qualify his or her answer and may at a later time in the meeting or at a subsequent meeting alter, correct, add to or otherwise amend the original answer.

## **PART 8—CONDUCT OF MEMBERS**

### **8.1 Members to be in their proper places**

(1) At the first meeting held after each election day, or at any other time considered necessary, each member is to be allocated a seat at the Council table by the Council.

(2) Each member is to occupy his or her allotted position at each Council or committee meeting.

### **8.2 Respect to the presiding member**

After the business of a Council or a committee has been commenced, a member is not to enter or leave the meeting without first paying due respect to the presiding member.

### **8.3 Titles to be used**

A speaker, when referring to the President, Deputy President or presiding member, or a member or employee, is to use the title of that person's office.

### **8.4 Advice of entry or departure**

A member is not to enter or leave the meeting without first advising the presiding member, in order to facilitate the recording in the minutes of the time of entry or departure.

### **8.5 Members to indicate their intention to speak**

A member of the Council who wishes to speak is to indicate his or her intention to speak by raising his or her hand or by another method agreed by the Council.

### **8.6 Priority of speaking**

(1) Where two or more members indicate, at the same time, their intention to speak, the presiding member is to decide which member is entitled to be heard first.

(2) A decision of the presiding member under subclause (1) is not open to discussion or dissent.

(3) A member is to cease speaking immediately after being asked to do so by the presiding member.

### **8.7 Presiding member may take part in debates**

The presiding member may take part in a discussion of any matter before the Council or a committee, subject to compliance with this local law.

### **8.8 Relevance**

A member is to restrict his or her remarks to the motion or amendment under discussion, or to a personal explanation or point of order.

### **8.9 Speaking twice**

A member is not to address the Council or a committee more than once on any motion or amendment except—

- (a) as the mover of a substantive motion, to exercise a right of reply;
- (b) to raise a point of order; or
- (c) to make a personal explanation.

### **8.10 Duration of speeches**

(1) A member is not to speak on any matter for more than 5 minutes without the consent of the Council or a committee which, if given, is to be given without debate.

(2) An extension under this clause cannot be given to allow a member's total speaking time to exceed 10 minutes.

### **8.11 No speaking after conclusion of debate**

A member is not to speak on any motion or amendment—

- (a) after the mover has replied; or
- (b) after the question has been put.

**8.12 No interruption**

A member is not to interrupt another member who is speaking unless—

- (a) to raise a point of order;
- (b) to call attention to the absence of a quorum;
- (c) to make a personal explanation under clause 8.13; or
- (d) to move a procedural motion that the member be no longer heard (see clause 11(1)(e)).

**8.13 Personal explanations**

(1) A member who wishes to make a personal explanation relating to a matter referred to by another member who is then speaking is to indicate to the presiding member his or her intention to make a personal explanation.

(2) The presiding member is to determine whether the personal explanation is to be heard immediately or at the conclusion of the speech by the other member.

(3) A member making a personal explanation is to confine his or her observations to a succinct statement relating to a specific part of the speech at which he or she may have been misunderstood.

**8.14 No reopening of discussion**

A member is not to reopen discussion on any Council or committee decision, except to move that the decision be revoked or changed.

**8.15 Adverse reflection**

(1) A member is not to reflect adversely on a decision of the Council or committee except—

- (a) on a motion that the decision be revoked or changed; or
- (b) where the meeting resolves, without debate, that the question then before the meeting cannot otherwise be adequately considered.

(2) A member is not—

- (a) to reflect adversely on the character or actions of another member or employee; or
- (b) to impute any motive to a member or employee, unless the meeting resolves, without debate, that the question then before the meeting cannot otherwise be adequately considered.

(3) A member is not to use offensive expressions in reference to any member, employee or other person.

(4) If a member specifically requests, immediately after their use, that any particular words used by a member be recorded in the minutes—

- (a) the presiding member is to cause the words used to be taken down and read to the meeting for verification; and
- (b) the Council or committee may, by resolution, decide to record those words in the minutes.

**8.16 Withdrawal of offensive language**

(1) A member who, in the opinion of the presiding member, uses an expression which—

- (a) in the absence of a resolution under clause 8.15(4)—
  - (i) reflects adversely on the character or actions of another member or employee; or
  - (ii) imputes any motive to a member or employee; or
- (b) is offensive or insulting,

must, when directed by the presiding member, withdraw the expression and make a satisfactory apology.

(2) If a member fails to comply with a direction of the presiding member under subclause (1), the presiding member may direct the member to refrain from taking any further part in the debate of that item, other than by voting, and the member must comply with that direction.

**PART 9—PRESERVING ORDER****9.1 Presiding member to preserve order**

(1) The presiding member is to preserve order, and, whenever he or she considers necessary, may call any member to order.

(2) When the presiding member speaks during a debate, any member then speaking, or indicating that he or she wishes to speak, is to preserve strict silence so that the presiding member may be heard without interruption.

(3) Subclause (2) is not to be used by the presiding member to exercise the right provided in clause 8.7, but to preserve order.

**9.2 Point of order**

(1) A member may object, by way of a point of order, only to a breach of—

- (a) any of this local law; or
- (b) any other written law.

(2) Despite anything in this local law to the contrary, a point of order—

- (a) takes precedence over any discussion; and
- (b) until determined, suspends the consideration or discussion of any other matter.



**9.3 Procedures on a point of order**

- (1) A member who is addressing the presiding member is not to be interrupted except on a point of order.
- (2) A member interrupted on a point of order is to resume his or her seat until—
  - (a) the member raising the point of order has been heard; and
  - (b) the presiding member has ruled on the point of order,and, if permitted, the member who has been interrupted may then proceed.

**9.4 Calling attention to breach**

A member may, at any time, draw the attention of the Presiding Member to any breach of this local law.

**9.5 Ruling by the presiding member**

- (1) The presiding member is to rule on any point of order which is raised by either upholding or rejecting the point of order.
- (2) A ruling by the presiding member on a point of order is to be final unless the majority of members then present and voting, on a motion moved immediately after the ruling, dissent from the ruling.
- (3) Subject to a motion of dissent being carried under subclause (2), if the presiding member rules that—
  - (a) any motion, amendment or other matter before the meeting is out of order, it is not to be considered further; and
  - (b) a statement made or act done by a member is out of order, the presiding member may require the member to make an explanation, retraction or apology.

**9.6 Continued breach of order**

If a member—

- (a) persists in any conduct that the presiding member had ruled is out of order; or
- (b) refuses to make an explanation, retraction or apology required by the presiding member under clause 9.5(3),

the presiding member may direct the member to refrain from taking any further part in the debate of that item, other than by voting, and the member is to comply with that direction.

**9.7 Right of presiding member to adjourn**

- (1) For the purpose of preserving or regaining order, the presiding member may adjourn the meeting for a period of up to 15 minutes.
- (2) On resumption, the debate is to continue at the point at which the meeting was adjourned.
- (3) If, at any one meeting, the presiding member adjourns the meeting more than once for the purpose of preserving or regaining order, the second or subsequent adjournment may be to a later time on the same day or to another day.

**PART 10—DEBATE OF MEMBERS****10.1 Recommendations in reports**

- (1) Recommendations contained in a committee or employee's report are to be given first priority consideration for adoption by the Council.
- (2) Any proposed amendment to a recommendation in a committee or employees' report that is significantly different to the recommendation, is not to be accepted unless a notice of motion in accordance with clause 5.3 has been given by the mover of the proposed amendment.
- (3) The Council may by majority decision dispense with requirements of clause 5.1 (2) where the Council is satisfied that the reason for the proposed amendment meets the criteria of "*extreme urgency or other special circumstances*" in clause 5.4 (2).
- (4) The requirements for recording of written reasons in the minutes of a meeting for each decision made at the meeting that is significantly different from the relevant written recommendation of a committee or an employee are dealt with in the regulations.

**10.2 Alternative motion**

- (1) A member may submit an alternative motion for consideration by the Council that differs from a committee or employee's recommendation contained in the meeting agenda.
- (2) A member may submit an alternative motion for consideration by a committee that differs from an employee's recommendation contained in a meeting agenda.
- (3) A request for an alternative motion must be received by the CEO or their delegate no later than 9.00am on the day of the meeting.
- (4) The meeting may by absolute majority dispense with the requirement of clause 10.2 (3) where the meeting is satisfied that that the alternative motion does not—
  - (a) reflect a significant departure from the intent of the recommendation; or
  - (b) involve a determination of a matter or the exercise of a discretion under the Local Planning Scheme.

**10.3 Motions to be stated and in writing**

Any member who wishes to move a substantive motion or an amendment to a substantive motion—

- (a) is to state the substance of the motion before speaking to it;
- (b) if required by the presiding member, is to put the motion or amendment in writing; and
- (c) is to put any complex amendments in writing.

**10.4 Motions to be supported**

(1) A substantive motion or an amendment to a substantive motion is not open to debate until it has been seconded.

(2) A motion to revoke or change a decision made at a Council meeting is not open to debate unless the motion has the support required under regulation 10 of the Regulations.

**10.5 Unopposed business**

(1) Immediately after a substantive motion has been moved and seconded, the presiding member may ask the meeting—

- (a) if any member opposes it; or
- (b) if any member wishes the mover to speak to the motion before deciding whether to oppose it.

(2) If any member wishes the mover to speak to the motion, the presiding member may—

- (a) call on the mover to speak to the motion; and
- (b) after the mover has spoken to the motion, again ask the meeting if any member opposes it.

(3) If no member opposes the motion, the presiding member may declare it carried without debate and without taking a vote.

(4) A motion declared carried under this clause is to be recorded in the minutes as a “carried without dissent” decision of the Council.

(5) If a member opposes a motion, the motion is to be dealt with under this Part.

(6) This clause does not apply to a motion to revoke or change a decision which has been made at a Council meeting.

**10.6 Only one substantive motion at a time**

When a substantive motion is under debate at a meeting of the Council, no further substantive motion is to be accepted. The Council is not to consider more than one substantive motion at any time.

**10.7 Order of call in debate**

The presiding member is to call speakers to a substantive motion in the following order—

- (a) the mover to state the motion;
- (b) a seconder to the motion;
- (c) the mover to speak to the motion;
- (d) the seconder to speak to the motion;
- (e) a speaker against the motion;
- (f) a speaker for the motion;
- (g) other speakers against and for the motion, alternating where possible; and
- (h) mover takes right of reply which closes debate.

**10.8 Limit of debate**

The presiding member may offer the right of reply and put a substantive motion to the vote if he or she believes that sufficient discussion has taken place even though all members may not have spoken.

**10.9 Member may require question to be read**

A member may require the question or matter under discussion to be read at any time during a debate, but not so as to interrupt any other member who is speaking.

**10.10 Consent of seconder required for alteration**

The mover of a substantive motion may not alter the wording of the motion without the consent of the seconder.

**10.11 Order of amendments**

Any number of amendments may be proposed to a substantive motion, but when an amendment is moved to a substantive motion, no second or subsequent amendment is to be moved or considered until the first amendment has been withdrawn, carried or lost.

**10.12 Form of an amendment**

An amendment must add, delete, or substitute words to the substantive motion.

**10.13 Amendment must not negate original motion**

An amendment to a substantive motion cannot negate the original motion or the intent of the original motion.

**10.14 Relevance of amendments**

Each amendment is to be relevant to the motion in respect of which it is moved.

**10.15 Mover of motion may speak on amendment**

Any member may speak during debate on an amendment in reference to the order set out in clause 10.7.

**10.16 Effect of an amendment**

If an amendment to a substantive motion is carried, the motion as amended then becomes the substantive motion, on which any member may speak and any further amendment may be moved.

**10.17 Withdrawal of motion or amendment**

(1) Subject to subclause (2), the Council may, without debate, grant leave to withdraw a motion or amendment on the request of the mover of the motion or amendment and with the approval of the seconder.

(2) Where an amendment has been proposed to a substantive motion, the substantive motion is not to be withdrawn, except by consent of the majority of members present, until the amendment proposed has been withdrawn or lost.

**10.18 Right of reply**

(1) The mover of a substantive motion has the right of reply.

(2) The mover of any amendment to a substantive motion has a right of reply.

(3) The right of the reply may only be exercised—

(a) where no amendment is moved to the substantive motion—at the conclusion of the discussion on the motion; or

(b) where one or more amendments have been moved to the substantive motion—at the conclusion of the discussion on the substantive motion and any amendments.

(4) After the mover of the substantive motion has commenced the reply—

(a) no other member is to speak on the question; and

(b) there is to be no further discussion on, or any further amendment to, the motion.

(5) The right of the reply is to be confined to rebutting arguments raised by previous speakers and no new matter is to be introduced.

(6) At the conclusion of the right of reply, the substantive motion, or the substantive motion as amended, is immediately to be put to the vote.

**10.19 Foreshadowing alternative motions**

(1) Should a member wish to negate a substantive motion and have a meeting consider a new substantive motion on the matter with different intent, the member is to foreshadow the new substantive motion prior to the right of reply.

(2) Should a substantive motion be lost, the presiding member is to call upon the member who foreshadowed the new substantive motion to move the proposed motion.

(3) Once moved and seconded, the foreshadowed motion becomes the substantive motion and the same procedures and rules of debate apply to this motion as any other motion.

(4) If more than one foreshadowed motion is proposed for any item before a meeting, the presiding member is to deal with them in the order in which they were presented.

**PART 11—PROCEDURAL MOTION****11.1 Permissible procedural motions**

In addition to the right to move an amendment to a substantive motion, a member may move the following procedural motions—

(a) that the meeting proceed to the next item of business;

(b) that the debate be adjourned;

(c) that the meeting now adjourn;

(d) that the question be now put;

(e) that the member be no longer heard;

(f) that the ruling of the presiding member be disagreed with; and

(g) that the meeting be closed to the public.

**11.2 No debate**

(1) The mover of a motion specified in paragraph (a), (b), (c), (f) or (g) of clause 11.1 may speak to the motion for not more than five minutes, the seconder is not to speak other than to formally second the motion, and there is to be no debate on the motion.

(2) The mover of a motion specified in paragraph (d) or (e) of clause 11.1 may not speak to the motion, the seconder is not to speak other than to formally second the motion, and there is to be no debate on the motion.

**11.3 Who may move**

No person who has moved, seconded, or spoken for or against the substantive motion, or any amendment to the substantive motion, may move any procedural motion which, if carried, would close the debate on the substantive motion or amendment.

**11.4 Procedural motions—right of reply on substantive motion**

The carrying of a procedural motion which closes debate on the substantive motion or amendment and forces a decision on the substantive motion or amendment does not deny the right of reply to the mover of the substantive motion.

**11.5 Meeting to proceed to the next business**

The motion “that the meeting proceed to the next business”, if carried, has the effect that—

- (a) the debate on the substantive motion or amendment ceases immediately;
- (b) no decision is made on the substantive motion;
- (c) the Council moves to the next item of business; and
- (d) there is no requirement for the matter to be raised again for consideration.

**11.6 Debate to be adjourned**

A motion “that the debate be adjourned”—

- (a) is to state the time to which the debate is to be adjourned; and
- (b) if carried, has the effect that all debate on the substantive motion or amendment ceases immediately, but continues at the time stated in the motion.

**11.7 Meeting now adjourn**

(1) A member is not to move or second more than one motion of adjournment during the same sitting of the Council.

(2) Before putting the motion for the adjournment of the Council, the presiding member may seek leave of the Council to deal first with matters that may be the subject of an adoption by exception resolution (see clause 5.6).

(3) A motion “that the meeting now adjourn”—

- (a) is to state the time and date to which the meeting is to be adjourned; and
- (b) if carried, has the effect that the meeting is adjourned to the time and date specified in the motion.

(4) A meeting adjourned under subclause (3) is to continue from the point at which it was adjourned, unless the presiding member or the Council determines otherwise.

**11.8 Question to be put**

(1) If the motion “that the question be now put”, is carried during debate on a substantive motion without amendment, the presiding member is to offer the right of reply and then put the motion to the vote without further debate.

(2) If the motion “that the question be now put” is carried during discussion of an amendment, the presiding member is to put the amendment to the vote without further debate.

(3) This motion, if lost, causes debate to continue.

**11.9 Member to be no longer heard**

If the motion “that the member be no longer heard”, is carried, the speaker against whom the motion has been moved cannot speak further on the current substantive motion, or any amendment relating to it, except to exercise the right of reply if he or she is the mover of the substantive motion.

**11.10 Ruling of the presiding member to be disagreed with**

If the motion “that the ruling of the presiding member be disagreed with”, is carried, that ruling is to have no effect and the meeting is to proceed accordingly.

**PART 12—DISCLOSURE OF INTERESTS****12.1 Disclosure of interests**

Disclosure of interests is dealt with in the Act.

**PART 13—VOTING****13.1 Question—when put**

(1) Immediately after the debate on any question is concluded and the right of reply has been exercised, the presiding member—

- (a) is to put the question to the Council; and
- (b) if requested by any member, is to again state the terms of the question.

(2) A member is not to leave the meeting when the presiding member is putting any question.

**13.2 Voting**

Voting is dealt with in the Act and the Regulations.

**13.3 Majorities required for decisions**

The majorities required for decisions of the Council and committees are dealt with in the Act.

**13.4 Method of taking vote**

(1) In taking the vote on any motion or amendment the presiding member—

- (a) is to put the question, first in the affirmative, and then in the negative;

- (b) may put the question in this way as often as may be necessary to enable him or her to determine whether the affirmative or the negative has the majority of votes;
  - (c) may accept a vote on the voices or may require a show of hands; and
  - (d) is, subject to this clause, to declare the result.
- (2) If a member calls for a show of hands, the result of the vote is to be determined on the count of raised hands.
- (3) Unless decided otherwise by a decision of Council or a committee the details of the members vote or votes for or against, a matter, as the case may be, is to be recorded in the minutes.

## PART 14—MINUTES OF MEETINGS

### 14.1 Keeping of minutes

The keeping and confirmation of minutes are dealt with in the Act.

### 14.2 Content of minutes

- (1) The content of minutes is dealt with in the Regulations.
- (2) In addition to the matters required by regulation 11 of the Regulations, the minutes of a Council meeting is to include, where an application for approval is refused or the authorisation of a licence, permit or certificate is withheld or cancelled, the reasons for the decision.

### 14.3 Public inspection of unconfirmed minutes

The public inspection of unconfirmed minutes is dealt with in Regulations.

### 14.4 Confirmation of minutes

- (1) When minutes of an ordinary meeting of the Council are distributed for consideration prior to their confirmation at the next meeting, if a member is dissatisfied with the accuracy of the minutes, the member may provide the Local Government with a written copy of the alternative wording to amend the minutes no later than 7 clear working days before the next ordinary meeting of the Council.
- (2) At the next ordinary meeting of the Council, the member who provided the alternative wording must, at the time for confirmation of minutes—
- (a) state the item or items with which he or she is dissatisfied; and
  - (b) propose a motion clearly outlining the alternative wording to amend the minutes.
- (3) Members must not discuss items of business contained in the minutes, other than discussion as to their accuracy as a record of the proceedings.

## PART 15—ADJOURNMENT OF MEETING

### 15.1 Meeting may be adjourned

The Council or a committee may adjourn any meeting—

- (a) to a later time on the same day; or
- (b) to any other time on any other day, including a time which coincides with the conclusion of another meeting or event.

### 15.2 Effect of adjournment

Where any matter, motion, debate or meeting is adjourned under this local law—

- (a) the names of members who have spoken on the matter prior to the adjournment are to be recorded in the minutes;
- (b) debate is to be resumed at the next meeting at the point where it was interrupted; and
- (c) the provisions of clause 8.9 apply when the debate is resumed.

## PART 16—REVOKING OR CHANGING DECISIONS

### 16.1 Requirements to revoke or change decisions

The requirements to revoke or change a decision made at a meeting are dealt with in regulation 10 of the Regulations.

### 16.2 Limitations on powers to revoke or change decisions

- (1) Subject to subclause (2), the Council or a committee is not to consider a motion to revoke or change a decision—
- (a) where, at the time the motion is moved or notice is given, any action has been taken under clause 16.3 to implement the decision; or
  - (b) where the decision is procedural in its form or effect.
- (2) The Council or a committee may consider a motion to revoke or change a decision of the kind described in subclause (1)(a) if the motion is accompanied by a written statement of the legal and financial consequences of carrying the motion.

### 16.3 Implementing a decision

(1) In this clause—

- (a) **authorisation** means a licence, permit, approval or other means of authorising a person to do anything;
- (b) **implement**, in relation to a decision, includes—
  - (i) communicate notice of the decision to a person affected by, or with an interest in, the decision; and
  - (ii) take any other action to give effect to the decision; and
- (c) **valid notice of revocation motion** means a notice of motion to revoke or change a decision that complies with the requirements of the Act, Regulations and the local laws and may be considered, but has not yet been considered, by the Council or a committee as the case may be.

(2) Subject to subclause (4), and unless a resolution is made under subclause (3), a decision made at a meeting is not to be implemented by the CEO or any other person until the afternoon of the first business day after the commencement of the meeting at which the decision was made.

(3) The Council or a committee may, by resolution carried at the same meeting at which a decision was made, direct the CEO or another person to take immediate action to implement the decision.

(4) A decision made at a meeting is not to be implemented by the CEO or any other person—

- (a) if, before commencing any implementation action, the CEO or that person is given a valid notice of revocation motion; and
- (b) unless and until the valid notice of revocation motion has been determined by the Council or the committee as the case may be.

(5) The CEO is to ensure that members of the public attending the meeting are informed by an appropriate notice that a decision to grant an authorisation—

- (a) is to take effect only in accordance with this clause; and
- (b) cannot be acted upon by the person who has been granted the authorisation unless and until the decision has been implemented in accordance with this clause.

## PART 17—SUSPENSION OF LOCAL LAW

### 17.1 Suspension of local law

(1) A member may at any time move that the operation of one or more of the provisions of this local law be suspended.

(2) A member moving a motion under subclause (1) is to state the reasons for the motion but no other discussion is to take place.

(3) A motion under subclause (1) which is—

- (a) seconded; and
- (b) carried by an absolute majority,

is to suspend the operation of the clause or clauses to which the motion relates for the duration of the meeting, unless the meeting earlier resolves otherwise.

### 17.2 Where local law does not apply

(1) In situations where—

- (a) one or more provisions of this local law have been suspended; or
- (b) a matter is not regulated by the Act, the Regulations or this local law,

the presiding member is to decide questions relating to the conduct of the meeting.

(2) The decision of the presiding member under subclause (1) is final, except where a motion is moved and carried under clause 11.10.

## PART 18—MEETINGS OF ELECTORS

### 18.1 Electors' general meetings

Electors' general meetings are dealt with in the Act.

### 18.2 Matters for discussion at electors' general meetings

The matters to be discussed at electors' general meetings are dealt with in the Regulations.

### 18.3 Electors' special meetings

Electors' special meetings are dealt with in the Act.

### 18.4 Requests for electors' special meetings

Requests for electors' special meetings are dealt with in the Regulations.

### 18.5 Convening electors' meetings

Convening electors' meetings is dealt with in the Act.

### 18.6 Who presides at electors' meetings

Who presides at electors' meetings is dealt with in the Act.

**18.7 Procedure for electors' meetings**

(1) The procedure for electors' meetings is dealt with in the Act and the Regulations.

(2) In exercising his or her discretion to determine the procedure to be followed at an electors' meeting, the presiding member is to have regard to this local law.

**18.8 Participation of non-electors**

A person who is not an elector of the Local Government must not take part in any discussion at an electors' meeting unless the meeting, by resolution, permits the person do so.

**18.9 Voting at electors' meetings**

Voting at electors' meetings is dealt with in the Regulations.

**18.10 Minutes of electors' meetings**

Minutes of electors' meetings are dealt with in the Act.

**18.11 Decisions made at electors' meetings**

Decisions made at electors' meetings are dealt with in the Act.

**PART 19—ENFORCEMENT****19.1 Penalty for breach**

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

**Penalty: \$1,000.00 and a daily penalty of \$500.00.**

**19.2 Who can prosecute**

Who can prosecute is dealt with in the Act.

**SCHEDULE 1—PETITION OF ELECTORS OF THE SHIRE OF PLANTAGENET**

To the Shire President and Councillors of the Shire of Plantagenet

We, the undersigned, all being electors of the Shire of Plantagenet do respectfully request that the Council—

*[Here set out a concise statement of facts and the action sought]*

Correspondence in respect of this petition should be addressed to—

*[Here set out relevant name(s) and address(es) for correspondence]*

The names and addresses of your petitioners are as follows—

Date	Full Name	Address	Signature	Agree/Disagree/ No Opinion

Dated: 28 January 2020.

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

CHRIS PAVLOVICH, Shire President.  
ROB STEWART, Chief Executive Officer.





**LOCAL GOVERNMENT ACT 1995**

## SHIRE OF PLANTAGENET

**REPEAL LOCAL LAW 2020**

Under the powers conferred by the *Local Government Act 1995* and all other powers enabling it, the Council of the Shire of Plantagenet resolved on 28 January 2020 to make the following local law.

**1. Citation**

This local law is cited as the *Shire of Plantagenet Repeal Local Law 2020*.

**2. Commencement**

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

**3. Repeal**

This local law repeals the *Shire of Plantagenet Pest Plants By-laws 1987*, published in the *Government Gazette* on 7 August 1987.

Dated: 28 January 2020.

The Common Seal of the Shire of Plantagenet was affixed in the presence of—

CHRIS PAVLOVICH, Shire President.  
ROB STEWART, Chief Executive Officer.