



Ordinary Council Meeting

Agenda

16 May 2018

Notice of Meeting

Councillors,

The next Ordinary Council Meeting of the Shire of Victoria Plains will be held –
on Wednesday, 16 May 2018
in Council Chambers, Cavell Street Calingiri
commencing 2.00pm.

Glenda Teede

Chief Executive Officer

11 May 2018

DISCLAIMER:

The recommendations contained in this agenda are officers' recommendations only and should not be acted upon until Council has resolved to adopt those recommendations.

The resolutions of Council should be confirmed by perusing the minutes of the Council meeting at which these recommendations were considered. Resolutions are not considered final until the minutes of the meeting are confirmed or advised in writing by the CEO or authorised person.

Members of the public should also note that they act at their own risk if they enact any resolution prior to receiving official written notification of Council's decision.

Please note that meetings are recorded for minute taking purposes.

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Ordinary Meeting of the Victoria Plains Shire Council

Held in the Council Chambers, Cavell Street, Calingiri
on Wednesday, 16 May 2018 commencing at 2.00 pm.

1. DECLARATION OF OPENING

1.1 Opening

1.2 Announcements by presiding member

1.3 Announcement of visitors and presentations

2. RECORD OF ATTENDANCE

Members present	Cr D Lovelock, President Cr P Bantock, Deputy President Cr J Corless-Crowther Cr A Broadhurst Cr J King Cr S Penn Cr N Clarke
Staff attending	Ms GM Teede, Chief Executive Office Mr R Edwards, Manager Works & Services Mr N Mitchell, Governance
Apologies	
Approved leave of absence	
Visitors	Cr Karen Chappell, President, Shire of Morawa

Members of the public

3. DISCLOSURES OF INTEREST

Refer – Local Government Act, Regulations, Code of Conduct, and Declaration Forms in Councillor folders.

	Type	Item	Person / Details
3.1	Financial	_____	_____
3.2	Proximity	_____	_____
3.3	Impartiality	_____	_____

4. PUBLIC QUESTION TIME

Refer – Local Government Act, Regulations, Local Law and Submission Form & Guidelines circulated.

4.1 Response to previous public questions taken on notice

4.2 Public questions without notice

5. PRESENTATIONS AND DEPUTATIONS

5.1 Presentations

5.2 Deputations

6. APPLICATIONS FOR LEAVE OF ABSENCE

7. CONFIRMATION OF MINUTES

Moved Cr _____

Seconded Cr _____

That the Minutes of the Ordinary Council Meeting held _____ as circulated, be confirmed as a true and correct record.

Business arising from Minutes

8. MEMBERS QUESTIONS WITHOUT NOTICE
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9. PRESIDENT AND COUNCILLORS REPORTS

10. REPORTS REQUIRING DECISION

10.1 WORKS AND SERVICES COMMITTEE

File reference	
Report date	9 May 2018
Applicant/proponent	Shire of Victoria Plains
Officer disclosure of interest	None
Previous meeting references	None
Prepared by	Bob Edwards, Manager Works and Service
Authorised by	
Attachments	
Attachment 1	Works and Service Committee – provided at the meeting

PURPOSE

To receive the minutes of the Works and Service Committee meeting on Wednesday 16 May 2018, and resolve any specific recommendations of the Committee to Council.

BACKGROUND

All relevant matters are contained in the Works and Services Committee Meeting Minutes

COMMENT

All relevant matters are contained in the Works and Services Committee Meeting Minutes

This Report is to receive the Minutes and to formally adopt each decision of the Committee.

CONSULTATION

Works and Service Committee, 16 May 2018

STATUTORY CONTEXT

Local Government Act 1995 –

- s.5.16(1) – this Committee has no delegated authority from Council

CORPORATE CONTEXT

None

STRATEGIC IMPLICATIONS

Strategic Community Plan adopted 28 March 2018 –

4.	Infrastructure – to maintain / add to infrastructure used by the community
4.3	Maintain / improve community facilities to an agreed standard
5.	Civic leadership – to better allocate scarce resources and effectively interact with the community
5.4	Measures to improve organisational efficiency

FINANCIAL IMPLICATIONS

None

VOTING REQUIREMENTS

Absolute Majority Required: No

OFFICER RECOMMENDATION

Moved Cr _____

Seconded Cr _____

That the Minutes of the Works and Services Committee held on 16 May 2018 be received

NOTE – each recommendation of the Committee to be separated listed and resolved.

Commonly-used abbreviations

CEO Chief Executive Officer

10.2 ACCOUNTS FOR ENDORSEMENT

File reference	F1.8.4
Report date	11 April 2018
Applicant/proponent	Nil
Officer disclosure of interest	Nil
Previous meeting references	Nil
Prepared by	Ina Edwardson – Finance
Authorised by	
Attachments	
Attachment 1	The payment schedule has been provided to Elected Members under separate cover. Printed copies will be available to elected members on request to the administration.

PURPOSE

To present the list of payments made for the month of April 2018.

BACKGROUND

As per Local Government Act and Financial Management Regulations.

COMMENT

Each month Council is to be advised of payments made during the preceding month; the amount, payee, date and reason for payment.

CONSULTATION

None

STATUTORY CONTEXT

Local Government Act 1995 –

- s.6.8(2)(b) – expenditure is to be reported to the next ordinary meeting of Council

Local Government (Finance) Regulations 1996 –

- r.13 Payments for municipal fund or trust fund
 - (1) the Chief Executive Officer is to provide a list of accounts paid from the Municipal fund or Trust fund, a list of all accounts paid each month showing for each account paid –
 - a) The payee's name
 - b) The amount of the payment
 - c) The date of the payment
 - d) Sufficient information to identify the transaction
 - (3) the listing to be presented to the Council at the next ordinary meeting of Council after preparation.

CORPORATE CONTEXT

Policy 6.5.1 –

(b) The Chief Executive Officer and in their absence the Corporate Services Manager are authorised to allow all creditors to be paid according to their trading terms and for payments to be endorsed by Council after payment rather than approved by Council prior to payment.

(c) All payments made prior to the meeting shall be presented to Council for endorsement or approval of payment.

STRATEGIC IMPLICATIONS

Strategic Community Plan adopted 28 March 2018 –

5.	Civic leadership – to better allocate scarce resources and effectively interact with the community
	No specific implications

FINANCIAL IMPLICATIONS

All payments are in accordance Council’s adopted budget.

VOTING REQUIREMENTS

Absolute Majority Required: No

OFFICER RECOMMENDATION

Moved Cr _____

Seconded Cr _____

That the payments made for April 2018 from the Municipal Bank Account as per the attached listing and summarised below, be endorsed –

Payment type	References from – to	\$ Amount
Creditor EFT Payments **	EFT6296 – EFT6365	232,893.45
Creditor Cheque Payments	12167 – 12177	8,736.00
Direct Debit Payments **	DD10312 – DD10363	22,483.11
Net Fortnightly Salaries & Wages EFT	W/E 5/4/18 & 19/4/18	93,226.40
Trust Payments	Nil	0.00
	TOTAL	357,338.96

** includes salary & wages deductions, and SGC

Commonly-used abbreviations

CEO Chief Executive Officer
SGC Superannuation Guarantee Contribution

10.3 MONTHLY FINANCIAL STATEMENTS

File reference	
Report date	11 May 2018
Applicant/proponent	Shire of Victoria Plains
Officer disclosure of interest	Nil
Previous meeting references	Nil
Prepared by	Bob Waddell – Consultant Ina Edwardson – Finance Manager
Authorised by	
Attachments	
Attachment 1	Monthly Financial Statements – 30 April 2018

PURPOSE

To receive the monthly financial statements for the period ending 30 April 2018.

BACKGROUND

Section 6.4 of the Local Government Act 1995 requires a Local Government to prepare financial reports.

The Local Government (Financial Management) Regulations 34 & 35 set out the form and content of the financial reports which have been prepared for the periods as above and are presented to Council for approval.

COMMENT

The 30 April 2018 Monthly Financial Statements are presented for review.

It should be noted that the amendments to the budget adopted at the April Ordinary Council Meeting have not yet been uploaded into the Shire's accounting software, SynergySoft. Staff are waiting for assistance from ITVision, SynergySoft developers, to assist with some changes to the Shire's accounting setup prior to the budget amendments being uploaded. It is envisaged these changes will happen in time for the next Council meeting so that the revised budget can then be presented accordingly.

CONSULTATION

Mr Bob Waddell, Bob Waddell and Associates Pty Ltd

STATUTORY CONTEXT

Local Government (Financial Management) Regulations 1996 –

- r.34 – financial activity statement required each months and details of what is to be included

CORPORATE CONTEXT

None

STRATEGIC IMPLICATIONS

Strategic Community Plan adopted 28 March 2018 –

5.	Civic leadership – to better allocate scarce resources and effectively interact with the community
	No specific implication

FINANCIAL IMPLICATIONS

None

VOTING REQUIREMENTS

Absolute Majority Required: No

OFFICER RECOMMENDATION

Moved Cr _____

Seconded Cr _____

That Council receive the 30 April 2018 Monthly Financial Reports as presented:

Commonly-used abbreviations	
CEO	Chief Executive Officer



SHIRE OF VICTORIA PLAINS
MONTHLY FINANCIAL REPORT
(Containing the Statement of Financial Activity)
For the Period Ended 30 April 2018

LOCAL GOVERNMENT ACT 1995
LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996

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**SHIRE OF VICTORIA PLAINS
Information Summary
For the Period Ended 30 April 2018**

Key Information

Report Purpose

This report is prepared to meet the requirements of *Local Government (Financial Management) Regulations 1996, Regulation 34*.

Overview

Summary reports and graphical progressive graphs are provided on pages 2 - 3.

Statement of Financial Activity by reporting program

Is presented on page 6 and shows a surplus as at 30 April 2018 of \$488,349.

Items of Significance

The material variance adopted by the Shire of Somewhere for the 2017/18 year is \$5,000 or 10% whichever is the greater. The following selected items have been highlighted due to the amount of the variance to the budget or due to the nature of the revenue/expenditure. A full listing and explanation of all items considered of material variance is disclosed in Note 2.

Capital Expenditure

Plant and Equipment	▲ \$	176,517	Purchase of Ride on Mower and 9 tonne truck will not happen in 17/18.
Infrastructure Assets - Roads	▲ \$	556,773	Some works delayed. Bridge works will not happen in 17/18.

Capital Revenue

Non-operating Grants, Subsidies and Contributions	▼	(\$1,399,075)	Royalties for Regions Aged Care funds will now be recognised as non-cash as funding is being acquitted by the Shire of Toodyay. Recognition is delayed till after project is completed. Some RTR funding will now happen next year.
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	% Collected / Completed	Annual Budget	YTD Budget	YTD Actual
Significant Projects				
2 x Aged Care Units - Bolgart	1%	\$ 480,000	\$ -	\$ 4,142
2 x Aged Care Units - Calingiri	2%	\$ 480,000	\$ -	\$ 11,027
Toodyay-Bindi Bindi Road	90%	\$ 385,034	\$ 385,034	\$ 346,750
Moore River Bridge Repairs (2017-18)	0%	\$ 447,000	\$ 447,000	\$ 1,058
Grants, Subsidies and Contributions				
Operating Grants, Subsidies and Contributions	81%	\$ 609,877	\$ 497,471	\$ 492,490
Non-operating Grants, Subsidies and Contributions	34%	\$ 2,134,189	\$ 2,134,187	\$ 735,112
	45%	\$ 2,744,066	\$ 2,631,658	\$ 1,227,602
Rates Levied	100%	\$ 2,393,653	\$ 2,393,653	\$ 2,387,517

% Compares current ytd actuals to annual budget

SHIRE OF VICTORIA PLAINS
Information Summary
For the Period Ended 30 April 2018

Key Information

Financial Position		Prior Year 30 April 2017	Current Year 30 April 2018
Adjusted Net Current Assets	125%	\$ 392,122	\$ 488,349
Cash and Equivalent - Unrestricted	42%	\$ 434,075	\$ 184,336
Cash and Equivalent - Restricted	104%	\$ 717,261	\$ 744,074
Receivables - Rates	88%	\$ 83,463	\$ 73,849
Receivables - Other	202%	\$ 136,132	\$ 274,802
Payables	70%	\$ 102,790	\$ 72,166

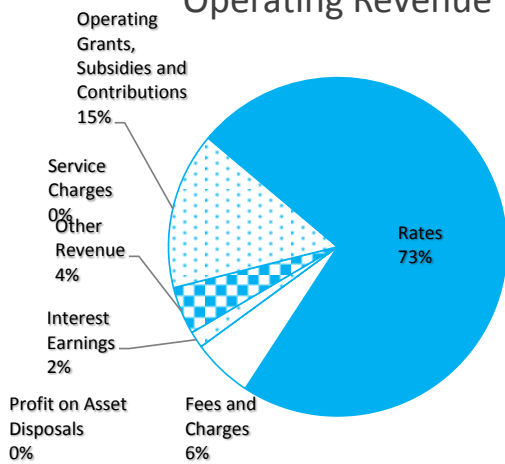
% Compares current ytd actuals to prior year actuals at the same time

Note: The Statements and accompanying notes are prepared based on all transactions recorded at the time of preparation and may vary due to transactions being processed for the reporting period after the date of

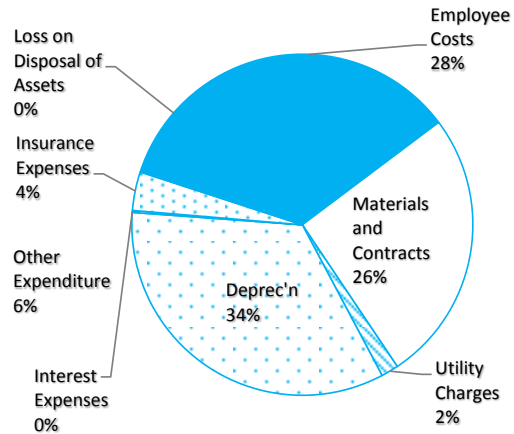
Preparation

Prepared by: Bob Waddell (Local Government Consultant)
Reviewed by: Bob Waddell (Local Government Consultant)
Date prepared: 10-May-18

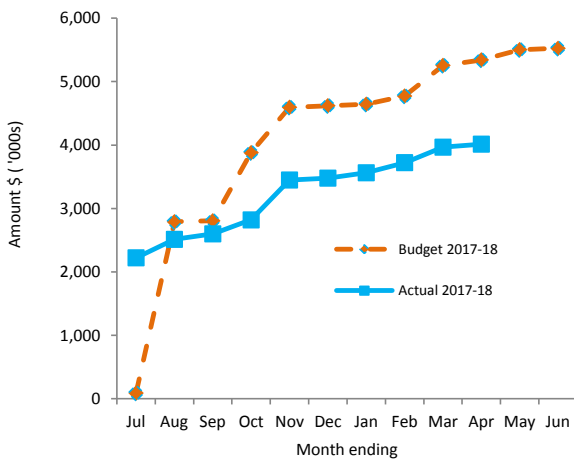
Operating Revenue



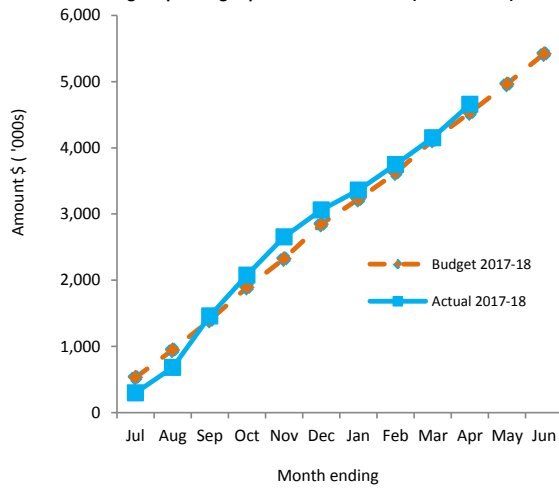
Operating Expenditure



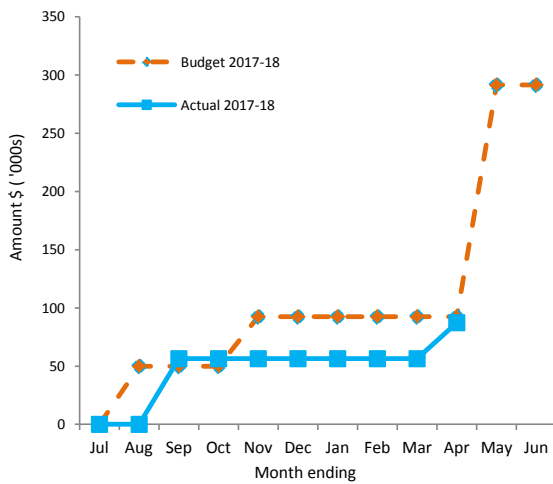
Budget Operating Revenues -v- Actual (Refer Note 2)



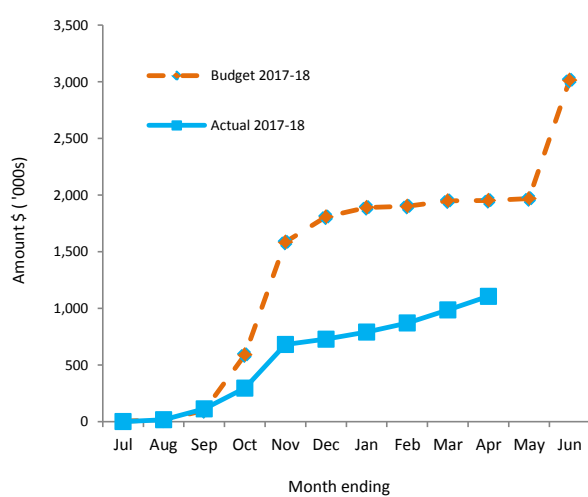
Budget Operating Expenses -v- YTD Actual (Refer Note 2)



Budget Capital Revenue -v- Actual (Refer Note 2)



Budget Capital Expenses -v- Actual (Refer Note 2)



This information is to be read in conjunction with the accompanying Financial Statements and Notes.

	Note	Adopted Annual Budget	Amended Annual Budget (d)	Amended YTD Budget (a)	YTD Actual (b)	Var. \$ (b)-(a)	Var. % (b)-(a)/(a)	Var. ▲▼	Significant Var. \$
		\$	\$	\$	\$	\$	%		
Opening Funding Surplus(Deficit)	3	639,000	474,404	474,404	474,404	0	0%		
Revenue from operating activities									
Governance		7,808	7,808	7,080	13,126	6,046	85%	▲	\$
General Purpose Funding - Rates	9	2,393,653	2,393,653	2,393,653	2,387,517	(6,136)	(0%)	▼	
General Purpose Funding - Other		497,091	497,091	379,343	409,983	30,640	8%	▲	
Law, Order and Public Safety		43,236	43,236	42,724	49,132	6,408	15%	▲	\$
Health		2,263	2,263	1,960	5,011	3,051	156%	▲	
Education and Welfare		0	0	0	26,091	26,091		▲	\$
Housing		124,154	124,154	116,770	66,083	(58,071)	(47%)	▼	\$
Community Amenities		73,232	73,232	72,355	87,720	15,365	21%	▲	\$
Recreation and Culture		21,035	21,035	13,253	20,379	7,126	54%	▲	\$
Transport		165,382	165,382	128,734	76,223	(89,159)	(54%)	▼	\$
Economic Services		28,718	28,718	23,900	35,069	6,169	47%	▲	\$
Other Property and Services		34,380	34,380	28,620	103,037	74,417	260%	▲	\$
		3,390,952	3,390,952	3,208,392	3,279,370				
Expenditure from operating activities									
Governance		(478,770)	(478,770)	(440,043)	(386,688)	53,355	12%	▲	\$
General Purpose Funding		(308,057)	(308,057)	(253,320)	(283,273)	(29,953)	(12%)	▼	\$
Law, Order and Public Safety		(295,665)	(295,665)	(255,118)	(220,324)	34,794	14%	▲	\$
Health		(150,664)	(150,664)	(132,136)	(115,740)	16,396	12%	▲	\$
Education and Welfare		(48,038)	(48,038)	(41,251)	(37,516)	3,735	9%	▲	
Housing		(194,686)	(194,686)	(168,069)	(236,714)	(68,645)	(41%)	▼	\$
Community Amenities		(436,503)	(436,503)	(363,838)	(311,703)	52,135	14%	▲	\$
Recreation and Culture		(621,999)	(621,999)	(506,855)	(501,382)	5,473	1%	▲	
Transport		(2,671,070)	(2,671,070)	(2,183,920)	(2,286,105)	(102,185)	(5%)	▼	
Economic Services		(215,616)	(215,616)	(185,765)	(167,058)	18,707	10%	▲	\$
Other Property and Services		782	782	(100)	(111,159)	(111,059)	(111059%)	▼	\$
		(5,420,287)	(5,420,287)	(4,530,415)	(4,657,662)				
Operating activities excluded from budget									
Add back Depreciation		1,944,577	1,944,577	1,620,370	1,579,285	(41,085)	(3%)	▼	
Adjust (Profit)/Loss on Asset Disposal	8	19,000	19,000	4,000	(8,789)	(12,789)	(320%)	▼	\$
Movement in Leave Reserve (Added Back)		0	0	0	0	0			
Movement in Deferred Pensioner Rates/ESL		0	0	0	0	0			
Movement in Employee Benefit Provisions		0	0	0	0	0			
Rounding Adjustments		0	0	0	0	0			
Loss on Asset Revaluation		0	0	0	0	0			
Adjustment in Fixed Assets		0	0	0	0	0		▲	
Amount attributable to operating activities		(65,757)	(65,757)	302,347	192,205				
Investing Activities									
Non-operating Grants, Subsidies and Contributions	11	2,134,189	2,134,189	2,134,187	735,112	(1,399,075)	(66%)	▼	\$
Proceeds from Disposal of Assets	8	291,500	291,500	92,500	87,273	(5,227)	(6%)	▼	
Land Held for Resale	13	0	0	0	0	0			
Land and Buildings	13	(986,700)	(986,700)	(26,700)	(31,448)	(4,748)	(18%)	▼	
Construction other than Buildings	13	(26,000)	(26,000)	(26,000)	(3,884)	22,116	85%	▲	\$
Plant and Equipment	13	(205,000)	(205,000)	(205,000)	(28,483)	176,517	86%	▲	\$
Motor Vehicles	13	(110,000)	(110,000)	(110,000)	(63,359)	46,641	42%	▲	\$
Furniture and Equipment	13	(25,000)	(25,000)	(21,660)	(7,472)	14,188	66%	▲	\$
Infrastructure Assets - Roads	13	(1,467,534)	(1,467,534)	(1,467,534)	(910,761)	556,773	38%	▲	\$
Infrastructure Assets - Footpaths	13	(45,000)	(45,000)	(45,000)	(23,065)	21,935	49%	▲	\$
Infrastructure Assets - Other	13	0	0	0	0	0			
Amount attributable to investing activities		(439,545)	(439,545)	324,793	(246,088)				
Financing Activities									
Proceeds from New Debentures		0	0	0	0	0			
Proceeds from Advances		0	0	0	0	0			
Self-Supporting Loan Principal		15,993	15,993	7,996	8,142	146	(2%)	▲	
Transfer from Reserves	7	0	0	0	110,000	110,000		▲	\$
Advances to Community Groups		0	0	0	0	0			
Repayment of Debentures	10	(58,691)	(58,691)	(37,250)	(37,222)	28	0%	▲	
Transfer to Reserves	7	(91,000)	(91,000)	(13,330)	(13,091)	239	2%	▲	
Amount attributable to financing activities		(133,698)	(133,698)	(42,584)	67,828				
Closing Funding Surplus(Deficit)	3	(0)	(164,597)	1,058,960	488,349				

▲▼ Indicates a variance between Year to Date (YTD) Budget and YTD Actual data as per the adopted materiality threshold. Refer to Note 2 for an explanation of the reasons for the variance.

This statement is to be read in conjunction with the accompanying Financial Statements and notes.

AGENDA - 16 May 2018
SHIRE OF VICTORIA PLAINS
STATEMENT OF FINANCIAL ACTIVITY
(By Nature or Type)
For the Period Ended 30 April 2018

	Note	Adopted Annual Budget	Amended Annual Budget	Amended YTD Budget (a)	YTD Actual (b)	Var. \$ (b)-(a)	Var. % (b)-(a)/(a)	Var. ▲▼	Significant Var. \$
Opening Funding Surplus (Deficit)	3	\$ 639,000	\$ 474,404	\$ 474,404	\$ 474,404	\$ 0	0%		
Revenue from operating activities									
Rates	9	2,393,653	2,393,653	2,393,653	2,387,517	(6,136)	(0%)	▼	
Operating Grants, Subsidies and Contributions	11	609,877	609,877	497,471	492,490	(4,981)	(1%)	▼	
Fees and Charges		155,065	155,065	141,085	188,850	47,765	34%	▲	\$
Service Charges		0	0	0	0	0			
Interest Earnings		135,807	135,807	124,233	51,793	(72,440)	(58%)	▼	\$
Other Revenue		58,550	58,550	48,950	149,931	100,981	206%	▲	\$
Profit on Disposal of Assets	8	38,000	38,000	3,000	8,789	5,789	193%	▲	\$
		3,390,952	3,390,952	3,208,392	3,279,370				
Expenditure from operating activities									
Employee Costs		(1,459,493)	(1,459,493)	(1,235,528)	(1,320,705)	(85,177)	(7%)	▼	
Materials and Contracts		(1,287,322)	(1,287,322)	(1,078,233)	(1,204,541)	(126,308)	(12%)	▼	\$
Utility Charges		(84,850)	(84,850)	(73,784)	(76,768)	(2,984)	(4%)	▼	
Depreciation on Non-Current Assets		(1,944,577)	(1,944,577)	(1,620,370)	(1,579,285)	41,085	3%	▲	
Interest Expenses		(22,066)	(22,066)	(13,065)	(8,701)	4,364	33%	▲	\$
Insurance Expenses		(203,379)	(203,379)	(189,892)	(170,854)	19,038	10%	▲	\$
Other Expenditure		(361,600)	(361,600)	(312,543)	(296,808)	15,735	5%	▲	
Loss on Disposal of Assets	8	(57,000)	(57,000)	(7,000)	0	7,000	100%	▲	\$
		(5,420,287)	(5,420,287)	(4,530,415)	(4,657,662)				
Operating activities excluded from budget									
Add back Depreciation		1,944,577	1,944,577	1,620,370	1,579,285	(41,085)	(3%)	▼	
Adjust (Profit)/Loss on Asset Disposal	8	19,000	19,000	4,000	(8,789)	(12,789)	(320%)	▼	\$
Movement in Leave Reserve (Added Back)		0	0	0	0	0			
Movement in Deferred Pensioner Rates/ESL		0	0	0	0	0			
Movement in Employee Benefit Provisions		0	0	0	0	0			
Rounding Adjustments		0	0	0	0	0			
Loss on Asset Revaluation		0	0	0	0	0			
Adjustment in Fixed Assets		0	0	0	0	0		▲	
Amount attributable to operating activities		(65,757)	(65,757)	302,347	192,205				
Investing activities									
Non-Operating Grants, Subsidies and Contributions	11	2,134,189	2,134,189	2,134,187	735,112	(1,399,075)	(66%)	▼	\$
Proceeds from Disposal of Assets	8	291,500	291,500	92,500	87,273	(5,227)	(6%)	▼	
Land Held for Resale	13	0	0	0	0	0			
Land and Buildings	13	(986,700)	(986,700)	(26,700)	(31,448)	(4,748)	(18%)	▼	
Construction other than Buildings	13	(26,000)	(26,000)	(26,000)	(3,884)	22,116	85%	▲	\$
Plant and Equipment	13	(205,000)	(205,000)	(205,000)	(28,483)	176,517	86%	▲	\$
Motor Vehicles	13	(110,000)	(110,000)	(110,000)	(63,359)	46,641	42%	▲	\$
Furniture and Equipment	13	(25,000)	(25,000)	(21,660)	(7,472)	14,188	66%	▲	\$
Infrastructure Assets - Roads	13	(1,467,534)	(1,467,534)	(1,467,534)	(910,761)	556,773	38%	▲	\$
Infrastructure Assets - Footpaths	13	(45,000)	(45,000)	(45,000)	(23,065)	21,935	49%	▲	\$
Infrastructure Assets - Other	13	0	0	0	0	0			
Amount attributable to investing activities		(439,545)	(439,545)	324,793	(246,088)				
Financing Activities									
Proceeds from New Debentures		0	0	0	0	0			
Proceeds from Advances		0	0	0	0	0			
Self-Supporting Loan Principal		15,993	15,993	7,996	8,142	146	2%	▲	
Transfer from Reserves	7	0	0	0	110,000	110,000		▲	\$
Advances to Community Groups		0	0	0	0	0			
Repayment of Debentures	10	(58,691)	(58,691)	(37,250)	(37,222)	28	0%	▲	
Transfer to Reserves	7	(91,000)	(91,000)	(13,330)	(13,091)	239	2%	▲	
Amount attributable to financing activities		(133,698)	(133,698)	(42,584)	67,828				
Closing Funding Surplus (Deficit)	3	(0)	(164,597)	1,058,960	488,349				

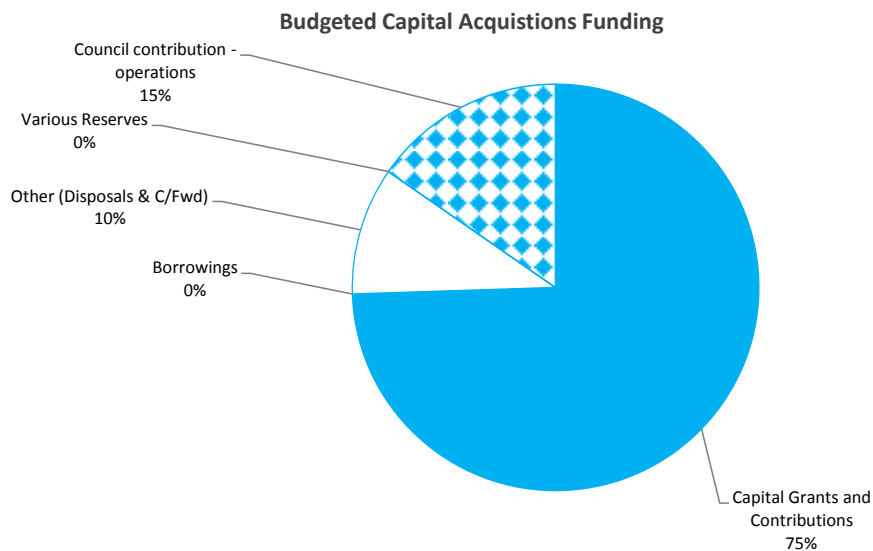
▲ ▼ Indicates a variance between Year to Date (YTD) Budget and YTD Actual data as per the adopted materiality threshold.
Refer to Note 2 for an explanation of the reasons for the variance.

This statement is to be read in conjunction with the accompanying Financial Statements and notes.

STATEMENT OF CAPITAL ACQUISITIONS AND CAPITAL FUNDING
For the Period Ended 30 April 2018

Capital Acquisitions

	Note	YTD Actual New /Upgrade (a)	YTD Actual (Renewal Expenditure) (b)	Amended YTD Budget (d)	Amended Annual Budget	Adopted Annual Budget	YTD Actual Total (c) = (a)+(b)	Variance (d) - (c)
		\$	\$	\$	\$	\$	\$	\$
Land Held for Resale	13	0	0	0	0	0	0	0
Land and Buildings	13	0	31,448	26,700	986,700	986,700	31,448	4,748
Construction other than Buildings	13	0	3,884	26,000	26,000	26,000	3,884	(22,116)
Plant and Equipment	13	0	28,483	205,000	205,000	205,000	28,483	(176,517)
Motor Vehicles	13	0	63,359	110,000	110,000	110,000	63,359	(46,641)
Furniture and Equipment	13	0	7,472	21,660	25,000	25,000	7,472	(14,188)
Infrastructure Assets - Roads	13	0	910,761	1,467,534	1,467,534	1,467,534	910,761	(556,773)
Infrastructure Assets - Footpaths	13	0	23,065	45,000	45,000	45,000	23,065	(21,935)
Infrastructure Assets - Other	13	0	0	0	0	0	0	0
Capital Expenditure Totals		0	1,068,472	1,901,894	2,865,234	2,865,234	1,068,472	(833,422)
Capital acquisitions funded by:								
Capital Grants and Contributions				2,134,187	2,134,189	2,134,189	735,112	
Borrowings				0	0	0	0	
Other (Disposals & C/Fwd)				92,500	291,500	291,500	87,273	
Council contribution - Cash Backed Reserves Various Reserves				0	0		85,000	
Council contribution - operations				(324,793)	439,545		161,088	
Capital Funding Total				1,901,894	2,865,234		1,068,472	



Note 1: Significant Accounting Policies

(a) Basis of Accounting

This statement comprises a special purpose financial report which has been prepared in accordance with Australian Accounting Standards (as they apply to local governments and not-for-profit entities), Australian Accounting Interpretations, other authoritative pronouncements of the Australian Accounting Standards Board, the Local Government Act 1995 and accompanying regulations. Material accounting policies which have been adopted in the preparation of this statement are presented below and have been consistently applied unless stated otherwise. Except for cash flow and rate setting information, the report has also been prepared on the accrual basis and is based on historical costs, modified, where applicable, by the measurement at fair value of selected non-current assets, financial assets and liabilities.

Critical Accounting Estimates

The preparation of a financial report in conformity with Australian Accounting Standards requires management to make judgements, estimates and assumptions that effect the application of policies and reported amounts of assets and liabilities, income and expenses. The estimates and associated assumptions are based on historical experience and various other factors that are believed to be reasonable under the circumstances; the results of which form the basis of making the judgements about carrying values of assets and liabilities that are not readily apparent from other sources. Actual results may differ from these estimates.

(b) The Local Government Reporting Entity

All Funds through which the Council controls resources to carry on its functions have been included in this statement. In the process of reporting on the local government as a single unit, all transactions and balances between those funds (for example, loans and transfers between Funds) have been eliminated. All monies held in the Trust Fund are excluded from the statement, but a separate statement of those monies appears at Note 12.

(c) Rounding Off Figures

All figures shown in this statement are rounded to the nearest dollar.

(d) Rates, Grants, Donations and Other Contributions

Rates, grants, donations and other contributions are recognised as revenues when the local government obtains control over the assets comprising the contributions. Control over assets acquired from rates is obtained at the commencement of the rating period or, where earlier, upon receipt of the rates.

(e) Goods and Services Tax

Revenues, expenses and assets are recognised net of the amount of GST, except where the amount of GST incurred is not recoverable from the Australian Taxation Office (ATO). Receivables and payables are stated inclusive of GST receivable or payable. The net amount of GST recoverable from, or payable to, the ATO is included with receivables or payables in the statement of financial position. Cash flows are presented on a gross basis. The GST components of cash flows arising from investing or financing activities which are recoverable from, or payable to, the ATO are presented as operating cash flows.

(f) Cash and Cash Equivalents

Cash and cash equivalents include cash on hand, cash at bank, deposits available on demand with banks and other short term highly liquid investments that are readily convertible to known amounts of cash and which are subject to an insignificant risk of changes in value and bank overdrafts. Bank overdrafts are reported as short term borrowings in current liabilities in the statement of financial position.

(g) Trade and Other Receivables

Trade and other receivables include amounts due from ratepayers for unpaid rates and service charges and other amounts due from third parties for goods sold and services performed in the ordinary course of business.

Receivables expected to be collected within 12 months of the end of the reporting period are classified as current assets. All other receivables are classified as non-current assets. Collectability of trade and other receivables is reviewed on an ongoing basis. Debts that are known to be uncollectible are written off when identified. An allowance for doubtful debts is raised when there is objective evidence that they will not be collectible.

(h) Inventories

General

Inventories are measured at the lower of cost and net realisable value. Net realisable value is the estimated selling price in the ordinary course of business less the estimated costs of completion and the estimated costs necessary to make the sale.

Land Held for Resale

Land held for development and sale is valued at the lower of cost and net realisable value. Cost includes the cost of acquisition, development, borrowing costs and holding costs until completion of development. Finance costs and holding charges incurred after development is completed are expensed. Gains and losses are recognised in profit or loss at the time of signing an unconditional contract of sale if significant risks and rewards, and effective control over the land, are passed on to the buyer at this point. Land held for sale is classified as current except where it is held as non-current based on Council's intentions to release for sale.

(i) Fixed Assets

All assets are initially recognised at cost. Cost is determined as the fair value of the assets given as consideration plus costs incidental to the acquisition. For assets acquired at no cost or for nominal consideration, cost is determined as fair value at the date of acquisition. The cost of non-current assets constructed by the local government includes the cost of all materials used in the construction, direct labour on the project and an appropriate proportion of variable and fixed overhead. Certain asset classes may be revalued on a regular basis such that the carrying values are not materially different from fair value. Assets carried at fair value are to be revalued with sufficient regularity to ensure the carrying amount does not differ materially from that determined using fair value at reporting date.

**NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY
For the Period Ended 30 April 2018**

Note 1: Significant Accounting Policies

(j) Depreciation of Non-Current Assets

All non-current assets having a limited useful life are systematically depreciated over their useful lives in a manner which reflects the consumption of the future economic benefits embodied in those assets

Depreciation is recognised on a straight-line basis, using rates which are reviewed each reporting period. Major depreciation rates and periods are:

Asset	Years
Buildings	30 to 50 years
Furniture and Equipment	4 to 10 years
Plant and Equipment	5 to 15 years
Sealed roads and streets	
formation	not depreciated
pavement	50 years
seal	
bituminous seals	20 years
asphalt surfaces	25 years
Gravel Roads	
formation	not depreciated
pavement	50 years
Formed roads (unsealed)	
formation	not depreciated
pavement	50 years
Footpaths - slab	20 years
Sewerage piping	100 years
Water supply piping and drainage systems	75 years

(k) Trade and Other Payables

Trade and other payables represent liabilities for goods and services provided to the Council prior to the end of the financial year that are unpaid and arise when the Council becomes obliged to make future payments in respect of the purchase of these goods and services. The amounts are unsecured, are recognised as a current liability and are normally paid within 30 days of recognition.

(l) Employee Benefits

The provisions for employee benefits relates to amounts expected to be paid for long service leave, annual leave, wages and salaries and are calculated as follows:

(i) Wages, Salaries, Annual Leave and Long Service Leave (Short-term Benefits)

The provision for employees' benefits to wages, salaries, annual leave and long service leave expected to be settled within 12 months represents the amount the Shire has a present obligation to pay resulting from employees services provided to balance date. The provision has been calculated at nominal amounts based on remuneration rates the Shire expects to pay and includes related on-costs.

(ii) Annual Leave and Long Service Leave (Long-term Benefits)

The liability for long service leave is recognised in the provision for employee benefits and measured as the present value of expected future payments to be made in respect of services provided by employees up to the reporting date using the project unit credit method. Consideration is given to expected future wage and salary levels, experience of employee departures and periods of service. Expected future payments are discounted using market yields at the reporting date on national government bonds with terms to maturity and currency that match as closely as possible, the estimated future cash outflows. Where the Shire does not have the unconditional right to defer settlement beyond 12 months, the liability is recognised as a current liability.

(m) Interest-bearing Loans and Borrowings

All loans and borrowings are initially recognised at the fair value of the consideration received less directly attributable transaction costs. After initial recognition, interest-bearing loans and borrowings are subsequently measured at amortised cost using the effective interest method. Fees paid on the establishment of loan facilities that are yield related are included as part of the carrying amount of the loans and borrowings.

Borrowings are classified as current liabilities unless the Council has an unconditional right to defer settlement of the liability for at least 12 months after the balance sheet date.

Borrowing Costs

Borrowing costs are recognised as an expense when incurred except where they are directly attributable to the acquisition, construction or production of a qualifying asset. Where this is the case, they are capitalised as part of the cost of the particular asset.

(n) Provisions

Provisions are recognised when: The council has a present legal or constructive obligation as a result of past events; it is more likely than not that an outflow of resources will be required to settle the obligation; and the amount has been reliably estimated. Provisions are not recognised for future operating losses. Where there are a number of similar obligations, the likelihood that an outflow will be required in settlement is determined by considering the class of obligations as a whole. A provision is recognised even if the likelihood of an outflow with respect to any one of item included in the same class of obligations may be small.

Note 1: Significant Accounting Policies

(o) Current and Non-Current Classification

In the determination of whether an asset or liability is current or non-current, consideration is given to the time when each asset or liability is expected to be settled. The asset or liability is classified as current if it is expected to be settled within the next 12 months, being the Council's operational cycle. In the case of liabilities where Council does not have the unconditional right to defer settlement beyond 12 months, such as vested long service leave, the liability is classified as current even if not expected to be settled within the next 12 months. Inventories held for trading are classified as current even if not expected to be realised in the next 12 months except for land held for resale where it is held as non current based on Council's intentions to release for sale.

(p) Nature or Type Classifications

Rates

All rates levied under the Local Government Act 1995. Includes general, differential, specific area rates, minimum rates, interim rates, back rates, ex-gratia rates, less discounts offered. Exclude administration fees, interest on instalments, interest on arrears and

Operating Grants, Subsidies and Contributions

Refer to all amounts received as grants, subsidies and contributions that are not non-operating grants.

Non-Operating Grants, Subsidies and Contributions

Amounts received specifically for the acquisition, construction of new or the upgrading of non-current assets paid to a local government, irrespective of whether these amounts are received as capital grants, subsidies, contributions or donations.

Profit on Asset Disposal

Profit on the disposal of assets including gains on the disposal of long term investments. Losses are disclosed under the expenditure

Fees and Charges

Revenues (other than service charges) from the use of facilities and charges made for local government services, sewerage rates, rentals, hire charges, fee for service, photocopying charges, licences, sale of goods or information, fines, penalties and administration fees. Local governments may wish to disclose more detail such as rubbish collection fees, rental of property, fines and penalties, other fees and charges.

Service Charges

Service charges imposed under Division 6 of Part 6 of the Local Government Act 1995. Regulation 54 of the Local Government (Financial Management) Regulations 1996 identifies these as television and radio broadcasting, underground electricity and neighbourhood surveillance services. Exclude rubbish removal charges. Interest and other items of a similar nature received from bank and investment accounts, interest on rate instalments, interest on rate arrears and interest on debtors.

Interest Earnings

Interest and other items of a similar nature received from bank and investment accounts, interest on rate instalments, interest on rate arrears and interest on debtors.

Other Revenue / Income

Other revenue, which can not be classified under the above headings, includes dividends, discounts, rebates etc.

Employee Costs

All costs associate with the employment of person such as salaries, wages, allowances, benefits such as vehicle and housing, superannuation, employment expenses, removal expenses, relocation expenses, worker's compensation insurance, training costs, conferences, safety expenses, medical examinations, fringe benefit tax, etc.

Materials and Contracts

All expenditures on materials, supplies and contracts not classified under other headings. These include supply of goods and materials, legal expenses, consultancy, maintenance agreements, communication expenses, advertising expenses, membership, periodicals, publications, hire expenses, rental, leases, postage and freight etc. Local governments may wish to disclose more detail such as contract services, consultancy, information technology, rental or lease expenditures.

Utilities (Gas, Electricity, Water, etc.)

Expenditures made to the respective agencies for the provision of power, gas or water. Exclude expenditures incurred for the reinstatement of roadwork on behalf of these agencies.

Insurance

All insurance other than worker's compensation and health benefit insurance included as a cost of employment.

Loss on asset disposal

Loss on the disposal of fixed assets.

Depreciation on non-current assets

Depreciation expense raised on all classes of assets.

Interest expenses

Interest and other costs of finance paid, including costs of finance for loan debentures, overdraft accommodation and refinancing expenses.

Other expenditure

Statutory fees, taxes, provision for bad debts, member's fees or State taxes. Donations and subsidies made to community groups.

Note 1: Significant Accounting Policies

(r) Program Classifications (Function/Activity)

City/Town/Shire operations as disclosed in these financial statements encompass the following service orientated activities/programs.

GOVERNANCE

Objective:

To provide a decision making process for the efficient allocation of scarce resources.

Activities:

Includes the activities of members of council and the administrative support available to the council for the provision of governance of the district. Other costs relate to the task of assisting elected members and ratepayers on matters which do not concern specific council services.

GENERAL PURPOSE FUNDING

Objective:

To collect revenue to allow for the provision of services.

Activities:

Rates, general purpose government grants and interest revenue.

LAW, ORDER, PUBLIC SAFETY

Objective:

To provide services to help ensure a safer and environmentally conscious community.

Activities:

Supervision and enforcement of various local laws relating to fire prevention, animal control and other aspects of public safety including emergency services.

HEALTH

Objective:

To provide an operational framework for environmental and community health.

Activities:

Inspection of food outlets and their control, provision of meat inspection services, noise control and waste disposal compliance.

EDUCATION AND WELFARE

Objective:

To provide services to disadvantaged persons, the elderly, children and youth.

Activities:

Maintenance of child minding centre, playgroup centre, senior citizen centre and aged care centre. Provision and maintenance of home and community care programs and youth services.

HOUSING

Objective:

To provide and maintain elderly residents housing.

Activities:

Provision and maintenance of elderly residents housing.

COMMUNITY AMENITIES

Objective:

To provide services required by the community.

Activities:

Rubbish collection services, operation of rubbish disposal sites, litter control, construction and maintenance of urban storm water drains, protection of the environment and administration of town planning schemes, cemetery and public conveniences.

RECREATION AND CULTURE

Objective:

To establish and effectively manage infrastructure and resource which will help the social well being of the community.

Activities:

Maintenance of public halls, civic centres, aquatic centre, beaches, recreation centres and various sporting facilities. Provision and maintenance of parks, gardens and playgrounds. Operation of library, museum and other cultural facilities.

TRANSPORT

Objective:

To provide safe, effective and efficient transport services to the community.

Activities:

Construction and maintenance of roads, streets, footpaths, depots, cycle ways, parking facilities and traffic control. Cleaning of streets and maintenance of street trees, street lighting etc.

ECONOMIC SERVICES

Objective:

To help promote the shire and its economic wellbeing.

Activities:

Tourism and area promotion including the maintenance and operation of a caravan park. Provision of rural services including weed control, vermin control and standpipes. Building Control.

OTHER PROPERTY AND SERVICES

Objective:

To monitor and control Shire's overheads operating accounts.

Activities:

Private works operation, plant repair and operation costs and engineering operation costs.

NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY
For the Period Ended 30 April 2018

Note 2: Explanation of Material Variances

The material variance thresholds are adopted annually by Council as an indicator of whether the actual expenditure or revenue varies from the year to date budget materially.

The material variance adopted by Council for the 2017/18 year is \$5,000 or 10% whichever is the greater.

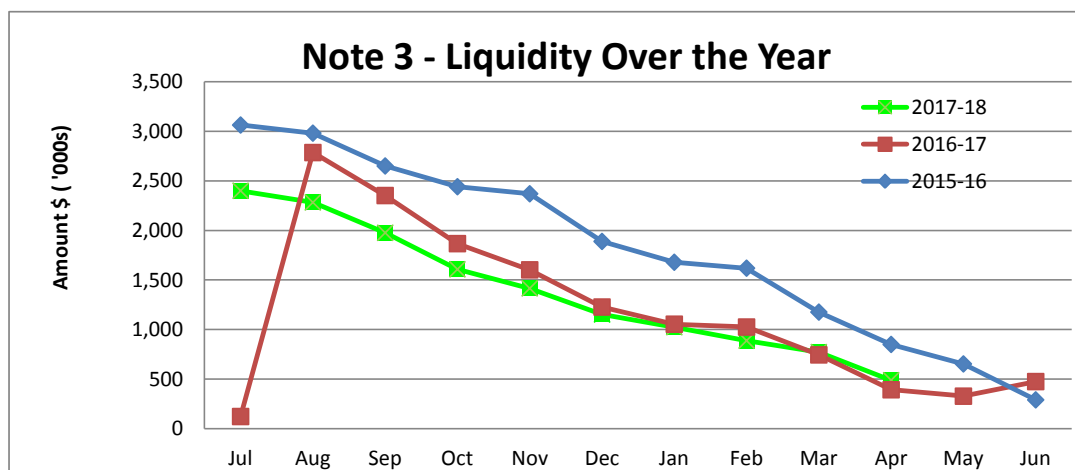
Reporting Program	Var. \$	Var. %	Significant		Timing/ Permanent	Explanation of Variance
			Var. ▲▼	Var. S		
Revenue from operating activities	\$	%				
Governance	6,046	85%	▲	S	Permanent	Additional grant received.
Law, Order and Public Safety	6,408	15%	▲	S	Permanent	DFES ESL Admin fee received not budgeted for.
Education and Welfare	26,091		▲	S	Permanent	Community income received not budgeted for.
Housing	(50,687)	(43%)	▼	S	Permanent	Over budgeted for interest on Aged Unit funds.
Community Amenities	15,365	21%	▲	S	Permanent	Additional planning application fees received over budget.
Recreation and Culture	7,126	54%	▲	S	Permanent	Calingiri Sports Ground income under budgeted
Transport	(52,511)	(41%)	▼	S	Permanent	Direct grant reduced after budget.
Economic Services	11,169	47%	▲	S	Permanent	Additional building permit fees received over budget.
Other Property and Services	74,417	260%	▲	S	Permanent	W/mans compo reimbursement income received.
Expenditure from operating activities						
Governance	53,355	12%	▲	S	Timing	Expenditure delayed
General Purpose Funding	(29,953)	(12%)	▼	S	Timing	Admin costs allocated running higher than budget.
Law, Order and Public Safety	34,794	14%	▲	S	Timing	Timing of expenditure
Health	16,396	12%	▲	S	Timing	Timing of expenditure
Housing	(68,645)	(41%)	▼	S	Permanent	Maintenance on staff housing not budgeted for.
Community Amenities	52,135	14%	▲	S	Timing	Timing of expenditure
Recreation and Culture	5,473	1%	▲		Timing	Timing of expenditure
Transport	(102,185)	(5%)	▼		Timing	Timing of expenditure
Economic Services	18,707	10%	▲	S	Timing	Timing of expenditure
Other Property and Services	(111,059)	(111059%)	▼	S	Permanent	Insurance budgeted monthly, paid annually, and plant recoveries to be reallocated. W/mans compo insurance more than budgeted for (see income above). Maintenance operating costs more than budgeted for.
Investing Activities						
Non-operating Grants, Subsidies and Contributions	(1,399,075)	(66%)	▼	S	Timing	Royalties for Regions Aged Care funds will now be recognised as non-cash as funding is being acquitted by the Shire of Toodyay. Recognition is delayed till after project is completed. Some RTR funding will now happen next year.
Construction other than Buildings	22,116	85%	▲	S	Timing	Depot upgrade works delayed.
Plant and Equipment	176,517	86%	▲	S	Permanent	Purchase of Ride on Mower and 9 tonne truck will not happen in 17/18.
Motor Vehicles	46,641	42%	▲	S	Permanent	Purchase of DCEO vehicle will not happen in 17/18.
Furniture and Equipment	14,188	66%	▲	S	Timing	Timing of expenditure
Infrastructure Assets - Roads	556,773	38%	▲	S	Permanent	Some works delayed. Bridge works will not happen in 17/18.
Infrastructure Assets - Footpaths	21,935	49%	▲	S	Timing	Timing of expenditure
Financing Activities						
Transfer from Reserves	110,000		▲	S	Timing	Transfers not required yet

SHIRE OF VICTORIA PLAINS
NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY
For the Period Ended 30 April 2018

Note 3: Net Current Funding Position

Positive=Surplus (Negative=Deficit)

		Last Years Closing	This Time Last Year	Current
	Note	30/06/2017	30/04/2017	30/04/2018
		\$	\$	\$
Current Assets				
Cash Unrestricted	4	558,396	434,075	106,080
Cash Restricted - Conditions over Grants	11	0	0	78,256
Cash Restricted - Reserves	4	720,678	717,261	744,074
Receivables - Rates	6	49,293	83,463	73,849
Receivables - Other	6	503,050	136,132	274,802
Inventories		41,242	24,822	49,115
		<u>1,872,658</u>	<u>1,395,753</u>	<u>1,326,175</u>
Less: Current Liabilities				
Payables		(533,545)	(102,790)	(72,166)
Loan Liability		(58,691)	336	(21,469)
Provisions		<u>(144,031)</u>	<u>(168,840)</u>	<u>(144,031)</u>
		(736,266)	(271,294)	(237,666)
Less: Cash Reserves	7	(720,678)	(717,261)	(623,769)
Add Back: Component of Leave Liability not Required to be funded		0	0	0
Add Back: Current Loan Liability		58,691	(336)	21,469
Adjustment for Trust Transactions Within Muni		(1)	(14,740)	2,140
Net Current Funding Position		474,404	392,122	488,349



Comments - Net Current Funding Position

Note 4: Cash and Investments

	Unrestricted	Restricted	Trust	Investments	Total Amount	Institution	Interest Rate	Maturity Date
	\$	\$	\$	\$	\$			
(a) Cash Deposits								
Municipal Funds Bank A/c	301,375				301,375	Bendigo	0.00%	At Call
Petty Cash Float	590				590	N/A	Nil	On Hand
Reserve Funds Bank Account		515,762			515,762	Bendigo	2.00%	19/06/2018
Trust Bank Account			7,859		7,859	Bendigo	0.00%	At Call
(b) Term Deposits								
Municipal Savings Bank Account	2,676				2,676	Bendigo	1.50%	At Call
Municipal Account - 60 Day Term Deposit	0				0			
Municipal Account - 90 Day Term Deposit	0				0			
Municipal Account - Treasury OCDF	0				0			
Municipal Term Deposit 3mths (Bendigo 1)	0				0			
Municipal Term Deposit 3mths (Bendigo 2)	0				0			
Reserves - Term Deposit		0			0			
Treasury - Reserve Account		0			0			
Reserves - Term Deposit		108,007			108,007	Bendigo	2.00%	5/09/2018
Trust Account - Term Deposit			0		0			
(c) Investments				0	0	N/A	N/A	N/A
Total	304,641	623,769	7,859	0	936,269			

Comments/Notes - Investments

Council's overdraft facility has not been utilised in this month.

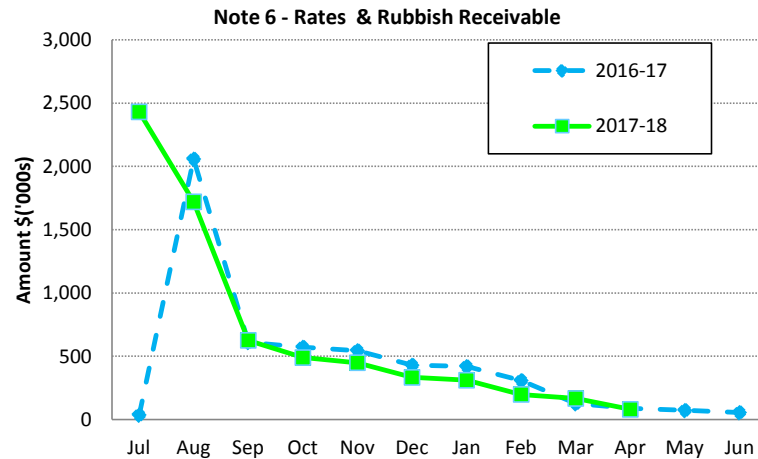
NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY
For the Period Ended 30 April 2018

Note 6: Receivables

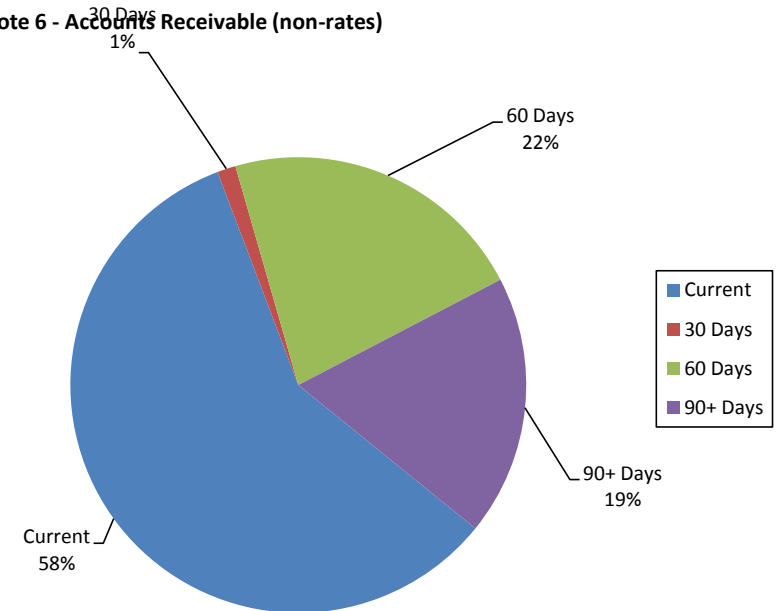
Receivables - Rates & Rubbish	30 April 2018	30 June 2017
	\$	\$
Opening Arrears Previous Years	55,992	52,621
Levied this year	2,367,642	2,318,738
Less Collections to date	(2,343,086)	(2,315,368)
Equals Current Outstanding	80,547	55,992
Net Rates Collectable	80,547	55,992
% Collected	96.68%	97.64%

Receivables - General	Current	30 Days	60 Days	90+ Days	90+Days
	\$	\$	\$	\$	\$
Receivables - General	6,210	140	2,319	1,966	10,635
Balance per Trial Balance					
Sundry Debtors					50,337
Receivables - Other					233,499
Total Receivables General Outstanding					283,835

Amounts shown above include GST (where applicable)



Note 6 - Accounts Receivable (non-rates)



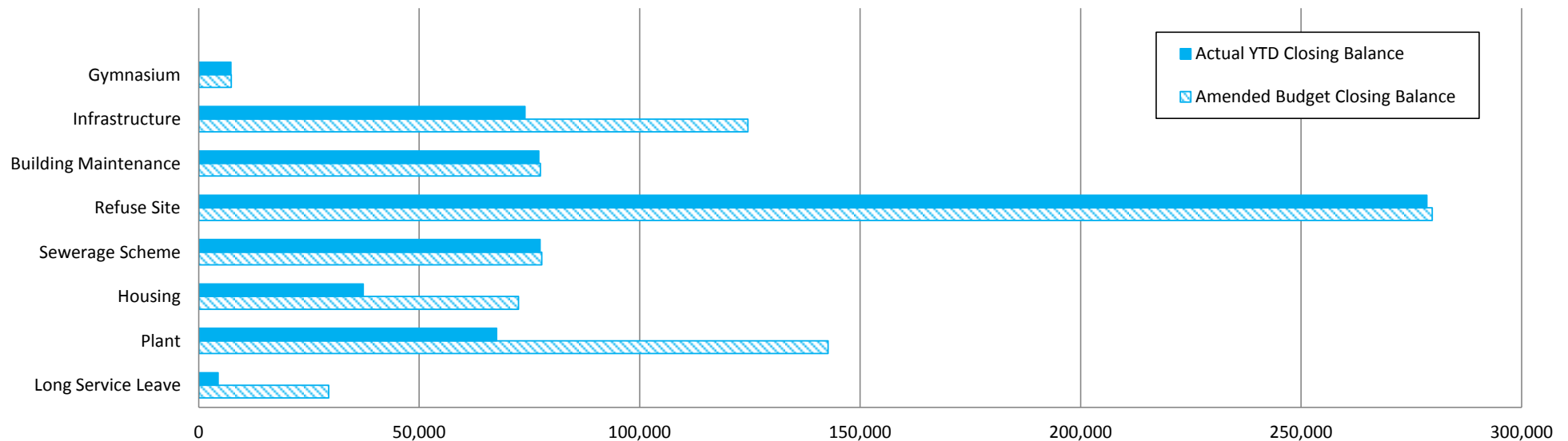
Comments/Notes - Receivables Rates & Rubbish

SHIRE OF VICTORIA PLAINS
AGENDY 16 May 2018
NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY
For the Period Ended 30 April 2018

Note 7: Cash Backed Reserve

Name	Opening Balance	Amended Budget Interest Earned	Actual Interest Earned	Amended Budget Transfers In (+)	Actual Transfers In (+)	Amended Budget Transfers Out (-)	Actual Transfers Out (-)	Amended Budget Closing Balance	Actual YTD Closing Balance
	\$	\$	\$	\$	\$	\$	\$	\$	\$
Long Service Leave	28,843	641	582	0	0	0	(25,000)	29,484	4,425
Plant	66,264	1,471	1,299	75,000	0	0	0	142,735	67,564
Housing	70,966	1,576	1,365	0	0	0	(35,000)	72,542	37,330
Sewerage Scheme	76,096	1,689	1,351	0	0	0	0	77,785	77,447
Refuse Site	273,652	6,075	4,857	0	0	0	0	279,727	278,509
Building Maintenance	75,815	1,683	1,346	0	0	0	0	77,498	77,161
Infrastructure	121,837	2,705	2,163	0	0	0	(50,000)	124,542	74,000
Gymnasium	7,205	160	128	0	0	0	0	7,365	7,333
	720,678	16,000	13,091	75,000	0	0	(110,000)	811,678	623,769

Note 7 - Year To Date Reserve Balance to End of Year Estimate



SHIRE OF VICTORIA PLAINS
NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY
For the Period Ended 30 April 2018

Note 8: Disposal of Assets

Asset Number	Asset Description	YTD Actual				Amended Budget			
		Net Book Value	Proceeds	Profit	(Loss)	Net Book Value	Proceeds	Profit	(Loss)
		\$	\$	\$	\$	\$	\$	\$	\$
	Land and Buildings								
	Plant and Equipment								
MV101	2016 Toyota Prado VX	50,386	56,364	5,978		48,000	50,000	2,000	
MV099	2016 Subaru Outback 3.6R	28,099	30,909	2,810		31,500	32,500	1,000	
MV043	PTK17 - Hino 9 Tonne Tip Truck with Drop Sides					40,000	75,000	35,000	
PE080	PGR9 Cat Grader 120 M Series					170,000	120,000		(50,000)
PE097	Toro Z580D 25hp Ride On Mower					4,000	4,000		
MV082	Nissan D40 RX King Cab Ute					17,000	10,000		(7,000)
MV095	Holden Colorado LS 4x2 - Building Officer								
		78,484	87,273	8,789	0	310,500	291,500	38,000	(57,000)

NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY
For the Period Ended 30 April 2018

Note 9: Rating Information

RATE TYPE	Rate in	Number of Properties	Rateable Value	YTD Actual			Amended Budget				
				Rate Revenue	Interim Rates	Back Rates	Total Revenue	Rate Revenue	Interim Rate	Back Rate	Total Revenue
General Rate	\$		\$	\$	\$	\$	\$	\$	\$	\$	\$
GRV	9.3242	289	1,833,532	170,962	125	0	171,088	170,962	0	0	170,962
UV	0.6969	220	300,951,500	2,097,331	(6,921)	(3,675)	2,086,735	2,097,331	0	0	2,097,331
Non-rateable				0	0	(709)	(709)	0	0	0	0
Sub-Totals		509	302,785,032	2,268,293	(6,796)	(4,384)	2,257,113	2,268,293	0	0	2,268,293
Minimum Payment	\$										
GRV	420.00	73		30,660	0	0	30,660	30,660	0	0	30,660
UV	550.00	54		29,700	0	0	29,700	29,700	0	0	29,700
Sub-Totals		127	0	60,360	0	0	60,360	60,360	0	0	60,360
		636	302,785,032	2,328,653	(6,796)	(4,384)	2,317,473	2,328,653	0	0	2,328,653
Discounts							0				0
Concession							0				0
Amount from General Rates							2,317,473				2,328,653
Ex-Gratia Rates							70,044				65,000
Movement in Excess Rates							0				0
Specified Area Rates							0				0
Totals							2,387,517				2,393,653

Comments - Rating Information

Note 10: Information on Borrowings

(a) Debenture Repayments

Particulars/Purpose	01 Jul 2017	New Loans			Principal Repayments			Principal Outstanding			Interest Repayments		
		YTD Actual	Amended Budget	Adopted Budget	Actual YTD	Amended Budget	Adopted Budget	Actual	Amended Budget	Adopted Budget	Actual	Amended Budget	Adopted Budget
		\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
Community Amenities													
Loan 72 Drought Proofing Calingiri	19,938	0	0	0	4,745	9,646	9,646	15,193	10,292	10,292	434	1,156	1,156
Recreation and Culture													
Loan 82 Calingiri Sports Pavilion	94,376	0	0	0	8,525	17,241	17,241	85,851	77,135	77,135	1,558	4,037	4,037
Loan 83 Calingiri Football Club *	255,714	0	0	0	8,142	15,993	15,993	247,572	239,721	239,721	4,046	12,807	12,807
Economic Services													
Loan 84 Piawaning Water Supply	167,240	0	0	0	15,811	15,811	15,811	151,429	151,429	151,429	2,663	4,066	4,066
	537,268	0	0	0	37,222	58,691	58,691	500,046	478,577	478,577	8,701	22,066	22,066

* These loans are self supporting loans. All other debenture repayments were financed by general purpose revenue.

(b) New Debentures

No new debentures were raised during the reporting period.

AGENDA - 16 May 2018
SHIRE OF VICTORIA PLAINS
NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY
For the Period Ended 30 April 2018

Note 11: Grants and Contributions

	Grant Provider	Type	Opening Balance (Tied) (a)	Adopted Budget		YTD Amended Budget	Adopted Annual Budget (c)	Post Variations (d)	Expected (c)+(d)	YTD Actual		Unspent Grant (Tied) (a)+(b)	Unspent Grant (Tied) (a)+(b)
				Operating	Capital					Revenue	(Expended) (b)		
				\$	\$	\$			\$	\$	\$	\$	
General Purpose Funding													
Grants Commission - General	WALGGC	Operating	0	216,705	0	162,528	216,705		216,705	179,074	0	0	0
Grants Commission - Local Roads	WALGGC	Operating	0	228,903	0	171,675	228,903		228,903	182,070	0	0	0
Law, Order and Public Safety													
Grant - ESL BFB Operating Grant	Dept of Fire & Emergency Service	Operating - Tied	0	37,765	0	37,764	37,765		37,765	39,068	(36,082)	2,986	2,986
Education & Welfare													
Grant - Suicide Prevention	Mental Health Commission	Operating - Tied	0	0	0	0	0	20,000	20,000	20,000	0	20,000	20,000
Housing													
Grant - R4R CLGF	Dept of Regional Development	Non-operating	0	0	900,000	900,000	900,000		900,000	0	(15,170)	(15,170)	0
Transport													
Contribution - Street Lighting	Main Roads WA	Operating	0	1,000	0	0	1,000		1,000	0	(24,872)	0	0
Grant - Regional Road Group - Road Projects	Main Roads WA	Non-operating	0	0	256,689	256,687	256,689		256,689	205,350	(396,839)	(191,489)	0
Grant - Direct Road	Main Roads WA	Operating	0	125,504	0	125,504	125,504		125,504	72,279	(671,317)	0	0
Grant - Black Spot	Main Roads WA	Non-operating	0	0	40,500	40,500	40,500		40,500	48,400	0	48,400	48,400
Grant - Roads to Recovery	Dept of Infrastructure	Non-operating	0	0	937,000	937,000	937,000		937,000	481,362	(474,492)	6,870	6,870
TOTALS			0	609,877	2,134,189	2,631,658	2,744,066	20,000	2,764,066	1,227,602	(1,618,773)	(128,403)	78,256
SUMMARY													
Operating	Operating Grants, Subsidies and Contributions		0	572,112	0	459,707	572,112	0	572,112	433,423	(696,190)	0	0
Operating - Tied	Tied - Operating Grants, Subsidies and Contributions		0	37,765	0	37,764	37,765	20,000	57,765	59,068	(36,082)	22,986	22,986
Non-operating	Non-operating Grants, Subsidies and Contributions		0	0	2,134,189	2,134,187	2,134,189	0	2,134,189	735,112	(886,501)	(151,389)	55,270
TOTALS			0	609,877	2,134,189	2,631,658	2,744,066	20,000	2,764,066	1,227,602	(1,618,773)	(128,403)	78,256

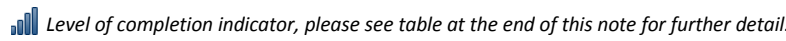








SHIRE OF VICTORIA PLAINS
NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY
For the Period Ended 30 April 2018

Note 12: Trust Fund













Funds held at balance date over which the Shire has no control and which are not included in this statement are as follows:

Description	Opening Balance 01 Jul 2017	Amount Received	Amount Paid	Closing Balance 30 Apr 2018
	\$	\$	\$	\$
BCITF	952.17	5,618.99	(6,171.16)	400.00
BSL	2,419.89	11,367.07	(11,745.31)	2,041.65
Community Bus	0.00	0.00	0.00	0.00
Central Midlands Vroc	0.00	0.00	0.00	0.00
Gym Key Bond	642.00	260.00	(40.00)	862.00
Housing Bonds	0.00	7,250.00	(6,210.00)	1,040.00
Hall & Hall Key Bond	540.00	200.00	(200.00)	540.00
Vehicle Licensing	1.18	255,959.65	(258,100.60)	(2,139.77)
Councillor Nomination Bonds	0.00	560.00	(560.00)	0.00
Other Trust Items	1,387.76	539.90	(489.90)	1,437.76
Tip Key Bond	1,438.00	100.00	0.00	1,538.00
	7,381.00	281,855.61	(283,516.97)	5,719.64

















Note 13: Capital Acquisitions

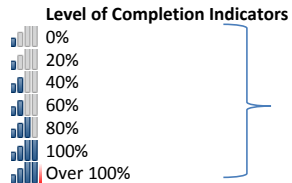
Assets	Account	Balance Sheet Category	Job	YTD Actual			Adopted	Amended Budget		Strategic Reference / Comment
				New/Upgrade	Renewal	Total YTD	Annual Budget	Annual Budget	YTD Budget	
				\$	\$	\$	\$	\$	\$	
										
Buildings										
Governance										
 OH&S Upgrade to Shire buildings	40074	9231		0	0	0	(7,000)	(7,000)	(7,000)	7,000
Total - Governance				0	0	0	(7,000)	(7,000)	(7,000)	7,000
Housing										
 2 x Aged Care Units - Bolgart	40197	9231		0	(4,142)	(4,142)	(480,000)	(480,000)	0	(4,142)
 2 x Aged Care Units - Calingiri	40198	9231		0	(11,027)	(11,027)	(480,000)	(480,000)	0	(11,027)
 CEO Residence Upgrades	40298	9231		0	(16,279)	(16,279)	(13,500)	(13,500)	(13,500)	(2,779)
Total - Housing				0	(31,448)	(31,448)	(973,500)	(973,500)	(13,500)	(17,948)
Recreation And Culture										
 Disability Acces Program	40057	9231		0	0	0	(6,200)	(6,200)	(6,200)	6,200
Total - Recreation And Culture				0	0	0	(6,200)	(6,200)	(6,200)	6,200
Total - Buildings				0	(31,448)	(31,448)	(986,700)	(986,700)	(26,700)	(4,748)
Construction Other Than Buildings										
Community Amenities										
 Calingiri Cemetery Upgrade	40072	9232		0	0	0	0	0	0	0
Total - Community Amenities				0	0	0	0	0	0	0
Economic Services										
 Dump Point (Calingiri Caravan Park)	40299	9232		0	(3,884)	(3,884)	(6,000)	(6,000)	(6,000)	2,116
Total - Economic Services				0	(3,884)	(3,884)	(6,000)	(6,000)	(6,000)	2,116
Other Property & Services										
 Depot Upgrades	40304	9232		0	0	0	(20,000)	(20,000)	(20,000)	20,000
Total - Other Property & Services				0	0	0	(20,000)	(20,000)	(20,000)	20,000
Total - Construction Other Than Buildings				0	(3,884)	(3,884)	(26,000)	(26,000)	(26,000)	22,116

Note 13: Capital Acquisitions

Assets	Account	Balance Sheet Category	Job	YTD Actual			Adopted	Amended Budget		Strategic Reference / Comment
				New/Upgrade	Renewal	Total YTD	Annual Budget	Annual Budget	YTD Budget	
				\$	\$	\$	\$	\$	\$	
Plant & Equipment										
Transport										
	9t Truck	40300	9235	0	0	0	(150,000)	(150,000)	(150,000)	150,000
	Ride on Mower	40301	9235	0	0	0	(30,000)	(30,000)	(30,000)	30,000
	Upgrade Water Tank	40302	9235	0	(15,968)	(15,968)	(10,000)	(10,000)	(10,000)	(5,968)
	Ute Body (for Rangers Ute)	40303	9235	0	(12,515)	(12,515)	(15,000)	(15,000)	(15,000)	2,485
Total - Transport				0	(28,483)	(28,483)	(205,000)	(205,000)	(205,000)	176,517
	Total - Plant & Equipment			0	(28,483)	(28,483)	(205,000)	(205,000)	(205,000)	176,517
Motor Vehicles										
Governance										
	CEO Vehicle Replacement	40004	9234	0	(63,359)	(63,359)	(65,000)	(65,000)	(65,000)	1,641
	DCEO Vehicle Replacement	40005	9234	0	0	0	(45,000)	(45,000)	(45,000)	45,000
Total - Governance				0	(63,359)	(63,359)	(110,000)	(110,000)	(110,000)	46,641
	Total - Motor Vehicles			0	(63,359)	(63,359)	(110,000)	(110,000)	(110,000)	46,641
Furniture & Equipment										
Governance										
	Office Furniture	40032	9233	0	(1,213)	(1,213)	0	0	0	(1,213)
	Computing Upgrade software & hardware	40069	9233	0	(6,259)	(6,259)	(20,000)	(20,000)	(16,660)	10,401
	Air Conditioner (Admin. Office)	40297	9233	0	0	0	(5,000)	(5,000)	(5,000)	5,000
Total - Governance				0	(7,472)	(7,472)	(25,000)	(25,000)	(21,660)	14,188
	Total - Furniture & Equipment			0	(7,472)	(7,472)	(25,000)	(25,000)	(21,660)	14,188

Note 13: Capital Acquisitions

Assets	Account	Balance Sheet Category	Job	YTD Actual			Adopted	Amended Budget		Strategic Reference / Comment	
				New/Upgrade	Renewal	Total YTD	Annual Budget	Annual Budget	YTD Budget		YTD Variance
				\$	\$	\$	\$	\$	\$		
Roads											
Transport											
	Wirralda road Intersection (line-marking & reinstater	40021	9240	C9134	0	(7,386)	(7,386)	(20,000)	(20,000)	(20,000)	12,614
	Dust Suppression (various)	40021	9240	C9135	0	0	0	(30,000)	(30,000)	(30,000)	30,000
	Kerbing (2017-18)	40021	9240	C9136	0	0	0	(30,000)	(30,000)	(30,000)	30,000
	Gravel Pits (2017-18)	40021	9240	C9137	0	(19,650)	(19,650)	(25,000)	(25,000)	(25,000)	5,350
	Toodyay-Bindi Bindi Road	40022	9240	RR0033	0	(346,750)	(346,750)	(385,034)	(385,034)	(385,034)	38,284
	Mogumber-Yarawindah Road	40022	9240	RR0034	0	(50,089)	(50,089)	(40,500)	(40,500)	(40,500)	(9,589)
	Yerecoin SE Road (2017-18)	40024	9240	R2R019	0	(182,113)	(182,113)	(170,000)	(170,000)	(170,000)	(12,113)
	Konnongoring Road (2017-18)	40024	9240	R2R020	0	(107,938)	(107,938)	(80,000)	(80,000)	(80,000)	(27,938)
	Boxhall Road (2017-18)	40024	9240	R2R021	0	(86,950)	(86,950)	(80,000)	(80,000)	(80,000)	(6,950)
	Erickson Road (2017-18)	40024	9240	R2R022	0	(1,490)	(1,490)	(80,000)	(80,000)	(80,000)	78,510
	Golf Course Road (2017-18)	40024	9240	R2R023	0	(94,942)	(94,942)	(80,000)	(80,000)	(80,000)	(14,942)
	Moore River Bridge Repairs (2017-18)	40024	9240	R2R024	0	(1,058)	(1,058)	(447,000)	(447,000)	(447,000)	445,942
	Mogumber West Rd Intersection	40319	9240	RC0001	0	(12,395)	(12,395)	0	0	0	(12,395)
Total - Transport					0	(910,761)	(910,761)	(1,467,534)	(1,467,534)	(1,467,534)	556,773
	Total - Roads				0	(910,761)	(910,761)	(1,467,534)	(1,467,534)	(1,467,534)	556,773
Footpaths											
Transport											
	Footpaths (2017-18)	40266	9241	FP2018	(23,065)	0	(23,065)	(45,000)	(45,000)	(45,000)	21,935
Total - Transport					(23,065)	0	(23,065)	(45,000)	(45,000)	(45,000)	21,935
	Total - Footpaths				(23,065)	0	(23,065)	(45,000)	(45,000)	(45,000)	21,935
Capital Expenditure Total					(23,065)	(1,045,407)	(1,068,472)	(2,865,234)	(2,865,234)	(1,901,894)	833,422



Percentage YTD Actual to Annual Budget
Expenditure over budget highlighted in red.

10.4 BUSH FIRE ADVISORY COMMITTEE – Minutes

File reference	L1.2
Report date	5 May 2018
Applicant/proponent	Shire of Victoria Plains
Officer disclosure of interest	Nil
Previous meeting references	Nil
Prepared by	Niel Mitchell, Governance
Authorised by	Glenda Teede, CEO
Attachments	
Attachment 1	Bush Fire Advisory Committee Meeting – Minutes of AGM
Attachment 2	Bush Fire Advisory Committee Meeting – Minutes of General Meeting

PURPOSE

To receive the Minutes of the two meetings and consider relevant matters.

BACKGROUND

The meetings of the Bush Fire Advisory Committee were held on 13 March 2018.

COMMENT

The matters discussed at the meetings indicate a number of items of concern.

Annual General Meeting

It is noted that –

- no elected members were present at the meeting
- motions were passed that attempt to appoint various officers

The Bush Fire Act 1954 requires –

38. Local government may appoint bush fire control officer

(1) A local government may from time to time appoint such persons as it thinks necessary to be its bush fire control officers under and for the purposes of this Act, and of those officers shall subject to section 38A(2) appoint 2 as the Chief Bush Fire Control Officer and the Deputy Chief Bush Fire Control Officer who shall be first and second in seniority of those officers, and subject thereto may determine the respective seniority of the other bush fire control officers appointed by it.

(2E) A bush fire control officer appointed by a local government under the provisions of this section shall be issued with a certificate of appointment by the local government

(4) A bush fire control officer appointed under the provisions of this section shall, subject to such directions as may be given by the local government, and subject to this Act take such measures as appear to him to be necessary or expedient and practicable for –

(a) carrying out normal brigade activities;

[(b), (c) deleted]

(d) exercising an authority or carrying out a duty conferred or imposed upon him by any of the provisions of Part III;

(e) procuring the due observance by all persons of the provisions of Part III.

(5A) A local government may issue directions to a bush fire control officer appointed by the local government, or to an officer of a bush fire brigade registered by the local government to burn,

subject to the provisions of this Act, bush on, or at the margins of, streets, roads, and ways, under the care, control and management of the local government.

(8) An approved local government may appoint to the office of fire weather officer such number of senior bush fire control officers as it thinks necessary.

(9) Where more than one fire weather officer is appointed by a local government the local government shall define a part of its district in which each fire weather officer shall have the exclusive right to exercise the power conferred by subsection (17).

(17) A fire weather officer of an approved local government, or a deputy of that fire weather officer while acting in the place of that officer, may authorise a person who has received a permit under section 18(6)(a), to burn the bush in the district of the local government notwithstanding that for any day, or any period of a day, specified in the notice the fire danger forecast issued by the Bureau of Meteorology in Perth, in respect to the locality where the bush proposed to be burnt is situated, is "catastrophic", "extreme", "severe" or "very high", and upon the authority being given the person, if he has otherwise complied with the conditions prescribed for the purposes of section 18, may burn the bush.

(18) Subsections (6) to (18) do not authorise the burning of bush —

(a) during the prohibited burning times; or

(b) during the period in which, and in the area of the State in respect of which, a total fire ban is declared under section 22A to have effect.

- s.67 – Advisory Committees

(1) A local government may at any time appoint such persons as it thinks fit as a bush fire advisory committee for the purpose of advising the local government

(2) A committee appointed under this section shall include a member of the council of the local government

(3) In respect to a committee so appointed, the local government shall fix the quorum ...

(4) A committee appointed under this section –

(a) may from time to time meet and adjourn as the committee thinks fit;

(b) shall not transact business at a meeting unless the quorum fixed by the local government is present;

(c) is answerable to the local government and shall, as and when required by the local government, report fully on its activities.

In many local governments, a Fire Weather Officer is a person who advises in relation to the conditions and fire risk of the day. However, under the Act s.38(17) an FWO is appointed to override a suspension of burning permits during a restricted period. If a formal appointment as Fire Weather Officer is made, then this is the authority Council is providing to those persons. If no appointment is made, there is no issue with continuation is a role that advises on conditions only, since there is no statutory or delegated authority given, although to avoid inconsistency with the Act, an alternative title should be used.

In summary –

- a) an elected member is required by the Act to be a member of a BFAC,
- b) a number of matters are required for the establishment of a BFAC;
- c) Council must appoint Fire Control Officers, or delegate the authority to the CEO to do so;
- d) If there is more than 1 FCO, Council must appoint a CBFCO and DBFCO;
- e) Council is required to appoint Fire Weather Officers, who may override a suspension of burning permits in some circumstances.

At the moment the Committee is non-compliant since –

- no elected member has been appointed,
- other administrative matters not addressed.

Of most concern, is that the appointments of CBFCO, DCBFCO and FCOs appear not to have been made in accordance with the Act. This leaves those persons open to personal liability, potential actions without legislative support and lacking insurance coverage since their appointment were not made by Council.

It is recommended that these matters be addressed as a matter of urgency.

Fire Control Officers, as officers of and appointed by Council, exercise a significantly higher level of authority to Brigade Captains who are elected by the Brigade, and can override their decisions. The two roles are quite different and must not be confused. Many local governments will only appoint senior brigade officers as FCOs to avoid blurring of lines of responsibility and authority. FCOs will not otherwise be appointed unless the person is an employee, who therefore still has a clear line of responsibility.

For instance, an FCOs authority extends over the whole of the Shire unless limited by Council, whereas a Brigade officer's authority is only within their designated Brigade area.

General Meeting

Most of the matters raised appear to be of information, although several items should be considered by Council –

- 6.4 – Permit Period

Restricted and prohibited burning periods are set by the Minister, and can only be varied by 14 days at a local level. If the periods are to be altered to new dates, application to the Minister through DFES is necessary, then published in the Government Gazette and local public notice.

- Training

The Bush Fire Brigades Local Law has a mandatory training requirements for appointed fire control officers

- Insurance –

An endlessly difficult issue as the Act is now more than 60 years old, and has not progressed with the expectations of the community, with changing insurance and legal requirements.

The Act does not differential between an active brigade member and a volunteer fire fighter. It requires insurance for volunteer fire fighters to be carried by the Shire. If not registered as a Brigade member, that are not covered by insurance, unless acting under the direction of a registered volunteer fire fighter.

The Bush Fires Act is a mess, and desperately needs bring up to date to meet current standards, requirements and expectations.

Council may wish to consider these and other matters discussed at the meetings.

Appointments

It is recommended that appropriate staff also be appointed as Fire Control Officers. It would be expected that staff would utilise the authority only to support FCOs from the community, or in their absence, but in times of emergency, the additional authority is able to be useful and affords increased protection for the employee.

Council is also request to resolve inconsistent information regarding the appointment of various officers –

Position	Fire Break Notice 2017-2018	BFAC Meeting 13 March 2018	CESM advice 9 May 2018	
FCOs	Gary Manning Ric Pearson Colin Guthrie John Brennan Gary Stewart Simon Forrester Gavin Halligan Mark Graham	Gary Manning Ric Pearson Colin Guthrie Gary Stewart Simon Forrester Gavin Halligan <i>Others are not noted</i>	Gary Manning Ric Pearson Colin Guthrie John Brennan Gary Stewart Simon Forrester Gavin Halligan Mark Graham Grant Sinclair Steven Waters Norm McPherson	To be clarified
CBFCO	Gary Manning	Gary Manning	Gary Manning	Consistent
DBCFCO	Ric Pearson	Ric Pearson	Ric Pearson	Consistent
FWOs	John Brennan	Gary Manning Ric Pearson John Brennan	John Brennan	To be clarified

As previously noted, appointment as an FCO has effect for the whole of the Shire, and are not restricted to a Brigade area. Conversely, Brigade authority is restricted to the Brigade area.

In the Fire Breaks and Fuel Hazard Reduction Notice 2017-2018, areas have been noted for each FCO named. It is presumed that this is to be identify the closest FCO to a resident, rather than restricting their authority to that Brigade area.

It is recommended that an FCO's authority is not restricted to a specific area.

Dual FCO appointments

Many local government appoint a number of persons nominated by an adjoining Shire to be FCO, and make reciprocal nominations. The Bush Fires Act does not recognise the term "Dual FCO", so it is simply a convenience to show authority across boundaries. Such appointments exercise all the authority of a resident FCO.

No record of dual FCOs has been found.

Council may wish to consider this option further. The lack of appointment as an FCO does not stop the person from acting as a volunteer fire fighter across boundaries, but the person is unable to exercise any authority. They remain covered by insurance.

Summary

Council should note that although not employees, all FCOs are officers of Council and exercise statutory authority on behalf of Council.

Continuity of the BFAC is addressed separately at this meeting, but there is nothing in these two meetings that could not be addressed by an annual Fire Officer's Meeting, open to all interested persons.

CONSULTATION

None

STATUTORY CONTEXT

Bush Fires Act 1954 –

- s.35 – definition of volunteer fire fighter includes a person working under the direction of an FCO or a brigade member
- s.37 – insurance of volunteer fire fighters and equipment used under direction of an FCO or a brigade member
- s.38 – appointment of officers – FCOs and FWOs
- s.39 – special powers of FCOs – including use of volunteers who are not registered volunteer fire fighters
- s.48 – Council may delegate all matters to the CEO, except a variation of prohibited period under s.17(10) which is restricted to President and CBFCO
- s.67 – advisory committee requirements

CORPORATE CONTEXT

None

STRATEGIC IMPLICATIONS

Strategic Community Plan adopted 28 March 2018 –

1.	Community – to enhance and improve a sense of community in the Shire
1.4	Support sporting, volunteer and community groups
5.	Civic leadership – to better allocate scarce resources and effectively interact with the community
5.1	Measures to improve relationship and communication between Council and community
5.4	Measures to improve organisational efficiency

FINANCIAL IMPLICATIONS

Cost of advertising appointments of FCO appointments

VOTING REQUIREMENTS

Absolute majority required: No

OFFICER RECOMMENDATION

Moved Cr _____

Seconded Cr _____

That the Minutes of the Bush Fire Advisory Committee Annual General Meeting and General Meeting held on 13 March 2018 be received.

VOTING REQUIREMENTS

Absolute majority required: No

OFFICER RECOMMENDATION

Moved Cr _____

Seconded Cr _____

1. That Council make the following appointments –
 - Fire Control Officers –
 - o Gary Manning
 - o Ric Pearson
 - o Colin Guthrie
 - o John Brennan
 - o Gary Stewart
 - o Simon Forrester
 - o Gavin Halligan
 - o Mark Graham
 - o Grant Sinclair
 - o Steven Waters
 - o Norm McPherson
 - o Glenda Teede, Chief Executive Officer
 - o Vicki Booth, Community Emergency Services Manager
 - o Robert Edwards, Manager Works & Service
 - o Shayne Willcocks, Ranger
 - Chief Fire Control Officer
 - o Gary Manning
 - Deputy Chief Fire Control Officer
 - o Ric Pearson
 - Fire Weather Officers –
 - o Gary Manning
 - o Ric Pearson
 - o John Brennan
2. All previous appointments as Fire Control Officer or Fire Weather Officer are revoked.
3. All previous appointments as a dual FCO are revoked.

Commonly-used abbreviations

BFAC	Bush Fire Advisory Committee
CBFCO	Chief Bush Fire Control Officer
CEO	Chief Executive Officer
DCBFCO	Deputy Chief Bush Fire Control Officer
DFES	Dept of Fire & Emergency Services
FCO	Fire Control Officer
FWO	Fire Weather Officer

10.5 ANNUAL ELECTORS MEETING – Minutes

File reference	CL1.2
Report date	5 May 2018
Applicant/proponent	Shire of Victoria Plains
Officer disclosure of interest	Nil
Previous meeting references	Nil
Prepared by	Niel Mitchell, Governance
Authorised by	Glenda Teede, CEO
Attachments	
Attachment 1	Minutes – Annual Electors Meeting
Attachment 2	

PURPOSE

To review matters raised at the Annual Electors Meeting.

BACKGROUND

The Annual Electors Meeting was held on 21 February 2018.

COMMENT

While the Local Government Act only requires consideration of decisions of the electors meeting to be given at the following ordinary Council Meeting, it is good practice to receive the minutes and to review them for any matters that may require further consideration or report.

The only matter raised for discussion at the meeting was in relation to the future direction of the Shire, which has since been addressed with the adoption of the Strategic Community Plan in March 2018.

CONSULTATION

Nil

STATUTORY CONTEXT

Local Government Act 1995 –

- s.5.33 – Decisions made at an electors meeting to be considered at the first ordinary Council meeting following

CORPORATE CONTEXT

Nil

STRATEGIC IMPLICATIONS

Strategic Community Plan adopted 28 March 2018 –

5.	Civic leadership – to better allocate scarce resources and effectively interact with the community
5.1	Measures to improve relationship and communication between Council and community

FINANCIAL IMPLICATIONS

None

VOTING REQUIREMENTS

Absolute majority required: No

OFFICER RECOMMENDATION

Moved Cr _____

Seconded Cr _____

That the Minutes of the Annual Electors Meeting held on 21 February 2018 be received.

Commonly-used abbreviations



Shire of Victoria Plains

Agenda
Annual General Meeting of the
Bushfire Advisory Committee

On	Tuesday 13 March 2018
At	Council Chambers, Calingiri
Commenced	8.40am

1	DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS
----------	--

Ric Pearson declared the meeting open at 8.40am.

2	ATTENDANCE AND APOLOGIES
----------	---------------------------------

CESM	Vicki Booth
DCBFCO/FWO/Capt	Ric Pearson (Yerecoin/Piawaning)
FCO/Capt	Garry Stewart (Calingiri)
FCO/Capt	Gavin Halligan (New Norcia)
FCO/Capt	Simon Forrester (Mogumber)
Brigade Representative	Hugh Johnson (Yerecoin/Piawaning)
Brigade Representative	Steve Waters (Calingiri)
SOVP CEO	Glenda Teede
SOVP	Sue Mearns (Minutes)

Visitors:

SOVP Ranger	Shayne Willcocks
SOVP Works & Services Mgr	Robert Edwards

Apologies:

CBFCO	Gary Manning (Yerecoin/Piawaning)
District Officer (Fire) South	Ian Comben
FCO/Capt	Colin Guthrie (Bolgart)

3	WELCOMING OF VISITORS
----------	------------------------------

Mr Shayne Willcocks	SOVP Ranger
Mr Robert Edwards	SOVP Works & Services Manager
Glenda Teede	SOVP CEO

4	CONFIRMATION OF MINUTES
----------	--------------------------------

That the minutes of the Annual General Meeting of the Bushfire Advisory Committee held Monday 14 March 2017 as circulated be confirmed.

Moved: Hugh Johnson

Seconded: Garry Stewart

5	BUSINESS ARISING FROM AGM HELD 14 March 2017
----------	---

Nil

6 ELECTION OF OFFICE BEARERS

All positions were declared vacant.

Ric Pearson handed the chair to CESM Vicki Booth

Nominations were called for the positions of:-

Chief Bushfire Control Officer

Ric Pearson nominated Gary Manning – Seconded Gavin Halligan

There being no further nominations, Gary Manning was duly elected as Chief Bushfire Control Officer.

Deputy Chief Bushfire Control Officer

Gavin Halligan nominated Ric Pearson

There being no further nominations, Ric Pearson was duly elected as Deputy Chief Bushfire Control Officer.

Ric Pearson DBFCO took the chair.

Fire Weather Officer/s

These positions were discussed and it was decided to continue with current Officers being John Brennan, Gary Manning and Ric Pearson.

7 DECLARATION OF CLOSURE

There being no further business the DBFCO closed the Annual General Meeting at 8.51



**Minutes
General Meeting of the
Bushfire Advisory Committee**

On
At
Commenced

Tuesday 13 March 2018
Council Chambers, Calingiri
8.52am

1 DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS

Ric Pearson DBFCO declared the meeting open at 8.52am.

2 ATTENDANCE, APOLOGIES AND LEAVE OF ABSENCE GRANTED

CESM	Vicki Booth
DCBFCO/FWO/Capt	Ric Pearson (Yerecoin/Piawaning)
FCO/Capt	Garry Stewart (Calingiri)
FCO/Capt	Gavin Halligan (New Norcia)
FCO/Capt	Simon Forrester (Mogumber)
Brigade Representative	Hugh Johnson (Yerecoin/Piawaning)
Brigade Representative	Steve Waters (Calingiri)
SOVP CEO	Glenda Teede
SOVP	Sue Mearns (Minutes)

Visitors:

SOVP Ranger	Shayne Willcocks
SOVP Works & Services Mgr	Robert Edwards

Apologies:

CBFCO	Gary Manning (Yerecoin/Piawaning)
District Officer (Fire) South	Ian Comben
FCO/Capt	Colin Guthrie (Bolgart)

3 WELCOMING OF VISITORS

The DBFCO welcomed Shayne Willcocks and Robert Edwards to the meeting.

4 CONFIRMATION OF MINUTES

That the Minutes of the General Meeting of the Bushfire Advisory Committee held 10 October 2017 as circulated be confirmed.

Moved: Steve Waters Seconded: Garry Stewart

5 BUSINESS ARISING FROM GENERAL MEETING HELD 10 OCTOBER 2017

Nil

6 GENERAL BUSINESS

6.1 Brigade Requirements (including PPE)

Nil

6.2 Brigade Reports

Bolgart

Not Available

Calingiri

- Tractor fire 12/03/2018 – reported but fire extinguished prior to truck arrival
- Rubbish Tip fire at Atlas – contained
- Pole top fire in front of fire shed (Yulgering Road, Calingiri), January

Mogumber/Gillingarra

Not available

New Norcia

- Truck has been out 4 x times since last meeting
- Have not used fire truck at all so far this season
- Current volunteers doing well

Yerecoin/Piawaning

- Not aware of any events where the truck has had to attend
- Truck has only gone out to have fire protection installed
- Quietest season for some time

6.3 AVLs

Reminder to Brigades to conduct monthly AVLs in the fire trucks (ensure that button is (pressed 3 x times in quick succession).

6.4 Permit Period

Discussion was held with regards to opening the burn off period sooner and it was determined that the burn off period will be opened from Thursday 15 March 2018.

6.5 Mogumber Water Supply

The Works & Services Manager advised that talks were being held with a number of Mogumber resident(s) with regards to accessing an alternative emergency water supply.

The Works & Services Manager is also in discussions with the DWER regarding use of proposed bore(s) which are being drilled by the Water Corporation in August.

6.6 Firebreaks

The Shire Ranger commented that farmers/property owners needs to ensure that firebreaks are in place and are to be at a width of 3m (in line with local laws, by the beginning of the next bushfire season.

7 REPORTS OF OTHER OFFICERS/VISITORS

7.2 CESM – Vicki Booth

Achievements:

- Re- written LEMA's - Shires of Moora & Victoria Plains
- Re-written Recovery Plans - Shires of Moora & Victoria Plains
- Develop LEMC calendar of exercises
- Shire of Moora – ISG debrief (TC Olwyn impacts)
- Acting AO Midwest – Jan 18
- Prepared presentation for State Risk Project

Contentious Issues:

- Mitigation funding lateness
- LGGS funding – misplaced original letters from DFES re allocation of funding
- Watheroo BFB – visibility issues with drop down curtains

Forward Planning:

- State Risk Project update meeting – Gingin 11th March (Gingin)
- Mogumber Poultry Farm – Training (20th Mar)
- State Risk Project Workshop meeting – 22nd March (Gingin)
- DOAC meeting - Carnamah
- BFAC meetings – Moora & Victoria Plains (March)
- National Medal awards presentation– Shire of Victoria Plains (April)

Meetings Attended:

- Shire of Victoria Plains – LEMC meeting
- Shire of Moora - LEMC meeting
- Shire of Moora – CEO meeting
- Shire of Victoria Plains – CEO meeting
- Department of Communities - Jo Spadaccini
- CESM – Matt Dadd, planning for joint LG - WA State Risk Project
- Shire of Wongan Ballidu – D/CEO meeting re LEMC
- Miling Progress Group meeting – townsite risks
- CBFCO – Shire of Victoria Plains & Moora

Timesheet/Workplan Presented:

- As per calendar

Volunteer Engagement Activities:

- Delivered Fire Extinguisher training to European Space Agency – New Norcia
- Western Power Grants funding – Captains
- LG's Working Together workshop - Dowerin
- Working with CBFCO – re townsite blocks and conforming to Firebreak Notice Shire of Moora
- Updated Facebook, Shire of Moora/Victoria Plains social media pages

- Updated Bushfire Risk maps for Moora & Victoria Plains

Business Plan Updated:

- Meeting with DO EM Wheelock regarding new MOU's and updates
- My Path meeting

LG Expenditure:

- LGGS – ESL , finalise budget for submission – (ongoing)

Operational Activity/Issues:

- NIL

Staff Line Reports Actions/Achievements/Development:

- Developing John (JB) Brennan to extend his CESM role
- Nil reports

Brigade Reminder

Now that trucks have had crew protection systems installed, training will need to be undertaken by all Brigades to ensure crews are fully competent in use of new equipment.

National Medals

National medals are to be awarded with the potential date being 12 April 2018. The CESM will confirm this date and time following a review of finances.

Training

FCO and structural fire fighting training is currently being arranged - Brigades are to ask members if they would be interested in attending and let the CESM know.

FCO training can be held in the Shire if a minimum of 8 participants can attend.

All costs are covered if members attend training in Geraldton.

7.4 Brigade member Numbers (insurance purposes)

The CESM thanked Brigades for reviewing brigade numbers and asked that they continue being vigilant in bringing numbers down to manageable levels to assist in reducing insurance costs.

8 NEXT MEETING

The next meeting of the Bushfire Advisory Committee will be held on 9 October 2018.

9 DECLARATION OF CLOSURE

There being no further business the DBFCO closed the meeting at 10.00am.

10.6 LOCAL LAW FINAL ADOPTION – Bush Fire Brigades Amendment 2018

File reference	A2.22.3
Report date	20 April 2018
Applicant/proponent	Shire of Victoria Plains
Officer disclosure of interest	None
Previous meeting references	A1/2018 of 31 January 2018
Prepared by	Niel Mitchell, Governance
Authorised by	Glenda Teede, CEO
Attachments	
Attachment 1	Summary of submissions
Attachment 2	Draft Bush Fire Brigades Amendment Local Law 2018
Attachment 3	Bush Fire Brigades Local Law 2017 as amended – compiled text

PURPOSE

To finalise the adoption of the Bush Fire Brigades Amendment Local Law 2018, in accordance with an undertaking given to the Joint Standing Committee on Delegated Legislation on 13 December 2017.

BACKGROUND

The purpose of this report is –

- 1) consider the submissions received on the proposed local laws and determine if any drafting amendment(s) are required as a result of the submissions received;
- 2) give notice of the purpose and effect of the local laws;
- 3) make the local laws, incorporating all amendments as approved by Council;
- 4) authorise the affixing of the Common Seal to the local laws;
- 5) authorise the local laws publication in the *Government Gazette*; and
- 6) give local public notice, (after Gazettal), of the date the local laws will come into effect.

COMMENT

At special meeting held on the 31 January 2018, Council resolved to commence the process to make the Local Laws.

The procedure for making local laws requires Council to advertise state-wide, advising of its intention to make a local law, and invite submissions to be made on any proposed local law for a six-week period. At the closure of the submission period, Council is to consider all submissions before making a local law.

The draft local law was advertised, both locally and state-wide, for public comment on the proposed Local Law

An advertisement was placed in the West Australian on 7 March 2018 and the Victoria Plains Newsletter for March 2018, with the submission period for public comment closing on 20 April 2018.

At the close of the submission period, no public submissions had been received, although comment from DLG was received as per Attachment 1.

No written comment was received from DFES as the delegate for the Minister for Emergency Services. A discussion was held with Mr Paul Simpson of DFES, to clarify several aspects, but no concern was expressed in the conversation.

The DLG's comments covered multiple areas. No substantive matters were raised, with the comments being of –

- minor editorial nature, and
- being of a contextual or technical nature, punctuation and grammar.

None of the suggested changes altered the intent of the provision amended nor placed additional obligations on the community. Accordingly, it is considered that the amendments agreed are not of a significant nature that requires re-advertising.

The attached draft has been amended from the proposed amendment local law advertised for public submissions, in accordance with the DLGC comments as noted and agreed.

Summary

Once formally adopted by Council, the local law –

- is to be published in the Government Gazette
- local public notice given of adoption (separate to previous advertising of proposals),
- signed copies are to be sent to relevant Ministers or their delegate, and
- copies sent to the Parliamentary Joint Standing Committee on Delegated Legislation together with other required documentation, within 10 days of publication in the Government Gazette.

Please note –

- disallowance of a local law may be made by Parliament, and could take some time depending on sitting days,
- takes effect on the day stipulated in the local law, generally 14 days after publication in the Government Gazette.

CONSULTATION

Ms Glenda Teede, CEO

Mr Paul Simpson, Manager Legal & Legislation, Dept of Fire and Emergency Services

STATUTORY CONTEXT

Local Government Act 1995 –

- s.3.12 – Procedure for making local laws
incl. subclause (4) – requirement for absolute majority

Bush Fires Act 1954 –

- s.62 – power for local government to make local laws

Shire of Victoria Plains Bush Fire Brigades Local Law 2017

CORPORATE CONTEXT

None

STRATEGIC IMPLICATIONS

Strategic Community Plan adopted 28 March 2018 –

1.	Community – to enhance and improve a sense of community in the Shire
1.4	Support sporting, volunteer and community groups
5.	Civic leadership – to better allocate scarce resources and effectively interact with the community
5.4	Measures to improve organisational efficiency

FINANCIAL IMPLICATIONS

Cost of publication in Government Gazette and giving local public notice.

VOTING REQUIREMENTS

Absolute Majority Required: Yes

OFFICER RECOMMENDATION

Moved Cr _____

Seconded Cr _____

That Council –

1. resolves to make the Bush Fire Brigades Amendment Local Law 2018 as per the attached draft, incorporating amendments outlined by the Minister for Emergency Services, and Department of Local Government, Sporting & Cultural Industries,
2. authorise the President and CEO to sign and affix the Common Seal to the Local Laws;
3. authorise the CEO to –
 - publish the Local Law in the Government Gazette and provide copies of the local laws to the Minister for Local Government and Minister for Fire & Emergency Services; and
 - forward a copy of the Gazetted Local Laws, explanatory memoranda and associated documentation to the Parliamentary Joint Standing Committee on Delegated Legislation for review.

Commonly-used abbreviations

CEO	Chief Executive Officer
DFES	Dept of Fire and Emergency Services
DLG	Dept of Local Government, Sporting and Cultural Industries
JSCDL	Parliamentary Joint Standing Committee on Delegated Legislation

Proposed Shire of Victoria Plains **Bush Fire Brigades Amendment Local Law 2018** – Summary of submissions

Dept of Local Government and Communities –

Item	Clause	Comment	Review Comment	Recommendation
1		<p>Bush Fires Act 1954</p> <p>Bush fire brigades local laws are made under the <i>Local Government Act 1995</i> and the <i>Bush Fires Act 1954</i>. Accordingly, the local government should ensure a copy of this proposed local law is provided to the Minister for Emergency Services.</p>	<p>Minister for Emergency Services was advised at the same time as Minister for Local Government</p> <p>DFES response received 24 April 2018.</p>	Note
2	4	<p>When State legislation is amended, it is not customary for the contents page to be update. The Shire has the option of deleting clause 4 if it wishes to do so.</p> <p>If the Shire wishes to retain clause 4, it is suggested that the clause be amended to read as follow: --- 4. Table of contents amended The contents page is amended as follows: (a) Delete the entry for clause 3.3 and replace with the following: 3.3 Election and appointment of bush fire brigade officers (b) Delete the entry for clause 3.5 and replace with the following: 3.5 Duties of CBFCO and Captain; 3.6 Training of officers (c) Delete the entry for clause 4.4 and replace with the following: 4.4 Right to object to or review of decision</p>	<p>Generally, when published in the Gazette as the original local law has been, the Contents page is considered to be part of the Gazettal, and should be amended.</p> <p>Suggested wording has the same effect as the draft text</p> <p>Draft text has been accepted in other amendment local laws by the Department and by the Joint Standing Committee on Delegated Legislation to date</p>	<p>Noted</p> <p>Not amend</p>
3	Various	<p>Bush fire brigade area</p> <p>As the following clauses are only amended to include “bush fire”, the Shire may consider amending the clause as follows, instead of deleting the entire clause.</p> <p>The Shire might consider amending clauses as follows –</p> <p>6. Clause 2.4 amended In clause 2.4(1)(b) insert “bush fire” before “brigade officers”.</p> <p>7. Clause 2.7 amended In clause 2.7 insert “bush fire” before “brigade area”.</p> <p>13. Clause 4.5 amended In clause 4.5 insert “bush fire” before “brigade member”.</p> <p>14. Clause 4.6 amended</p>	<p>Suggested wording for each clause has the same effect as the draft text.</p> <p>It is considered cleaner and simpler to delete the whole clause or subclause and replace with the corrected text.</p>	Not amend

		<p>In clause 4.6(1) insert “bush fire” before “brigade members”.</p> <p>15. Clause 5.1 In clause 5.1 insert “bush fire” before “brigade specific”.</p> <p>The Shire might want to consider inserting a new clause for clause 5.2 amendments and as follows –</p> <p>16. Clause 5.2 In clause 5.2 insert “bush fire” before “brigade specific”.</p>		
4	Various	<p>Minor edits</p> <ul style="list-style-type: none"> • Bold ‘SHIRE OF VICTORIA PLAINS’ in the local law heading. • Clause 3: Insert “as” between ‘2017’ and ‘published’. • Clause 5: <ul style="list-style-type: none"> ○ In the opening line, replace “insert in order” with “insert the following definitions in alphabetical order” ○ replace “clause 3.4(1)” with “clause 3.3(1)”. • Clause 9: In subclause (b) replace “subclauses” with “subparagraphs” • Clause 10: Replace “Insert clause 3.6 -” with “After clause 3.5 insert the following:” • Clause 12: replace “Rights” with “Right” to reflect the change in context clauses in clause 4.4. 	<p>Amended Amended</p> <p>Amended</p> <p>Amended</p> <p>Not amended. “Subclause” is the usual terminology, not “sub-paragraph” and has been accepted by JSCDL to date</p> <p>Amended</p> <p>Amended</p>	<p>Amend all other than cl.9</p>

Minister for Fire & Emergency Services (DFES) –

Item	Clause	Comment	Review Comment	Recommendation
1		Proposed clause 3.3(1)(d)- Section 43 of the <i>Bush Fires Act 1954</i> (the BF Act) refers to 'additional lieutenants' rather than 'additional officers', it is recommended this term be used to align with the BF Act.	Amended to read “lieutenants or officers”. Intention is to allow brigades to appoint training, communications officers etc if they wish	Amend
2		Proposed clause 4.4(2) -An 'a' should be inserted after the word 'that'.	Amended	Amend
3		Proposed clause 4.4(3)- It is suggested a comma be inserted after (2)(b)(ii) to clarify the meaning of the sentence.	Amended	Amend

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

SHIRE OF VICTORIA PLAINS

BUSH FIRES ACT AMENDMENT LOCAL LAW 2018

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

1. Citation

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

2. Commencement

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

3. Principal local law amended

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

4. Table of Contents amended

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

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

5. Clause 1.5 amended

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

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

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

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

Regulations means Regulations made under the Act; and

6. Clause 2.4 amended

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

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

7. Clause 2.7 amended

Delete clause 2.7 and insert –

2.7 New arrangement after dissolution

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

8. Clause 3.3 amended

Delete clause 3.3 and insert –

3.3 Election and appointment of bush fire brigade officers

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

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

9. Clause 3.5 amended

- (a) Delete the title of clause 3.5 and insert –

3.5 Duties of CBFCO and Captain

- (b) Delete subclauses 3.5(c) and (d) and insert –

- (c) to liaise with the local government concerning fire prevention or fire suppression matters generally and directions to be issued by the local government to bush fire control officers (including those who issue permits to burn), bush fire brigades or bush fire brigade officers;
- (d) to ensure that lists of bush fire brigade members are maintained in accordance with clause 4.3;

10. Clause 3.6 inserted

After clause 3.5 insert the following –

3.6 Training of officers

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

11. Clause 4.3 amended

Delete subclause 4.3(1) and insert –

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

12. Clause 4.4 amended

Delete clause 4.4 and insert –

4.4 Right to object to or review of decision

- (1) If an application for membership is refused under clause 4.2, the CEO is to notify the applicant in writing as soon as practicable after the decision is made, of –
 - (a) the reasons for the refusal; and
 - (b) the right to object to the local government within 14 days of the date of notice.
- (2) If it is proposed that a bush fire brigade member is to be suspended under clause 4.3(2) or terminated under clause 4.3(3)(c) or (d), the CEO is to notify the bush fire brigade member in writing as soon as practicable after the decision is made, of –
 - (a) the reasons for the intention to suspend or terminate the bush fire brigade member;
 - (b) the opportunity to respond and answer any matters which might give grounds for suspension or dismissal –
 - (i) in person or in writing to the CEO; or
 - (ii) to meet with a minimum of any three of the Captain, CBFCO, CEO; or President; and
 - (c) the right to object to the local government within 14 days of the date of notice, or such

other time as may be agreed.

- (3) The decisions of any meeting in accordance with subclause (2)(b)(ii), of a bush fire brigade member with a minimum of any three of the Captain, CBFCO, CEO; or President –
 - (a) are to be made by simple majority; and
 - (b) may revoke, vary or confirm the original decision to suspend or terminate the bush fire brigade member.
- (4) The bush fire brigade member is to be notified in writing as soon as practical after a decision under subclause (3) is made, of –
 - (a) the decision and the reasons for the decision; and
 - (b) the right to object to the local government within 14 days of the date of notice.
- (5) The local government may dispose of an objection by –
 - (a) dismissing the objection;
 - (b) varying the decision objected to; or
 - (c) revoking the decision objected to, with or without –
 - (i) substituting for it another decision; or
 - (ii) referring the matter, with or without directions, for another decision by a minimum of any three of the Captain, CBFCO, CEO; or President.
- (6) The local government shall give written advice of the decision made under subclause (5) to the person.

13. Clause 4.5 amended

Delete clause 4.5 and insert –

4.5 Existing liabilities to continue

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

14. Clause 4.6 amended

Delete subclause 4.6(1) and insert –

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

15. Clauses 5.1 and 5.2 amended

Delete clauses 5.1 and 5.2 and insert –

5.1 Administration

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

5.2 Finances

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

Dated _____ 2018

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

D.S. LOVELOCK, President

G.M. TEEDE, Chief Executive Officer.

BUSH FIRES ACT 1954
LOCAL GOVERNMENT ACT 1995

SHIRE OF VICTORIA PLAINS

BUSH FIRE BRIGADES LOCAL LAW 2017

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BUSH FIRES ACT 1954
LOCAL GOVERNMENT ACT 1995

SHIRE OF VICTORIA PLAINS

BUSH FIRE BRIGADES LOCAL LAW 2017

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 Victoria Plains resolved on 19 July 2017 to make the following local law.

Part 1 - Preliminary

1.1 Citation

This local law may be cited as the *Shire of Victoria Plains Bush Fire Brigades Local Law 2017*.

1.2 Commencement

This local law will come into operation 14 days after its publication in the *Government Gazette*.

1.3 Application

This local law applies throughout the district.

1.4 Repeal

The *Shire of Victoria Plains Fire Control Local Law* as published in the *Government Gazette* on 9 June 1998 is repealed.

1.5 Definitions

In this local law unless the context otherwise requires –

Act means the *Bush Fires Act 1954*;

~~**brigade area** has the meaning given to it in clause 2.2(b);~~

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

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

bush fire brigade has the meaning given to it in section 7 of the Act;

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

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

bush fire brigade officer means a person holding a position referred to in clause 3.4(1), irrespective of method of appointment to the position;

bush fire control officer means a person appointed to that office by the local government;

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

Captain means the person holding or acting in that position in a bush fire brigade;

CBFCO means the Chief Bush Fire Control Officer;

CEO means the Chief Executive Officer of the local government;

Council means the Council of the local government;

district means the district of the local government;

fire fighting 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;

Lieutenant means the person holding that position in a bush fire brigade;

local government means the Shire of Victoria Plains;

normal brigade activities has the meaning given to it in section 35A of the Act;

President means President of the Council;

Regulations means ~~Bush Fires Regulations 1954~~ [Regulations](#) made under the Act; and **volunteer fire fighter** has the meaning given to it in section 35A of the Act.

Part 2 - 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 Name and area of bush fire brigade

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 within the district in which the bush fire brigade is primarily responsible for carrying out the normal brigade activities.

2.3 Objects of bush fire brigades

The objects of the bush fire brigade are to carry out –

- (a) the normal brigade activities; and
- (b) the functions of the bush fire brigade which are specified in the Act, the Regulations and the local law.

2.4 Chain of command during fire fighting activities

- (1) Subject to the Act, the chain of command to apply during fire fighting activities is –
 - (a) bush fire control officers in order of seniority;
 - (b) [bush fire](#) brigade officers in order of seniority; and
 - (c) all other volunteer fire fighters.
- (2) The person in command has full control over other persons fighting the fire, and is to issue instructions as to the methods to be adopted by the volunteer fire fighters, and may exercise all the powers and duties provided for by the Act.

2.5 Existing bush fire brigades

A bush fire brigade established prior to the day on which this local law comes into operation –

- (a) 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 2.1; and
- (c) any rules governing the operation of the bush fire brigade are repealed and substituted with the provisions of this local law.

2.6 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, or is not achieving the objectives for which it was established.

2.7 New arrangement after dissolution

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

Part 3 - Organisation of bush fire brigades

3.1 Local government responsible for structure

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

3.2 Appointment of bush fire control officers

- (1) The local government may appoint bush fire control officers in their absolute discretion, and apply conditions as considered appropriate.

- (2) Where only one person is appointed as a bush fire control officer, that person is the CBFCO for the purposes of this local law.
- (3) Where more than one person is appointed as a bush fire control officer, the local government shall determine seniority as CBFCO, Deputy CBFCO, and further seniority as is considered appropriate.
- (4) When considering the appointment of a person as a bush fire control officer, the local government is to have regard to the qualifications, training and experience which may be advisable to fill the position.

3.3—Training of officers

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

3.3 Election and appointment of bush fire brigade officers

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

3.4 Managerial role of CBFCO

Subject to any directions by the local government the CBFCO has primary managerial responsibility for the organisation and maintenance of bush fire brigades.

3.5 Duties of CBFCO and Captain ~~and bush fire brigade officers~~

The duties of the CBFCO and Captain include –

- (a) to provide leadership to bush fire brigades;
- (b) to monitor bush fire brigades' resourcing, equipment and training levels;
- (c) to 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 bush fire brigade officers;
- (d) to ensure that lists of bush fire brigade members are maintained in accordance with clause 4.3;
- (e) to report annually to the local government the office bearers of the bush fire brigade in the form of Form 12 of the Regulations; and
- (f) to report to the local government prior to the local government's annual budget each year, for consideration and appropriate provision being made in the next budget, the status of a bush fire brigade's –
 - (i) training and readiness;
 - (ii) protective clothing;
 - (iii) equipment; and
 - (iv) vehicles and appliances.

3.6 Training of officers

- (1) The local government is to supply each bush fire control officer and Captain with a copy of the Act, the

Regulations, any Bush Fire Operating Procedures adopted, this local law and any other written laws which may be relevant to the performance of the bush fire brigade officers' functions, and any amendments made from time to time.

- (2) Bush fire control officers are to complete a Bush Fire Control Officers course conducted by an organisation approved by the CEO, within 12 months of appointment, unless a course has been completed within the 4 years prior to appointment as a bush fire control officer.
- ~~(4)~~(3) Bush fire control officers are required to complete a bush fire control officers course or a bush fire control officers refresher course at least once every 5 years.

Part 4 - Membership

4.1 Types of membership of bush fire brigade

- (1) The membership of a bush fire brigade consists of volunteer fire fighters.
- (2) Registration as a volunteer fire fighter does not commit the person to participating in all normal brigade activities.

4.2 Membership applications

The decision on an application for admission of member, with or without conditions or restrictions, may be made by –

- (a) either the Captain or CBFCO; jointly with
- (b) either the CEO or President.

4.3 Membership – review, refusal, suspension or termination

- (1) The Captain is to review the membership and report to the CEO and CBFCO the name and contact details of each bush fire brigade member.
- (2) If circumstances warrant, membership of the bush fire brigade may be refused or suspended at any time for a period considered appropriate in the opinion of –
 - (a) either the Captain or CBFCO; jointly with
 - (b) either the CEO or President.
- (3) Membership of the bush fire brigade terminates if the member –
 - (a) dies;
 - (b) gives written notice of resignation to the Captain or CEO;
 - (c) is permanently incapacitated by mental or physical ill-health in the opinion of –
 - (i) either the Captain or CBFCO; jointly with
 - (ii) either the CEO or President;
 - (d) has been removed from the membership list for other sufficient reason in the opinion of –
 - (i) either the Captain or CBFCO; jointly with
 - (ii) either the CEO or President.
- (4) Where a decision under subclause (2), (3)(c) or (3)(d) is unable to be agreed, the matter is to be referred to Council, whose decision shall be final.
- (5) Members are eligible to reapply where membership has ceased for any reason.

~~4.4—Member has right to review~~

~~A brigade member may appeal to the Council, whose decision shall be final, any—~~

- ~~(a) refusal of membership;~~
- ~~(b) suspension of membership; or~~
- ~~(c) termination of membership.~~

4.4 Right to object to or review of decision

- (1) If an application for membership is refused under clause 4.2, the CEO is to notify the applicant in writing as soon as practicable after the decision is made, of –
 - (a) the reasons for the refusal; and
 - (b) the right to object to the local government within 14 days of the date of notice.
- (2) If it is proposed that a bush fire brigade member is to be suspended under clause 4.3(2) or terminated under clause 4.3(3)(c) or (d), the CEO is to notify the bush fire brigade member in writing as soon as practicable after the decision is made, of –
 - (a) the reasons for the intention to suspend or terminate the bush fire brigade member;

- (b) the opportunity to respond and answer any matters which might give grounds for suspension or dismissal –
 - (i) in person or in writing to the CEO; or
 - (ii) to meet with a minimum of any three of the Captain, CBFCO, CEO; or President; and
 - (c) the right to object to the local government within 14 days of the date of notice, or such other time as may be agreed.
 - (3) The decisions of any meeting in accordance with subclause (2)(b)(ii), of a bush fire brigade member with a minimum of any three of the Captain, CBFCO, CEO; or President –
 - (a) are to be made by simple majority; and
 - (b) may revoke, vary or confirm the original decision to suspend or terminate the bush fire brigade member.
 - (4) The bush fire brigade member is to be notified in writing as soon as practical after a decision under subclause (3) is made, of –
 - (a) the decision and the reasons for the decision; and
 - (b) the right to object to the local government within 14 days of the date of notice.
 - (5) The local government may dispose of an objection by –
 - (a) dismissing the objection;
 - (b) varying the decision objected to; or
 - (c) revoking the decision objected to, with or without –
 - (i) substituting for it another decision; or
 - (ii) referring the matter, with or without directions, for another decision by a minimum of any three of the Captain, CBFCO, CEO; or President.
 - (6) The local government shall give written advice of the decision made under subclause (5) to the person.

4.5 Existing liabilities to continue

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

4.6 Disagreements

- (1) Any disagreement between [bush fire](#) brigade members regarding normal brigade activities may be referred to the Captain.
- (2) Where a disagreement in subclause (1) is considered by the Captain to be of importance to the interests of the bush fire brigade, then the Captain is to refer the disagreement to the CEO.
- (3) The local government is the final authority on matters affecting the bush fire brigade, and may resolve any disagreement which is not resolved under subclause (1) or (2).

Part 5 - General

5.1 Administration

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

5.2 Finances

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

5.3 Equipment

All equipment purchased by the local government is the property of, and shall be insured by, the local government.

5.4 Consideration in the local government budget

In addition to funding made available through emergency services grants, the local government may provide further funding depending upon the assessment of budget priorities for the year in question.

Dated _____ 2017

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

D.S. LOVELOCK President

G.M. TEEDE, Chief Executive Officer.

NOTES –

1. This document is a draft for administrative purposes only, and is not to be relied on for legal purposes

DRAFT

10.7 LOCAL LAW FINAL ADOPTION – Cemeteries 2018

File reference	A31/2017
Report date	23 April 2018
Applicant/proponent	Shire of Victoria Plains
Officer disclosure of interest	None
Previous meeting references	A3/2018 of 31 Jan 2018
Prepared by	Niel Mitchell, Governance
Authorised by	Glenda Teede, CEO
Attachments	
Attachment 1	Summary of submissions
Attachment 2	Draft Cemeteries Local Law 2018

PURPOSE

To finalise the adoption of the Cemeteries Local Law 2018.

BACKGROUND

The purpose of this report is –

- 7) make the local laws, incorporating all amendments as approved by Council;
- 8) authorise the affixing of the Common Seal to the local laws;
- 9) authorise publication of the local laws in the *Government Gazette*; and
- 10) give local public notice, (after Gazettal), of the date the local laws will come into effect.

COMMENT

At the special meeting held on the 31 January 2018, Council resolved to recommence the process to make the Local Law, as a number of changes were required that were considered significant.

The procedure for making local laws requires Council to advertise state-wide, advising of its intention to make a local law, and invite submissions to be made on any proposed local law for a six-week period. At the closure of the submission period, Council is to consider all submissions before making a local law.

The draft local law was advertised, both locally and state-wide, for public comment on the proposed Local Law

An advertisement was placed in the West Australian on 7 March 2018 and the Victoria Plains Newsletter for March 2018, with the submission period for public comment closing on 20 April 2018.

The draft advertised for further comment incorporated such changes that were advised or necessary as reported to Council on 31 January 2018.

At the close of the second public submission period, no further public submissions had been received, and comment from DLG was received as per Attachment 1.

The DLG's comments cover multiple areas. Other than matters relating to waste, no substantive matters were raised, with the comments being of –

- minor editorial nature, and
- being of a contextual or technical nature, punctuation and grammar.

Numerous grammatical changes were made as noted in Attachment 1 since the local law is intended to cover both Calingiri and Bolgart Cemeteries. Some re-wording was made, however the intent and effect of the changes does not add to anything in the draft.

None of the suggested changes altered the intent of the provision amended nor placed additional obligations on the community. Accordingly, it is considered that the amendments agreed are not of a nature that requires re-advertising.

The attached draft has been amended from the proposed amendment local law advertised for public submissions, in accordance with the DLG comments as noted and agreed.

Summary

Once formally adopted by Council, the local law –

- is to be published in the Government Gazette
- local public notice given of adoption (separate to previous advertising of proposals),
- signed copies are to be sent to relevant Ministers or their delegate, and
- copies sent to the Parliamentary Joint Standing Committee on Delegated Legislation together with other required documentation, within 10 days of publication in the Government Gazette.

Please note –

- disallowance of a local law may be made by Parliament, and could take some time depending on sitting days,
- takes effect on the day stipulated in the local law, generally 14 days after publication in the Government Gazette.

CONSULTATION

Ms Glenda Teede, CEO
Dept of Local Government, Sporting and Cultural Industries

STATUTORY CONTEXT

Local Government Act 1995 –

- s.3.12 – Procedure for making local laws
incl. subclause (4) – requirement for absolute majority

Cemeteries Act 1976 –

- s.54 – local laws to be made in accordance with Local Government Act
- s.55 – power to make local laws

Shire of Victoria Plains Local Law No.2 Calingiri Cemetery Local Laws 1998

CORPORATE CONTEXT

None

STRATEGIC IMPLICATIONS

Strategic Community Plan adopted 28 March 2018 –

4.	Infrastructure – to maintain / add to infrastructure used by the community
4.3	Maintain / improve community facilities to an agreed standard
5.	Civic leadership – to better allocate scarce resources and effectively interact with the community
5.4	Measures to improve organisational efficiency

FINANCIAL IMPLICATIONS

Cost of publication in Government Gazette and giving local public notice.

VOTING REQUIREMENTS

Absolute Majority Required: Yes

OFFICER RECOMMENDATION

Moved Cr _____

Seconded Cr _____

That Council –

4. resolves to make the following Local Laws as per the attached drafts, incorporating amendments outlined by the Department of Local Government, Sporting and Cultural Industries and the Shire of Victoria Plains –
 - Cemeteries Local Law 2018
5. authorise the President and CEO to sign and affix the Common Seal to the Local Laws;
6. authorise the CEO to –
 - publish the Local Law in the Government Gazette and provide copies of the local laws to the Minister for Local Government; and
 - forward a copy of the Gazetted local law, explanatory memoranda and associated documentation to the Parliamentary Joint Standing Committee on Delegated Legislation for review.

Commonly-used abbreviations

CEO	Chief Executive Officer
DLG	Dept of Local Government, Sporting and Cultural Industries
JSCDL	Parliamentary Joint Standing Committee on Delegated Legislation

5	<p>Minor edits The following minor edits are suggested:</p> <ul style="list-style-type: none"> · Contents page: Insert an entry for “7.4 Specification for memorial plaque base” and renumber the remaining clauses accordingly. · Clause 1.5: The definition of <i>standard grave</i> has been reformatted for the Shire’s consideration: --- <i>standard grave means a grave which does not exceed any of the following dimensions –</i> (a) 2m long; (b) 1.2m wide; and (c) 2.1m deep. --- · Clause 4.1(3)(c): For consistency, insert a space between “3:00” and “pm”. · Clause 7.3: <ul style="list-style-type: none"> o In subclause (1)(c)(i), insert a semicolon after the word “provided”. o In subclause (1)(c)(vi), replace the full stop with a semicolon and insert the word “and” after it. · Clause 8.5: remove the excess space between clause 8.5 and clause 8.4. · Clause 9.9(2): after “leave the cemetery” insert “by an authorised person”. · Clause 9.12: <ul style="list-style-type: none"> o In subclause (1)(c), replace the semicolon with a comma. <ul style="list-style-type: none"> • In subclause (1), paragraphs (d) to (g) should be designated as subparagraphs (i) to (iv). · Schedule 1: <ul style="list-style-type: none"> o in item 1, replace “4.2(a)” with “4.2”. o in item 17 replace “authorised person” with “Board”. 	<p>Amended</p> <p>Amended</p> <p>Amended</p> <p>Amended</p> <p>Amended</p> <p>Amended</p> <p>9.9(1) – Amended</p> <p>Amended</p> <p>(d) to (g) are not subclauses of (c) but of the main subclause (1) as is (a) to (c)</p> <p>Amended amended</p>	<p>No change</p> <p>Amend as suggested</p> <p>Amend</p> <p>Amend</p> <p>Amend</p> <p>Amend</p> <p>Amend</p> <p>Amend</p> <p>Amend</p> <p>Amend</p> <p>Not amended</p> <p>Amend Amend</p>
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Shire internal submission –

Item	Clause	Comment	Review Comment	Recommendation
		None		

CEMETERIES ACT 1986
LOCAL GOVERNMENT ACT 1995

SHIRE OF VICTORIA PLAINS

CEMETERIES LOCAL LAW 2018

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CEMETERIES ACT 1986
LOCAL GOVERNMENT ACT 1995

SHIRE OF VICTORIA PLAINS

CEMETERIES LOCAL LAW 2018

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

PART 1 - PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Victoria Plains Cemeteries Local Law 2018*.

1.2 Commencement

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

1.3 Application

This local law applies to the following cemeteries located in the district –

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

1.4 Repeal

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

1.5 Definitions

In this local law, unless the context otherwise requires –

Act means the *Cemeteries Act 1986*;

approved material means –

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

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

authorised person means a person –

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

Board means the local government;

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

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

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

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

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

district means the district of the local government;

funeral has the meaning given to it by the Act;

funeral director means a person –

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

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

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

interment includes, as the case may be –

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

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

local government means the Shire of Victoria Plains;

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

memorial has the meaning set out in the Act;

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

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

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

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

personal representative means –

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

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

Schedule means a Schedule to this local law;

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

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

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

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

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

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

PART 2 - ADMINISTRATION

2.1 Powers and functions of CEO

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

2.2 Plans

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

2.3 Grant of right of burial

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

2.4 Pre-need certificate

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

2.5 Board may enter into an agreement for maintenance

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

PART 3 - APPLICATION FOR INTERMENT

3.1 Application for interment permit

- (1) A funeral director may apply for approval for an interment of a dead body in a cemetery.

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

3.2 Applications to be accompanied by certificates etc.

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

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

3.3 Certificate of identification

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

3.4 Minimum notice required

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

3.5 Refusal of application

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

PART 4 - FUNERALS AND MEMORIAL SERVICES

4.1 Fixing times for interments

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

4.2 Memorial services or processions

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

4.3 Processions

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

4.4 Conduct of interments by the Board

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

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

PART 5 - INTERMENTS

5.1 Requirements for burials

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

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

5.2 Requirement for preparation of graves

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

5.3 Requirements for dimensions of graves

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

- (b) in any circumstances less than 750mm.
- (4) The permission of the authorised person in subclause (3) shall not be granted unless in the opinion of the authorised person exceptional circumstances require granting of that permission.

5.4 Requirements for disposal of ashes

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

5.5 Requirements for vaults and mausoleums

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

5.6 Requirement for re-opening a grave

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

5.7 Requirements for exhumation

- (1) Subject to subclause (2), a person shall not exhume a coffin in a cemetery for the purposes of reburial within 12 months after the date of its interment.
- (2) Subclause (1) shall not apply where the exhumation is ordered or authorised pursuant to the Act.

- (3) Subject to subclause (1) and (2) prior to any other exhumation, the holder of a grant of right of burial must have applied in writing to the CEO requesting the exhumation and an authorised person has authorised the exhumation.

5.8 Requirements for opening of coffin or removal of shroud

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

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

5.9 Ashes not to be held by the Board

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

PART 6 - APPLICATIONS FOR MEMORIALS

6.1 Application to place memorial

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

6.2 Australian War Graves

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

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

PART 7 - MEMORIALS PERMITTED

7.1 Limitation on dimensions of memorials

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

7.2 Specification for monument

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

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

7.3 Specification for headstone

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

7.4 Specification for memorial plaque base

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

7.5 Specification for memorial plaque

- (1) A memorial plaque shall be made of –
 - (a) admiralty bronze not exceeding 20mm in thickness;
 - (b) polished or brushed stainless steel not exceeding 8mm in thickness;
 - (c) stone, and –
 - (i) if placed upon a headstone, monument or memorial plaque base, shall not exceed 50mm in thickness; or
 - (ii) if it is not to be placed upon a headstone, monument or memorial plaque base, shall not be less than 100mm in thickness; or

- (d) other material approved by the Board.
- (2) A memorial plaque placed on a monument, headstone or other item shall not extend beyond the physical dimensions of the monument, headstone or other item on which it is affixed.
- (3) A memorial plaque to be placed on a commemorative wall shall –
 - (a) have the following dimensions –
 - (i) individual plaques – to be of a size and appearance consistent with other memorial plaques used in that location or for that purpose, as determined by the Board;
 - (ii) if a backing plate with multiple plaques attached – multiple plaques to be not more than 2 plaques wide subject to allowing a 10mm border and a maximum of 10mm between plaques; and
 - (iii) all measurements to be within 5mm; and
 - (b) be placed in such a manner and in a position approved by the Board.
- (4) Upon application, the Board may permit an exemption from any of the requirements of subclauses (3)(a) but shall not delegate the decision to permit an exemption to the CEO.

7.6 Specification for gravesite fencing

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

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

7.7 Display of trade names on memorials not allowed

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

7.8 Use of wood

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

PART 8 - MEMORIALS AND OTHER WORK

8.1 Carrying out memorial work

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

8.2 Removal of sand, soil or loam

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

8.3 Removal of rubbish

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

8.4 Plants and trees

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

8.5 Supervision

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

8.6 Placing of grave ornaments

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

8.7 Hours of work

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

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

8.8 Unfinished work

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

PART 9 - GENERAL

9.1 Vehicle access and speed limitation

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

9.2 Assistance animals

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

9.3 Utility services

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

9.4 Damaging and removing of objects

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

9.5 Withered flowers

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

9.6 Littering and vandalism

A person shall not –

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

9.7 Advertising

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

9.8 Signs and directions of the Board

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

9.9 Removal from a cemetery

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

9.10 Board may close cemetery

The Board may –

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

9.11 Firearms

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

9.12 Liability for damage or works required to comply

- (1) Where a person –
 - (a) causes damage to any grave, memorial, structure, building, furniture, plant or any other item or thing in a cemetery;
 - (b) does a thing not authorised by this local law; or
 - (c) does not do a thing required by this local law,the Board may by notice in writing to that person require that person within the time required in the notice to, at the option of the Board –
 - (d) pay the costs of reinstating the property to the state it was in prior to the occurrence of the damage;
 - (e) pay the costs of replacing that property;
 - (f) pay the costs of works required to comply with this local law; or
 - (g) carry out works required to comply with this local law.
- (2) On a failure to comply with a notice issued under subclause (1), the Board may recover the costs referred to in the notice as a debt due to it.

9.13 Offence to fail to comply with notice

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

9.14 Board may undertake requirements of notice

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

PART 10 - OFFENCES AND MODIFIED PENALTIES

10.1 General penalties

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

10.2 Modified penalties

- (1) The offences specified in Schedule 1 are offences which may be dealt with under section 63 of the Act.
- (2) The modified penalty payable in respect of an offence specified in Schedule 1 is set out in the fourth column of Schedule 1.
- (3) The infringement notice referred to in section 63(1) of the Act shall be in the form set out in the Schedule 2.
- (4) The notice withdrawing an infringement notice referred to in section 63(3) of the Act shall be in the form set out in Schedule 3.

SCHEDULE 1 – MODIFIED PENALTIES

[cl.10.2]

Item	Clause	Nature of offence	Modified Penalty \$
1	4.2	Conducting a memorial service or procession without permission	50
2	5.1	Failure to obtain approval to bring a dead body into a cemetery	50
3	5.2(1)	Unauthorised digging, preparation or filling of grave	50
4	5.3(1)	Unauthorised burial of dead body	50
5	5.4(1)	Unauthorised disposal of ashes	50
6	5.5(1)	Unauthorised construction of vault or mausoleum	50
7	5.6(1)	Unauthorised reopening of a grave	50
8	5.7(1)	Unauthorised exhumation of a coffin	50
9	5.8	Unauthorised opening of a coffin or shroud	50
10	7.7	Use of trade name or mark on a memorial	50
11	7.8	Unauthorised use of wood on a gravesite	50
12	8.1	Unauthorised construction of a memorial	50
13	8.2	Unauthorised use of materials taken from within a cemetery	50
14	8.3	Failure to remove rubbish and surplus materials	50
15	8.4	Unauthorised planting of tree or shrub	50

16	8.5	Failure to comply with direction of the Board	50
17	8.6	Unauthorised placing of grave ornaments	50
18	8.7	Works carried out during unauthorised times	50
19	8.8	Failure to leave uncompleted works in a tidy and safe condition	50
20	9.1(1)	Driving vehicle other than on vehicular access way or constructed roadways or within designated areas	50
21	9.1(2)	Exceeding speed limit	50
22	9.3	Interference with utility services	50
23	9.4	Damaging or removing object	50
24	9.5	Failure to dispose of withered flowers appropriately	50
25	9.6	Littering and/or vandalism	50
26	9.7	Unauthorised advertising and/or trading	50
27	9.8(2)	Failure to obey sign or lawful direction within cemetery	50
28	9.9(2)	Failure to comply with order to leave cemetery	50
29	9.13	Failure to comply with notice within specified period	50

SCHEDULE 2 – INFRINGEMENT NOTICE

[cl. 10.2(3)]

Shire of Victoria Plains

INFRINGEMENT NUMBER –		
To:		
Address:		
	It is alleged that –	
At –		
On –	Day	Date
Location –	Calingiri Cemetery	Bolgart Cemetery
	You committed the following offence –	
Contrary to –	Shire of Victoria Plains Cemeteries Local Law 2017	
Schedule 1 reference –	Item No. –	Clause –
Offence –		
Brief description –		
The modified penalty for the offence is –	\$	

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

SCHEDULE 3 – WITHDRAWAL OF INFRINGEMENT NOTICE

[cl. 10.2(4)]

Shire of Victoria Plains

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

Dated _____

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

D.S. LOVELOCK, President

G.M. TEEDE, Chief Executive Officer

DRAFT

10.8 LOCAL LAW FINAL ADOPTION – Public Places and Local Government Property 2018

File reference	A2.22.3
Report date	20 April 2018
Applicant/proponent	Sire of Victoria Plains
Officer disclosure of interest	None
Previous meeting references	A31/2017
Prepared by	Niel Mitchell, Governance
Authorised by	Glenda Teede, CEO
Attachments	
Attachment 1	Summary of submissions
Attachment 2	Letter from Dept of Water and Environmental Regulation
Attachment 3	Draft Public Places and Local Government Property Local Law 2018

PURPOSE

To finalise the adoption of the Public Places and Local Government Property Local Law 2018.

BACKGROUND

The purpose of this report is –

- 11) make the local laws, incorporating all amendments as approved by Council;
- 12) authorise the affixing of the Common Seal to the local laws;
- 13) authorise publication of the local laws in the *Government Gazette*; and
- 14) give local public notice, (after Gazettal), of the date the local laws will come into effect.

COMMENT

At the ordinary meeting held on the 20 September 2017, Council resolved to commence the process to make the Local Laws.

The procedure for making local laws requires Council to advertise state-wide, advising of its intention to make a local law, and invite submissions to be made on any proposed local law for a six-week period. At the closure of the submission period, Council is to consider all submissions before making a local law.

The draft local law was advertised, both locally and state-wide, for public comment on the proposed Local Law

An advertisement was placed in the West Australian on 4 Oct 2017 and the Victoria Plains Newsletter for October 2017, with the submission period for public comment closing on 22 November 2017.

At the close of the submission period, one public submissions had been received, and comment from DLG was received as per Attachment 1.

DLG also noted that some aspects may require approval of the CEO of Dept of Water and Environmental Regulation. DWER subsequently advised on 14 February 2018, that the CEO's

consent would be required under the Waste Avoidance and Resources Recovery Act. Advice from DWER was sought and received in February 2018.

Following discussion with the CEO and EHO, it was felt that a separate local law for waste matters be created in order –

- to avoid the need for DWER consent for this Places and Property Local Law
- to avoid the need for consent from DWER for the proposed Amenity Local Law
- to repeal specific waste provisions from the Health Local Law 2004
- to consolidate all waste matters into a single Waste Local Law

The DLG's comments covered multiple areas. Other than matters relating to waste, no substantive matters were raised, with the comments being of –

- deletion of several clauses considered inappropriate, consequently removing restrictions, and the associated penalties
- minor editorial nature, and
- being of a contextual or technical nature, punctuation and grammar.

None of the suggested changes altered the intent of the provision amended nor placed additional obligations on the community. Accordingly, it is considered that the amendments agreed are not of a nature that requires re-advertising.

The attached draft has been amended from the proposed amendment local law advertised for public submissions, in accordance with the DLGC comments as noted and agreed.

Summary

Once formally adopted by Council, the local law –

- is to be published in the Government Gazette
- local public notice given of adoption (separate to previous advertising of proposals),
- signed copies are to be sent to relevant Ministers or their delegate, and
- copies sent to the Parliamentary Joint Standing Committee on Delegated Legislation together with other required documentation, within 10 days of publication in the Government Gazette.

Please note –

- disallowance of a local law may be made by Parliament, and could take some time depending on sitting days,
- takes effect on the day stipulated in the local law, generally 14 days after publication in the Government Gazette.

CONSULTATION

Ms Glenda Teede, CEO

Mr Allan Ramsay, Environmental Health Officer

Mr Shayne Wilcocks, Ranger

Dept of Local Government, Sporting and Cultural Industries

Dept of Water and Environmental Regulation

STATUTORY CONTEXT

Local Government Act 1995 –

- s.3.12 – Procedure for making local laws
incl. subclause (4) – requirement for absolute majority

Waste Avoidance and Resource Recovery Act 1986 –

- s.61 – local government may make local laws, with consent of the CEO of Dept of Water and Environmental Regulation
- s.64(2) – list of purposes for which local laws may be made

Health Act (Miscellaneous Provisions) 1911 –

- s.26 – power to make local laws
- s.199 – local laws in relation to animals, birds and nuisances
- s.342 – local laws to be made in accordance with Local Government Act

Victoria Plains Road Board By-law Pipes and Pipelines Beneath Roads and Footpaths 1958

The Municipality of the Shire of Victoria Plains Adoption of Draft Model By-law Relating to Prevention of Damage to Streets 1969

The Municipality of the Shire of Victoria Plains Adoption of Draft Model By-law Relating to Prevention of Damage to Streets 1969

Shire of Victoria Plains Health Local Law 2004

CORPORATE CONTEXT

None

STRATEGIC IMPLICATIONS

Strategic Community Plan adopted 28 March 2018 –

5.	Civic leadership – to better allocate scarce resources and effectively interact with the community
5.4	Measures to improve organisational efficiency

FINANCIAL IMPLICATIONS

Cost of publication in Government Gazette and giving local public notice.

VOTING REQUIREMENTS

Absolute Majority Required: Yes

OFFICER RECOMMENDATION

Moved Cr _____

Seconded Cr _____

That Council –

1. resolves to make the following Local Laws as per the attached drafts, incorporating amendments outlined by the Department of Local Government and Communities and Shire of Victoria Plains –
 - Public Places and Local Government Property Local Law
2. authorise the President and CEO to sign and affix the Common Seal to the Local Laws;
3. authorise the CEO to –
 - publish the Local Law in the Government Gazette and provide copies of the local laws to the Minister for Local Government; and

- forward a copy of the Gazetted local law, explanatory memoranda and associated documentation to the Parliamentary Joint Standing Committee on Delegated Legislation for review.
4. Dept of Water and Environmental Regulation be advised of the removal of the clauses relating to waste from the local law.

Commonly-used abbreviations	
CEO	Chief Executive Officer
DFES	Dept of Fire and Emergency Services
DLG	Dept of Local Government, Sporting and Cultural Industries
EHO	Environmental Health Officer
JSCDL	Parliamentary Joint Standing Committee on Delegated Legislation

Proposed Public Places & Local Government Property Local Law 2018
Summary of submissions received

Dept of Local Government, Sporting and Cultural Industries –

Item	Clause	Comment	Review Comment	Recommendation
1		<p>Waste Avoidance and Resource Recovery Act 2007</p> <p>Under section 61 of the <i>Waste Avoidance and Resource Recovery Act 2007</i> (WARR Act), a local government is required to obtain the consent of the CEO of the Department of Water and Environmental Regulation when making a local law on purposes set out under section 64 of the WARR Act.</p> <p>This local law includes several references to waste measures (clauses 3.7, 5.2(1)(g), 5.2(1)(m)). The Shire may like to verify with the Department of Water and Environmental Regulation if the consent of the CEO is required for such clauses.</p>	<p>6/12/17 – Referred to DWER after discussion with CEO</p> <p>2/1/18 – DWER advised by phone that will be assessing</p> <p>8/1/18 – DWER letter confirming assessment and requesting advice to Minister</p> <p>8/1/18 – Advice to Minister drafted</p> <p>16/4/18 – Waste provisions to be removed in favour of provisions in Waste Local Law</p> <p>Remove from definitions –</p> <ul style="list-style-type: none"> - bulk rubbish container <p>Consequential – deletions to items 21 and 22 in the Schedule</p>	<p>Amend clauses –</p> <ul style="list-style-type: none"> - 3.7, - 5.2(1)(g), - 5.2(1)(m) <p>amend</p>
2		<p>Civil Aviation Safety Regulations 1998</p> <p>In clause 1.6(1), drone is defined as meaning an unmanned aerial vehicle as defined in regulation 101.240 of the <i>Civil Aviation Safety Regulations 1998</i> (Cth).</p> <p>Regulation 101.240 was deleted from the <i>Civil Aviation Safety Regulations 1998</i> (Cth) on 29 September 2016 following the adoption of the <i>Civil Aviation Legislation Amendment (Part 101) Regulation 2016</i>.</p> <p>It is suggested that the Shire remove the reference to regulation 101.240 of the <i>Civil Aviation Safety Regulations 1998</i> (Cth).</p> <p>The Shire may like to instead replicate the definition used previously in the <i>Civil Aviation Safety Regulations 1998</i> (Cth) in the local law. It is replicated here for the Shire's convenience:</p> <p>UAV means unmanned aircraft, other than a balloon or a kite.</p> <p>A copy of the <i>Civil Aviation Safety Regulations 1998</i> (Cth) that contained the definitions of unmanned aerial vehicle can be found at this link (refer to Volume 3):</p> <p>https://www.legislation.gov.au/Details/F2016C00869/Html/Volume_3#_Toc462395784</p>	<p>Amended</p> <p>Consequential amendments to model aircraft etc definitions</p> <p>Amend clause 2.1(k)</p>	<p>Amend</p> <p>Amend</p> <p>Amend</p>

3		<p>Definitions</p> <p>a) It is suggested the definition for “nuisance” be removed. This term is sufficiently defined in common law and case law, which will be applied by a Judge in the event that a prosecution has occurred. Inserting a definition is unnecessary. In addition to being complex, it may also cause enforcement difficulties.</p> <p>b) In clause 7.3(2)(iii), reference is made to “CBD”. The Shire may like to insert a definition of “CBD” in clause 1.6(1), or remove the acronym and use the term “central business district”.</p> <p>c) The definition of “district” in clause 1.6(1) makes reference to section 295 of the <i>Public Health Act 2016</i>. The Shire should be aware that this section of the Public Health Act has not come into operation at this time.</p>	<p>Deleted</p> <p>References removed</p> <p>Noted. No additional area has been included under existing legislation, but provision made for known future legislation.</p>	<p>Amend</p> <p>Amend</p> <p>Not amend</p>
4		<p>Clause 3.6 – Animals</p> <p>Clause 3.6(b) currently restricts a person from permitting any animal other than a dog, to enter onto local government property or thoroughfares. The Delegated Legislation Committee have formed the view that while the Cat Act permit local laws that prohibit cats absolutely from specified areas, it does not contemplate local laws that:</p> <ul style="list-style-type: none"> • ban cats from all public areas; • place conditions on when a cat may be permitted in a public area; or • attempts to restrict all cat’s in the district to their owner’s premises. <p>Whilst clause 3.6(b) does not relate to all public places, it does relate to all local government property and thoroughfares which are public places. The Committee could potentially find issue with clause 3.6(b) as it relates to cats. The Shire may like to consider excluding cats from the definition of animal and dealing with the cats directly under the Act or under a cat local law.</p> <p>Clause 6.2(2)(a) also poses potential issues, as it places conditions on when a cat may be permitted in a public area (thoroughfare in this case). Effectively a cat would only be allowed on a thoroughfare if it was led or driven.</p>	<p>Deleted</p> <p>Clause deleted</p> <p>Consequential – clause 6.2(3) removed - penalty removed from Schedule</p>	<p>Amend</p> <p>Amend</p> <p>Amend Amend</p>
5		<p>Clause 3.8 – Persons affected by alcohol</p> <p>Clause 3.8 provides that a person must not enter or remain on local government property while under the influence of liquor. Clause 2.3(1) allows liquor to be consumed on local government property if a person is permitted under the Liquor Control Act. In such a case, a person could consume liquor on local government property and be under the influence of that liquor. The Shire may like to consider ensuring clause 3.8 accounts for the situation permitted under clause 2.3(1).</p>	<p>Clause deleted</p> <p>Consequential – penalty removed from Schedule</p>	<p>Delete</p> <p>Amend</p>

		<p>(c) specify the work or action that is required to be undertaken; and</p> <p>---</p> <p>j) Schedule:</p> <ul style="list-style-type: none"> • Item 2: in the offence description, insert “without a licence” at the end of the sentence. • Item 14: in the offence description, insert “or more than is otherwise indicated by a sign” at the end of the sentence. • Item 20: in the offence description, insert “or removal of a plant” at the end of the sentence. • Item 23: in the offence description, delete “, sign”. • Item 29: it is recommended that a separate offence and description is inserted for each paragraph specified (5.8(a), 5.8(b) and 5.8(c)). • Item 37: insert “(a)” after “6.2(2)”. • Item 40: insert “(1)” after “8.1”. 	<p>Item 10</p> <p>Item 16</p> <p>Item 19</p> <p>Items 25-27</p> <p>Item 35</p> <p>Item 39</p>	<p>Amend all</p>
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Internal submission –

Item	Clause	Comment	Review Comment	Recommendation
1	7.9	Election signs	In (b) – removal in 7 days (d) removed	Amend

Public comment –

Item	Clause	Comment	Review Comment	Recommendation
		<p>In activities requiring a licence are these designed to limit local non- profit organisations abilities to start community activities and town site improvements, eg planting of plants licence.</p> <p>Council has previously been approached for grants and have granted town garden and shire art projects is this still something council wishes to support.</p>	<p>On lands under Council's control there is an obligation for the care and management of these lands, and a duty to protect and unsure public safety. Accordingly, the Shire needs to be aware of what is happening, and if an activity is unsafe or inappropriate, control these matters, up to and including removal of them if justified. This obligation and authority to manage is already in legislation as broad principles.</p> <p>While the local law uses the term "licence", the definition includes any permission or approval in writing, so a visit to the Shire Office may not be</p>	<p>No change – explanation</p>

		What will the cost of licences be?	<p>required, but could be done by email, with a response from an authorised person giving the OK.</p> <p>While Council may resolve to charge for the use of an area or licence to do some activities, there is usually a very broad range of activities for which approval should be obtained, but no payment is required by Council. I would envisage that while approval should be obtained, the existing framework of fees and charges would be likely to remain.</p>	<p>No change – sufficient discretion in local law</p> <p>No change – explanation</p>
			<p>No fee, charge or licence cost is set within the local laws, as these are discretionary decisions of Council, and are reviewed every year in the annual Budget.</p> <p>Please note that I cannot commit Council to any particular decision, course of action, or level of fees and charges, as these are up to Council to determine.</p>	<p>No change – explanation</p>



Government of Western Australia
Department of Water and Environmental Regulation

Our ref: CEO3087/17
Enquiries: Leanne Reid
Phone: 6364 7028
Email: leanne.reid@dwer.wa.gov.au

Ms Glenda Teede
Chief Executive Officer
Shire of Victoria Plains
Via email: reception@victoriaplains.wa.gov.au

Dear Ms Teede

SHIRE OF VICTORIA PLAINS PROPOSED PUBLIC PLACES AND LOCAL GOVERNMENT PROPERTY LAW 2017

I refer to the email of 11 December 2017 from Mr Niel Mitchell, Conway Highbury Pty Ltd, regarding the Shire of Victoria Plains proposed Public Places and Local Government Property Local Law 2017.

I will review the Shire's proposed Local Law with respect to my role in considering consent to waste provisions under the *Waste Avoidance and Resource Recovery Act 2007*.

In order to comply with section 3.12 of the *Local Government Act 1995*, I advise that you should notify the Minister for Environment, Hon Stephen Dawson MLC, of the Shire's intention to include waste provisions in the Shire of Victoria Plains proposed Public Places and Local Government Property Local Law and provide him with a copy of the local law and the statewide and local notice.

Should your staff require further information in relation to this matter, please contact the Department of Water and Environmental Regulation's Policy Officer, Ms Leanne Reid, on 6364 7028 or by email at leanne.reid@dwer.wa.gov.au.

Yours sincerely

A handwritten signature in blue ink, appearing to be 'K Faulkner'.

Kelly Faulkner
ACTING DIRECTOR GENERAL

5 January 2018

cc: Mr Niel Mitchell, Conway Highbury Pty Ltd
niel@conwayhighbury.com.au

LOCAL GOVERNMENT ACT 1995

SHIRE OF VICTORIA PLAINS

PUBLIC PLACES AND LOCAL GOVERNMENT PROPERTY LOCAL LAW 2018

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DRAFT

LOCAL GOVERNMENT ACT 1995

SHIRE OF VICTORIA PLAINS

PUBLIC PLACES AND LOCAL GOVERNMENT PROPERTY LOCAL LAW 2018

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

PART 1 - PRELIMINARY

1.1 Citation

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

1.2 Commencement

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

1.3 Application

This local law applies throughout the district.

1.4 Repeal

The following local laws are repealed –

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

1.5 Transitional provisions

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

1.6 Definitions

- (1) In this local law –

Act means the *Local Government Act 1995*;

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

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

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

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

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

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

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

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

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

CEO means the Chief Executive Officer of the local government;

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

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

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

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

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

Council means the council of the local government;

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

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

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

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

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

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

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

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

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

hire includes offer to hire and expose for hire;

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

kerb includes the edge of a carriageway;

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

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

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

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

licensee means a person who holds a licence;

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

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

local government means the Shire of Victoria Plains;

local government property means anything except a thoroughfare –

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

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

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

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

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

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

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

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

person does not include the local government;

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

public place means –

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

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

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

Schedule means a schedule to this local law;

sell includes –

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

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

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

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

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

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

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

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

vehicle includes –

- (a) every conveyance and every object capable of being propelled or drawn on wheels, tracks or otherwise; and
- (b) where the context permits, an animal being ridden or driven,

but excludes –

- (c) a wheelchair or any device designed for use by a physically impaired person on a footpath; and
- (d) a pram, stroller or similar device; and

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

1.7 Interpretation

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

1.8 Types of licences

For the purposes of this local law –

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

1.9 Assistance animals

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

1.10 Overriding power to hire and agree

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

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

PART 2 - ACTIVITIES ON LOCAL GOVERNMENT PROPERTY REQUIRING A LICENCE

2.1 Activities requiring a licence

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

- (3) The local government may exempt specified local government property or a class of local government property from the application of subclause (1)(a).

2.2 Licence to erect structures or camp

- (1) This clause does not apply to a caravan park or camping ground operated by the local government.
- (2) A person must not without a licence –
- (a) camp on, lodge at or occupy any structure at night for the purpose of sleeping on local government property;
 - (b) erect any tent, camp, hut or similar structure on local government property other than a beach shade or windbreak erected for use during the hours of daylight and which is dismantled during those hours on the same day; or
 - (c) park a vehicle on local government property, thoroughfare or public place for the purpose of sleeping in the vehicle.
- (3) The maximum period for which the local government may approve an application for a licence in respect of subclause (2)(a) or (b) is that provided in regulation 11(2)(a) of the *Caravan Parks and Camping Grounds Regulations 1997*.
- (4) Any tent, camp, hut or similar structure erected in contravention of subclause (2)(b) and any associated goods may be impounded, subject to Regulation 29 of the *Local Government (Functions and General) Regulations 1996*.
- (5) A vehicle parked in contravention of subclause (2)(c) may, subject to the provisions of Regulation 29 of the *Local Government (Functions and General) Regulations 1996*, be impounded by immobilising the vehicle by the use of a wheel clamping device.
- (6) An authorised person who impounds a vehicle under subclause (5) shall attach a notice to a vehicle advising the owner of the vehicle that the vehicle will be released upon payment of the costs of impounding by use of a wheel clamping device and the place where and hours during which the costs can be paid.
- (7) The notice attached to the impounded vehicle under subclause (6) shall also advise the owner that if the impounding costs are not paid within 24 hours the vehicle may be removed to the local government pound.
- (8) Notices issued under this clause shall be in the form determined from time to time by the local government.

2.3 Licence required for possession and consumption of liquor

- (1) A person, on local government property, must not consume any liquor, have in her or his possession or under her or his control, or sell any liquor, unless –
- (a) permitted under the Liquor Control Act; and
 - (b) a licence has been obtained for that purpose from the local government.
- (2) Subclause (1) does not apply where the liquor is in a sealed container.

PART 3 - BEHAVIOUR ON LOCAL GOVERNMENT PROPERTY AND THOROUGHFARES

3.1 Behaviour which interferes with others

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

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

3.2 Behaviour detrimental to property

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

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

3.3 No unauthorised entry to function

- (1) A person must not enter local government property on such days or during such times as the property is set aside for a function, except –
 - (a) through the proper entrance for that purpose; and
 - (b) on payment of any fee chargeable for admission as determined by the hirer at the time.
- (2) An authorised person may exempt a person from compliance with subclause (1)(b).

3.4 Taking or injuring fauna

- (1) In this clause –

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

 - (a) any class of animal or individual member;
 - (b) the eggs or larvae; or
 - (c) the carcass, skin, plumage or fur unless it has been shed or discarded by the fauna in a normal or natural manner.
- (2) A person must not, take, injure or kill or attempt to take, injure or kill any fauna which is on or above any local government property or thoroughfare, unless that person is authorised under a written law to do so.

3.5 Flora

- (1) In this clause –

flora means all vascular plants, seeds and other flora, whether living or dead.
- (2) On or above any local government property or thoroughfare, unless authorised to do so under a written law or with the written approval of an authorised person, a person must not –
 - (a) remove, damage or interfere with any flora; or
 - (b) plant or deposit any flora.

3.6 Vehicles on local government property

- (1) Unless authorised by a licence, a person must not take or cause a vehicle to be taken onto or driven on local government property unless –
 - (a) subject to subclause (3), the local government property is clearly designated as a road, access way, or car park;
 - (b) the vehicle is driven by a local government employee, authorised person or contractor engaged by the local government, who is engaged in –
 - (i) providing a service or making a delivery in connection with the local government property; or
 - (ii) maintaining the local government property;
 - (c) the person is driving an emergency vehicle in the course of his or her duties;
 - (d) the vehicle is –
 - (i) used in accordance with the conditions set down by the local government or an authorised person; and
 - (ii) of a type allowed to be taken onto the local government property by the local government or an authorised person; or
 - (e) the vehicle is a motorised wheelchair, and the driver of that vehicle is a person with a disability.
- (2) A person must not drive a vehicle or allow a vehicle to be driven on local government property at a speed exceeding 20 kilometres per hour or as otherwise indicated by a sign, or in such a manner as to cause danger to any person.
- (3) Other than in accordance with subclause (1)(b),(c),(d) or (e), a person must not drive a vehicle on local government property or part of it that is being used for a function for which a licence has been obtained unless permitted to do so by the licence holder or an authorised person.

PART 4 - MATTERS RELATING TO PARTICULAR LOCAL GOVERNMENT PROPERTY

4.1 No entry to fenced or closed local government property

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

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

- (1) Where a sign on a toilet block or change room specifies that a particular entry of the toilet block or change room is to be used by –
 - (a) females – then a person of the male gender must not use that entry of the toilet block or change room;
 - (b) males – then a person of the female gender must not use that entry of the toilet block or change room; or
 - (c) families – then, where the toilet block or change room is being used by a family, only an immediate member of that family may use that entry of the toilet block or change room.
- (2) Subclause (1)(a) and (b) does not apply to a child, when accompanied by a parent, guardian or caregiver, where the child is –
 - (a) under the age of 8 years; or
 - (b) otherwise permitted by an authorised person to use the relevant entry.

4.3 Use of shower or bath facilities

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

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

PART 5 - ACTIVITIES IN THOROUGHFARES

Division 1 – General

5.1 General prohibitions

A person must not –

- (a) plant, or allow to remain, in a thoroughfare a plant that by virtue of its height, position or density obstructs a reasonable sight line for a driver of any vehicle negotiating or using the thoroughfare;
- (b) damage a lawn or a garden, or remove any plant or part of a plant from a lawn or a garden, in a thoroughfare unless –
 - (i) the person is the owner or the occupier of the lot abutting that portion of the thoroughfare and the lawn or the garden or the particular plant has not been installed or planted by the local government; or
 - (ii) the person is acting under the authority of a written law;
- (c) damage, or remove a street tree, or part of a street tree, irrespective of whether it was planted by the owner or occupier of the lot abutting the thoroughfare or by the local government, unless –
 - (i) the damage to, or removal of, the street tree is authorised by an authorised person in writing; or
 - (ii) the person is acting under authority of written law;
- (d) except as permitted by this local law place, or allow to be placed or remain, on a thoroughfare any thing (except water) that –
 - (i) obstructs the thoroughfare; or
 - (ii) results in a hazard for any person using the thoroughfare;
- (e) unless at the direction of an authorised person, damage, remove or interfere with any part of a thoroughfare, or any structure erected on a thoroughfare, by the local government or a person acting under the authority of a written law; or
- (f) play or participate in any game or sport so as to cause danger to any person or thing or unreasonably impede the movement of vehicles or persons on a thoroughfare.

5.2 Activities allowed with a licence

- (1) A person must not, without a licence –
 - (a) dig or otherwise create a trench through or under a kerb or footpath;

- (b) cause any obstruction to a water channel or a water course in a thoroughfare;
 - (c) throw, place or drain offensive, noxious or dangerous fluid onto a thoroughfare;
 - (d) damage a thoroughfare;
 - (e) fell or damage any street tree;
 - (f) unless installing, or in order to maintain, a permitted verge treatment –
 - (i) lay pipes under or provide taps on any verge; or
 - (ii) place or install, on any part of a thoroughfare, any thing such as gravel, stone, flagstone, cement, concrete slabs, blocks, bricks, pebbles, plastic sheeting, kerbing, wood chips, bark or sawdust;
 - (g) cause any obstruction to a vehicle or a person using a thoroughfare;
 - (h) fell any tree onto a thoroughfare;
 - (i) light any fire or burn any thing on a thoroughfare other than in a stove or fireplace provided for that purpose;
 - (j) provide, erect, install or use in or on any building, structure or land abutting on a thoroughfare any hoist or other thing for use over the thoroughfare;
 - (k) on a thoroughfare use anything or do anything so as to create a nuisance;
 - (l) interfere with the soil of, or anything in, a thoroughfare or take anything from a thoroughfare;
 - (m) carry on any trading on a thoroughfare;
 - (n) conduct or set up a market on a thoroughfare; or
 - (o) conduct an entertainment event on a thoroughfare.
- (2) An authorised person may exempt a person from compliance with subclause (1) on the application of that person.

5.3 Assignment of numbers

- (1) In this clause –
number means a number with or without an alphabetical suffix indicating the street address of land as assigned by the local government from time to time, in accordance with this local law.
- (2) An authorised person may assign a number to a lot in the district and may assign another number to the lot instead of that previously assigned.

5.4 No driving on closed thoroughfare

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

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

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

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

Division 2 – Permitted verge treatments

5.6 Application

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

5.7 Permitted verge treatments

- (1) A person must not install or maintain a verge treatment which is not a permitted verge treatment.
- (2) An owner or occupier of land which abuts on a verge may install a permitted verge treatment, on that part of the verge directly in front of her or his land.
- (3) A permitted verge treatment is –
 - (a) the planting and maintenance of a lawn;
 - (b) the planting and maintenance of a garden provided that –

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

5.8 Obligations of owner or occupier

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

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

5.9 Transitional provision

- (1) In this clause –
former provisions means the provisions of the repealed local laws which permitted certain types of verge treatments, whether with or without the consent of the local government.
- (2) A verge treatment is to be taken to be a permitted verge treatment for so long as the verge treatment remains of the same type and continues to comply with the former provisions which –
 - (a) was installed prior to the commencement day; and
 - (b) on the commencement day is a type of verge treatment which was permitted under and complied with the former provisions.

5.10 Power to carry out public works on verge

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

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

Division 3 – Vehicle crossovers

5.11 Temporary crossovers

- (1) Where it is likely that works on a lot will involve vehicles leaving a thoroughfare and entering the lot, the person responsible for the works must obtain a licence for the construction of a temporary crossover to protect the existing carriageway, kerb, drains, footpath, existing materials and street trees, where –
 - (a) a crossover does not exist; or
 - (b) a crossover does exist, but the nature of the vehicles and their loads is such that they are likely to cause damage to the crossover.
- (2) The person responsible for the works in subclause (1) is to be taken to be –
 - (a) the builder named on the building permit issued under the *Building Act 2011*, if one has been issued in relation to the works; or
 - (b) the owner of the lot, if no building permit has been issued under the *Building Act 2011* in relation to the works.
- (3) If an authorised person approves an application for a licence for the purpose of subclause (1), the licence is taken to be issued on the condition that until such time as the temporary crossover is removed, the licensee must keep the temporary crossover in good repair and in such a condition so as not to create any danger or obstruction to persons using the thoroughfare.

5.12 Removal of redundant crossover

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

5.13 Crossovers in unsafe locations

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

PART 6 - ACTIVITIES IN PUBLIC PLACES

6.1 Leaving animal or vehicle in public place

- (1) A person must not leave an animal or a vehicle, or any part of a vehicle, in a public place so that it obstructs the use of any part of that public place, unless that person has first obtained a licence or is authorised to do so under a written law.

- (2) A person does not contravene subclause (1) where the animal is secured or tethered for a period not exceeding 1 hour.
- (3) A person does not contravene subclause (1) where the vehicle is left for a period not exceeding 24 hours.

6.2 Prohibitions relating to animals

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

PART 7 - TEMPORARY SIGNS AND TRADE DISPLAYS

7.1 Definitions

In this Part, unless the context otherwise requires—

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

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

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

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

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

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

7.2 Application

- (1) This Part applies –
 - (a) to temporary signs complying with clause 7.5; and
 - (b) to temporary trade displays complying with clause 7.10.
- (2) Any advertising sign or trade display that is to be a permanent structure or fixture is to comply with –
 - (a) the Building Code as defined in section 3 of the *Building Regulations 2012*;
 - (b) any Local Planning Scheme; and
 - (c) any other written law regulating of signs within the district.

7.3 Temporary signs and trade displays

- (1) A person shall not on local government property or in a thoroughfare, without a licence –
 - (a) place an temporary sign;
 - (b) place a trade display; or
 - (c) post any bill or paint, place or affix any advertisement.
- (2) Notwithstanding subclause (1), a licence is not required for –
 - (a) the first and second advertising signs where each –
 - (i) does not exceed an area of 1 square metre ;
 - (ii) does not exceed 750mm horizontally;

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

7.4 Matters to be considered in determining application for licence

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

- (a) any other written law regulating the construction or placement of signs or trade displays within the district;
- (b) the dimensions of the sign or trade display;
- (c) whether or not the sign or trade display may create a hazard to persons using a thoroughfare;
- (d) other signs or trade displays already approved or erected in the vicinity of the proposed location of the sign or trade display; and
- (e) the amount of the public liability insurance cover, if any, to be obtained by the applicant.

7.5 Conditions for temporary signs

Temporary signs shall –

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

7.6 Prohibition on placement of temporary signs

An temporary sign shall not be placed –

- (a) over any footpath where the resulting vertical clearance between the sign and the footpath is less than 2.5 metres;

- (b) on any natural feature, including a rock or tree, on a thoroughfare; or
- (c) on any bridge or the structural approaches to a bridge.

7.7 Additional conditions for advertising signs

An advertising sign shall –

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

7.8 Additional conditions for event signs

An event sign shall –

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

7.9 Additional conditions for election signs

An election sign shall –

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

7.10 Conditions for trade displays

A trade display shall –

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

PART 8 - LICENCING

Division 1 – Applying for a licence

8.1 Application for licence

- (1) Where a person is required to obtain a licence under this local law, that person must apply for the licence in accordance with subclause (2).
- (2) An application for a licence under this local law must –
 - (a) be in the form determined from time to time by the local government;
 - (b) be signed by the applicant;
 - (c) provide the information required by the form; and
 - (d) be forwarded to the local government together with any set fee.
- (3) An authorised person may require an applicant to provide additional information reasonably related to an application before determining an application for a licence.
- (4) An authorised person may require an applicant to give local public notice of the application for a licence.
- (5) An authorised person may refuse to consider an application for a licence which is not in accordance with subclause (2) or where the requirements of subclause (3) or (4) have not been satisfied.

8.2 Decision on application for licence

- (1) An authorised person may –
 - (a) approve an application for a licence unconditionally or subject to any conditions; or

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

8.3 General restrictions on grant of licence

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

8.4 Examples of conditions

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

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

8.5 Imposing conditions under a policy

- (1) In this clause –

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

- (2) Under clause 8.2(1)(a) an authorised person may approve an application subject to conditions by reference to a policy.
- (3) An authorised person must give to the licensee a copy of the policy or the part of the policy which is relevant to the application for a licence, with the form of licence referred to in clause 8.2(2).
- (4) An application for a licence is not to be taken to have been approved subject to the conditions contained in a policy until an authorised person gives the licensee a copy of the policy or the part of the policy which is relevant to the application.
- (5) Sections 5.94 and 5.95 of the Act apply to a policy and, for that purpose, a policy is deemed to be information within section 5.94(u)(i) of the Act.

8.6 Compliance with conditions

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

8.7 Variation of licence

- (1) The local government may, by written notice given to the licensee, vary a licence –
 - (a) imposing any new condition; or
 - (b) change or remove any existing condition.
- (2) An amendment may be made on application by the licensee or on the local government's initiative.
- (3) An amendment will come into effect on the day that written notice is given to the licensee, or some other date as specified in the notice.

Division 2 – Duration of licences

8.8 Duration of licence

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

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

8.9 Renewal of licence

- (1) A licensee may apply to the local government for the renewal of a licence.
- (2) An application for renewal must –
 - (a) be in the form determined from time to time by the local government;
 - (b) be signed by the licensee;
 - (c) provide the information required by the form;
 - (d) be forwarded to the local government no later than 28 days before the expiry of the licence, or within a shorter period that the local government in a particular case permits; and
 - (e) be accompanied by any set fee.
- (3) The provisions of this Part that apply to an application for a licence also apply to an application for the renewal of a licence as though it were an application for a licence.

8.10 Transfer of licence

- (1) An application for the transfer of a valid licence is –
 - (a) to be made in writing;
 - (b) to be signed by the licensee and the proposed transferee of the licence;

- (c) to include such information as an authorised person may require to enable the application to be determined; and
 - (d) to be forwarded to the local government together with any set fee.
- (2) An authorised person may approve an application for the transfer of a licence, refuse to approve it or approve it subject to any conditions.
 - (3) Where an authorised person approves an application for the transfer of a licence, the transfer may be effected by an endorsement on the licence signed by an authorised person.
 - (4) Where an authorised person approves the transfer of a licence, the local government is not required to refund any part of any set fee paid by the former licensee.

8.11 Suspension of licence

- (1) The local government may, subject to clause 8.12, by written notice given to the licensee, suspend a licence if there are reasonable grounds for believing that –
 - (a) the licensee has contravened a term or condition of a licence;
 - (b) the licensee has contravened a provision of this local law; or
 - (c) the continued provision of the activity authorised by the licence constitutes or will constitute an unacceptable risk to the safety, health or welfare of the public.
- (2) The suspension notice must –
 - (a) state the day, or the day and time, on or at which the suspension takes effect;
 - (b) state the reasons for the local government's decision to suspend the licence; and
 - (c) where appropriate, indicate what steps need to be taken to ensure that there is compliance with the relevant provision, term or condition or that there is no longer a risk as described in subclause (1)(c); and
 - (d) inform the licensee that the licensee has a right to apply under the Act for a review of the local government's decision to suspend the licence.

8.12 Proposed suspension

- (1) If the local government proposes to suspend a licence under clause 8.11(1)(a), the local government must give written notice to the licensee of the proposed suspension.
- (2) The notice must –
 - (a) state that the local government proposes to suspend the licence;
 - (b) state the reasons for the proposed suspension; and
 - (c) inform the licensee that the licensee is entitled to make representation to the local government in respect of the proposed suspension within 7 days after the day on which the licensee is given the notice.
- (3) In considering whether to suspend the licence, the local government must have regard to any representations made by the licensee within the period referred to in subclause (2)(c).

8.13 Revocation of suspension

- (1) The local government must, by written notice given to the licensee revoke the suspension of a licence if the local government is satisfied that the steps specified in the suspension notice have been taken.
- (2) The local government may, by written notice given to the licensee, revoke the suspension of the licence if it is appropriate to do so in the circumstances of a particular case.

8.14 Period of suspension

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

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

8.15 Cancellation of licence

A licence may be cancelled by the local government if –

- (a) the licence was obtained improperly;

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

8.16 Surrender of licence

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

Division 3 – Responsibilities of licensees and others

8.17 Production of licence

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

8.18 Production of licence document for amendment

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

8.19 Advertising

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

8.20 False or misleading statement

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

8.21 Other responsibilities of licensee

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

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

PART 9 - LOCAL GOVERNMENT SIGNS AND POWERS TO GIVE DIRECTIONS

9.1 Signs installed by the local government

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

9.2 Pre-existing signs

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

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

9.3 Authorised person to be obeyed

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

9.4 Refusal of entry and removal

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

9.5 Disposal of lost property

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

PART 10 - OBJECTIONS AND REVIEW

10.1 Objection and review rights

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

PART 11 - NOTICES

11.1 Notice to remedy non-compliance

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

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

11.2 Notice regarding damage to local government property

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

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

11.3 Notice requirements

A notice given must –

- (a) be in writing;
- (b) specify the reason for giving the notice;

- (c) specify the work or action that is required to be undertaken; and
- (d) the time within which the work or action is to be undertaken.

11.4 Local government may undertake requirements of notice

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

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

11.5 Offence to fail to comply with notice

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

PART 12 - OFFENCES AND PENALTIES

12.1 Offences and general penalty

- (1) A person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.
- (2) A person who commits an offence under this local law is liable, on conviction, to a penalty not exceeding \$5,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

12.2 Prescribed offences

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

12.3 Form of notices

For the purposes of this local law –

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

SCHEDULE – PRESCRIBED OFFENCES

[cl.12.2]

Offences in respect of which a modified penalty applies

Item	Clause	Nature of offence	Modified penalty \$
Part 2 – Activities on local government property			
1	2.1	Undertaking activity on local government property without a licence	100
2	2.2(2)	Camping on local government property or erecting an unauthorised structure without a licence	100

3	2.3(1)	Failure to obtain licence to possess, consume or sell liquor	100
Part 3 – Behaviour on all local government property and thoroughfares			
4	3.1	Behaviour interfering with others	100
5	3.2	Behaviour detrimental to property	200
6	3.3	Unauthorised entry to function	100
7	3.4(2)	Taking or injuring fauna without authorisation	200
8	3.5(2)	Removing, damaging or depositing flora without authorisation	200
9	3.6(1)	Unauthorised vehicle on local government property	100
10	3.6(2)	Unauthorised driving of a vehicle at more than 20km/hr on local government property or more than is otherwise indicated by a sign	100
11	3.6(3)	Unauthorised driving of a vehicle on local government property during a function	100
Part 4 – Matters relating to particular local government property			
12	4.1	Unauthorised entry to closed or fenced local government property	100
13	4.2	Unauthorised entry to gender specific toilet block or change room	200
14	4.3	Unauthorised use of showers or bath facilities in change room	50
Part 5 – Activities in thoroughfares			
15	5.1(a)	Planting or allowing plant or verge treatment in thoroughfare to become a sightline hazard	100
16	5.1(b)	Damaging a lawn or garden in a thoroughfare or removal of a plant	100
17	5.1(c)	Damaging or removing whole or part of a street tree without authorisation	200
18	5.1(d)	Obstruction of or permitting a hazard in a thoroughfare	100
19	5.1(e)	Damaging, removing or interfering with thoroughfare, part of thoroughfare or structure in a thoroughfare without authorisation	100
20	5.1(f)	Playing games in thoroughfare so as to impede vehicles or persons	100
21	5.2(1) (a),(b),(c), (d),(e),(f)	Unauthorised activity in a thoroughfare causing damage	200
22	5.2(1), (g),(h),(i), (j),(k),(l), (m),(n),(o)	Unauthorised activity in a thoroughfare causing inconvenience	100
23	5.4	Driving on a closed thoroughfare	100
24	5.7(1)	Unauthorised verge treatment	100
25	5.8(a)	Failure to keep permitted verge treatment in good and tidy condition, or from obstructing a thoroughfare or footpath	100
26	5.8(b)	Unauthorised disturbance of a footpath	100
27	5.8(c)	Verge treatment obstructing or damaging a drain, manhole, gully, inspection pit, channel, kerb or tree planted by the local government	100
28	5.8(d)	Failure to maintain clear sight visibility	100
29	5.8(e)	Placing an obstruction on or around a verge treatment	50
30	5.8(f)	Failure to ensure sprinklers or reticulation pipes do not protrude, do not cause inconvenience to pedestrians, or present a hazard	100

31	5.11(1)	Failure to obtain licence for a temporary crossover	200
32	5.12	Failure to remove redundant crossover or reinstate kerb, drain, footpath, verge or thoroughfare	200
33	5.13	Failure to remove crossover in unsafe location	500
Part 6 – Activities in public places			
34	6.1(1)	Animal or vehicle obstructing public place without authorisation	100
35	6.2(2)(a)	Animal in a public place when not led, ridden or driven	100
36	6.2(2)(b)	Animal in a public place that is contagious or has an infectious disease	100
37	6.2(2)(c)	Animal in a public place being trained or raced	100
Part 7 – Temporary signs and trade displays			
38	7.3(1)	Placement of non-compliant temporary sign or trade display, or posting a bill or painting, or placing an advertisement without authorisation	100
Part 8 – Licencing			
39	8.1(1)	Failure to obtain a licence when required	100
40	8.6	Failure to comply with licence condition	100
41	8.17	Failure to produce licence for inspection when required	100
42	8.18	Failure to produce licence for amendment when required	100
43	8.19	Advertising of commercial activity in a public space without holding a licence	200
44	8.20	False or misleading statement in application for a licence	200
Part 9 – Signs and powers to give directions			
45	9.1(2)	Failure to comply with condition of use indicated by a sign	100
46	9.3(1)	Failure to comply with direction of authorised person	100
47	9.3(2)	Obstruction or hindrance of an authorised person	100
48	9.4(3)	Failure to leave a venue when instructed by an authorised person	200
49	9.4(5)	Failure to comply with period of refusal or suspension	200
Part 11 – Notices			
50	11.5	Failure to comply with notice	100
Part 12 – Offences and penalties			
51	12.1	Offence not elsewhere specified	100

Dated _____ 2018

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

D.S. LOVELOCK, President

G.M. TEEDE, Chief Executive Officer.

10.9 LOCAL LAWS COMMENCEMENT – Amenity 2018, Meeting Procedures 2018, Waste 2018

File reference	A2.22.3
Report date	21 April 2018
Applicant/proponent	Shire of Victoria Plains
Officer disclosure of interest	None
Previous meeting references	None
Prepared by	Niel Mitchell, Governance
Authorised by	Glenda Teede, CEO
Attachments	
Attachment 1	Draft Waste Local Law 2018
Attachment 2	Draft Meeting Procedures Local Law 2018

PURPOSE

The purpose of this report is –

- 1) To allow the Presiding Person to give notice to the meeting of the proposal to make new local laws, being –
 - Shire of Victoria Plains Amenity Local Law 2018
 - Shire of Victoria Plains Meeting Procedures Local Law 2018
 - Shire of Victoria Plains Waste Local Law 2018
- 2) For Council to approve the proposed local laws for public consultation;
- 3) For Council to give notice of the purpose and effect of the proposed local laws; and
- 4) To allow for advertising of the proposed local laws for public comment.

BACKGROUND

The purpose of this report is –

- 15) consider the submissions received on the proposed local laws and determine if any drafting amendment(s) are required as a result of the submissions received;
- 16) give notice of the purpose and effect of the local laws;
- 17) make the local laws, incorporating all amendments as approved by Council;
- 18) authorise the affixing of the Common Seal to the local laws;
- 19) authorise the local laws publication in the *Government Gazette*; and
- 20) give local public notice, (after Gazettal), of the date the local laws will come into effect.

COMMENT

The proposed local laws are set out in the attachments to this report. In making a new local law, Council must comply with the provisions of section 3.12 of the Local Government Act, and any specific requirements of other legislation.

The *Local Government (Functions and General) Regulations* (Regulation 3) states that for the purpose of Section 3.12(2) of the Act, the person presiding at a council meeting is to give notice of the purpose of the local law by ensuring that the purpose and effect of the proposed local law is included in the agenda for that purpose and that the minutes of the meeting of the council include the purpose and effect of the proposed local law.

Amenity Local Law 2018

Purpose – to establish requirement and conditions for keeping of livestock and birds in certain areas, management of nuisances in the community and to remove certain provisions of the *Shire of Victoria Plains Health Local Law 2004*

Effect – to provide for the regulation and control of livestock and birds in certain areas, and nuisances within the community

Substantially based on Animals, Environment and Nuisance Local Laws adopted by other local government and the model local laws, this proposed local law covers –

- keeping of livestock (ie: farm animals etc) in certain areas
- keeping of birds in certain areas, other than as authorised by the local law
- nuisances arising from dust, light, noise etc.
- unsightly properties – including wrecking or storage of vehicle etc, unkempt or poorly maintained properties, and use of sea containers.

The proposed local law repeals a number of matters that will be covered by these from the Shire of Victoria Plains Health Local Law 2004, as they are essentially ranger type issues – numbers, how kept, if an action is done or not done. Health nuisance issues that arise remain with the Health Local Law.

The local law makes provision for second and subsequent offences, since offence in these matters often impact on neighbouring properties. There is no requirement to have dual level penalties, so Council may wish to consider whether or not this is appropriate.

Meeting Procedures Local Law 2018

Purpose – for the management of meetings of the local government, committees and electors meetings

Effect – to repeal the existing Standing Orders Local Law, and provide for the conduct of Council, committee and electors meetings

Commonly known as Standing Orders, the trend has been to title them as Meeting Procedures to emphasise their application to all Council, committee and elector meetings. It is usual for them to also apply to any other meetings such as reference or advisory groups and briefing session to the extent that is appropriate.

The draft Local Law is substantially based on the current Meeting Procedures Local Laws adopted by other local governments in recent years. Many provisions are very similar to the current Standing Orders Local Law, however a number of matters are noted for Council –

- arrangement is different
- public question time processes
- strengthening of presiding person's ability to control the meeting
- prevention of disturbance
- penalty for disturbance and ability to prosecute a disruptive member of the public
- all motions, including procedural motions require mover and seconder – specific provision that without a seconder to a motion, it is to lapse.

Public question time processes are outlined in some detail, including –

- precedence for questions that have been submitted in writing
- a limitation on those asking questions to 2 minutes and 2 questions within that time

- if a person has additional questions, the presiding person is to return to that person once all others have had an opportunity to ask their questions
- public question time is a minimum of 15 minutes,

The provisions of the Local Law would benefit from the adoption of Policy and Guidelines to assist.

Waste Local Law 2018

Purpose – is to regulate the collection, disposal and storage of waste and recyclable materials, and to remove certain provisions of the *Shire of Victoria Plains Health Local Law 2004*

Effect – is to control the collection, disposal and storage of waste and recyclable materials for the benefit and health of the community and protection of the environment.

The Waste Local Law requires the separate consent of the Waste Authority (Dept of Water and Environmental Regulations), in a similar way that Health Local Laws used to require the consent of the Dept of Health until relevant provisions of the *Public Health Act 2016* came into effect.

A range of waste related provisions of the Health Local Law 2004 are to be repealed to ensure that identical matters are not within two local laws, creates the possibility of inconsistency and ambiguity. In the same way, waster related provisions of other draft local laws are withdrawn from them, in favour of inclusion in the Waste Local Law.

Generally, the proposed local law is very similar to the model Waste Local Law, with several changes –

- cl.3.4(3) – new subclause requiring the control of waste and refuse on building and development sites, as well as clean up after work is complete
- cl.4.6 – prohibited activities at a waste facility

The draft Local Law has been reviewed by both the Environmental Health Surveyor and the Manager Works & Services.

Summary

As required by section 3.12 the Local Government Act 1995, the next steps include –

- Statewide public notice required inviting submissions
- Local public notice required inviting submissions
- Minister/s to be advised immediately after advertising for public comment –
 - o Minister for Local Government
- supporting documentation required to be sent to Minister/s–
 - o minutes of resolution of intent to adopt;
 - o copy of advert of intent to adopt;
 - o copy of the proposed local laws.

Notices are to invite the public to comment on the proposed local law, with submissions being open for a period of not less than 6 weeks. Internal submissions may also be made during this time.

The advertisement will be placed once Council has resolved its intent to make the local laws.

After the submission period is closed, Council is required to consider any submissions received. Minor amendments not affecting the intent of the provisions can be made, but if significant changes are needed, the proposal must be readvertised.

If finally adopted, the proposed local law is then published in the Government Gazette, and comes into effect on the date specified. The Gazettal copy and other documentation is then sent to the Parliamentary Joint Standing Committee on Delegated Legislation to review, which may then disallow or require changes, even though having been Gazetted.

CONSULTATION

Ms Glenda Teede, CEO

Mr Allan Ramsay, Environmental Health Officer/Building Surveyor

Mr Bob Edwards, Manager Works & Services

Mr Shayne Wilcox, Ranger

STATUTORY CONTEXT

Local Government Act 1995 –

- 3.12 – Procedure for making local laws
 - (2) Notice of purpose and effect of local law to be given by the person presiding
 - (3) Statewide public notice required, and copies to Minister/s immediately after notice given, minimum 6 weeks notice
 - (3a) Local Public notice also required to be given
 - (4) After notice period, all submissions to be considered, and local law may then be made by absolute majority
 - (5) Publication in Government Gazette required
 - (7) Parliament to be advised within 10 working days of Gazettal
- s.3.13 – Significant changes require recommencement of proposal
- s.3.14 – Unless otherwise provided for, local laws come into effect 14 days after Gazettal
- s.3.15 – local public notice of the final adoption/making of a local law to be given

Interpretations Act 1984 –

- s.42(2) – after publication in the Government Gazette, Parliament may disallow within 14 sitting days of receipt

Waste Avoidance and Resource Recovery Act 1986 –

- s.61 – local government may make local laws, with consent of the CEO of Dept of Water and Environmental Regulation
- s.64(2) – list of purposes for which local laws may be made

Health Act (Miscellaneous Provisions) 1911 –

- s.26 – power to make local laws
- s.199 – local laws in relation to animals, birds and nuisances
- s.342 – local laws to be made in accordance with Local Government Act

Shire of Victoria Plains Standing Orders Local Law 1997

Shire of Victoria Plains Health Local Law 2004

CORPORATE CONTEXT

None

STRATEGIC IMPLICATIONS

Strategic Community Plan adopted 28 March 2018 –

5.	Civic leadership – to better allocate scarce resources and effectively interact with the community
5.4	Measures to improve organisational efficiency

FINANCIAL IMPLICATIONS

Cost of giving Statewide and local public notice.

VOTING REQUIREMENTS

Absolute Majority Required: No

OFFICER RECOMMENDATION

Moved Cr _____

Seconded Cr _____

That –

1. pursuant to section 3.12(3) and (3a) of the Local Government Act 1995, and all other legislation enabling it, Statewide and local public notice be given that Council intends to make the following local laws –
 - a) Amenity Local Law 2018
Purpose – to establish requirement and conditions for keeping of livestock and birds in certain areas, management of nuisances in the community and to remove certain provisions of the *Shire of Victoria Plains Health Local Law 2004*
Effect – to provide for the regulation and control of livestock and birds in certain areas, and nuisances within the community
 - b) Meeting Procedures Local Law 2018
Purpose – for the management of meetings of the local government, committees and electors meetings
Effect – to repeal the existing Standing Orders Local Law, and provide for the conduct of Council, committee and electors meetings
 - c) Waste Local Law 2018
Purpose – is to regulate the collection, disposal and storage of waste and recyclable materials, and to remove certain provisions of the *Shire of Victoria Plains Health Local Law 2004*.
Effect – is to control the collection, disposal and storage of waste and recyclable materials for the benefit and health of the community and protection of the environment.
2. in accordance with section 3.12(3) of the Local Government Act, the relevant Ministers and departments be advised of the proposed local laws.

Commonly-used abbreviations	
CEO	Chief Executive Officer
DFES	Dept of Fire and Emergency Services
DLG	Dept of Local Government, Sporting and Cultural Industries
DWER	Dept of Water and Environmental Regulation
JSCDL	Parliamentary Joint Standing Committee on Delegated Legislation

LOCAL GOVERNMENT ACT 1995

SHIRE OF VICTORIA PLAINS

AMENITY LOCAL LAW 2018

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SCHEDULE 1 – MODIFIED PENALTIES

DRAFT

LOCAL GOVERNMENT ACT 1995

SHIRE OF VICTORIA PLAINS

AMENITY LOCAL LAW 2018

Under the powers conferred the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Victoria Plains resolved on _____ to make the following local law.

PART 1 - PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Victoria Plains Amenity Local Law 2018*.

1.2 Commencement

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

1.3 Application

This local law applies throughout the district.

1.4 Repeal

The *Shire of Victoria Plains Health Local Laws 2004* published in the *Government Gazette* on 20 January 2004 are amended as follows –

1. Part 4, Division 2, clauses 4.2.13 and 4.2.16 are repealed;
2. Part 5, Division 1, clauses 5.1.2 to 5.1.5 inclusive and clauses 5.1.7 to 5.1.10 inclusive are repealed;
3. Part 5, Division 3 is repealed;
4. Part 5, Division 4 is repealed;
5. Part 5, Division 5 is repealed;
6. Part 5, Division 6 is repealed; and
7. Part 6, Division 7 is repealed.

1.5 Transitional provisions

- (1) An application for, or the renewal of, a licence, permit or other authorisation made under a local law that is in force before the commencement day is to be dealt with and determined as if it were an application under this local law.
- (2) A licence, permit or other authorisation under a repealed local law that is in force before the commencement day is to be regarded on and after that day as a licence under this local law and may be dealt with accordingly.

1.6 Definitions

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

Act means the *Local Government Act 1995*;

amusement activity means anything conducted for amusement at a fair, a carnival or a show, whether conducted at a fair, a carnival or a show or elsewhere;

animal includes cats, dogs, rabbits and ferrets or the like;

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

aviary bird means any bird, other than poultry or pigeons, kept or usually kept in an aviary or cage;

birds includes poultry;

builder means the holder of a building permit issued in respect of building works on a building site or a person in control of a building site;

- Building Code** means the latest edition of the *National Construction Code* published by, or on behalf of, the Australian Building Codes Board;
- building permit** means a permit granted under section 20 of the *Building Act 2011*;
- building site** means any lot for which a building permit is current;
- Class** in relation to a building, means the Class of building as defined by the Building Code;
- Code of Practice – Pigeon Keeping** means the document entitled *A Code of Practice –for Pigeon Keeping and Racing in Western Australia* published by the Pigeon Racing Federation of WA (Incorporated) and the Independent Racing Pigeon Federation (Incorporated), as amended from time to time;
- cow** includes an ox, calf or bull;
- development** has the meaning given to it in the *Planning and Development Act 2005*;
- development approval** means a development approval under a local planning scheme;
- development site** includes any lot or lots for which there is currently a development or subdivision approval in place, and upon which construction work, earthworks, clearing of scrub, trees or overgrowth or any other site works are taking or have taken place pursuant to or in relation to that approval;
- district** means the district of the local government;
- disused** means, in relation to any thing whatsoever, that the thing –
- (a) is not in use for the purpose for which it was designed or appears to have been designed or intended; or
 - (b) has been stored or left stationary on land in the district for more than 1 month;
- dust** means any visible granular or particulate material which has become airborne or has the potential to become airborne and includes organic and non-organic matter and sand, but does not include smoke;
- food** has the meaning given in section 9 of the *Food Act 2008*;
- horse** means a stallion, mare, gelding, Shetland pony, pony, colt or foal, and includes an ass, mule, donkey and any beast of whatever description used for burden or draught or for carrying persons;
- land** includes any building or structure on the land;
- liquid waste** means waste from any process or activity that is in liquid form and includes paint, fuel, grease, fat, oil, degreaser solvent, detergent, chemical, animal waste, food waste, effluent and all discharges of liquid to land, air or water that are not otherwise authorised by a written law but does not include uncontaminated stormwater;
- livestock** means any –
- (a) horse, cow, sheep, goat, pig, buffalo, deer or other ungulate; or
 - (b) camel, llama, alpaca or other animal of the Camelidae family;
- livestock vehicle** means a vehicle that contains livestock or previously has been used for the carriage of livestock;
- local government** means the Shire of Victoria Plains;
- local planning scheme** has the meaning given to it by the *Planning and Development Act 2005*;
- lot** has the meaning given to it by the *Planning and Development Act 2005*;
- machinery** includes disused equipment;
- manure receptacle** means a receptacle of sufficient capacity to receive all manure produced in one week on land upon which a farm animal or farm animals are kept, constructed of smooth, durable, impervious materials, fitted with a fly proof, hinged cover and with no part of the floor lower than the adjoining ground;
- miniature horse** means a horse which meets the standard and height for a miniature horse as described by the Miniature Horse Association of Australia Inc;
- miniature pig** means a pig that does not exceed 650 millimetres in height as an adult and weighs less than 55 kilograms;
- 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 by 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;

occupier has the meaning given to it in section 1.4 of the Act, and includes a person authorised by the owner, lessee, licensee or any other person empowered to exercise control in relation to land to perform any work in relation to any land and includes a builder or contractor;

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

permit means a permit issued under this local law;

permit holder means a person who holds a valid permit;

pigeon includes homing pigeons and other domesticated breeds of the species *Columba livia*, but does not include native pigeons or doves whether or not the keeping of such birds is subject to the approval of the Department of Parks and Wildlife;

poultry includes fowls, roosters, ducks, peafowls, turkeys, geese, guinea fowls, pheasants and other birds commonly kept for the production of eggs or meat for domestic consumption;

refuse means any waste material including bricks, lime, cement, concrete, rubble, stones, iron, timber, tiles, bags, plastics, ashes, vegetation, timber, wood or metal shavings, sawdust, and waste food, and includes any broken, used, derelict or discarded matter;

Regulations means the *Local Government (Functions and General) Regulations 1996*;

residential building means any building of Classes 1, 2, 3 or 4 as defined by the Building Code;

sand means granules or particles of rock, earth, clay, loam, silt and any other granular, particulate or like material, including dust and gravel;

Schedule means a schedule to this local law;

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

stormwater means any naturally occurring water that results from rainfall on or around a site, or water flowing onto the site;

subdivision approval means a subdivision approval under the *Planning and Development Act 2005*;

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

truck means a motor vehicle having a tare weight in excess of 3000 kilograms;

unreasonable noise has the meaning given to it by the *Environmental Protection Act 1986*;

vehicle means any motor vehicle, or part of a motor vehicle in a state of disrepair or in the process of being wrecked whether licensed or not;

vermin includes rats, mice, flies, fleas, mites, lice, cockroaches and any other animal, whether vertebrate or invertebrate, which is known to be a vector of disease or likely to cause damage to human food, habitation or possessions;

vessel means any kind of vessel intended for navigation by water, or part of a vessel in a state of disrepair or in the process of being wrecked whether licenced or not;

wreck includes the dismantling, breaking up, storage and disposal of vehicles; and

zoned in relation to land means the zoning as determined by any local planning scheme.

- (2) Any other expression used in this local law and not defined herein shall have the meaning given to it in the Act.

PART 2 - KEEPING OF LIVESTOCK AND BIRDS

2.1 Application of this Part

- (1) This Part does not apply to the keeping of livestock or birds in accordance with the provisions of any local planning scheme applicable to that zone, on land zoned as –
- rural; or
 - urban.
- (2) The keeping of pigs is prohibited, except –
- for premises registered by the local government as an abattoir or a piggery under the provisions of section 191 of the *Health (Miscellaneous Provisions) Act 1911*; or
 - a miniature pig in accordance with this Part.

2.2 Keeping of livestock or birds generally

- (1) An owner or occupier of land shall not keep, or allow to be kept, livestock or birds unless –
 - (a) on land zoned residential or rural residential in accordance with –
 - (i) this local law; or
 - (ii) a permit authorising the keeping of such issued under clause 3.3(1)(b); or
 - (b) on land zoned commercial, industrial or special use unless –
 - (i) a veterinary surgery, clinic or hospital; or
 - (ii) a pet shop operating in compliance with the local planning scheme, from which animals or birds may be offered for sale, or
 - (c) an aviary bird.

2.3 Keeping of a miniature horse

- (1) An owner or occupier of land shall not keep, or allow to be kept, a miniature horse on land zoned –
 - (a) commercial, industrial or special use; or
 - (b) residential or rural residential or special use unless –
 - (i) in accordance with a permit authorising the keeping of a miniature horse issued under clause 3.3(1)(b), and
 - (ii) not more than 1 miniature horse is to be kept per 1,000 square metres of accessible area.
- (2) An owner or occupier of land who keeps a miniature horse shall only keep a sterilised animal, and retain written proof of its sterilisation.

2.4 Keeping of a miniature pig

- (1) An owner or occupier of land shall not keep, or allow to be kept, a miniature pig on land zoned –
 - (a) commercial, industrial or special use; or
 - (b) residential or rural residential, unless –
 - (i) in accordance with a permit authorising the keeping of a miniature pig issued under clause 3.3(1)(b); and
 - (ii) not more than 1 miniature pig is to be kept per 1,000 square metres of accessible area.
- (2) An owner or occupier of land where a miniature pig is kept shall –
 - (a) only keep a sterilised animal and retain written proof of its sterilisation; and
 - (b) maintain documentary evidence that the animal's veterinary treatment against roundworm and tapeworm is current.

2.5 Keeping of poultry

- (1) An owner or occupier of land shall not keep or allow to be kept any poultry on land zoned –
 - (a) commercial or industrial; or
 - (b) residential, rural residential or special use –
 - (i) if more than 12 poultry, or
 - (ii) unless in accordance with a permit authorising the keeping of poultry, issued under clause 3.3(1)(b), on land with a minimum area of 1 hectare, any –
 - roosters;
 - geese;
 - turkeys; or
 - peafowls.
- (2) A person who keeps, or permits to be kept any poultry in accordance with subclause (1)(a)(i) shall ensure that the caged area in which the birds are kept is –
 - (i) a maximum area of 20 square metres;
 - (ii) located at least 1 metre from any lot boundary; and
 - (iii) located at least 5 metres from a residential building on any other lot.

2.6 Keeping of pigeons

- (1) An owner or occupier of land shall not keep or permit to be kept any pigeons on land zoned –
 - (a) commercial; or
 - (b) residential, rural residential, special use or industry, if more than 12 pigeons.

- (2) An owner or occupier of land in subclause (1) who is a member of a poultry or pigeon club incorporated under the *Associations Incorporation Act 1987* may be permitted to keep a maximum number of 100 pigeons.
- (3) An owner or occupier of land who keeps pigeons or permits pigeons to be kept shall ensure that all pigeons are kept in a properly constructed pigeon loft, except where registered homing pigeons are freed for exercise.
- (4) An person approved under subclause (2) who keeps pigeons, or permits pigeons to be kept, shall do so in accordance with the Code of Practice – Pigeon Keeping, subject to the provisions of this local law.

2.7 Keeping of aviary birds

A person who keeps, or permits to be kept, aviary birds shall ensure that –

- (a) the aviary or cage in which the birds are kept is –
 - (i) a maximum area of 20 square metres;
 - (ii) located at least 1 metre from any lot boundary; and
 - (iii) located at least 5 metres from a residential building on any other lot;
- (b) where there is a floor beneath the roofed area of the aviary or cage which is constructed of smooth, impervious material with a minimum 2% gradient to the front of the aviary or cage;
- (c) the aviary or cage is kept in clean condition and good repair at all times;
- (d) all feed for the birds other than that intended for immediate consumption is stored in vermin proof containers; and
- (e) effective measures are taken to prevent -
 - (i) the attraction or harbourage of vermin; or
 - (ii) the emission of odours.

2.8 Livestock not to stray

- (1) The owner or person in charge of livestock shall not allow livestock to stray or to be at large in a street, public place or upon private property without the consent of the property owner.
- (2) The provisions of Part XX of the *Local Government (Miscellaneous Provisions) Act 1960* apply.

2.9 Impounding and destruction of livestock

- (1) An authorised person or a member of the police force may impound livestock found straying in contravention of clause 2.8.
- (2) Livestock being impounded shall be placed in the pound or secured on private property with the consent of the owner.
- (3) The provisions of Part XX of the *Local Government (Miscellaneous Provisions) Act 1960* apply.

2.10 Nuisance caused by livestock or birds

- (1) An owner or occupier of land shall not keep any livestock or birds which –
 - (a) are or create a nuisance; or
 - (b) emit an unreasonable or constant noise.
- (2) An authorised person may order an owner or occupier of land to take reasonable steps to prevent or abate any nuisance.
- (3) An authorised person may order an owner or occupier of land on which pigeons are, or are in the habit of nesting or perching, to take reasonable steps to prevent them from continuing to do so.

PART 3 - APPLICATIONS FOR KEEPING OF LIVESTOCK AND BIRDS

3.1 Application for permit to keep livestock or birds

An application for a permit required by clause 3.2(1) shall include –

- (a) a plan of the property, at a scale not less than 1:200, with dimensions clearly marked, showing where it is proposed that the livestock or birds are to be kept and the distance of that location from any –
 - (i) residential building;

- (ii) Class 5 building;
- (iii) Class 6 building; or
- (iv) Class 9 building;
- (b) a sketch plan, at a scale of 1:100, indicating the nature of the shelter or housing to be provided for the livestock or birds;
- (c) a details for the management of manure which addresses –
 - (i) control of flies and other vermin;
 - (ii) disease prevention; and
 - (iii) prevention of nuisance odours; and
- (d) the set fee for the application.

3.2 Requirements to keep livestock or birds

- (1) A permit shall not be granted pursuant to clause 3.3 unless –
 - (a) the land or portion of land for which the permit is sought is of such dimensions and configuration as will permit the livestock or birds to be confined in a minimum accessible area of –
 - (i) 150 square metres for livestock;
 - (ii) 100 square metres for birds other than poultry, pigeons or aviary birds;
 - (b) the land or portion of the land is fenced –
 - (i) in a manner capable of confining the livestock or birds, to that portion where they are to be kept; and
 - (ii) notwithstanding subclause (1)(b)(i), the minimum fencing requirements are as defined by the Shire of Victoria Plains Fencing Local Law in force at the time of approval;
 - (c) the land for which the approval is sought has a minimum area of 1 hectare in the case of a horse (other than a miniature horse) or cow; and
 - (d) the livestock or birds are prevented from reaching within 15 metres of any –
 - (i) residential building;
 - (ii) Class 5 building;
 - (iii) Class 6 building; or
 - (iv) Class 9 building.
- (2) An owner or occupier of land upon which livestock or birds are kept, may apply in writing to the local government to vary the requirements of subclause (1)(a) or (b).

3.3 Determination of application to keep livestock or birds

- (1) Subject to clause 3.1, the local government may –
 - (a) refuse to determine an application for a permit which does not comply with clause 3.2;
 - (b) approve an application for a permit subject to such conditions as it considers appropriate; or
 - (c) refuse to approve an application for a permit.
- (2) The local government shall take into account the amenity of occupiers of adjoining properties in determining whether to grant approval for the keeping of livestock or birds.
- (3) Where an application for a permit is approved subject to conditions, the permit holder shall comply with those conditions or cause compliance with those conditions.
- (4) Where the local government approves an application under paragraph (1)(b), it is to issue to the applicant a permit in the form approved by the local government from time to time.
- (5) A permit is valid from the date of issue until 30 June following, unless cancelled prior to that date.

3.4 Conditions of approval to keep livestock or birds

- (1) An application approved under clause 3.3(1)(b) to keep livestock or birds may be issued subject to conditions, including –
 - (a) all livestock or birds are to be kept confined to the lot;
 - (b) provision of adequate shelter or housing for the livestock or birds;
 - (c) all fencing and gates of the enclosure in which livestock or birds are kept –
 - (i) are capable of confining the livestock or birds at all times;
 - (ii) gates are securely kept fastened; and
 - (iii) maintained in good condition and repair at all times;

- (d) all structures or enclosures in which livestock or birds are kept is at all times –
 - (i) maintained in clean condition and good repair;
 - (ii) kept free from all matter which is or is likely to become offensive or injurious to health or likely to attract vermin; and
 - (iii) effectively drained and the drainage flows away from the walls or foundations of any building;
 - (e) require that a manure receptacle is provided –
 - (i) within the structure or enclosure where livestock or birds are kept;
 - (ii) all manure produced on the land to be collected daily and placed in the receptacle;
 - (iii) the receptacle to be emptied as often as is necessary to prevent it becoming offensive or a breeding place for vermin, but in any case at least once a week; and
 - (iv) keep the lid of the receptacle closed except when manure is being deposited or removed;
 - (f) when so directed by an authorised person, the owner or occupier of the land shall –
 - (i) clean and disinfect any specified portion of the land; and
 - (ii) spray with a residual chemical or other effective means of controlling any vermin;
 - (g) ensuring the livestock or birds do not cause a nuisance to any neighbour regarding noise, dust, or odour; and
 - (h) any other conditions that the local government considers necessary for the protection of the health and amenity of the neighbourhood.
- (2) Conditions under subclause (1) may be imposed at the time of approval or any time subsequent to the initial approval.

3.5 Variation of permit to keep livestock or birds

The local government may vary the conditions of a permit after it has been issued, and shall give written notice of such variation to the permit holder, where –

- (a) the variation is at the discretion of the local government, no fee is required to be paid; or
- (b) the variation is made by the owner of the livestock or birds, the application is accompanied by the set fee.

3.6 Transfer of permit

The local government may transfer a permit where –

- (a) the application is accompanied by the set fee;
- (b) in relation to land, subject to the permit holder complying with clauses 3.1, 3.2 and 3.4; or
- (c) in relation to the permit holder, where all conditions imposed under clause 3.4 are confirmed in writing by the proposed permit holder.

3.7 Cancellation of approval to keep livestock or birds

The local government may cancel a permit in the event the permit holder –

- (a) fails to comply with any condition of the approval set under clause 3.4;
- (b) after being notified of a variation under clause 3.5 fails to comply with the varied condition by the date specified in the notice; or
- (c) fails to comply with a notice of breach issued under clause 7.1.

PART 4 - ENVIRONMENT

4.1 Burning of refuse or vegetation on building or development sites

An owner or occupier of any building or development site shall ensure that no vegetation or other material cleared from the site is burnt on the site unless consent in writing is given by an authorised person.

4.2 Unsightly land – removal of unsightly or disused materials

The owner or occupier of a lot shall not keep, or permit to remain on the lot, any unsightly or disused material of whatever nature or kind, which in the opinion of an authorised person, is likely to give the lot an untidy appearance and does not conform with the general appearance of other adjoining land.

4.3 Unsightly land – removal of overgrown vegetation

The owner or occupier of a lot shall not permit to remain on a lot, any unsightly overgrowth of vegetation that gives the lot an untidy appearance and does not conform with the general appearance of other adjoining land.

4.4 Prevention of dust and liquid waste nuisance

- (1) An owner and or occupier of land must take effective measures to –
 - (a) stabilise dust on the land;
 - (b) contain all liquid waste on the land; and
 - (c) ensure no dust or liquid waste is released or escapes from the land, by means of wind, water or any other cause.
- (2) A notice issued under clause 7.1 may require the owner and or occupier to do one or more of the following –
 - (a) comply with subclause (1);
 - (b) clean up and properly dispose of any released or escaped dust or liquid waste;
 - (c) clean up and make good any damage resulting from the released or escaped dust or liquid waste; and
 - (d) take effective measures to stop any further release or escape of dust or liquid waste.
- (3) Where an authorised person is of the opinion that dust or liquid waste may be released or escape as a result of an activity which is likely to be carried on from any land, the authorised person may give to the owner and or occupier a notice providing that the activity may only be carried on subject to conditions specified in the notice.

4.5 Dust management

- (1) This clause does not apply to land zoned as rural or urban.
- (2) The local government may require an owner or occupier of land who intends to undertake any activity, from which any soil, sand or dust is likely to be released whether by means of wind, water or any other cause, to –
 - (a) submit to an authorised person a Dust Management Plan in accordance with the Department of Environmental Regulation document "*A guideline for managing the impacts of dust and associated contaminants from land development sites, contaminated sites remediation and other related activities*" (March 2011), or any updated version of this document; and
 - (b) obtain written approval of the Dust Management Plan from an authorised person before commencement of any work.
- (3) A notice issued under clause 7.1 may require an owner or occupier of land undertaking work involving the clearing of land, from which soil, sand and dust is being released by means of wind, water or any other cause, to –
 - (a) submit to an authorised person a Dust Management Plan in accordance with the Department of Environmental Regulation document "*A guideline for managing the impacts of dust and associated contaminants from land development sites, contaminated sites remediation and other related activities*" (March 2011), or any updated version of this document; and
 - (b) obtain written approval of the Dust Management Plan from an authorised person before continuing any work.

4.6 Storage of vehicles, vessels and machinery

The owner or occupier of a lot shall not –

- (a) store, or allow to remain, in public view on any lot more than one vehicle, vessel or machinery (whether licensed or not) in a state of disrepair;
- (b) store, or allow to remain, in public view on any lot any vehicle, vessel or machinery in a state of disrepair for a period in excess of one month;
- (c) store, or allow to remain, in public view on any lot any vehicle, vessel or machinery parts (including tyres);
- (d) wreck, dismantle or break up any vehicle, part or body of a vehicle, vessel or machinery except where performed –
 - (i) inside a building; or

- (ii) within an area enclosed by a fence or wall of not less than 1.8 metres in height and of such a nature as to screen all vehicles, parts or bodies of vehicles, vessels or machinery from the street and from adjoining properties; or
- (e) wreck, dismantle or break up a vehicle, vessel or machinery so as to cause a nuisance.

4.7 Sea containers

- (1) This clause does not apply where approval to place or deposit a sea container has been given under the local planning scheme.
- (2) An owner or occupier of land or premises shall not deposit or place a sea container on land –
 - (a) unless the land is zoned as rural, commercial, industrial or urban; or
 - (b) on any other land, without the prior approval of the local government.
- (3) Subclause (2) does not apply where the sea container is used for the temporary storage of materials or equipment during the construction or other works on site.
- (4) A sea container used in accordance with subclause (3) shall not –
 - (a) be on the land for more than 6 consecutive months nor for more than 6 months within any 12 month period, without the approval of the local government; and
 - (b) shall be removed within five working days of –
 - (i) completion of works,
 - (ii) expiry of 6 consecutive months; or
 - (iii) such other time as approved by the local government.
- (5) An application made for approval under subclause (2)(b) shall be accompanied by the set fee.

PART 5 - NUISANCES AND DANGEROUS THINGS

5.1 Emission or reflection of light

- (1) An owner or occupier of land shall ensure that –
 - (a) floodlights or other exterior lights are erected or used shall not allow the floodlights or other exterior lights to shine directly onto any other land;
 - (b) artificial light is not emitted or reflected from anything on the land so as to illuminate land outside that land to more than 50 lux; and
 - (c) natural light is not reflected from anything on the land so as to create or cause a nuisance to the occupier of any other land or to an owner or occupier of land lawfully using a thoroughfare.
- (2) A notice issued under clause 7.1 may require the owner and or occupier to do one or more of the following –
 - (a) floodlights or other exterior lights are used only during the hours specified in the notice;
 - (b) the direction in which the lights shine be altered as specified in the notice;
 - (c) any reflective surfaces be painted or otherwise treated so as to abate the nuisance; or
 - (d) any combination of these measures that an authorised person believes to be appropriate to the circumstances.

5.2 Escape of smoke, fumes or odours

An owner or occupier of land or premises shall take all practicable steps to prevent the escape of smoke, fumes or odours from the land so as to cause a nuisance to any person.

5.3 Burning rubbish, refuse or other material

- (1) This clause does not apply to land zoned –
 - (a) rural; or
 - (b) urban.
- (2) An owner or occupier of land shall not set fire to rubbish, refuse or other material either in an incinerator or on the ground, except in accordance with the conditions of the local government.
- (3) The burning of rubbish, refuse or other material is subject to the following conditions –
 - (a) the person has demonstrated to the satisfaction of an authorised person that reasonable alternatives for the disposal of the rubbish, refuse or other material do not exist and the potential for pollution is low;

- (b) at least 3 metres from a fence, building or inflammable matter;
 - (c) in such a position so as not to create a nuisance or be offensive to other persons,
 - (d) written approval has first been obtained from the local government;
 - (e) the material does not include any plastic, rubber, food scraps, green garden materials or other material likely to cause the generation of smoke or odour in such quantity as to cause a nuisance to other persons; and
 - (f) the burning complies with the *Bush Fires Act 1954*, any annual fire break and fuel hazard reduction notice issued by the local government under that Act and any conditions of approval as determined by the local government.
- (4) Subclause (2) shall not apply to any barbeque, solid fuel water heater, space heater or ovens fired with dry paper, dry wood, synthetic char or charcoal type fuel.
- (5) Subclause (2) is subject to any fire danger rating as determined by the Bureau of Meteorology.

5.4 Disposal of swimming pool backwash

- (1) The owner or occupier of land on which a swimming pool is constructed shall ensure that all backwash water is contained within the lot or discharged into the sewerage mains and is not permitted to discharge onto or run-off onto adjacent land.
- (2) Subclause (1) shall not prevent the discharge of swimming pool backwash water from a lot into a local government approved stormwater drain or road by a method approved by an authorised person.

5.5 Containment of stormwater

- (1) The owner or occupier of a lot shall ensure that all stormwater received by any building, house, or other structure or any paved or sealed or other surfaced areas including any vehicle access ways on the lot is contained within the lot or discharged into the sewerage mains and is not permitted to discharge onto or run-off onto adjacent land.
- (2) Subclause (1) shall not prevent the discharge of stormwater from a lot into a local government approved stormwater drain or road by a method approved by an authorised person.

5.6 Livestock vehicles

- (1) A person shall not park a vehicle containing livestock for a period in excess of 30 minutes on land or adjacent to land zoned as –
- (a) commercial;
 - (b) residential; or
 - (c) special use
- (2) A person shall not park a vehicle which contains or has been used for the carriage of livestock so as to create or be a nuisance to any person, by reason of the odour emanating from the vehicle.
- (3) If a person parks a vehicle containing livestock in accordance with subclause (1), then the person does not contravene subclause (2).
- (4) A person shall not wash down a livestock vehicle on land or adjacent to land zoned as –
- (a) commercial;
 - (b) residential; or
 - (c) special use.

5.7 Truck noise on or adjacent to residential land

- (1) This clause does not apply to land zoned as rural, industrial or urban.
- (2) A person shall not start or drive a truck on land or adjacent to land which is zoned, approved or used for residential purposes between the hours of 10.30 pm and 6.30 am on the following day without first obtaining the written consent of the local government.

5.8 Disposing of disused refrigerators or similar containers

- A person shall not place, leave or dispose of a disused refrigerator, ice chest, ice box, trunk, chest or other similar article having a compartment with a capacity of 0.04 cubic metres or more, on any land unless –
- (a) every door and lid and every lock, catch and hinge attached to a door or lid has been removed; or
 - (b) rendering every door and lid incapable of being fastened.

PART 6 - OBJECTIONS AND APPEALS

6.1 Objections and appeals

The provisions of Division 1 of Part 9 of the Act and regulation 33 of the Regulations shall apply to a decision made by the local government under this local law as to whether it will –

- (a) grant a person a permit or authorisation;
- (b) vary or cancel a permit or authorisation; or
- (c) give a person a notice.

PART 7 - ENFORCEMENT

7.1 Notice of breach

- (1) Where a breach of any provision of this local law has occurred, an authorised person may give a notice in writing to the person alleged to be responsible for such breach.
- (2) A notice issued pursuant to subclause (1) shall –
 - (a) specify the provision of this local law which has been breached;
 - (b) specify the particulars of the breach; and
 - (c) state the manner in which the recipient is required to remedy the breach to the satisfaction of the local government within a time period stipulated in the notice.
- (3) It is an offence to fail to comply with a notice issued by the local government pursuant to subclause (1).

7.2 When local government may undertake work required by notice

- (1) Where an owner or occupier of land fails to comply with a notice referred to in clause 7.1 the local government may, subject to compliance with the requirements of subdivision 3 of Division 3 of Part 3 of the Act, do anything that it considers necessary to achieve, so far as is practicable, the purpose for which the notice was given.
- (2) The local government may recover the cost of anything it does under subclause (1) as a debt due from the person who failed to comply with the notice.

7.3 Offences

A person commits an offence who –

- (a) fails to do anything required or directed to be done under this local law;
- (b) fails to comply with the requirements of a notice issued under this local law by an authorised person; or
- (c) does anything which under this local law that person is prohibited from doing.

7.4 General penalty

Any person who commits an offence shall be liable, upon conviction, to a penalty not exceeding \$5,000, and a maximum daily penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

7.5 Modified penalties

- (1) An offence against a clause specified in Schedule 1 is a prescribed offence for the purposes of section 9.16(1) of the Act.
- (2) The amount of the modified penalty for a prescribed offence is that specified adjacent to the clause in Schedule 1 –
 - (a) in the case of a first offence the modified penalty will be that prescribed in column 4 of Schedule 1; and
 - (b) in the case of a subsequent offence the modified penalty will be that prescribed in column 5 of Schedule 1.

7.6 Form of infringement notices

For the purposes of this local law –

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

SCHEDULE 1 – MODIFIED PENALTIES

[cl.7.5]

Item	Clause No.	Nature of offence	Modified penalty – first offence \$	Modified penalty – subsequent offence \$
1	2.2	Keeping of livestock or birds without approval	100	250
2	2.3(1)	Keeping of a miniature horse other than as approved	100	250
3	2.3(2)	Failure to provide evidence of sterilisation of a miniature horse	100	250
4	2.4(1)	Keeping of a miniature pig other than as approved	100	250
5	2.4(2)	Failure to provide evidence of sterilisation or vaccination of a miniature pig	100	250
6	2.5(a)	Keeping of poultry other than as approved	100	250
7	2.5(b)(i)	Keeping of more than 12 poultry	100	250
8	2.5(b)(ii)	Keeping of a rooster, goose, turkey or peafowl other than as approved	100	250
9	2.6(1)(a)	Keeping of pigeons other than as approved	100	250
11	2.6(1)(b)	Keeping of more than 12 pigeons	100	250
12	2.6(3)	Keeping pigeons in a loft other than as approved	100	250
13	2.7	Keeping of aviary birds other than as approved	100	250
14	2.8(1)	Allowing livestock to stray or be at large	100	250
15	2.10	Livestock or birds creating a nuisance	100	250
16	3.4	Failure to comply with conditions of approval to keep livestock or birds	100	250
20	4.1	Burning cleared vegetation or other material on site	250	500
21	4.2	Failure to remove unsightly or disused material from land	100	250
22	4.3	Failure to remove overgrowth of vegetation from land	100	250
23	4.4(1)	Release or escape of dust or liquid waste from land	100	250
24	4.5(2)	Failure to comply with notice to obtain approval of a Dust Management Plan for clearing of land	100	250
	4.5(3)	Failure to comply with notice to cease work before obtaining approval of a Dust Management Plan for clearing of land	100	250

25	4.6(a)	Store or allow to remain on land more than one vehicle, vessel or machinery in a state of disrepair	100	250
26	4.6(b)	Store or allow to remain on land any vehicle, vessel or machinery in a state of disrepair for a period in excess of one month	100	250
27	4.6(c)	Store or allow to remain on land any vehicle, vessel or machinery parts (including tyres)	100	250
28	4.6(d)	Wreck, dismantle or break up any vehicle part or body, vessel or machinery not inside a building or not behind a sufficient fence or wall	100	250
30	4.6(e)	Wreck, dismantle or break up a vehicle, vessel or machinery so as to cause a nuisance	100	250
31	4.7(1)	Placement of a sea container other than as approved	100	250
32	4.7(4)(a)	Placement of a sea container on land for more than six months without approval	100	250
33	4.7(4)(b)	Failure to remove a sea container within five working days	100	250
34	5.1(1)(a)	Erection or use of lighting installations other than in accordance with requirements	100	250
35	5.1(1)(b)(c)	Emitting or reflecting excessive artificial light, or reflecting natural light that causes nuisance	100	250
36	5.2	Cause of permit the escape of smoke, fumes, odours and other emissions so as to cause a nuisance	100	250
38	5.3(2)	Set fire to rubbish, refuse or other materials other than in an approved manner	100	250
39	5.4(1)	Failure to dispose of backwash water as approved	100	250
40	5.5(1)	Failure to dispose of stormwater as approved	100	250
41	5.6(1)	Parking a livestock vehicle in excess of 30 minutes other than as approved	100	250
	5.6(4)	Washing a livestock vehicle other than as approved	100	250
42	5.7	Starting or driving a truck on or adjacent to residential land, or adjoining residential land, other than as approved	100	250
43	5.8	Disposing of disused refrigerator or similar container other than as approved	250	500
44	7.1(3)	Failure to comply with notice	100	250
45	7.3	All other offences	100	250

Dated _____

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

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

LOCAL GOVERNMENT ACT 1995

SHIRE OF VICTORIA PLAINS

MEETING PROCEDURES LOCAL LAW 2018

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DRAFT

LOCAL GOVERNMENT ACT 1995

SHIRE OF VICTORIA PLAINS

MEETING PROCEDURES LOCAL LAW 2018

Under the powers conferred by the *Local Government Act 1995* and under all other relevant powers, the Council of the Shire of Victoria Plains resolved on _____ to adopt the following local law.

PART 1 - PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Victoria Plains Meeting Procedures Local Law 2018*.

1.2 Commencement

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

1.3 Application

This local law provides rules and guidelines which apply to the conduct of meetings of the Council, its committees and to meetings of electors.

1.4 Repeal

The *Shire of Victoria Plains Local Law Relating to Standing Orders* published in the *Government Gazette* on 26 August 1997 is repealed.

1.5 Definitions

- (1) In this local law unless the context otherwise requires –
- absolute majority** has the meaning given to it in section 1.4 of the Act;
 - Act** means the *Local Government Act 1995*;
 - CEO** means the Chief Executive Officer of the local government;
 - committee** means a committee of the Council established under section 5.8 of the Act;
 - committee meeting** means a meeting of a committee;
 - Council** means the Council of the local government;
 - employee** means an employee of the local government and includes a person under section 5.70(1) of the Act;
 - local government** means the Shire of Victoria Plains;
 - meeting** means a meeting of the Council, a committee or electors, as the context requires;
 - member** has the meaning given to it in –
 - (a) section 1.4 of the Act; or
 - (b) section 5.10(1) of the Act;
 - original motion** means the motion that first introduces a proposal to be considered at a meeting;
 - President** means the President of the local government or other presiding member at a Council meeting under section 5.6 of the Act;
 - presiding member** means, as the context requires –
 - (a) in respect of the Council, the person presiding under section 5.6 of the Act;
 - (b) in respect of a committee, the person presiding under sections 5.12, 5.13, and 5.14 of the Act; or
 - (c) in respect of an electors' meeting, the person presiding under section 5.30 of the Act;
 - procedural motion** means a motion used to control the conduct of a meeting;
 - Regulations** means the *Local Government (Administration) Regulations 1996*;
 - simple majority** means more than 50% of the members present and voting; and
 - substantive motion** means an original motion or an original motion as amended, but does not include an amendment or a procedural motion.

- (2) Unless otherwise defined in this local law, the terms and expressions used in this local law are to have the meaning given to them in the Act and Regulations.

PART 2 - ESTABLISHMENT AND MEMBERSHIP OF COMMITTEES

2.1 Establishment of committees

- (1) The establishment of committees is dealt with in section 5.8 of 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 section 5.9 of 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 section 5.16 of 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 section 5.17 of the Act.

2.5 Appointment of committee members

The appointment of committee members is dealt with in sections 5.10 and 5.11A of the Act.

2.6 Tenure of committee membership

Tenure of committee membership is dealt with in section 5.11 of the Act.

2.7 Resignation of committee members

The resignation of committee members is dealt with in regulation 4 of the Regulations.

2.8 Register of delegations to committees

The register of delegations to committees is dealt with in section 5.18 of 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 twice 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 section 5.4 of the Act.

3.3 Convening Council meetings

- (1) The convening of a Council meeting is dealt with in section 5.5 of the Act.
- (2) 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, subject to subclause (3).
- (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

The CEO is to call a meeting of any committee when requested by the President, the presiding member of a committee or any two members of that committee.

3.5 Public notice of meetings

Public notice of meetings is dealt with in regulation 12 of the Regulations.

PART 4 - PRESIDING MEMBER AND QUORUM

4.1 Who presides

Who presides at a Council meeting is dealt with in section 5.6 of the Act.

4.2 When the Deputy President can act

When the Deputy President can act is dealt with in section 5.34 of the Act.

4.3 Who acts if no President

Who acts if there is no President is dealt with in section 5.35 of the Act.

4.4 Election of presiding members of committees

The election of presiding members of committees is dealt with in section 5.12(1) of the Act.

4.5 Election of deputy presiding members of committees

The election of deputy presiding members of committees is dealt with in section 5.12(2) the Act.

4.6 Functions of deputy presiding members

The functions of deputy presiding members are dealt with in section 5.13 of the Act.

4.7 Who acts if no presiding member

Who acts if no presiding member is dealt with in section 5.14 of the Act.

4.8 Quorum for meetings

The quorum for meetings is dealt with in section 5.19 of the Act.

4.9 Reduction of quorum for Council meetings

The power of the Minister for to reduce the number for a quorum and certain majorities is dealt with in section 5.7 of the Act.

4.10 Reduction of quorum for committee meetings

The reduction of a quorum for committee meetings is dealt with in section 5.15 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 regulation 8 of 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 30 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

The names of the members then present are to be recorded in the minutes at any meeting –

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

PART 5 - BUSINESS OF A MEETING

5.1 Business to be specified

- (1) No business is to be transacted at any ordinary meeting other than that specified in the agenda, without the approval of the presiding member or a decision of the members present.
- (2) No business is to be transacted at a special meeting other than that given in the notice as the purpose of the meeting.
- (3) Where a meeting is adjourned to the next ordinary meeting then, the business unresolved at the adjourned meeting is to be dealt with before considering Reports at that ordinary meeting.
- (4) Where a meeting is adjourned to a meeting other than the next ordinary meeting, no business is to be transacted at that later meeting other than that –
 - (a) specified in the notice of the meeting which had been adjourned; and
 - (b) which remains unresolved.

5.2 Order of business

- (1) The order of business of an ordinary meeting of the Council shall be determined by the local government from time to time, and shall include –
 1. Declaration of Opening
 - 1.1 Opening
 - 1.2 Announcements by presiding member
 2. Record of attendance –
 - 2.1 Members present
 - 2.2 Staff attending
 - 2.3 Apologies
 - 2.4 Approved leave of absence
 - 2.5 Observers
 3. Disclosures of interest –
 - 3.1 Financial
 - 3.2 Proximity
 - 3.3 Impartiality
 4. Public Question Time –
 - 4.1 Response to previous public questions taken on notice
 - 4.2 Public questions without notice
 5. Presentations and Deputations –
 - 5.1 Presentations
 - 5.2 Deputations
 6. Applications for leave of absence
 7. Confirmation of minutes
 8. Unresolved business from previous meetings
 9. Reports of committees requiring decision
 10. Reports requiring decision
 11. Member motions of which previous notice has been given
 12. New business of an urgent nature requiring decision introduced by decision of the meeting
 13. Meeting closed to public –
 - 13.1 Matters for which the meeting may be closed
 - 13.2 Public reading of resolutions made during a closed meeting
 14. Closure of meeting
- (2) Unless otherwise decided by the committee, the order of business at any ordinary meeting of a committee is to be as follows –

1. Declaration of Opening
 - 1.1 Opening
 - 1.2 Announcements by presiding member
 2. Record of attendance –
 - 2.1 Members present
 - 2.2 Staff attending
 - 2.3 Apologies
 - 2.4 Approved leave of absence
 3. Disclosures of interest –
 - 3.1 Financial
 - 3.2 Proximity
 - 3.3 Impartiality
 4. Public question time where a Committee has delegated authority –
 - 4.1 Response to previous public questions taken on notice
 - 4.2 Public questions without notice
 5. Applications for leave of absence
 6. Confirmation of minutes
 7. Reports of CEO requiring decision
 8. Member motions of which previous notice has been given
 9. New business of an urgent nature requiring decision introduced by decision of the meeting
 10. Meeting closed to public –
 - 11.1 Matters for which the meeting may be closed
 - 11.2 Public reading of resolutions made during a closed meeting
 11. Closure of meeting
- (3) Unless otherwise decided by the meeting, the order of business at any ordinary or special meeting is to be the order in which that business stands in the agenda of the meeting.
- (4) 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 Grant of leave of absence

The grant of leave of absence is dealt with in section 2.25 the Act.

5.4 Announcements by the presiding member

Announcements by the presiding member under item 1.2 of subclause 5.2(1) or item 1.2 of subclause 5.2(2) are –

- (a) to inform the meeting of official duties performed, or functions attended, by the President, or of other matters of importance to the meeting, of which the meeting has not previously been informed;
- (b) to be brief and concise; and
- (c) to be completed within ten minutes.

5.5 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 seven 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) will inform members on each occasion that a notice has been excluded and the reasons for that exclusion;
 - (c) after consultation with the member where this is practicable, may 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 members 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 three months from the date of such lapse.

5.6 New business of an urgent nature

- (1) In cases of 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 urgency or other special circumstances** means matters 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.

5.7 Adoption by exception resolution

- (1) In this clause **adoption by exception resolution** means a resolution of the Council that has the effect of adopting, for a number of specifically identified reports, the CEO recommendation as the Council resolution.
- (2) Subject to subclause (3), the local government 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 a financial or proximity 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 section 5.23(1) of the Act.

6.2 Closure of meetings 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 section 5.23(2) of 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; unless a relevant interest is declared; and
 - (ii) 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) A resolution under this clause may be made without notice.
- (6) Unless the meeting resolves otherwise, once the meeting is reopened to members of the public, the presiding member is to ensure that any resolution made while the meeting was closed is to be read out including a vote of a member to be included in the minutes.

6.3 Question time for the public

Question time for the public is dealt with in section 5.24 of the Act.

6.4 Question time for the public at certain meetings

Question time for the public at certain meetings is dealt with in regulation 5 of the Regulations.

6.5 Minimum question time for the public

Minimum question time for the public is dealt with in regulation 6 of the Regulations.

6.6 Procedures for question time for the public

Procedures for question time for the public are dealt with in regulation 7 of 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 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 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) A member of the public shall have two minutes to submit a question or questions, unless the presiding member agrees to extend the time permitted.
- (6) Each member of the public with a question is entitled to ask up to two questions before other members of the public will be invited to ask their questions.
- (7) 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.
- (8) The presiding member may decide that a public question shall 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 all 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 all reasonable steps to assist the member of the public to phrase the question in a manner that is not offensive or defamatory.
- (9) The presiding member may agree to extend public question time beyond the prescribed 15 minutes, but not more than an additional 15 minutes.
- (10) 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.
- (11) A person addressing the meeting is to cease that address immediately after being directed to do so by the presiding member.
- (12) A person who fails to comply with a direction of the presiding member under subclause (11) may, by order of the presiding member, be removed from the meeting.

6.8 Distinguished visitors

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

6.9 Deputations

- (1) Any person or group wishing to be received as a deputation by the Council is to either –
 - (a) apply, before the meeting, to the CEO for approval; or
 - (b) with the approval of the presiding member, at the meeting, address the Council.

- (2) The CEO may either –
 - (a) approve the request and invite the deputation to attend a meeting of the Council; or
 - (b) refer the request to the Council to decide by simple majority whether or not to receive the deputation.
- (3) Unless the council resolves otherwise, a deputation invited to attend a Council meeting –
 - (a) is not to exceed five persons, only two of whom may address the Council, although others may respond to specific questions from members;
 - (b) is not to address the Council for a period exceeding ten minutes without the prior agreement of the presiding member under subclause (1) or resolution of Council; and
 - (c) additional members of the deputation may be allowed to speak with the permission of the presiding member.
- (4) A person addressing the meeting is to cease that address immediately after being directed to do so by the presiding member in order to preserve order, the time permitted has expired or the presentation has diverged from the purpose of the deputation.
- (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 meeting.
- (6) Any matter which is the subject of a deputation to the Council is not to be decided by the Council until the deputation has completed its presentation.

6.10 Presentation of petitions to Council

- (1) A petition to the local government is to –
 - (a) be addressed to the President;
 - (b) be made by electors of the district;
 - (c) state the request on each page of the petition;
 - (d) contain the name, address and signature of each elector making the request, and the date each elector signed;
 - (e) contain a summary of the reasons for the request; and
 - (f) state the name of the person to whom, and an address at which, notice to the petitioners can be given.
- (2) Upon receiving a petition, the local government is to submit the petition to the relevant employee to be included in his or her deliberations and report on the matter that is the subject of the petition, subject to subclause (3).
- (3) At any meeting, the Council is not to vote on any matter that is the subject of a petition presented to that meeting, unless –
 - (a) the matter is the subject of a report included in the agenda; and
 - (b) the Council has considered the issues raised in the petition.

6.11 Presentation of gift or awards to Council

- (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 or CEO.

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) A member may attend, as an observer, any meeting of a committee of which he or she is not a member or the deputy of a member, but is to sit in an area set aside for observers separated from the committee members.
- (3) Without the consent of the presiding member, no person is to address a committee meeting.
- (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 meeting.
- (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 meeting may resolve to meet at another time to provide a greater opportunity to be heard.
- (2) The CEO and the President or presiding member shall 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 shall –
 - (a) instruct the CEO to provide local public notice of the time and date when the meeting will be held 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) shall be conducted only to hear submissions, and shall not make any resolution.
- (5) At a meeting held under subclause (1), each person making a submission shall be provided with the opportunity to fully state his or her case.
- (6) A member of the public shall be limited to ten 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 held under subclause (1).
- (9) The Council must not resolve on the matter that is the subject of a meeting under subclause (1) 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 office of the local government.

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 meeting under the item *Matters for which meeting may be closed*;
 - (b) marked *Confidential* in the agenda; and
 - (c) kept confidential by members and employees until the Council resolves or the CEO determines otherwise.
- (2) A member or an employee in receipt of confidential information under subclause (1) or 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 another member or an employee to the extent necessary for the purpose of carrying out his or her duties.
- (3) Subclause (2) does not apply where a member or employee discloses the information to his or her lawyer or government officer for the purpose of seeking advice in order to lawfully fulfil his or her role and responsibilities.

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 a 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 Prevention of disturbance

- (1) A reference in this clause to a person is to a person other than a member.
- (2) A person addressing a meeting shall extend due courtesy and respect to the members and the processes under which it operates and shall comply with any direction by the presiding member.
- (3) A person observing a meeting shall not create a disturbance at a meeting, by interrupting or interfering with the proceedings, whether by expressing approval or dissent, by conversing or by any other means.
- (4) A person shall ensure that his or her mobile telephone or audible pager is not audible or used during any meeting.
- (5) The presiding member may expel a person from the meeting by ordering the person to leave the meeting room, if –
 - (a) after being warned, the person again acts contrary to this clause, or to this local law; or
 - (b) a person refuses or fails to comply with a direction of the presiding member.
- (6) A person who is ordered to leave the meeting room and fails to do so may by order of the presiding member, be removed from the meeting room, and if the presiding member orders, from the premises.
- (7) A person in breach of this clause is subject to the penalties specified in clause 19.1.
- (8) A person shall not behave in a manner that is contrary to section 75 of the Criminal Code.

PART 7 - QUESTIONS BY MEMBERS

7.1 Questions by members

- (1) Members may ask questions of the CEO relating to an item on the notice paper.
- (2) A member asking question at a meeting may ask a question without notice and with the consent of the presiding member, may ask one or more further questions.
- (3) Where possible the CEO shall 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 CEO may request that –
 - (a) the question be placed on notice for the next meeting; 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 discussion, except to the extent necessary to explain the question or answer.
- (5) In answering any question, the CEO 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 ordinary elections day, the CEO is to allot by random draw, a position at the Council table to each member, and the member is to occupy that position when present at meetings of the Council until such time as there is a call by a majority of members for a re-allotment of positions.
- (2) Each member is to occupy his or her allotted position at each Council meeting.

8.2 Respect to the Presiding Member

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

8.3 Official 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 Entering or leaving a meeting

- (1) During the course of a meeting, 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, and ensuring a quorum is present in the meeting.
- (2) Where a member is leaving a meeting and does not intend to return, the member is to advise the presiding member of such prior to departing.

8.5 Members to indicate their intention to speak

A member 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 presiding member.

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 meeting, subject to compliance with this local law.

8.8 Relevance

- (1) A member is to restrict his or her remarks to –
 - (a) the motion or amendment under discussion;
 - (b) a personal explanation; or
 - (c) a point of order.
- (2) The presiding member may at any time –
 - (a) call the attention of the meeting to –
 - (i) any irrelevant, repetitious, offensive or insulting language by a member; or
 - (ii) any breach of order by a member; and
 - (b) direct that member, if speaking, to discontinue his or her speech.
- (3) A member is to comply with the direction of the presiding member under subclause (2) by immediately ceasing to speak.

8.9 Speaking twice

Without the consent of the presiding member, a member is not to address a meeting 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

A member is not to speak on any matter for more than five minutes without the consent of the meeting which, if given, is to be given without debate.

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 under clause 11.1(g).

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 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 on a motion that the decision be revoked or changed under Part 16.
- (2) Unless the meeting resolves, without debate, that the motion then before the meeting cannot otherwise be adequately considered, 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.
- (3) A member is not to use offensive or objectionable 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 must withdraw the expression and make a satisfactory apology when directed by the presiding member, if the presiding member is of the opinion that an expression used by the member –
 - (a) in the absence of a resolution under subclause 8.15(2) –
 - (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.
- (2) If a member fails to comply with a direction of the presiding member under subclause (1), the presiding member may refuse to hear the member further on the matter then under discussion and call on the next speaker.

PART 9 - PRESERVING ORDER

9.1 Presiding member to preserve order

- (1) The presiding member is to preserve order, and, whenever considered 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, and every member present 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) 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 shall not continue until permitted, but is to remain silent until –
 - (a) the member raising the point of order has been heard; and
 - (b) the presiding member has ruled on the point of order.

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 –
 - (a) is not to be the subject of debate or comment; and
 - (b) 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

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, 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).

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 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 SUBSTANTIVE MOTIONS

10.1 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; and
- (b) if required by the presiding member, is to put the motion or amendment in writing.

10.2 Complex motions

The presiding member may require that a complex substantive motion, or a complex amendment to a substantive motion, is to be broken down and put in the form of more than one motion, each of which is to be put in sequence.

10.3 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 or committee meeting is not open to debate unless the motion has the support required under regulation 10 of the Regulations.

10.4 Unopposed business

- (1) Immediately after a substantive motion has been moved and seconded, the presiding member may ask the meeting if any member opposes it.
- (2) If no member opposes the motion, the presiding member may declare it carried without debate and without taking a vote.
- (3) A motion declared carried under this clause is to be recorded in the minutes as a unanimous decision of the meeting.
- (4) This clause does not apply –
 - (a) if a member opposes a motion; or
 - (b) to a motion to revoke or change a decision which has been made at a Council or committee meeting.

10.5 Only one substantive motion at a time

- (1) When a substantive motion is under debate at a meeting, no further substantive motion is to be accepted.
- (2) The meeting is not to consider more than one substantive motion at any time.

10.6 Order of call in debate

The presiding member –

- (a) is to manage debate in any manner considered appropriate to fully consider and determine the business before the meeting, and
- (b) is to call speakers to a substantive motion or amendment in the following order –
 - (i) the mover to state the motion;
 - (ii) a seconder to the motion;
 - (iii) the mover to speak to the motion;
 - (iv) the seconder to speak to the motion;
 - (v) a speaker against the motion;
 - (vi) a speaker for the motion;
 - (vii) other speakers against and for the motion, alternating where possible; and
 - (viii) mover takes right of reply which closes debate.

10.7 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.

10.8 Member may require motion to be read

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

10.9 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.

10.10 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.

10.11 Form of an amendment

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

10.12 Amendment must not negate original motion

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

10.13 Relevance of amendments

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

10.14 Mover of motion may speak on amendment

Any member may speak during debate on an amendment consistent with subclause 10.6(b).

10.15 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.

10.16 Withdrawal of motion or amendment

- (1) Subject to subclause (2), the meeting 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.

10.17 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 motion;
 - (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.

PART 11 - PROCEDURAL MOTIONS

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 ruling of the presiding member be disagreed with;
- (e) that the meeting be closed to the public;
- (f) that the question be now put; and
- (g) that the member be no longer heard.

11.2 No debate

- (1) The mover of a motion specified in subclause 11.1(a), (b), (c), (d) or (e) may speak to the motion for not more than two 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 subclause 11.1 (f) or (g) 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 Procedural motion – 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.

11.4 Meeting to proceed to the next business

- (1) The motion *that the meeting proceed to the next item of 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 meeting moves to the next item of business; and
 - (d) there is no requirement for the matter to be raised again for consideration.
- (2) No person who has moved, seconded, or spoken for or against the substantive motion, or any amendment to the substantive motion, may move a motion to proceed to the next business.

11.5 Debate to be adjourned

A motion *that the debate be adjourned* –

- (a) is to state the time and date or circumstances 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.

11.6 Meeting now adjourn

- (1) A motion *that the meeting now adjourn* –
 - (a) is to state the time and date or circumstances 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 or circumstances specified in the motion.
- (2) A member is not to move or second more than one motion of adjournment during the same sitting of the Council or committee.
- (3) Before putting the motion for the adjournment of the meeting, the presiding member may seek leave of the meeting to deal first with matters that may be the subject of an adoption by exception resolution under clause 5.5.
- (4) A meeting adjourned under subclause (1) is to continue from the point at which it was adjourned, unless the presiding member or the meeting determines otherwise.

11.7 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.

11.8 Meetings closed to the public

Closure of meetings to the public is dealt with under clause 6.2.

11.9 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) No person who has moved, seconded, or spoken for or against the substantive motion, or any amendment to the substantive motion, may move the motion.
- (3) If the motion is carried during discussion of an amendment, the presiding member is to put the amendment to the vote without further debate.
- (4) If the motion is lost, debate is to continue.

11.10 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.

PART 12 - DISCLOSURE OF INTERESTS

12.1 Disclosure of interests

Disclosure of interests is dealt with in Division 6 of Part 5 of the Act.

PART 13 - VOTING

13.1 Motion or amendment – when put

- (1) Immediately after the debate on any motion or amendment is concluded and the right of reply has been exercised, the presiding member –
 - (a) is to put the motion or amendment to the meeting; and
 - (b) if requested by any member, is to again state the terms of the motion or amendment.
- (2) A member is not to leave the meeting when the presiding member is putting any motion or amendment.

13.2 Majorities required for decisions

The majorities required for decisions of the Council and committees are dealt with in section 5.20 of the Act.

13.3 Voting

Voting is dealt with in section 5.21 of the Act and regulation 9 of the Regulations.

13.4 Method of taking vote

- (1) In taking the vote on any motion or amendment the presiding member –
 - (a) is to put the motion, first in the affirmative, and then in the negative;
 - (b) may put the motion in this way as often as may be necessary to enable determination 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) subject to this clause, is 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.

PART 14 - MINUTES OF MEETINGS

14.1 Content of minutes

- (1) The content of minutes is dealt with in regulation 11 of the Regulations.
- (2) Recording of names of those voting is under section 5.21(4) of the Act.
- (3) In addition to the matters required by regulation 11 of the Regulations, the minutes of a meeting is to include –
 - (a) 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; and
 - (b) the number of members present voting for or against a motion or amendment.

14.2 Keeping of minutes

The keeping and confirmation of minutes are dealt with in section 5.22 of the Act.

14.3 Public inspection of unconfirmed minutes

The public inspection of unconfirmed minutes is dealt with in regulation 13 of the Regulations.

14.4 Confirmation of minutes

- (1) When minutes of an ordinary meeting of the Council or committee 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 seven clear working days before the next ordinary meeting of the Council or committee.
- (2) At the next ordinary meeting of the Council or committee, the member who provided the alternative wording shall, 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 committee may adjourn a 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, debate is to be resumed at the next meeting at the point where it was interrupted.

PART 16 - REVOKING OR CHANGING DECISIONS

16.1 Requirements to revoke or change decisions

- (1) The requirements to revoke or change a decision made at a meeting are dealt with in regulation 10 of the Regulations.
- (2) For avoidance of doubt, this Part applies to committees exercising delegated authority of Council.

16.2 Limitations on powers to revoke or change decisions

- (1) Subject to subclause (2), a meeting 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) A meeting 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 –

authorisation means a licence, permit, approval or other means of authorising a person to do anything;

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

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) 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.
- (3) A decision made at a meeting is not to be implemented by the CEO or any other person –

- (a) subject to subclause (2), until the afternoon of the first business day after the commencement of the meeting at which the decision was made; or
 - (b) if the CEO or that person is given a valid notice of revocation motion before commencing any implementation action; and
 - (c) unless and until the valid notice of revocation motion has been determined by the Council or the committee as the case may be.
- (4) The CEO is to ensure that members of the public attending the meeting are informed by an appropriate notice at the commencement of both agenda and minutes of the meeting, 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) is to –
 - (a) be seconded;
 - (b) be carried by absolute majority; and
 - (c) is to suspend the operation of the clause or clauses to which the motion relates for the duration of the meeting, unless the meeting resolves otherwise.

17.2 Where local law does not apply

- (1) The presiding member is to decide any question relating to the conduct of the meeting 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.
- (2) The decision of the presiding member under subclause (1) is final, except where a motion is moved and carried under clause 11.7.
- (3) Notwithstanding the provisions of subclause (1), the presiding member may call for a vote on a ruling open to him or her under subclause (1).
- (4) The vote is to be taken without a motion and without debate and the presiding member shall be bound by the outcome of the vote.

PART 18 - MEETINGS OF ELECTORS

18.1 Electors' general meetings

Electors' general meetings are dealt with in section 5.27 of the Act.

18.2 Matters for discussion at electors' general meetings

The matters to be discussed at electors' general meetings are dealt with in regulation 15 of the Regulations.

18.3 Electors' special meetings

Electors' special meetings are dealt with in section 5.28 of the Act.

18.4 Requests for electors' special meetings

Requests for electors' special meetings are dealt with in regulation 16 of the Regulations.

18.5 Convening electors' meetings

Convening electors' meetings is dealt with in section 5.29 of the Act.

18.6 Who presides at electors' meetings

Who presides at electors' meetings is dealt with in section 5.30 of the Act.

18.7 Procedure for electors' meetings

- (1) The procedure for electors' meetings is dealt with in section 5.31 of the Act and regulation 18 of 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 shall 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 regulation 17 of the Regulations.

18.10 Minutes of electors' meetings

Minutes of electors' meetings are dealt with in section 5.32 of the Act.

18.11 Decisions made at electors' meetings

Decisions made at electors' meetings are dealt with in section 5.33 of the Act.

PART 19 - ENFORCEMENT

19.1 Penalty for breach

A person who breaches a provision of this local law commits an offence, and is liable for a penalty up to \$1,000, and if the breach is of a continuing nature, a further penalty of up to \$100 in respect of each day during which the offence has continued.

19.2 Who can prosecute

Who can prosecute is dealt with in section 9.24(2) the Act.

Dated _____

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

D.S. LOVELOCK, Shire President

G.M. TEEDE, Chief Executive Officer.

**WASTE AVOIDANCE AND RESOURCE RECOVERY ACT 2007
LOCAL GOVERNMENT ACT 1995**

SHIRE OF VICTORIA PLAINS

WASTE LOCAL LAW 2018

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**WASTE AVOIDANCE AND RESOURCE RECOVERY ACT 2007
LOCAL GOVERNMENT ACT 1995**

SHIRE OF VICTORIA PLAINS

WASTE LOCAL LAW 2018

Under the powers conferred by the *Waste Avoidance and Resource Recovery Act 2007* and the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Victoria Plains resolved on _____ to make the following local law.

PART 1 - PRELIMINARY

1.1 Short title

This is the *Shire of Victoria Plains Waste Local Law 2018*.

1.2 Commencement

This local law commences 14 days after the day on which it is published in the *Government Gazette*.

1.3 Application

This local law applies throughout the district.

1.4 Repeal

Part 4, Division 2, clauses 4.7 to 4.16 inclusive of the *Shire of Victoria Plains Health Local Laws 2004* published in the *Government Gazette* on 14 September 2004 are repealed.

1.5 Definitions

(1) In this local law –

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

collectable waste means local government waste that is not—

- (a) liquid refuse;
- (b) liquid waste; or
- (c) non-collectable waste;

collectable waste receptacle means a receptacle for the deposit and collection of collectable waste that is –

- (a) a recycling waste receptacle;
- (b) a general waste receptacle; or
- (c) an organic waste receptacle;

collection when used in relation to a receptacle, means the collection and removal of collectable waste from the receptacle by the local government or its contractor;

collection day means the day determined by the local government for the collection of collectable waste in the district or a part of the district;

collection time means the time on the collection day determined by the local government for the collection of collectable waste in the district or a part of the district;

costs of the local government include administrative costs;

Council means the council of the local government;

district means the district of the local government;

general waste receptacle means a receptacle for the deposit and collection of collectable waste that is not recycling waste;

LG Act means the *Local Government Act 1995*;

LG Regulations means the *Local Government (Functions and General) Regulations 1996*;

local government means the Shire of Victoria Plains;

local government waste has the same meaning as in the WARR Act;

non-collectable waste has the meaning set out in Schedule 1;

occupier in relation to premises, means any or all of the following –

- (a) a person by whom or on whose behalf the premises are actually occupied; or
- (b) a person having the management or control of the premises;

organic waste means waste that decomposes readily, such as garden waste or food waste;

organic waste receptacle means a receptacle for the deposit and collection of organic waste;

owner has the same meaning as in the LG Act;

public place includes a place to which the public ordinarily have access, whether or not by payment of a fee;

receptacle means a receptacle –

- (a) that has been supplied for the use of the premises by the local government or its contractor, or which has otherwise been approved by the local government; and
- (b) the waste from which is collected and removed from the premises by the local government or its contractor;

recycling waste receptacle means a receptacle for the deposit and collection of recycling waste;

recycling waste means –

- (a) paper and cardboard;
- (b) plastic containers comprised of polyethylene terephthalate or high density polyethylene;
- (c) glass containers;
- (d) steel containers;
- (e) aluminium containers;
- (f) liquid paper board; and
- (g) any other waste determined by the local government to be recycling waste;

specified means specified by the local government or an authorised person, as the case may be;

street alignment means the boundary between the land comprising a street and the land that abuts the street;

WARR Act means the *Waste Avoidance and Resource Recovery Act 2007*;

waste has the same meaning as in the WARR Act;

waste facility means a waste facility, as defined in the WARR Act, that is operated by the local government; and

waste service has the same meaning as in the WARR Act.

- (2) Where, in this local law, a duty or liability is imposed on an owner or occupier, or on an owner and occupier, the duty or liability is taken to be imposed jointly and severally on each of the owners or occupiers.

1.6 Local public notice of determinations

Where, under this local law, the local government has a power to determine a matter –

- (a) local public notice, under section 1.7 of the LG Act, must be given of the matter determined;
- (b) the determination becomes effective only after local public notice has been given;
- (c) the determination remains in force for the period of one year after the date that local public notice has been given under paragraph (a);
- (d) after the period referred to in paragraph (c), the determination continues in force only if, and for so long as, it is the subject of local public notice, given annually, under section 1.7 of the LG Act; and
- (e) the determination must be recorded in a publicly accessible register of determinations that must be maintained by the local government.

1.7 Rates, fees and charges

The local government's powers to impose rates, fees and charges in relation to waste services are set out in sections 66 to 68 of the WARR Act and section 6.16 and 6.17 of the LG Act.

1.8 Power to provide waste services

The local government's power to provide, or enter into a contract for the provision of, waste services is dealt with in section 50 of the WARR Act.

PART 2 - LOCAL GOVERNMENT WASTE

2.1 Supply of receptacles

- (1) The local government is to supply, for the use of each premises that are, or are capable of being, occupied or used for residential purposes, one or more receptacles for the collection and removal, from those premises, of collectable waste.
- (2) The owner of premises to which subclause (1) applies must take all reasonable steps to –
 - (a) ensure that the fee or charge (if any) imposed by the local government in relation to each receptacle is paid to the local government; and
 - (b) ensure that each receptacle is used, in respect of those premises, in accordance with this local law.

2.2 Deposit of waste in receptacles

- (1) An owner or occupier of premises must not deposit or permit to be deposited in a receptacle any non-collectable waste.
- (2) A person must not deposit waste in a receptacle that has been provided for the use of other premises without the consent of the owner or occupier of those premises.

2.3 General waste receptacles

- (1) An owner or occupier of premises must not deposit or permit to be deposited in a general waste receptacle –
 - (a) where the receptacle has a capacity of 240 litres – more than 70 kilograms of collectable waste; or
 - (b) where the receptacle has any other capacity – more than the weight determined by the local government.
- (2) Where the local government supplies recycling waste receptacles, an owner or occupier of premises must not deposit or permit to be deposited in a general waste receptacle any recycling waste.
- (3) Where the local government supplies organic waste receptacles, an owner or occupier of premises must not deposit or permit to be deposited in a general waste receptacle any organic waste.

2.4 Recycling waste receptacles

An owner or occupier of premises must not deposit or permit to be deposited in a recycling waste receptacle –

- (a) anything other than the particular type of recycling waste for which that receptacle was provided by the local government for those premises;
- (b) where the receptacle has a capacity of 240 litres – more than 70 kilograms of recycling waste; or
- (c) where the receptacle has any other capacity – more than the weight determined by the local government.

2.5 Organic waste receptacles

An owner or occupier of premises must not deposit or permit to be deposited in an organic waste receptacle –

- (a) anything other than the particular type of organic waste for which that receptacle was provided by the local government for those premises;
- (b) where the receptacle has a capacity of 240 litres – more than 70 kilograms of organic waste; or
- (c) where the receptacle has any other capacity – more than the weight determined by the local government.

2.6 Direction to place or remove a receptacle

- (1) The local government or an authorised person may give a written direction to an owner or occupier of specified premises –
 - (a) to place a receptacle in respect of those premises for collection; or
 - (b) to remove a receptacle in respect of those premises after collection.
- (2) The direction under subclause (1) may specify when the placement or removal is to occur, or where the receptacle is to be placed, or both.
- (3) An owner or occupier of premises must comply with a direction given under this clause.

2.7 Duties of owner or occupier

An owner or occupier of premises must—

- (a) except for a reasonable period before and after collection time, keep each receptacle in a storage space or area that is behind the street alignment;
- (b) take reasonable steps, if placing a receptacle for collection on the verge adjoining the premises, or other area as determined by the local government, to ensure that, within a reasonable period before collection time, each receptacle is –
 - (i) within 1 metre of the carriageway;
 - (ii) so that it does not unduly obstruct any footpath, cycle way, right-of-way or carriageway; and
 - (iii) facing squarely to the edge of and opening towards the carriageway,or in such other position as is approved in writing by the local government or an authorised person;
- (c) take reasonable steps to ensure that the premises are provided with an adequate number of receptacles;
- (d) if the receptacle is lost, stolen, damaged or defective, notify the local government, as soon as practicable, after the event: and
- (e) keep the lid of the receptacle closed at all times, except when depositing rubbish or refuse or cleaning the receptacle.

2.8 Exemption

- (1) An owner or occupier of premises may apply in writing to the local government for an exemption from compliance with the requirements of clause (a) or (b).
- (2) The local government or an authorised person may grant, with or without conditions, or refuse an application for exemption from compliance under this clause.
- (3) An exemption granted under this clause must state –
 - (a) the premises to which the exemption applies;
 - (b) the period during which the exemption applies; and
 - (c) any conditions imposed by the local government or the authorised person.
- (4) An exemption granted under this clause ceases to apply –
 - (a) if the local government decides, on reasonable grounds, that there has been a failure to comply with a condition of the exemption; and
 - (b) from the date that the local government informs the owner or occupier of its decision under clause (a).

2.9 Damaging or removing receptacles

A person, other than the local government or its contractor, must not –

- (a) damage, destroy or interfere with a receptacle; or
- (b) except as permitted by this local law or as authorised by the local government or an authorised person, remove a receptacle from any premises to which it was delivered by the local government or its contractor.

2.10 Verge collections

- (1) Where the local government has advertised a verge waste collection (such as a green waste, or a bulk waste, verge collection) a person, unless with and in accordance with the approval of the local government or an authorised person –
 - (a) must deposit waste only during the period of time, and in accordance with other terms and conditions, as advertised by the local government in relation to that verge waste collection; and
 - (b) must otherwise comply with those terms and conditions.
- (2) Where waste has been deposited on a verge for a verge waste collection, a person must not remove any of that waste for a commercial purpose but may remove it for any other purpose.
- (3) Except where waste is lawfully removed from a verge under this clause, a person must not disassemble or tamper with any waste deposited on a verge for a verge waste collection so as to increase the risk of harm to any person.
- (4) Clause (2) does not apply to the local government or a person engaged or contracted by the local government in relation to the verge waste collection.

PART 3 - GENERAL DUTIES

3.1 Duties of an owner or occupier

An owner or occupier of premises must –

- (a) take all reasonable steps to ensure that an adequate number of receptacles are provided to contain all waste which accumulates or may accumulate in or from the premises;
- (b) take all reasonable steps ensure that each receptacle is kept in good condition and repair;
- (c) take all reasonable steps to –
 - (i) prevent fly breeding and keep each receptacle free of flies, maggots, cockroaches, rodents and other vectors of disease;
 - (ii) prevent the emission of offensive or noxious odours from each receptacle; and
 - (iii) ensure that each receptacle does not cause a nuisance to an occupier of adjoining premises.
- (d) whenever directed to do so by the local government or an authorised person, thoroughly clean, disinfect, deodorise and apply a residual insecticide to each receptacle; and
- (e) if directed by an authorised person, remove any waste from a receptacle that has not been properly deposited in that receptacle in accordance with this local law or a permit.

3.2 Removal of waste from premises

- (1) A person must not remove any waste from premises unless that person is –
 - (a) the owner or occupier of the premises;
 - (b) authorised to do so by the owner or occupier of the premises; or
 - (c) authorised in writing to do so by the local government or an authorised person.
- (2) A person must not remove any waste from a receptacle without the approval of –
 - (a) the local government or an authorised person; or
 - (b) the owner or occupier of the premises at which the receptacle is ordinarily kept.

3.3 Receptacles and containers for public use

A person must not, without the approval of the local government or an authorised person—

- (a) deposit household, commercial or other waste from any premises on or into; or
- (b) remove any waste from,

a receptacle provided for the use of the general public in a public place.

3.4 Waste control on building sites

(1) In this clause –

building work means –

- (a) building work for which a building permit is required under the *Building Act 2011*; and
- (b) demolition work for which a demolition permit is required under the *Building Act 2011*;

building work waste means all waste from building work that is capable of being windblown; and

receptacle means a receptacle the waste from which is collected and removed otherwise than by the local government or its contractor.

- (2) A person must not allow, commence or continue any building work on premises unless, at all times while the building work is being undertaken –
 - (a) there is located on the premises, as close as practicable to the building work a receptacle with adequate capacity or as otherwise approved by the local government, suitable for the collection and disposal of building work waste;
 - (b) building work waste is deposited and kept in the receptacle; and
 - (c) the lid of the receptacle is kept closed except when waste is being deposited in the receptacle.
- (3) The owner or occupier of the premises shall ensure that within 2 days of completion of works on the site –
 - (a) the site and the thoroughfare verge immediately adjacent to it is cleared of all refuse generated or originating from the building or development site; and
 - (b) that all refuse receptacles are permanently removed from the site.

PART 4 - OPERATION OF WASTE FACILITIES

4.1 Operation of this Part

This Part applies to a person who enters a waste facility.

4.2 Hours of operation

The local government may from time to time determine the hours of operation of a waste facility.

4.3 Signs and directions

- (1) The local government or an authorised person may regulate the use of a waste facility –
 - (a) by means of a sign; or
 - (b) by giving a direction to a person within a waste facility.
- (2) A person within a waste facility must comply with a sign or direction under subclause (1).
- (3) The local government or an authorised person may direct a person who commits, or is reasonably suspected by the local government or the authorised person of having committed, an offence under this clause to leave the waste facility immediately.
- (4) A person must comply with a direction under subclause (3).

4.4 Fees and charges

- (1) Unless subclause (3) applies, a person must, on or before entering a waste facility or on demand by the local government or an authorised person, pay the fee or charge as assessed by an authorised person.
- (2) An authorised person may assess the fee or charge in respect of a particular load of waste at a rate that applies to any part of that load, even if that rate is higher than the rate that would apply to any other part of the load.
- (3) Subclause (1) does not apply –
 - (a) to a person who disposes of waste in accordance with the terms of –
 - (i) a credit arrangement with the local government; or
 - (ii) any other arrangement with the local government to pay the fee or charge at a different time or in a different manner; and
 - (b) to the deposit of waste owned by the local government, or in the possession of an employee on behalf of the local government.

4.5 Depositing waste

- (1) A person must not deposit waste at a waste facility other than –
 - (a) at a location determined by a sign and in accordance with the sign; and
 - (b) in accordance with the direction of an authorised person.
- (2) The local government may determine the classification of any waste that may be deposited at a waste facility.

4.6 Prohibited activities

- (1) Unless authorised by the local government, a person must not—
 - (a) remove any waste or any other thing from a waste facility;
 - (b) deposit at a waste facility that is a landfill site any waste that is toxic, poisonous or hazardous, or the depositing of which is regulated or prohibited by any written law;
 - (c) light a fire in a waste facility;
 - (d) remove, damage or otherwise interfere with any flora in a waste facility;
 - (e) remove, injure or otherwise interfere with any fauna in a waste facility; or
 - (f) damage, deface or destroy any building, equipment, plant or property within a waste facility.
- (2) A person must not act in an abusive or threatening manner towards any person using, or engaged in the management or operation of, a waste facility.

PART 5 - OBJECTIONS AND APPEALS

5.1 Objection and appeal rights

Division 1 of Part 9 of the *Local Government Act 1995* applies to a decision under this local law to grant, vary or cancel –

- (a) an approval under clause 2.7(b);
- (b) an exemption under clause 2.8(2);
- (c) an authorisation under clause 2.9(b);
- (d) an approval under clause 2.10(1);
- (e) an authorisation under clause 3.2(1)(c);
- (f) an approval under clause 3.2(2); and
- (g) an approval under clause 3.3.

PART 6 - ENFORCEMENT

6.1 Offences and general penalty

- (1) A person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law a person is prohibited from doing, commits an offence.
- (2) A person who commits an offence under this local law is liable, on conviction, to a penalty not less than \$500 and not exceeding \$5,000, and if the offence is of a continuing nature, to a further penalty not exceeding \$500 in respect of each day or part of a day during which the offence has continued.

6.2 Other costs and expenses

- (1) A person who is convicted of an offence under this local law is to be liable, in addition to any penalty imposed under clause 5.1, to pay to the local government the costs and expenses incurred by the local government in taking remedial action such as –
 - (a) removing and lawfully disposing of toxic, hazardous or poisonous waste; or
 - (b) making good any damage caused to a waste facility.
- (2) The costs and expenses incurred by the local government are to be recoverable, as a debt due to the local government, in a court of competent civil jurisdiction.

6.3 Prescribed offences

- (1) An offence against a clause specified in Schedule 2 is a prescribed offence for the purposes of section 9.16(1) of the LG Act.
- (2) The amount of the modified penalty for a prescribed offence is that specified adjacent to the clause in Schedule 2.
- (3) If this local law expresses a modified penalty as a number of penalty units, the monetary value of the modified penalty is the number of dollars obtained by multiplying the value of the penalty unit by the number of penalty units.

6.4 Form of notices

- (1) Where a vehicle is involved in the commission of an offence, the form of the notice referred to in section 9.13 of the LG Act is that of Form 1 in Schedule 1 of the LG Regulations.
- (2) The form of the infringement notice given under section 9.16 of the LG Act is that of Form 2 in Schedule 1 of the LG Regulations.
- (3) The form of the infringement withdrawal notice given under section 9.20 of the LG Act is that of Form 3 in Schedule 1 of the LG Regulations.

SCHEDULE 1 – MEANING OF ‘NON-COLLECTABLE WASTE’

(Clause 1.5)

non-collectable waste means –

- (a) hot or burning material;
- (b) household hazardous waste, including paint, acids, alkalis, fire extinguishers, solvents, pesticides, oils, gas cylinders, batteries, chemicals and heavy metals;
- (c) any other hazardous material, such as radioactive waste;
- (d) any explosive material, such as flares or ammunition;
- (e) electrical and electronic equipment;

- (f) hospital, medical, veterinary, laboratory or pathological substances;
- (g) construction or demolition waste;
- (h) sewage;
- (i) 'controlled waste' for the purposes of the *Environmental Protection (Controlled Waste) Regulations 2004*;
- (j) any object that is greater in length, width, or breadth than the corresponding dimension of the receptacle or that will not allow the lid of the receptacle to be tightly closed;
- (k) waste that is or is likely to become offensive or a nuisance, or give off an offensive or noxious odour, or to attract flies or cause fly breeding unless it is first wrapped in non-absorbent or impervious material or placed in a sealed impervious and leak-proof container; and
- (l) any other waste determined by the local government under clause 1.6 to be non-collectable waste.

SCHEDULE 2 – PRESCRIBED OFFENCES
(Clause 5.4)

Item No.	Clause No.	Description	Modified Penalty (\$)
1	(a)	Failing to pay fee or charge	100
2	(b)	Failing to ensure lawful use of receptacle	100
3	(1)	Depositing non-collectable waste in a receptacle	100
4	(2)	Depositing waste in another receptacle without consent	100
5	(1)	Exceeding weight capacity of a general waste receptacle	100
6	(2) and (3)	Depositing unauthorised waste in a general waste receptacle	100
7	(a)	Depositing unauthorised waste in a recycling waste receptacle	100
8	(b) and (c)	Exceeding weight capacity of a recycling waste receptacle	100
9	(a)	Depositing unauthorised waste in an organic waste receptacle	100
10	(b) and (c)	Exceeding weight capacity of an organic waste receptacle	100
11	(3)	Failing to comply with a direction concerning placement or removal of a receptacle	100
12	(a)	Failing to keep a receptacle in the required location	100
13	(b)	Failing to place a receptacle for collection in a lawful position	100
14	(c)	Failing to provide an adequate number of receptacles	100
15	(d)	Failing to notify of a lost, stolen, damaged or defective receptacle	100
16	(a)	Damaging, destroying or interfering with a receptacle	100
17	(b)	Removing a receptacle from premises without permission or authorisation	100
18	2.10(1)	Failing to comply with a term or condition of verge waste collection	100
19	(2)	Removing waste from a verge waste collection for commercial purposes	100

Item No.	Clause No.	Description	Modified Penalty (\$)
20	2.10(3)	Disassembling or tampering with waste deposited for collection	100
21	(a)	Failing to provide a adequate number of receptacles	100
22	(b)	Failing to keep a receptacle in a good condition and repair	100
23	(i)	Failing to prevent fly breeding and vectors of disease in a receptacle	100
24	(ii)	Failing to prevent the emission of offensive or noxious odours from a receptacle	100
25	(iii)	Allowing a receptacle to cause a nuisance	100
26	(d)	Failing to comply with a direction to clean, disinfect or deodorise receptacle	100
27	3.1(e)	Failure to comply with direction of an authorised person to remove waste from a receptacle not properly deposited in that receptacle in accordance with this local law or a permit	100
28	(1)	Unauthorised removal of waste from premises	100
29	(2)	Removing waste from a receptacle without approval	100
30	3.3	Depositing household, commercial or other waste into, or removing waste from, a receptacle provided for the use of the general public in a public place without approval	100
31	(a)	Failing to have a suitable receptacle for building work waste	200
32	(b)	Failing to keep building work waste in a receptacle	100
33	3.4(3)	Failure to remove building or demolition refuse receptacle within 2 days	100
34	(2)	Failing to comply with a sign or direction	100
35	(4)	Failing to comply with a direction to leave	100
36	(1)	Disposing waste without payment of fee or charge	100
37	(1)	Depositing waste contrary to sign or direction	100

Dated _____

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

D.S. LOVELOCK, President

G.M. TEEDE, Chief Executive Officer

Consented to –

MIKE ROWE, Chief Executive Officer
Department of Water and Environmental Regulation

Dated _____

10.10 POLICY MANUAL 2018

File reference	A1.1.7
Report date	3 May 2018
Applicant/proponent	Shire of Victoria Plains
Officer disclosure of interest	Nil
Previous meeting references	38/2018 of 28 March 2018
Prepared by	Niel Mitchell, Governance
Authorised by	Glenda Teede, CEO
Attachments	
Attachment 1	Policy Manual – May 2018

PURPOSE

To commence review of the existing Policy Manual as compiled to December 2017, and adopt new or revised policies.

BACKGROUND

The current Policy Manual is a mix of delegations, policy, administrative matters that needs thorough review and integration across the framework of legislation, authority and instructions applying and given by Council.

A detailed review is one of the matters identified by the Audit Committee on 21 March 2018, and subsequently directed by Council on 28 March 2018.

COMMENT

The current Policy Manual 2017 will undergo detailed, progressive review, and those that Council resolves should continue or to create will be transferred to a new Policy Manual 2018. It does mean than for the duration of the review, two documents may have to be referred to.

It is also essential that the Policy Manual integrate and refer to relevant legislation including local laws, as well as delegations, and as able, these matters will be referred to Council for authorisation at the same time.

The format of the new Policy Manual 2018 and individual policies will be as presented in the attachment. There are currently gaps in the numbering of policies to allow for insertion of revised or new policies as able.

Specific policies presented for Council adoption are as follows –

- 1.1 – Code of Conduct
Currently Division 12 of the Policy Manual 2017. It appears to have its origin in a policy adopted in 2002, with occasional review since then. Aspects of the Code are now within the Rules of Conduct Regulations, and other matters are administrative or operational.
- 1.2 – Public Question Time
New. To assist with the management of public question time. While the policy is currently a stand-alone document, it does have legislative backing of the Local Government Act, and the proposed Meeting Procedures Local Law.

A form with the guidelines and submission of written questions has been developed and will be made available to members of the public wishing to ask questions.

- 1.3 – Elected members – Records capture and management
It is a requirement of the State Records Act that where a record is made that assists or contributes to a decision or the role of elected member, the record must be retained is subject to the Freedom of Information Act. The requirements is imposed on the elected member to retain the record, while the administration’s obligation is to have a procedure in place for the collection of the records and to make them available as required. A record is not limited to a written note, but could be a photo, video, audio recording etc.
- 1.4 – Elected members – Briefing sessions
Whether or not the current briefing sessions are revised, some guidelines as to purpose and running of the session is appropriate
- 1.5 – Council Policy – making, amending deleting
Established the different between a single instruction or authority, a standing instruction (policy) or usual practice.
Adoption of this policy means that its provisions will apply from June 2018 Council meeting
- 1.6 – Legal Representation for elected members and employees
An existing Council Policy with some updating
- 7.1 – Community housing
Intended to provide the guidelines for staff for consideration and assessment of applications to rent the units owned or managed by the Shire

Adoption of the Policy Manual 2018 includes the Appendix, which is drawn to Council’s attention as it establishes the hierarchy of requirements of legislation and instructions from Council, as well as providing a background on a range of matters.

CONSULTATION

MS Glenda Teede, CEO

STATUTORY CONTEXT

Local Government Act 1995

Administration Regulations 1996

Rules of Conduct Regulations 2007

Proposed Meeting Procedures Local Law 2018

CORPORATE CONTEXT

None

STRATEGIC IMPLICATIONS

Strategic Community Plan adopted 28 March 2018 –

1.	Community – to enhance and improve a sense of community in the Shire
1.2	Improve aged care and support
1.6	Develop new / reuse existing community facilities
4.	Infrastructure – to maintain / add to infrastructure used by the community
4.3	Maintain / improve community facilities to an agreed standard

5.	Civic leadership – to better allocate scarce resources and effectively interact with the community
5.1	Measures to improve relationship and communication between Council and community
5.2	Improve elected member performance
5.4	Measures to improve organisational efficiency

FINANCIAL IMPLICATIONS

None

VOTING REQUIREMENTS

Absolute Majority Required: No

OFFICER RECOMMENDATION

Moved Cr _____

Seconded Cr _____

That –

- the following policies in the Policy Manual 2017 be deleted –
 - o 7.4 – Legal Representation Costs Indemnification
 - o 9.2.1 – Questions – Notice
 - o 9.3.8 – Local Government elected members recordkeeping policy
 - o Division 12 – Code of Conduct
- the draft Policy Manual (May 2018) and Policies 1.1 to 1.6 and 7.1 be adopted.

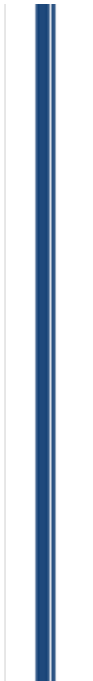
Commonly-used abbreviations

CEO	Chief Executive Officer
Policy Manual 2017	Shire of Victoria Plains Policy Manual as amended to December 2017
Policy Manual 2018	Shire of Victoria Plains Policy Manual proposed for adoption May 2018



COUNCIL POLICY

AS AT MAY 2018



ARRANGEMENT

- Section 1 - Council / Governance
- Section 2 - Administration / Organisation
- Section 3 - Financial Management
- Section 4 - Order / Public Safety
- Section 5 - Fire Control
- Section 6 - Environmental Health / Food
- Section 7 - Community Services
- Section 8 - Personnel
- Section 9 - Occupational Safety & Health
- Section 10 - Building / Development
- Section 11 - Public Facilities
- Section 12 - Tourism
- Section 13 - Works & Services
- Section 14 - Plant / Equipment
- Section 15 - Natural Resource Management
- Section 16 - Unclassified
- HISTORY Summary
- Appendix

NOTE – While the Policies in this Policy Manual are in force, the document is in development. As matters from the old Policy Manual are reviewed by Council, they will be brought into this document in the new format.

CONTENTS

The contents of this document are as resolved by Council

Section 1 - Council / Governance

- 1.1 Code of Conduct
 - Policy Schedule 1.1 – Code of Conduct
- 1.2 Public Question Time – Management
 - Policy Schedule 1.2 – Public Question Time
- 1.3 Elected Members – Records capture and management
- 1.4 Elected Members – Briefing Sessions
- 1.5 Council Policy – Making, amending, deleting
- 1.6 Legal Representation for Elected Members and Employees
 - Policy Schedule 1.6 – Legal Costs Indemnification

Section 2 - Administration / Organisation

Section 3 - Financial Management

Section 4 - Order / Public Safety

Section 5 - Fire Control

Section 6 - Environmental Health / Food

Section 7 - Community Services

- 7.1 Community Housing

Section 8 - Personnel

Section 9 - Occupational Safety & Health

Section 10 - Building / Development

Section 11 - Public Facilities

Section 12 - Tourism

Section 13 - Works & Services

Section 14 - Plant / Equipment

Section 15 - Natural Resource Management

Section 16 - Unclassified

HISTORY Summary

Appendix

- Statutory and CORPORATE CONTEXT
- IMPORTANT – Consequences of Breaching Council Policy
- Application – is to staff, not to community
- Definitions
- Guidelines No.17 – Delegations (Department of Local Government)
- Making, amending and revoking Council Policy
- Review of Council Policy

Section 1 - Council / Governance

1.1 Code of Conduct

POLICY STATEMENT

1. The following Council Policy Schedules are adopted, and form part of this Statement –
 - a) Sch. 1.1– Code of Conduct.

2. The Code of Conduct applies to –
 - a) Elected members, insofar as it is not contradicted by the Local Government Act or Rules of Conduct Regulations 2007,
 - b) members of a committee established by Council,
 - c) all employees.

OBJECTIVE

To provide guidance and management the conduct of elected members, committee members and employees, including consultants and contractors.

STATUTORY CONTEXT

Local Government Act 1995 –

- s.5.94 – public inspection of Code of Conduct
- s.5.103 – requirement to prepare a code of conduct for council members, committee members and employees

Local Government (Administration) Regulations 1996 –

- r.34B – required matters about gifts to employees
- r.34C – required matters about interest affecting impartiality

Local Government (Rules of Conduct) Regulations 2007 –

- r.12 – gifts to elected members
- r.21 – gifts that can be accepted
- Part 9 – Codes of Conduct

CORPORATE CONTEXT

None

HISTORY

Former policy Division 12

Adopted _____

NOTES

The Code of Conduct should also apply to contractors and suppliers, if stipulated in the contract / tender / engagement of the contractor.

The code of conduct required by the Local Government (Elections) Regulations r.8 is separate to Schedule 1.1, and is therefore binding on elected members.

Policy Schedule 1.1 – Code of Conduct

A local government, in accordance with Section 5.103(1) of the *Local Government Act 1995*, is required to adopt a Code of Conduct to be observed by Council members, Committee members and employees. The Code of Conduct is to contain matters as prescribed by Regulations and can also make further provision for expectations of Council members, Committee members and employees.

The Code of Conduct is a statement of guidance for Council members that is supplementary to the enforceable rules in the *Local Government (Rules of Conduct) Regulations 2007*. It is also a statement of guidance and specific requirements to be observed by Committee members and employees of the Shire.

The Code of Conduct is to apply, insofar as it is applicable to each type of person, to every Council member, Committee member and employee of the Shire. Any provision in this Code of Conduct is of effect only to the extent that it is not inconsistent with the Act and Regulations, and any other statutory power.

This Code of Conduct does not seek to replicate the role of or requirements for Council members, Committee members or employees contained in other legislation, including but not limited to the *Local Government Act 1995* and the *Local Government (Rules of Conduct) Regulations 2007*. The Guiding Statements of Responsibility section of the Code requires individuals to be aware of their obligations.

Definitions

Committee member means any member appointed to a Committee constituted by Council in accordance with the *Local Government Act 1995* s.5.8 and s.5.10, whether a Council member or not,

Council member means any person who is an elected member of Council,

employee means any person who is employed by the Shire. For the purposes of the sections of the Code of Conduct in relation to employees' disclosure of interests, this shall include a person who under a contract for services with the local government will provide advice or a report on a matter.

1. Obligation to observe

Council members

The obligation to observe a Code of Conduct for Council members arises from the *Local Government Act 1995* s.5.103 and a declaration that they have made to observe that code or the Rules of Conduct Regulations, upon election to the Council at a swearing in ceremony before a Justice of the Peace or a person authorised by the *Oaths, Affidavits and Statutory Declarations Act 2005* to take statutory declarations.

Further to that, aspects of the Code of Conduct are also linked to the *Local Government Act 1995* and associated Rules of Conduct Regulations which are enforceable in their own right.

Committee members

The obligation for Committee members (that are not also Council members) to observe a Code of Conduct arises from the requirement in the *Local Government Act 1995* s.5.103.

Committee members are appointed to their positions by the Council in accordance with the Act s.5.10 and can also be removed from the office by the local government in accordance with the Act s.5.11(2)(b).

Employees

The obligation for employees to observe a Code of Conduct arises from –

- the *Local Government Act 1995* s.5.103,
- the *Local Government (Administration) Regulations 1996* r. 34B and 34C, and
- the terms and conditions of their employment with the Shire.

The observance of Council policies is a key responsibility of any employee and any breach of those responsibilities could incur disciplinary action, including termination, via the management framework established in accordance with the CEO's responsibilities under Section 5.41(g) of the *Local Government Act 1995*.

Breach of certain provisions

Where a requirement in the Code of Conduct is prescribed in an Act or Regulations, any alleged breach may be investigated by another statutory body, including but not limited to –

- Department of Local Government and Communities, and
- Corruption and Crime Commission.

2. Guiding statements of responsibility

Principles

- a) In acting in the capacity of a Council member, Committee member or employee of the Shire, all persons shall observe the principles outlined in regulation 3 of the *Local Government (Rules of Conduct) Regulations 2007*. Specifically, any person acting in that capacity shall –
- Act with care and diligence;
 - Act with honesty and integrity;
 - Act lawfully;
 - Avoid damage to the reputation of the local government;
 - Be open and accountable;
 - Base decisions on relevant and factually correct information;
 - Treat others with respect and fairness;
 - Not be impaired by mind affecting substances.
- b) Additionally, all Council members, Committee members and employees shall –
- Provide relevant and factually correct information to decision-makers;
 - Fulfil their public and professional duties in a manner that is ethical, impartial, objective, responsible and in the best interests of the local government uninfluenced by fear or favour;
 - Act in accordance with their obligation of fidelity to the local government;
 - Not use or attempt to use their positions for personal benefit or the personal benefit of others, either by influencing others, the improper use of information gained in the performance of their duties, or otherwise;
 - Contribute to the good governance and strategic priorities of the Shire in accordance with the adopted vision, values, plans and budget as amended by Council from time to time ;
 - Understand and be mindful of their role, responsibilities, empowerment and limitations and act within those parameters
 - *Local Government Act 1995* Sections 2.7, 2.8, 2.9, 2.10, 5.41, part 5 division 9 and generally;
 - *Local Government (Rules of Conduct) Regulations 2007*;
 - *Local Government (Administration) Regulations 1996* regulations 34B and 34C;
 - Committee Terms of Reference;
 - Employee Position Descriptions;
 - Delegations Register et al.
 - Refrain from making allegations which are improper or derogatory, unless true, in the public interest and in an appropriate forum;
 - Refrain from any form of conduct in the performance of their official or professional duties which may cause any reasonable person unwarranted offence or embarrassment.

Achievement of priorities

The local government framework of: the Council, the staff body and any Committees that the Council resolves to constitute; is established to ensure the Council's corporate goals are achieved, its strategies are implemented and its statutory obligations met. The achievement of these requirements, in accordance with adopted plans and strategies, requires teamwork, cooperation and respect for the unique role of each component of that framework.

3. Matters of conduct

General – Applicable to Council members, Committee members and Employees

- a) Lawful actions -

It is the responsibility of all Council members, Committee members and employees to act in a manner that is lawful and in accordance with the Acts, Regulations, codes and other policies and procedures that are relevant to their particular position.

Any omission of a specific requirement from this Code of Conduct does not negate a person's responsibility to observe and comply with provisions that are applicable to their position.

b) Compliance with orders and policies

- i) Council members, Committee members and employees will comply with any lawful and reasonable order given by any person having authority to make or give such an order.
Any doubts as to the propriety of any such order shall be taken up with the superior of the person who gave the order and, if resolution cannot be achieved, with the CEO.
- ii) Council members, Committee members and employees will give effect to the lawful policies of the local government and/or have due regard for the lawful policies of the local government in decision making, whether or not they agree with or approve of them.

c) Conflicts of interest

An important consideration for any Council member, Committee member or employee is to ensure that there is no actual (or perceived) conflict of interest between their personal interests and the impartial fulfilment of their statutory or contracted civic or professional duties –

- i) Any Council member, Committee member or employee intending to undertake a dealing in land within the local government area that involves an application for planning consent or subdivision approval, or which may otherwise be in conflict with the Shire's functions, shall provide written notice of this intention to the CEO. The notice shall be provided as soon as practicable in all circumstances, but where an application is to be lodged with the local government or another statutory body for approval, then within 7 days of the lodgement of that application. This requirement does not extend to the purchase of the principal place of residence.
- ii) Where a relative (refer definition in section 3.2.4.2 of this code) of a Council member, Committee member or employee with that person's knowledge is intending to undertake a dealing in land within the local government area that involves an application for planning consent or subdivision approval, or which may otherwise be in conflict with the Shire's functions, written notice shall also be provided in accordance with section 3.2.1.3 (a).
- iii) Where it is the CEO or a relative of the CEO intending to undertake a dealing in land in accordance with this section, the written notification required is to be provided to the President.
- iv) When an application is made by a Council member, Committee member, employee or a relative of any of those persons, the Council member, Committee member or employee has no greater or lesser rights than those of any other member of the public in relation to access to information and access to Shire officers. Council members, Committee members and employees shall observe the requirements of seeking information through the usual local government process for a member of the public and booking appointments in their own time to meet with officers of the Shire.
- v) In receiving a written notice on a matter where a local government decision is required, the CEO or the President as the case may be, shall consult with the most senior officer having responsibility for planning matters who is not otherwise the dealing in land as to the requirement or otherwise of an assessment of the application by a suitably qualified independent person and as to the appropriateness of determining the application under delegation or referring it to Council for a decision.

Nothing in this section negates or replaces the disclosure requirements of any person in accordance with –

- Division 6 of the *Local Government Act 1995* Disclosure of Financial Interests;
- Regulation 11 of the *Local Government (Rules of Conduct) Regulations 2007* Disclosure of Interest or
- any other disclosure requirements in this code.

It is not the intention of this requirement to disadvantage any person due to their election to office or their employment. The requirement is to ensure there is minimum potential for perceptions of or actual undue influence, advantage or disadvantage for a Council member, Committee member or an employee.

d) Gifts

activity involving a local government discretion means any activity that cannot be undertaken without an authorisation from the local government or by way of a commercial dealing with the Shire.

gift means any disposition of property, or the conferral of any other financial benefit, made by one person in favour of another otherwise than by will (whether with or without an instrument in writing), without consideration in money or money's worth passing from the person in whose favour it is made to the other, or with such consideration so passing if the consideration

is not fully adequate, but does not include any financial or other contribution to travel (in that specific requirements for contributions to travel are covered in Section 5.83 of the *Local Government Act 1995*). This definition excludes –

- A gift from a relative;
- A gift that must be disclosed in accordance with *Local Government (Elections) Regulations 1997 reg. 30B*;
- A gift from a statutory authority, government instrumentality or non-profit organisation for professional training,
- Other exclusions as defined by the Act or Regulations.

notifiable gift in relation to an employee means –

- a gift given to the employee that is worth between the relevant minimum threshold and \$300, or
- a gift that is one of 2 or more gifts given to the employee by the same person within a period of 6 months that are in total worth between the relevant minimum threshold and \$300.

prohibited gift - A gift worth \$300 or more or a gift that is one of 2 or more gifts given to the employee by the same person within a period of six months that are in total worth \$300 or more.

relative - a parent, grandparent, brother, sister, uncle, aunt, nephew, niece or lineal descendent of the person or of the person's spouse or de facto partner, the person's spouse or de facto partner or the spouse or de facto partner of the other specified relatives, whether or not the relationship is traced through, or to, a person whose parents were not actually married to each other at the time of the person's birth or subsequently, and whether the relationship is a natural relationship or a relationship established by written law.

token gift is not defined in the Acts or Regulations, and for the purposes of this Code of Conduct is taken to mean a gift or multiple gifts that are less than the minimum **notifiable gift** threshold.

<i>Donor / Giver of gift</i>	<i>token gift</i>	<i>notifiable gift</i>	<i>prohibited gift</i>
IS or is likely to be undertaking an activity involving a local government discretion	Less than \$50	Between \$50 and \$300	More than \$300
Is NOT undertaking an activity involving a local government discretion	Less than \$200	Between \$200 and \$300	
Exclusions from requirement to notify	n/a	<ul style="list-style-type: none"> - donor is a relative; - through a will; - contribution to travel. - from Commonwealth, State or LG funds; - donor a relative; - ordinary course of occupation unrelated to duties as elected member or employee; - from a political party where person a member and travelling for political activity or to represent the party. - a gift that must be disclosed under <i>Elections Regs</i> r.30B; or - a gift from a statutory authority, government instrumentality or non-profit association for professional training. 	
Disclosure requirements	None	To be notified to CEO within 10 days, and Declared in Annual Return	N/a

- i) The notification of the acceptance of a notifiable gift is required to be in writing and include details of –
 - The name of the person who gave the gift;
 - The date on which the gift was accepted;
 - A description and the estimated value of the gift;
 - The nature of the relationship between the employee and the person who gave the gift.
- ii) If the gift is notifiable being one of 2 or more gifts given to the employee by the same person within a period of 6 months that have a cumulative value above the notifiable threshold, then regardless of the value of each individual gifts, the notification is required to include, in relation to all gifts accepted within the 6 month period from that person –

- A description;
 - The estimated value;
 - The date of acceptance.
- iii) The CEO is to maintain a register of notifiable gifts and record in it the details of notifications given to comply with a requirement under this section.
- iv) The CEO is to record details of the gift on the Shire's website.

4. Specific Directions

The following sections of the Code of Conduct will address specific matters of conduct and, as necessary, provide specific direction on actions that must be taken when and as a matter arises by a person acting in a specific role.

Council members

Specific rules for Council members are defined in part 2 of the *Local Government (Rules of Conduct) Regulations 2007*.

Further to that, Council members are to recognise their role as distinguished from that served by employees of the Shire, and the Council (ie in its convened state).

Council members when interacting with employees of the Shire in their capacity as a Council member shall observe the protocol of making requests for information and discussing the business of the Council with the relevant senior employee and/or the identified responding officer during any organised briefing session for a matter before the Council for consideration. The liaison between individual Council member and individual employee on matters of local government business shall be conducted in a respectful, courteous and honest manner.

Committee members

a) Disclosure of interest

The disclosure of any interest that could, or could reasonably be perceived to, affect the impartiality of a Committee member carrying out their role shall be made, insofar as the provisions can relate to Committee members, in accordance with the requirements for employees in this Code of Conduct.

An interest to be disclosed may be one that is a benefit or a detriment to the Committee member.

b) Gifts

If a Committee member is offered a gift of any description in connection with the performance of their role as a Committee member, the member shall seek advice in relation to that offer from the CEO of the Shire, or nominated representative, before accepting any gift. The advice provided shall be in accordance with the requirements for elected members and employees.

c) Confidential information

A Committee member must not disclose confidential information obtained in the performance of their duties to any other person outside of the Committee or relevant Local Government employees.

For the purposes of this section, confidential information is that which is discussed during a meeting or that part of a meeting that is closed to members of the public in accordance with the provisions of the *Local Government Act 1995*, or that is in a document of the local government that is marked confidential.

d) Use of local government resources

A Committee member shall make proper use of the local government's resources as allocated to the Committee, including but not limited to assistance from employees, stationary, access to the office and meeting rooms of the local government, and only for the purposes of advancing the work and requirements of the Committee in accordance with its Terms of Reference.

e) Relationships with the local government

Committee members shall not direct or attempt to direct any local government employee to do or not to do anything.

Employees of the local government will be allocated where and as necessary to assist a Committee with its required tasks. It is expected that Committee members and employees with any responsibility in relation to that Committee will work together with a spirit of cooperation and understanding.

A Committee or Committee member shall not undertake tasks that contribute to the administration of the local government, except those tasks that are the direct responsibility of the Committee in accordance with its Terms of Reference and Council policies relating to Committees. It is noted that Council considers members of its Management and Advisory Committees as working members and thus they are to contribute to the body of work required to be done by the Committee.

Employees

a) Disclosure of interest

Interest – Any interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest and includes an interest arising from kinship, friendship or membership of an association.

This section does not apply to interests referred to in Section 5.60 of the Local Government Act 1995 (in that a financial interest or a proximity interest must be disclosed in the manner described in Division 6 of Part 5 of that Act).

An employee is excused from a requirement under (i) or (ii) to disclose the nature of an interest if –

- the employee's failure to disclose occurs because they did not know that he or she had an interest in the matter; or
- the employee's failure to disclose occurs because the employee did not know the matter in which he or she had an interest would be discussed at the meeting and the employee discloses the nature of the interest as soon as possible after becoming aware of the discussion of a matter of that kind.

Any interest that arises for an employee on a matter before the Council or a Committee for determination is required to be disclosed in the manner specified in (i) or (ii). However, in recognition of the requirements discharged by employees during the course of their employment, including but not limited to the exercise of delegated authority, purchasing and tender evaluation, recruitment and selection, inspection and regulation, interests shall also be disclosed in other circumstances.

Disclosures are required to be made to the CEO in these circumstances –

- i) An employee who has an interest in any matter to be discussed at a Council or Committee meeting attended by the employee is required to disclose the nature of the interest –
 - in a written notice to the CEO before the meeting; and/or
 - at the meeting immediately before the matter is discussed.
- ii) An employee who has given, or will give, advice in respect of any matter to be discussed at a Council or Committee meeting not attended by the employee is required to disclose the nature of any interest the employee has in the matter –
 - in a written notice given to the CEO before the meeting; and/or
 - at the time the advice is given.
- iii) If in order to comply with the requirements of (i) or (ii) an employee makes a disclosure in a written notice given to the CEO before a meeting, then –
 - before that meeting the CEO is to cause the notice to be given to the person who is to preside at the meeting;
 - immediately before a matter to which the disclosure relates is discussed at the meeting, the person presiding is to bring the notice and its contents to the attention of the persons present.
- iv) If in order to comply with the requirements of the section –
 - the nature of an employee's interest in a matter is disclosed at a meeting; or
 - a disclosure is made at a meeting if it is realised that an employee has an interest in a matter that they had not previously realised was for discussion at that meeting; or
 - the presiding member brings to the attention of those present at the meeting a written disclosure;then the nature of the interest is to be recorded in the minutes of the meeting.
- v) If during the course of discharging the requirements of their employment, an employee becomes aware of an interest or a potential interest, that interest or potential interest is to be disclosed in a prompt and full manner to the CEO and direction sought on the ability to continue to discharge the requirements of their employment in this case.
- vi) If an employee is intending to engage in private work outside of their employment with the Shire, either with a person or body with an interest in a proposed or current contract with the local government, or if the arrangement could, or could reasonably be perceived to, either immediately or in the future, result in an interest for the employee arising in their

employment with the Shire, the intention to engage in this work shall be disclosed in a prompt and full manner to the CEO and direction sought on the appropriateness of the arrangement.

b) Gifts

- i) Employees are required to refrain from accepting a prohibited gift from a person who –
 - is undertaking or seeking to undertake an activity involving a local government discretion; or
 - it is reasonable to believe is intending to undertake an activity involving a local government discretion.
- ii) An employee is required to notify the CEO of the acceptance within 10 days of accepting the gift, when the gift is a notifiable gift from a person who –
 - is undertaking or seeking to undertake an activity involving a local government discretion; or
 - it is reasonable to believe is intending to undertake an activity involving a local government discretion;

c) Confidential information

Confidential information must only be disclosed by an employee to another person to the extent that is necessary for the employee to do so in the performance of his or her duties.

Confidential information is that which is discussed during a meeting or that part of a meeting that is closed to members of the public in accordance with the provisions of the *Local Government Act 1995*, or that is in a document of the local government that is marked confidential, or any other information obtained during the performance of duties that could reasonably be considered to be confidential or of a sensitive nature.

Nothing in this section enables the disclosure of any confidential or sensitive information to any Council member or Committee member if the information does not directly relate to a confidential matter that is on the agenda for a meeting of the Council or the Committee, nor to any employee who is not empowered or required by virtue of their position in the organisation to have that information.

The handling of confidential or sensitive information is a significant responsibility for employees with authorised access to such information. Any imparting of such information must be undertaken in strict accordance with the requirements of this code. Where there is any doubt as to the requirement to impart confidential or sensitive information, caution is urged as any unauthorised disclosure of such information is considered a serious breach of the employee's responsibilities.

d) Use of local government resources

An employee shall make proper use of the Shire's resources and shall not use them for personal or private purposes, unless the use is otherwise provided for in a contract of employment, or authorised by the CEO by some other means.

It is acknowledged that minor incidental (not primary and not majority) use of certain resources will be provided for in operational requirements. An example of this would be to conduct an internet search or check a personal email account on a Shire computer during a designated break. This type of minor incidental use is provided for in the Shire's email and internet practice, whereby it is stated these facilities are for almost exclusive business use.

e) Relationships with Council members and Committee members

Employees are employed by and responsible to the CEO. While their direction, supervision and management is the sole responsibility of the CEO in accordance with Section 5.41(g) of the *Local Government Act 1995*, it is also recognised that the CEO has a responsibility to the Council to ensure employees provide it with relevant and quality advice.

Employees shall therefore be aware of their duty to, via the CEO, provide relevant and quality advice to the Council and Committees. They shall also act courteously and with due respect during their dealings with the Council, any Committee, any Council member or Committee member. It is expected that employees will deal with each other, Council members and Committee members in an honest and respectful manner.

f) Administrative practices

As an overarching principle of employment, employees, in attending to their duties for the Shire in their required and normal hours of employment including approved overtime, shall give their full attention to their duties and requirements throughout that time to ensure that their work is carried out efficiently and effectively. Employees shall comply with any lawful and reasonable order given by any person having the authority to make or give such an order, noting the restrictions on elected

members or Committee members in relation to directing local government employees. They will also give effect to the lawful decisions of the Council in a prompt and effective manner.

- End of Schedule

1.2 Public Question Time – Management

POLICY STATEMENT

1. The following Policy Schedules are adopted, and form part of this Statement –
 - a) – Procedure for Public Question Time

2. The Procedures for Public Question Time apply to –
 - a) Ordinary and Special Council meetings,
 - b) Every meeting of Council committees which have a delegated power or duty.

OBJECTIVE

To provide for the effective management of public question time.

STATUTORY CONTEXT

Local Government Act 1995 –

- s.5.103 – requirement to prepare a code of conduct for council members, committee members and employees
- s.5.24 – requirement for public question time

Local Government (Administration) Regulations 1996 –

- r.5 – meetings where public question time is required
- r.6 – minimum time for public question time
- r.7 – procedure for public question time

CORPORATE CONTEXT

None

HISTORY

Former policy 9.2.1

Adopted _____

NOTES

Without this Policy, the only controls available to the Presiding Member of a meeting are the provisions of the Act and Regulations, all of which allow wide discretion, but offer limited guidance as to processes.

Additional provisions may be available in a Meeting Procedures Local Law.

Policy Schedule 1.2 – Public Question Time

PROCEDURE FOR PUBLIC QUESTION TIME

The *Local Government Act 1995* requires that a minimum of 15 minutes be provided at council meetings for public question time. Public question time is early in the meeting as required by the Act. This allows questions to be asked before business is dealt with and also smooth running of the business part of the meeting. The procedure for asking a question is outlined below.

Presenting a question

1. Questions should be address to the Presiding Member, and submitted in writing to the CEO by 4.00pm the business day prior to the meeting.
2. Priority will be given to those questions relating to a matter on the Agenda before the meeting. General questions will only be addressed if time permits.
3. The length of question, including any background information, should not exceed 150 words.
4. Questions are limited to 2 per person, and with a total time limit of 2 minutes per speaker. Multiple parts to a question are considered separate questions.
5. Questions are to be directed to the Presiding Member, not to any other person.
6. Questions must be related to issues pertaining to the Shire.
7. Question regarding personal affairs, opinions, information or perceptions not relating directly to Shire business will be refused.
8. Retain your own copy of the question/s to be read aloud at the meeting.
9. No late documentation or item is to be brought into the meeting for distribution without prior arrangement with the CEO.

Managing the questions

10. The CEO is to compile the same or similar questions submitted with notice, and provide a single response.
11. A question without notice at the meeting is to be written on the form available at the meeting so that the exact wording of the question is recorded in the minutes of the meeting. Staff will be made available to assist in wording the question if desired.
12. A timer may be activated at the beginning of each person's time period and the Presiding Member will require questioners to conclude after 2 minutes.
13. Those asking questions are to state their name, address and the item number to which they are referring, and then read the question. Staff will have prepared brief NOTES to enable an informed response to be given at the meeting.
14. When specifically requested, questioner's details may be kept private.
15. Questions without notice or multiple parts to a question will be answered in the order they are asked to a maximum of 2.
16. Should time permit, after all present have had an opportunity to ask a question, additional questions may be considered
17. Where a question raises a significant issue not addressed in the staff report, and which cannot be adequately responded to, the meeting will need to consider whether the item should be held over or referred back for further consideration. In making this decision, the meeting will take account of statutory deadlines and other implications if appropriate.

Responding to the questions

18. The order in which questions are to be addressed is –
 - a) questions with notice relating to matters within that meeting's agenda;
 - b) questions with notice relating to other matters;
 - c) questions without notice relating to matters within that meeting's agenda; then
 - d) questions without notice relating to other matters.
19. Matters considered confidential under section 5.23 of the Act will not be addressed other than to advise of such.
20. Written questions submitted by a person not present at the meeting may be declined, and dealt with as correspondence.
21. Reponses will be provided in reasonable detail, but in order to permit as many questions as possible, will be concise and to the point. Should greater detail be required, this should be notified to the Shire after the meeting.
22. Questions without notice will only be responded to at the meeting if they are simple. Otherwise they will be taken on notice and will be answered in writing after the meeting and the response included in the agenda of the next council meeting.
23. The meeting will not debate nor discuss the question raised with the questioner. Discussion or debate directly with an elected member or employee, or within the gallery is not permitted.

PLEASE NOTE Members of the public should note that no action should be taken on any item discussed at a council meeting prior to written advice on the resolution of council being received.

1.3 Elected Members – Records capture and management

POLICY STATEMENT

1. Each elected member is responsible for determining which records are required for capture and management, and submission of the record to the CEO, for storage.
2. The Shire as an organisation, in meeting its obligations to facilitate the capture and management of elected member records will –
 - provide a collection point readily accessible to each elected member to deposit the required materials
 - materials collected will be separated according to elected member and financial year of deposit
 - for electronic records (emails, digital photos etc), a CD suitable for backup of all electronic records will be provided at least once per year,
 - the CD then to be deposited with other required materials,
 - where a copy of the record is to be retained by the elected member, photocopying or other duplicate as necessary, will be provided without charge.
3. Access to the records created may be required, and is to be facilitated by the CEO –
 - as permitted under various legislation such as the Local Government Act, the Freedom of Information Act etc,
 - by order of an authorised body such as the Standards Panel or a Court of law etc,
 - by a representative an authorised body such as the Ombudsman or Crime and Corruption Commission etc.

OBJECTIVE

To ensure compliance with the *State Records Act 2000* by elected members.

STATUTORY CONTEXT

Local Government Act 1995 –

- s.7.11 – Auditor has the power to demand production of books, records etc.
- s.9.59 – Regulations about keeping of documents and records

State Records Act 2000

- Sch.1 – Government organisations required to comply with Act – includes local government

Freedom of Information Act 1992

CORPORATE CONTEXT

Shire of Victoria Plains Records Keeping Plan

HISTORY

Former policy 9.3.8

Adopted _____

NOTES

State Records Office policy imposes the obligations on elected members and the organisation under the State Records Act, as advised on 30 July 2009 –

In relation to the recordkeeping requirements of local government elected members, records must be created and kept which properly and adequately record the performance of member functions arising from their participation in the decision making processes of Council and Committees of Council.

This requirement should be met through the creation and retention of records of meetings of Council and Committees of Council of local government and other communications and transactions of elected members which constitute evidence affecting the accountability of the Council and the discharge of its business.

Local governments must ensure that appropriate practices are established to facilitate the ease of capture and management of elected members' records up to and including the decision making processes of Council.

In effect, any form of record which may affect accountability or contribute to a decision or action made as an elected member must be retained. These records may be –

- physical – a letter, a handwritten note, a photo someone sends to an elected member in explanation / complaint, an agenda where you have made NOTES on various items, etc
- electronic – an email or document sent as an attachment to an email, digital photo, an e-file that is sent for review or comment
- audio – message left on your answering machine, although this is likely to be unusual, since rarely are many details left in a message, but it is a record.

The records are not only those you receive, but also those that you create, such as –

- a note of a conversation where someone asked you to pursue a particular matter,
- a letter that you write in the capacity of elected member,
- an email you send as an elected member

The records only need to be relating to those “*affecting the accountability of the Council and the discharge of its business ... up to and including the decision making processes of Council*”. It is the elected members decision and judgement as to what extent this applies, *and it is suggested that this not be further defined.*

The principles of relevance and ephemerality apply, for example –

- a note to remind you to phone a person is ephemeral, but NOTES of the conversation may not be,
- a copy of an agenda that has no NOTES made is irrelevant, as the document can be reproduced by the Shire at any time,
- a promotional brochure or conference information is not relevant

1.4 Elected Members – Briefing Sessions

POLICY STATEMENT

1. Briefing Sessions will be held to exchange information between elected members, senior staff, management staff and committees –
 - a) prior to the Ordinary Council meeting of the month, or
 - b) when called by the President or CEO, as necessary.
2. Briefing Sessions are closed to the general public.
3. The purpose of Briefing Sessions is to –
 - a) provide an opportunity for elected members to request information, ask questions or make comment on specific issues, or on issues in general,
 - b) discuss conceptual issues as considered appropriate by elected members or staff,
 - c) disseminate information from staff to elected members ,
 - d) coordinate questions from elected members to staff.
4. Briefing session Information Paper –
 - a) the CEO is to prepare an Information Paper for each briefing session
 - b) the briefing session Information Paper is to be distributed with the Ordinary Council Meeting Agenda, or as able for irregular briefing sessions.
5. Financial, proximity and impartiality interests –
 - a) Elected members, employees, consultants and other participants shall disclose their interests in matters to be discussed
 - b) Interests are to be disclosed in accordance with the provisions of the Act and associated regulations at the time information is provided or discussion commences on an issue.
6. Conduct of Briefing Session –
 - a) the President or other person nominated by the President is to be the Presiding Member for Briefing Session, or in the President's absence another elected member.
 - b) All questions and discussions are to be directed through the Presiding Member and there will be no debate style discussion.
 - c) Being outside the statutory decision making framework, elected members at a Briefing Session must not vote, indicate their voting intentions, make or imply any collective or collaborative decision is to be made, other than the CEO may agree to take an action that is of an administrative nature;
 - d) Items listed on the current Council Meeting Agenda may be clarified on matters of procedure or fact, but are not to be debated or resolved/agreed in any way;
 - e) Proposals under a Planning Scheme are not to be discussed;
 - f) Any additional written information not included with the Council Meeting Agenda is only to be distributed to the meeting at the discretion of the Presiding Member.

OBJECTIVE

To provide guidelines for the management of Council Briefing Sessions

STATUTORY CONTEXT

None

CORPORATE CONTEXT

None

HISTORY

Adopted _____

NOTES

DLGC Operational Guidelines No.5 – Council Forum Guideline is not mandatory but close adherence is recommended.

1.5 Council Policy – Making, amending, deleting

POLICY STATEMENT

1. The CEO is to maintain the official copy of the Council Policy Manual, updated as soon as possible after each authorised resolution of Council.
2. Additions, deletions or alterations to Council Policy shall only be made by specific Council resolution stating –
 - a) stating the current Council Policy number if an amendment or deletion,
 - b) the proposed policy number to clearly indicate functional area if a new Council Policy, and
 - c) proposed wording and justification for the amendment, deletion or adoption.

OBJECTIVE

To control the process of making, amending or deleting Council Policy.

STATUTORY CONTEXT

None, although some legislation makes general provisions, and places requires on policy limits, or how the policy is to be adopted or used etc.

CORPORATE CONTEXT

None

HISTORY

Adopted _____

NOTES

Essentially, policy is the standing instructions of Council about the “how to” whereas delegations are about “who may”. Accordingly, policy may not be altered without a decision of Council.

The purpose of policy documents is to enable the effective and efficient management of Council resources and to assist staff and Council achieve an equitable decision making process. Written policies also enable the community to be aware of the reasoning behind administrative and Council decisions, and to be familiar with the philosophy behind individual decisions.

If it is not in the Council Policy Manual, it may be usual practice, but it is not Council Policy. Unless it is specifically stated in a resolution that the authority is to be included in the Policy Manual, it is to be considered that the authority to act, is for a specific matter and is not general or on-going.

1.6 Legal Representation for Elected Members and Employees

POLICY STATEMENT

1. The following Council Policy Schedule is adopted, and forms part of this Statement –
 - a) Sch. 1.7 – Legal Costs Indemnification

2. When there is a need for the provision of urgent legal advice before an application can be considered by Council, the amount determined in accordance with Schedule 1.6 clause 3(e) where the CEO may give authorisation is \$10,000.

OBJECTIVE

To provide for legal support for elected members and employees in the performance of their official functions

STATUTORY CONTEXT

Local Government Act 1995 –

- s.5.103 – requirement to prepare a code of conduct for council members, committee members and employees

CORPORATE CONTEXT

None

HISTORY

Former Policy	7.4
Adopted	_____

NOTES

This policy does not relate to the legal advice needed for general operations or review of documents etc, but relates to the legal advice that may be necessary for the protection of an elected member or employee for actions taken during the course of their official duties.

Policy Schedule 1.6 – Legal Costs Indemnification

1. Introduction

This policy is designed to protect the interests of Council members and employees (including past members and former employees) where they become involved in civil legal proceedings because of their official functions. In most situations the Shire may assist the individual in meeting reasonable expenses and any liabilities incurred in relation to those proceedings.

It is necessary to determine that assistance with legal costs and other liabilities is justified for the good government of the district.

2. General Principles

The Shire may provide financial assistance to members and employees in connection with the performance of their duties provided that the member or employee has acted reasonably and has not acted illegally, dishonestly, against the interests of the Shire or otherwise in bad faith.

The Shire may provide assistance in the following types of legal proceedings –

- a) proceedings brought by members and employees to enable them to carry out their local government functions (eg. where a member or employee seeks a restraining order against a person using threatening behaviour);
- b) proceedings brought against members or employees (this could be in relation to a decision of Council or an employee which aggrieves another person (eg. refusing a development application) or where the conduct of a member or employee in carrying out his or her functions is considered detrimental to the person (eg: defending defamation actions); and
- c) statutory or other inquiries where representation of members or employees is justified.

The Shire will not support any defamation actions seeking the payment of damages for individual members or employees in regard to comments or criticisms levelled at their conduct in their respective roles. Members or employees are not prevented, however, from taking their own private action. Further, the Shire may seek its own advice on any aspect relating to such comments and criticisms of relevance to it.

The legal services under this policy will usually be provided by the Shire's solicitors. Where this is not appropriate for practical reasons or because of a conflict of interest then the service may be provided by other solicitors approved by the Shire.

3. Applications for Financial Assistance

- a) Subject to item (e), decisions as to financial assistance under this policy are to be made by the Council.
- b) A member or employee requesting financial support for legal services under this policy is to make an application in writing, in advance if possible, to the Council providing full details of the circumstances of the matter and the legal services required.
- c) An application is to be accompanied by an assessment of the request and a recommendation prepared by the CEO.
- d) A member or employee requesting financial support for legal services, or any other person who might have a financial interest in the matter, must ensure compliance with the financial interest provisions of the Local Government Act 1995.
- e) Where there is a need for the provision of urgent legal services before an application can be considered by Council, the CEO may give an authorisation to the value specified by Council.
- f) Where it is the CEO who is seeking urgent financial support for legal services the Council shall deal with the application.
- g) Any application is to be subject to an enforceable agreement to repay expenses incurred by the Shire, either –
 - In full but not exceeding the extent recovered by a member in accordance with 4(a) below, or
 - In full where 4(2) applies.

4. Repayment of Assistance

1. Any amount recovered by a member or employee in proceedings, whether for costs or damages, will be off set against any moneys paid or payable by the Shire.
2. Assistance will be withdrawn where the Council determines, upon legal advice, that a person has acted unreasonably, illegally, dishonestly, against the interests of the Shire or otherwise in bad faith; or where information from the person is shown to have been false or misleading.
3. Where assistance is so withdrawn, the person who obtained financial support is to repay any moneys already provided. The Shire may take action to recover any such moneys in a court of competent jurisdiction.

Section 2 - Administration / Organisation

Section 3 - Financial Management

Section 4 - Order / Public Safety

Section 5 - Fire Control

Section 6 - Environmental Health / Food

No Council Policies reviewed as yet for these areas of operations.

Section 7 - Community Services

7.1 Community Housing

POLICY STATEMENT

1. Applications for accommodation are to be assessed with the following criteria, and in the listed priority order –
 - i) contractual obligations of any funding arrangement;
 - ii) single parent with dependants;
 - iii) couple with dependants;
 - iv) independent living disability /aged pension –
Note – own arrangements for support is essential, as the Shire is unable to provide support;
 - v) couple no dependants;
 - vi) financial hardship;
 - vii) financial capacity/resources;
 - viii) ownership of other property;
 - ix) age – In order - 65 or over, under 25, then 25-65;
 - x) order of application/EOL.
2. Over-riding consideration is to be given to the welfare and quiet enjoyment of other residents, and for this reason, Council reserves the right to –
 - a) make credit and Police checks;
 - b) require suitable references to be provided;
 - c) seek comment from other tenants of the group of units;
 - d) determine applications on the basis of assessed compatibility with other tenants of the group.
3. Under no circumstances is the tenant permitted –
 - a) to assign or sub-let the property;
 - b) accommodate more than the approved number of persons;
 - c) permanently accommodate persons without prior approval of the CEO.

OBJECTIVE

To determine the criteria for admission to Shire controlled community / public housing.

STATUTORY CONTEXT

Residential Tenancies Act 1987

Local Government (Functions and General) Regulations 1996 –

30. Dispositions of property excluded from Act s. 3.58

(1) A disposition that is described in this regulation as an exempt disposition is excluded from the application of section 3.58 of the Act.

(2) A disposition of land is an exempt disposition if —

(g) it is the leasing of residential property to a person.

CORPORATE CONTEXT

Any contracts with funding providers for community housing, where provisions may restrict eligibility to accommodation.

HISTORY

Adopted _____

NOTES

From time to time, guidelines may be available from various organisations and should be consulted for update of this policy –

- Dept of Communities, Housing section
- Community Housing Industry Association

Section 8 - Personnel

Applying to all matters in relation to personnel and employment –

Local Government Act 1995 –

s.5.41 Functions of CEO

The CEO's functions are to –

....

(a) manage the day to day operations of the local government; and

....

(g) be responsible for the employment, management supervision, direction and dismissal of other employees (subject to section 5.37(2) in relation to senior employees); and

....

Local Government (Rules of Conduct) Regulations 2007 –

r.10 Relations with local government employees

(1) A person who is a council member must not –

(a) direct or attempt to direct a person who is a local government employee to do or not to do anything in the person's capacity as a local government employee; or

(b) attempt to influence, by means of a threat or the promise of a reward, the conduct of a person who is a local government employee in the person's capacity as a local government employee.

....

Policy 1.1 – Code of Conduct

For clarification regarding appointment, management and direction of employees –

Employee class	Council involvement	Elected member / Committee involvement	CEO involvement
CEO	<u>Required.</u> May delegate selection and interview to a Committee. Appointment must be by Council resolution.	<u>Permitted</u> – to interview and recommend to Council. <u>Prohibited</u> – to appoint, manage or direct.	As directed by Council, usually limited to process, research and reporting on an applicant.
Designated staff LG Act s.3.57	<u>Required</u> – to consent to appointment or dismissal. <u>Permitted</u> – Interview & recommendation can be done by CEO alone or with elected member input. <u>Prohibited</u> – management or direction.	<u>Permitted</u> – to interview and recommend to Council. <u>Prohibited</u> – to appoint, manage or direct.	<u>Required</u> to initiate / consent to appointment or dismissal. <u>Statutory function</u> – to manage and direct.
EHO	<u>If designated senior officer</u> – as above, otherwise – <u>In all cases</u> – qualification must comply with Public Health Act 2016 s.17.		
Other staff (non-designated)	<u>Prohibited</u> – Involvement in appointment, management or direction.	<u>Prohibited</u> – involvement in appointment, management or direction.	<u>Statutory function</u> – to appoint, manage, direct etc.

No Council Policies reviewed as yet for this area of operations.

Section 9 - Occupational Safety & Health

Section 10 - Building / Development

Section 11 - Public Facilities

Section 12 - Tourism

Section 13 - Works & Services

Section 14 - Plant / Equipment

Section 15 - Natural Resource Management

Section 16 - Unclassified

No Council Policies reviewed as yet for these areas of operations.

HISTORY Summary

Item	Meeting	Purpose	Applies	Affected
1	Ordinary Council	Revocation	16 May 2018	Previous – - Code of Conduct - Policies (Dec 2017 update) – 7.4, 9.2.1, 9.3.8, Division 12
2	Ordinary Council	Adoption	16 May 2018	Policies – 1.1 to 1.6 and 7.1

Appendix

Statutory and CORPORATE CONTEXT

The Council is responsible for functions and activities under numerous Acts and other legislation, many of which permit Council to delegate responsibilities and authority to various officers, and to stipulate conditions, standards or methods of control and management.

This Council Policy Manual has been prepared to complement a range of obligations imposed by legislation including local laws, and various document adopted by Council.

The order of priority for compliance is –

1. Federal and State legislation and regulations,
2. the Local Planning Scheme,
3. a specific resolution of Council,
4. Delegations Register – being specific authorisations resolved by Council, and having a STATUTORY CONTEXT under the Local Government Act, they are the standing authorisations of Council to particular persons, almost exclusively the CEO,
5. Local Planning Policy – as it is made under the authority of the Local Planning Scheme, by resolution of Council,
6. Council Policy – being instructions resolved by Council they are the standing instructions of Council on how particular matters are to be dealt with,
7. Executive Instruction – standing instructions or procedures issued by the CEO,
8. administrative directions or instructions.

Although not decisions of Council, and therefore not a requirement of staff, consideration should be given to the following as being best practice –

- DLGRD Guidelines
- WALGA Councillors Manual, Practice NOTES etc.

Unless specifically resolved that the instruction is to be included in the Policy Manual, it is considered that it is for a specific matter, and is not a general or on-going instruction.

There are some policies that have specific legislative provision, and these are noted in the individual policy.

IMPORTANT – Consequences of Breaching Council Policy

Where there is a breach of Council Policy –

- a) it may result in disciplinary action up to and including termination of employment,
- b) the Shire may also be obligated to refer a breach to an external agency where an employee may be held personally liable for their actions;
- c) the employee in breach may also be personally liable for their actions, such costs charged to the Shire or to repair as a result of the private/personal or unauthorised use.

Application – is to staff, not to community

Policy cannot be used to control or manage the general community – it is essentially an instruction to staff that in particular circumstances, a specific action or process is to be followed, for instance –

- Hire of facilities – if there is damage, then staff are to invoice the hirer or cancel their booking etc
- Caravan Park Rules – if a patron does not comply with these, staff are to take action
- HR / Personnel policies – outlines the circumstances in which actions are to be taken

- Crossovers – staff may approve if an application complies with requirements, or take action if a crossover does not comply.

A Policy cannot be applied directly to the community as they may not be aware of its adoption. The community has to have had the opportunity to be aware of the requirements imposed on them.

However, policy may require staff to apply specific conditions to a licence, permit etc, and to provide a written copy of the conditions being applied. These conditions applied are then enforceable.

Advertising of a local law constitutes community wide notification, whether the person is aware of it or not. Accordingly, many policies expand on how a Local Law is to be interpreted or acted upon by staff.

Definitions

The LG Act has not defined the term “delegation” or “delegated power”. However:

- s.5.16 refers to “... the exercise of any of its powers and duties ...”
- s.5.42 refers to “... the exercise of any of its powers or the discharge of any of its duties ...”

The term “policy” is not defined anywhere in the LG Act, however, Departmental guidelines refer to Council “acting through” the administration to fulfil requirements and obligations.

The following terms used in this document apply insofar as they are consistent with enabling legislation –

authority means the permission or requirement for Council, a Committee or a person to act in accordance with –

- the Local Government Act, Regulation or other legislation,
- a delegation made by Council,
- a Council Policy,
- a specific decision of Council, or
- an Executive Instruction.

delegation means the authority for a Committee, the CEO or other person to exercise a power, or discharge a duty, as conferred by absolute majority decision of Council under the provisions of the relevant legislation.

Council Policy is a standing instruction resolved by Council as to how a particular matter is to be implemented:

Planning Policy is a standing instruction resolved by Council as to how a particular matter is to be implemented. They are made by authority of the Local Planning Scheme, within a different legal and procedural framework, having specified process in order to be enforceable, and are generally advised to the WA Planning Commission .

instruction means the requirement for a staff member to act in accordance with a direction given by the Council, the CEO, senior officer or supervisor.

Guidelines No.17 – Delegations (Department of Local Government)

The Department of Local Government and Communities has published Guidelines for the formation of Delegations.

The Guidelines outline the concept of “delegation” and “acting through” in parts 3 and 4, particularly in paragraph 13 where it is stated –

... the key difference between a delegation and “acting through” is that a delegate exercises the delegated decision making function in his or her own right. The principal issue is that where a person has no discretion in carrying out a function, then that function may be undertaken through the “acting through” concept. Alternatively, where the decision allows for discretion on the part of the decision maker, then that function needs to be delegated for another person to have that authority.

In effect, “acting through” is an action that could reasonably be expected to be carried out as the result of a decision by Council (e.g. advertising of a tender), or as a function reasonably expected of the position that a person holds.

Not all matters which will be recorded in Policy are “acting through” matters. Similarly, not all “acting through” matters will be listed. Council Policy supported by Executive Instructions describe how that action or some other action is to be carried out.

Making, amending and revoking Council Policy

Administrative Policy requires approval by a simple majority of Council, and may be made, amended or revoked at any time by Council.

Council may impose limitations on Policy or the functions delegated as they see fit.

Review of Council Policy

There is no required timetable for the review of policy, however, it is suggested that it should be done regularly to ensure that policies are relevant, current and understood.

To maintain the Policy Manual up to date, an administrative review should be reviewed at least once a year, and a report made to Council on matters needing amendment or inclusion.

It is suggested that detailed consideration of all policies be undertaken by Council at least once every two years.

10.11 TERMS OF REFERENCE – Committees, Advisory Groups

File reference	CL1.2
Report date	5 May 2018
Applicant/proponent	Shire of Victoria Plains
Officer disclosure of interest	None
Previous meeting references	F07/2018 of 28 March 2018
Prepared by	Niel Mitchell, Governance
Authorised by	Glenda Teede, CEO
Attachments	
Attachment 1	Terms of Reference – Establishment
Attachment 2	Committee Members etc appointed

PURPOSE

To adopt Terms of Reference principally for the Audit Committee, and to consider role of other committees and advisory groups.

BACKGROUND

The Local Government Act and Audit Regulations stipulate various matters the Audit Committee is required to undertake. In addition, Council may allocate various tasks for the Committee to enquire into, and to make recommendations to Council.

The Act also specifies a range of matters to be considered in appointing other committees.

COMMENT

On 28 March 2018, Council resolved that –

That the following Council documents be reviewed and updated within the next 12 months –

- 1. Policies Manual*
- 2. Delegations Register*
- 3. Terms of Reference be specified.*

And –

That the Terms of Reference for the Audit Committee be the priority task, and be presented to Council within 2 months.

Audit Committee

The establishment of an Audit Committee is a requirement of the Act, and cannot be disbanded.

The statutory functions of an Audit Committee as specified by the Audit Regulations are –

16. Audit committee, functions of

An audit committee —

(a) is to provide guidance and assistance to the local government —

(i) as to the carrying out of its functions in relation to audits carried out under Part 7 of the Act; and

(ii) as to the development of a process to be used to select and appoint a person to be an auditor;

and

(b) may provide guidance and assistance to the local government as to —

(i) matters to be audited; and

(ii) the scope of audits; and

(iii) its functions under Part 6 of the Act; and

(iv) the carrying out of its functions relating to other audits and other matters related to financial management; and

(c) is to review a report given to it by the CEO under regulation 17(3) (the CEO's report) and is to

—

(i) report to the council the results of that review; and

(ii) give a copy of the CEO's report to the council.

Draft terms of reference were prepared and circulated for comment at the Council briefing session on 18 April 2018.

Risk management is a potentially significant role for the Committee as Audit Regulations state —

17. CEO to review certain systems and procedures

(1) The CEO is to review the appropriateness and effectiveness of a local government's systems and procedures in relation to —

(a) risk management; and

(b) internal control; and

(c) legislative compliance.

(2) The review may relate to any or all of the matters referred to in subregulation (1)(a), (b) and (c), but each of those matters is to be the subject of a review at least once every 2 calendar years.

(3) The CEO is to report to the audit committee the results of that review.

Accordingly, it is essential that the Audit Committee be aware of the requirements, and must make their own recommendations on the CEO's report to Council.

The proposed Audit Committee TOR are similar to those adopted by many local governments.

While the Committee may have specific duties resolved by Council, it has no delegated authority. Some powers are contained within the Act or Regulations.

Appointments

Appointment to a Council committee as either a member or deputy member is required by the Act to be an absolute majority decision of Council.

Appointment may be —

- by name — in which case the named person remains a member of the committee, whether they are resident of the district or not, or associated with the relevant nominating body or not until removed by absolute majority of Council, resignation etc;
- by position — in which case who ever holds that position is the member of the committee.

A committee cannot appoint or co-opt a person to be a member, nor can a person "self-appoint". A person not appointed by Council may attend, and may speak at the invitation of the presiding person, but has no right to speak, move, second or vote on a motion.

No members of the community have been appointed to either the ANZACV Commemoration Committee or the Australia Day Celebration Committee.

Advisory Groups

Advisory Groups can perform effectively the same function as a Committee, without the administrative burden.

Ideally, they should follow the same basic structure as a committee, with Council controlling the access, membership role and functions. The Act forbids delegation of any responsibility. Any actions taken as a result of Advisory Group discussion, must be either –

- authorised by Council
- implemented by the CEO under delegated authority or as part of the administrative task.

After discussion with the CEO, it was felt that the following Committees could be disbanded and reconstituted as follows –

Current Committee	Suggestion
Works and Services Committee	Discontinue Functions to be part of Council Briefing Session
ANZAC Commemorative Committee	Discontinue Reconstitute as ANZAC Commemorative Advisory Group
Australia Day Celebration Committee	Discontinue without replacement With 5 of 7 elected members being the total appointed membership of the committee, there seems little point in having another meeting when matters could be discussed by full Council at a briefing session.
Suicide Prevention Committee	Discontinue Reconstitute as Suicide Prevention Advisory Group
Bush Fire Advisory Committee	Discontinue Hold an annual Fire Officers Meeting
Sport & Recreation Committee	Discontinue without replacement

Council may wish to consider combining the ANZAC and Australia Day roles into a single Advisory Group, or terminating the Australia Day Celebrations function and deal with it as a Council matters since 5 of the 7 elected members are appointed..

General

Committees may be established, discontinued, and have their membership and responsibilities changed at any time, by absolute majority decision of Council.

The draft Terms of Reference document attached was circulated for comment at the Council briefing session on 18 April 2018. This draft document did include other matters, but as there has been no direction from Council in relation to these at this time, the Terms of Reference attached relate only to the Audit Committee as resolved. The draft document is able to be expanded to include other Committees etc, if Council wishes.

The document is constructed on the basis that every Committee will come to an automatic termination at the ordinary local government election in October every two years. It is a quirk of the Act often overlooked that while Committees may continue, under s.5.11(1)(d) the membership of that Committee concludes at the ordinary local government election. If not re-appointed, the Committee is non-functional, and has no legal capacity to meet.

It is considered appropriate that every Committee etc have its terms of reference regularly reviewed, and should therefore also terminate, and be re-constituted. At this time, Council has two non-functional Committees and it is suggested that they be disbanded –

- Sport and Recreation Committee
- Bush Fire Advisory Committee – this also has statutory requirements under the Bush Fires Act. There is nothing that this Committee is required to do that cannot be achieved by an annual Fire Officers Meeting which would be open to all interested person, not just Committee members, and be able to have broader discussion.

Council may wish to consider appointment of appropriate members of the community to relevant committees or advisory groups.

Listing

Also attached is a listing of the membership of Committees and delegates to external organisations.

Deputy members and deputy delegates have not been appointed in every case, and Council may wish to consider this. There is no requirement to appoint a deputy.

Please note – the Local Government Act does not recognise the term “proxy” which has a different meaning in the business sector to the term of “deputy” which is used by the Act. To avoid inconsistency, it is suggested that “proxy” not be used at any time.

It is suggested that Council formally discontinue all membership, delegates and deputies other than those listed. Should a person attend a meeting other than as listed, they do so in their private capacity, and not as a representative of Council.

CONSULTATION

Ms Glenda Teede, CEO
Council Briefing Session, 18 April 2018

STATUTORY CONTEXT

Local Government Act 1995 –

- s.5.8 to 5.18 – matters relating to the establishment, quorum, duties, membership etc of Committees

Local Government (Audit) Regulations 1996 –

- r.16 – Audit committee, functions of
- r.17 – CEO to review certain systems and procedures

Local Government (Administration) Regulations 1996 –

- r.4 to 14B – regulations relating to Council and committees

CORPORATE CONTEXT

None

STRATEGIC IMPLICATIONS

Strategic Community Plan adopted 28 March 2018 –

5.	Civic leadership – to better allocate scarce resources and effectively interact with the community
5.4	Measures to improve organisational efficiency

FINANCIAL IMPLICATIONS

Cost of publication in Government Gazette and giving local public notice.

VOTING REQUIREMENTS

Absolute majority required: Yes

OFFICER RECOMMENDATION

Moved Cr _____

Seconded Cr _____

That the following Committees be discontinued –

- Works and Services Committee;
- ANZAC Commemorative Committee;
- Australia Day Celebration Committee;
- Suicide Prevention Committee;
- Bush Fire Advisory Committee;
- Sport & Recreation Committee.

VOTING REQUIREMENTS

Absolute majority required: Yes

OFFICER RECOMMENDATION

Moved Cr _____

Seconded Cr _____

That Council adopts the draft Terms of Reference for Committees, Advisory Groups and External Organisations as attached for –

- Audit Committee;
- ANZAC Commemorative Advisory Group;
- Suicide Prevention Advisory Group.

VOTING REQUIREMENTS

Absolute majority required: Yes

OFFICER RECOMMENDATION

Moved Cr _____

Seconded Cr _____

That as per the attached listing, Council –

- confirm membership the Audit Committee as resolved on 25 October 2017,

- appoint the membership of Advisory Groups as listed
- appoint delegates to external organisations as listed,
- appoint deputies to those members and delegates as listed, and
- revoke all other membership, delegates and deputies.

Commonly-used abbreviations	
CEO	Chief Executive Officer
FCO	Fire Control Officer
TOR	Terms of Reference

TERMS OF REFERENCE

ESTABLISHMENT OF –

COUNCIL COMMITTEES

DRAFT – MAY 2018

CONTENTS

Section 1 - Committees of Council

- 1.1 Audit Committee
 - TOR Schedule 1.1 – Risk Management

Section 2 - Advisory Groups

- 2.1 ANZAC Commemorative Advisory Group
- 2.2 Suicide Prevention Advisory Group

Section 3 - External Organisations

Appendices

- Appendix 1 – Standard conditions for Council Committees and Advisory Groups
- Appendix 2 – Criteria for community members of Council Committees and Advisory Groups
- Appendix 3 – Other Shire established groups

Section 1 - Committees of Council

1.1 Audit Committee

Statutory context

Local Government Act 1995 –

- Part 7 – Audit

Local Government (Audit) Regulations 1996

Appendix 1 – Standard conditions for establishment of Council Committees

Corporate context

Appendix 1 – Standard conditions for establishment of Council Committees

History

Established 16 May 2018

Objectives

1. To exercise responsibility for the annual external audit and liaise with the Shire's auditor so that Council can be satisfied with the performance of the local government in managing its financial affairs.
2. To assist Council in discharging its legislative responsibilities of controlling the local government's affairs, determining the local government's policies and overseeing the allocation of the local government's finances and resources.
3. To ensure openness in the local government's financial reporting and will liaise with the CEO to ensure the effective and efficient management of local government's financial accounting systems and compliance with legislation.
4. To facilitate –
 - the enhancement and objectivity of internal and external financial reporting;
 - effective management of financial and other risks and the protection of assets;
 - compliance with laws and regulations as well as best practice in auditing;
 - the coordination of the internal audit function with the external audit;
 - the effective communication between the auditor, the CEO and the Council.

Membership

A minimum of 3 elected members required by the Act.

Composition resolved by Council	
Nomination of	No.
Elected members, including ex-officio	3
Employees, including ex-officio	0
Other persons – Community at large	2
• Specified organisations	0
Total Membership	5
Quorum	3
	No additional criteria

Meetings

Appendix 1 – Standard conditions for establishment of Council Committees

Administrative Support

Senior Officer responsible	Chief Executive Officer
Initial contact person	Manager Finance and Administration

Role and Scope of Committee

1. Audit –

- a) Provide guidance and assistance to Council as to the carrying out the functions of the local government in relation to audits.
- b) Develop and recommend to Council an appropriate process for the selection and appointment of a person as the local government's auditor.
- c) Develop and recommend to Council –
 - a list of those matters to be audited; and
 - the scope of the audit to be undertaken.
- d) Recommend to Council the person or persons to be appointed as auditor.
- e) Develop and recommend to Council a written agreement for the appointment of the auditor, which is to include –
 - the objectives of the audit;
 - the scope of the audit;
 - a plan of the audit;
 - details of the remuneration and expenses to be paid to the auditor; and
 - method/s to be used by the local government to communicate with, and supply information to, the auditor.
- f) Meet with the auditor once in each year and provide a report to Council on the matters discussed and outcome of those discussions.
- g) Liaise with the CEO to ensure that the local government does everything in its power to –
 - assist the auditor to conduct the audit and carry out his or her other duties under the *Local Government Act 1995* and *Local Government (Audit) Regulations 1996*; and
 - ensure that audits are conducted successfully and expeditiously.
- h) Examine the reports of the auditor after receiving a report from the CEO on the matters and –
 - determine if any matters raised require action to be taken by the local government; and
 - ensure that appropriate action is taken in respect of those matters.
- i) Review the report prepared by the CEO on any actions taken in respect of any matters raised in the report of the auditor and presenting the report to Council for adoption prior to the end of the next financial year or 6 months after the last report prepared by the auditor is received, whichever is the latest in time.
- j) Review the scope of the audit plan and program and its effectiveness.
- k) Review the local government's draft annual financial report, focusing on:
 - accounting policies and practices;
 - changes to accounting policies and practices;
 - the process used in making significant accounting estimates;
 - significant adjustments to the financial report (if any) arising from the audit process;
 - compliance with accounting standards and other reporting requirements;
 - significant variances from prior years.
- l) Consider and recommend adoption of the annual financial report to Council.
- m) Review any significant changes that may arise subsequent to any such recommendation but before the annual financial report is signed.
- n) Address issues brought to the attention of the committee, including responding to requests from Council for advice that are within the parameters of the committee's terms of reference.
- o) Seek information or obtain expert advice through the CEO on matters of concern within the scope of the committee's terms of reference following authorisation from the Council.
- p) Review the Compliance Audit Return and make a recommendation on its adoption to Council.

2. Risk Management –

- a) Oversight in the areas of risk management, internal control and legislative compliance in accordance with the Local Government (Audit) Regulations 1996 r.17 and Schedule 1.1;
- b) Consider, approve and review the annual Internal Audit Plan;
- c) Advise Council on performance against the adopted Internal Audit Plan.

Notes

1. Audit Reg. r.17 plan to be developed by MFA (TOR Sch. 1.1)
2. Refer –
 - ISO 31000 Risk management – Principles and guidelines
 - Dept of Local Government, Sporting and Cultural Industries –
Local Government Operational Guidelines
Number 09 – Revised September 2013
Audit in Local Government
The appointment, function and responsibilities of Audit Committees

TOR Schedule 1.1 – Risk Management

AUDIT COMMITTEE INTERNAL RISK MANAGEMENT REVIEW REPORT

Report prepared by **Manager Finance and Administration**

Rating key: **A:** Acceptable **I:** Improvement required. **U:** Unacceptable, requires attention.

1. RISK MANAGEMENT			
a) The following considerations were based on the Department of Local Government & Communities Operational Guideline, No.09 dated September 2013:			
Considerations	Rating	Observation	Strategies
(1) Reviewing whether the local government has an effective risk management system and that material operating risks to the local government are appropriately considered.		•	Action required: •
(2) Reviewing whether the local government has a current and effective business continuity plan (including disaster recovery) which is tested from time to time.		•	Action required: •
(3) Assessing the internal processes for determining and managing material operating risks in accordance with the local government's identified tolerance for risk, particularly in the following areas: (a) potential non-compliance with legislation, regulations and standards and local government's policies; (b) important accounting judgements or estimates that prove to be wrong; (c) litigation and claims (d) misconduct, fraud and theft (e) significant business risks, recognising responsibility for general or specific risk areas, for example, environmental risk, occupational health and safety, and how they are managed by the local government.		•	Action required: •
(4) Obtaining regular risk reports, which identify key risks, the status and the effectiveness of the risk management systems, to ensure that identified risks are monitored and new risks are identified, mitigated and reported.		•	Action required: •
(5) Assessing the adequacy of local government processes to manage insurable risks and ensure the adequacy of insurance cover, and if applicable, the level of self-insurance.		•	Action required: •
(6) Reviewing the effectiveness of the local government's internal control system with management and the internal and external auditors.		•	Action required: •

(7) Assessing whether management has controls in place for unusual types of transactions and/or any potential transactions that might carry more than an acceptable degree of risk.		•	Action required: •
(8) Assessing the local government's procurement framework with a focus on the probity and transparency of policies, procedures & processes and whether these are being applied.		•	Action required: •
(9) Should the need arise, meeting periodically with key management, internal and external auditors, and compliance staff, to understand and discuss any changes in the local government's control environment.		•	Action required: •
(10) Ascertaining whether fraud and misconduct risks have been identified, analysed, evaluated, have an appropriate treatment plan which has been implemented, communicated, monitored and there is regular reporting and ongoing management of fraud and misconduct risks.		•	Action required: •]

2. INTERNAL CONTROL			
<p>a) Internal Control is a key component of a sound governance framework, in addition to leadership, long-term planning, compliance, resource allocation, accountability and transparency.</p> <p>b) Internal control systems involve policies and procedures that safeguard assets, ensure accurate and reliable financial reporting, promote compliance with legislation and achieve effective and efficient operations and may vary depending on the size and nature of the local government.</p> <p>c) Strategies to maintain sound internal controls are based on risk analysis of the internal operations of a local government.</p>			
<p>(1) Management Practices:</p> <p>(a) Separation of roles and functions, processing and authorisation: (i) integrity and ethics; (ii) documented policies & procedures, delegated authority, levels of responsibilities and authorities; (iii) audit practices;</p> <p>(b) Management operating style.</p> <p>(c) Human Resource management and practices: (i) volunteer management (ii) trained and qualified employees; and (iii) equity and diversity leadership.</p> <p>(d) HR Systems Control: (i) Induction Programs (ii) Recruitment (iii) Training (iv) Performance Management</p>		•	Action required: •

<p>(2) Information Management:</p> <p>(a) Data Management: Comparison of internal data with other or external sources of information, for example:</p> <p style="padding-left: 20px;">(i) Geographical Information Systems (GIS); and</p> <p style="padding-left: 20px;">(ii) Public Works Engineering Data (e.g.: As constructed data).</p> <p>(b) Control of approval of correspondence (documents, letters); and</p> <p>(c) Systems control: Security access, approval, version control.</p>		<ul style="list-style-type: none"> • 	<p>Action required:</p> <ul style="list-style-type: none"> •
<p>(3) Physical and Information Security: information system access and security, for example:</p> <p>(a) limitations on direct physical access to assets and records;</p> <p>(b) control of computer applications and information system standards;</p> <p>(c) limitations on access to make changes in data files and systems; and</p> <p>(d) testing the arithmetical accuracy and content of records.</p>		<ul style="list-style-type: none"> • 	<p>Action required:</p> <ul style="list-style-type: none"> •
<p>(4) Financial Management: integrity of financial systems, processes, controls, auditing, for example:</p> <p>(a) approval of financial transactions (records);</p> <p>(b) regular maintenance and review of financial control accounts and trial balances;</p> <p>(c) comparison and analysis of financial results with budgeted amounts;</p> <p>(d) report, review and approval of financial payments and reconciliations; and</p> <p>(e) comparison of the result of physical cash and inventory counts with accounting records.</p>		<ul style="list-style-type: none"> • 	<p>Action required:</p> <ul style="list-style-type: none"> •

<p>3. LEGISLATIVE COMPLIANCE</p>			
<p>Local governments are required by legislation to complete a statutory compliance return (Compliance Audit Return or CAR) annually and have the return adopted by Council. The return is a checklist of a local government's compliance with the requirements of the Act and its Regulations, concentrating on areas of compliance considered "high risk"</p>			
<p>Legislative Compliance:</p> <p>(a) Statutory reporting timeframes are met;</p> <p>(b) Council and Executive Policy Positions are relevant and can be complied with;</p> <p>(c) Delegations are legislatively compliant, understood and complied with.</p>		<ul style="list-style-type: none"> • 	<p>Action required:</p> <ul style="list-style-type: none"> •

Section 2 - Advisory Groups

Advisory Groups are not Committees of Council and exist as a forum to –

- advise Council or employees;
- facilitate exchange of ideas; and
- discuss the matters assigned.

Establishment of each Advisory Group is similar to Council Committees for consistency, but are not subject to the legislative constraints of a Committee. Where possible and appropriate, the Standard Conditions for Committees should be followed.

An Advisory Group has no decision making authority whatsoever. Action may only be initiated –

- within the scope of responsibility given to an employee by the CEO, or
- by an employee following Council decision.

2.1 ANZAC Commemorative Advisory Group

Statutory context None

Corporate context Appendix 1 – Standard conditions for establishment of Council Committees

History Established 16 May 2018

Objectives

1. To provide an avenue of communication/consultation between Council and the community for ANZAC Day functions and events.
2. To oversee the management of the Calingiri War Memorial and associate infrastructure.

Membership

Composition resolved by Council		
Nomination of	No.	
Elected members, including ex-officio	2	
Employees, including ex-officio	0	
Other persons – Community at large	0	
<ul style="list-style-type: none"> • Specified organisations - Warden of War Memorial 	1	
Total Membership	5	
Quorum	3	No additional criteria

Meetings Appendix 1 – Standard conditions for establishment of Council Committees

Administrative Support

Senior Officer responsible	Chief Executive Officer
Initial contact person	

Role and Scope of Advisory Group

1. Assist with the coordination and arrangements for ANZAC Day.
2. Consider the management of the Calingiri War Memorial and make relevant recommendations to Council.

Notes

2.2 Suicide Prevention Advisory Group

Statutory context None

Corporate context Appendix 1 – Standard conditions for establishment of Council Committees

History Established 16 May 2018

Objectives

- 1.
- 2.

Membership

Composition resolved by Council		
Nomination of	No.	
Elected members, including ex-officio	4	
Employees, including ex-officio	0	
Other persons – Community at large	0	
• Specified organisations	0	
Total Membership	4	
Quorum	3	No additional criteria

Meetings Appendix 1 – Standard conditions for establishment of Council Committees

Administrative Support

Senior Officer responsible	Chief Executive Officer
Initial contact person	Manager Finance and Administration

Role and Scope of Advisory Group

Notes

Section 3 - External Organisations

External organisations are not Committees or Advisory Groups of Council. Participation by the Shire is for the purposes of –

- support of a community group,
- lobbying or regional cooperation;
- community benefit.

Establishment of external organisations is undertaken by others, and although the Shire may influence the external organisation, it is not overseen, governed or managed by Council.

Generally, participation in an external organisation is voluntary, but can be required or advisable.

Council has authorised delegates/deputies to the following external organisations –

External Organisation	Requirement	Conditions
Development Advisory Panel	Required by Planning and Development Act	Must be elected members Expiring 26 July 2018
Joint Local Emergency Management Committee	Required by Emergency Management Act	
Avon Midland Country Zone WALGA	Recognised by legislation	Must be elected members
Wheatbelt North Regional Road Group (& Moora Sub-Group)	Recognised by legislation	Must be elected members
Avon Voluntary Regional Organisation of Councils	Discretionary	Must be elected members
Rural Water Council	Discretionary	

Elected members and employees are likely to participate in a variety of community organisations in their private capacity.

Appendices

Appendix 1 – Standard conditions for Council Committees and Advisory Groups

Unless otherwise specified in the establishment of a Committee or Advisory Group, the following standard conditions apply to all.

Matters will only be listed if varying from these Standard Conditions

Statutory context The majority of Committees are likely to be established under the Local Government Act 1995. Relevant matters in the Act include –

- s.5.8 to s.5.18 – Committees and their meetings.
- s.5.19 to s.5.25 – Matters affecting Council and Committee meetings.
- s.5.59 to s.5.90 – Financial interests, declarations, gifts etc.

Also refer to Local Government (Administration) Regulations 1996 –

- r.4 to r.14B – Committees and committee meetings.

Shire of Victoria Plains Meeting Procedures Local Law 2018, unless otherwise provided for by the Act or Regulations.

Some committees, but not all, have statutory functions. If so, general references to legislative requirements are given.

A specific Council resolution over-rides the TOR for a Committee or Group.

Decisions relating to structure and operation –

- Committee – must be made by absolute majority of Council,
- Group or external organisation – require only a simple majority of Council

Council context From time to time, Council may adopt specific policies that affect the Committee or provide direction.

Compliance with the Shire of Victoria Plains Code of Conduct for Council Members, Committee Members and Employees is mandatory, as required by the Act and Regulations.

History First established
Last amended

Establishment

Objectives Brief outline of Council's objectives for the Committee or Group.

Authority Unless provided for by the Act or Regulations, the Committee has an advisory role only, and has no delegated authority to implement actions or activity unless authorised by Council.

An Advisory Group cannot exercise any delegated authority or make directives or instructions.

Financial Interests The Act requires all members of a Committee comply with interest provisions –

- financial – both direct and indirect interests which impact the member;
- proximity – development adjoining or affecting the member;

- impartiality – where there may be a perception of influence;
- declarations – written declaration to be made to CEO or presiding members;
- gifts or contributions – to be notified to CEO within 10 days of receipt or promise of gift.

Working Parties The Act does not permit the establishment of sub-Committees.

Code of Conduct The Act requires compliance with the Code of Conduct adopted by the Council.

Membership

Composition The Act requires that a Committee have a membership of at least 3 people.

A vacancy does not reduce the number of positions on the Committee or Group, unless resolved by Council. The number of members must be stipulated by Council, and cannot be varied by the Committee. Should there be less members than the number resolved by Council, the position is considered vacant, however, the quorum required is not affected.

The Committee is to comprise of –

- Council members, including ex-officio as permitted by the Act.
- Employees, as resolved by Council, including ex-officio as permitted by the Act. The role of member includes the obligation to vote and is separate from the administrative support function of the Committee.
- Other persons, i.e. community members, either named or by position within an external organisation.

If notified to Council when Committee is established, the President and CEO may exercise separate rights to be a member or nominate another elected member or employee to be a member of the Committee.

Members	Council members	As stipulated in the resolution establishing the Committee by absolute majority, or subsequent decision, and including any ex-officio member.
	Employees	As stipulated in the resolution establishing the Committee by absolute majority, or subsequent decision, and including any ex-officio member.
	Other persons	From the community or specific organisation, as stipulated in the resolution establishing the Committee by absolute majority, or subsequent decision.

Only appointed members of a Committee or Advisory Group may vote. Generally, employees will not be voting members of a Committee, but have an advisory and support role only. However, there may be exceptions and these will be noted in the individual Terms of Reference.

Nomination of a member may be –

- by name, in which case the person holds membership until removed, whether a resident, employee or not; or
- by position, in which case the person holding the specific position.

Where a member is appointed by position, a person acting in that position automatically has membership. If the person chooses to delegate the membership to another person within their organisation, this must be notified to the CEO. The person delegated does not automatically become the deputy member.

Deputy members	<p>The Act defines “deputy member” as a person appointed by Council authorised to act for a Committee member in that person’s unavailability.</p> <p>Only the person initially present at the meeting may participate, i.e. “tag teaming” by leaving a meeting, allowing the other to participate and vote, is not permitted.</p> <p>Where a deputy member is appointed by position, a person acting in that position automatically has membership. Where the person chooses to delegate the membership to another person within their organisation, the CEO must be notified.</p> <p>The term “proxy” should not be used – it is not recognised by the Act, and has different implications from commercial/business use.</p>
Vacancies	<p>The Act requires that members and deputy members to a Committee be approved by absolute majority of Council.</p> <p>The Committee is not permitted to co-opt members, but may invite a person or organisation to make a presentation or deputation.</p>
Tenure	<p>The Act stipulates membership of the Committee is until –</p> <ul style="list-style-type: none">• the person no longer holds the office by virtue of which they were appointed,• the person resigns by notice in writing to the presiding member or the CEO,• the person's term of appointment expires or is removed by Council, or otherwise become vacant,• the committee is disbanded or term for which it was established expires. <p>Consistent with the provisions of the Act s.2.25(4) applying to Council members, Council may remove a Committee member who has been absent for 3 consecutive meetings, or for other reason.</p>
Payments	<p>Meeting fees are not paid. In some instances, reimbursement for actual expenses incurred in attending a Committee meeting may be permitted. Refer to CEO.</p>
Meetings	
Frequency	<p>May be specified by Council, but generally as required and determined by the Committee or Group.</p>
Presiding Member	<p>The Act requires that the presiding member be selected by the Committee.</p>
Procedures	<p>In accordance with Shire of Victoria Plains Meeting Procedures Local Law.</p>
Deputations	<p>In accordance with Shire of Victoria Plains Meeting Procedures Local Law.</p>
Quorum	<p>The Act stipulates 50% of the designated membership of the Committee whether the position is vacant or not, must be present.</p> <p>Where the membership is an odd number, the quorum is 50% and rounded up, e.g. quorum for a membership of 9 is 5.</p> <p>In some circumstances, Council is permitted by absolute majority to give prior approval for a specific meeting to reduce the quorum required.</p>

- Voting All recommendations are to be by simple majority of the members present, the presiding member should announce the result of the vote, e.g. 3/1, or 4/0 etc.
- The Act requires that all Committee members present at the meeting –
- must vote, and
 - must vote in such a way that their vote is not secret, i.e. either on the voices or by show of hands.
- Therefore the following are not permitted –
- proxy voting – submission of a written vote by another person);
 - abstaining from voting – those present are required by the Act to vote;
 - secret ballot, drawing of lots or similar.
- In the case of equality of voting, the presiding member is to exercise a casting vote.
- Observers do not have a right to speak, but may address the meeting at discretion of the presiding member, and are not permitted to vote.
- Agendas To be available 3 days prior to meeting, to Committee members and the public.
- Minutes To be available 5 days after the meeting to Committee members and the public. The Act and Regulations requires that the minutes of Committee meetings are –
- made available to the public within 5 business days;
 - submitted to the following Committee meeting for confirmation.
- There is no requirement to submit Committee minutes to Council, unless the Committee exercises delegated authority.
- Recommendations All decisions of committee or groups are recommendations, and are not to be actioned until authorised by Council, unless the CEO or other employee authorised by CEO has existing authority, responsibility or discretion to do so.

Administrative Support

The role does not confer any right to vote.

Senior Officer Has responsibility for the Committee, overseeing its general operation in accordance with these standard conditions or specific variation as authorised by Council, and ensuring the Committee's minutes are presented to Council.

Contact Provides administrative support for the Committee at the direction of the senior office.

Role and Scope of Committee

Detailed terms of reference will be given of what is expected of the Committee.

Notes

General notes for guidance or reference, not forming part of the establishment or terms of reference.

TOR Schedule

Instructions or guidance on how the role and responsibilities are to be implemented.

Appendix 2 – Criteria for community members of Council Committees and Advisory Groups

A Committee may have members from specific community organisations or from the community at large.

For these Committees, Council will seek to appoint community members so that the Committee meetings will consist of members and deputy members having –

- a) demonstrated expertise and knowledge in the particular area of Committee responsibility;
- b) relevant skills and experience to provide independent advice;
- c) current participation with an organisation having similar objectives would be well regarded,
- d) diverse backgrounds and experience, while remaining relevant to the Committee's functions.

Preference will be given to residents who have a detailed knowledge of the district, enabling Committee members to make a positive contribution towards the community.

Non-residents may be appointed by Council, if suitable candidates cannot be established from the community or if it is determined there is specific need or advisability.

Appendix 3 – Other Shire established groups

Although the following are groups established by the Shire, they may not report to Council.

Occupational Health and Safety Committee

Responsible to – CEO

Established under the Occupational Safety and Health Act, the Committee is workplace based, with workplace representatives, is responsible to the employer (i.e. CEO), and has statutory obligations.

Fire Officers Meetings

Responsible to – Chief Bush Fire Control Officer, and
Community Emergency Services Manager

The Bush Fires Act permits, but does not require the establishment of several committees. If created, there are specified actions and requirements –

- s.38(14) – fire weather advisory committee
- s.67 – bush fire advisory committee
- s.68 – regional bush fire advisory committee

Fire Officers Meetings will be held from time to time as considered appropriate. The CBFCO or CESM will report to Council as necessary.

**COUNCIL COMMITTEES
COUNCIL ADVISORY GROUPS
EXTERNAL ORGANISATIONS**

MEMBERS, DELEGATES, DEPUTIES

TO BE READ IN CONJUNCTION WITH TERMS OF REFERENCE ESTABLISHMENT

Council Committees

Council Committees are those where Council does exercise control (establishment, dissolution etc). Compliance with the Local Government Act is mandatory.

Appointed - 25 October 2017 Concluding – October 2019

Committee	Members	Deputy/s
Audit Committee	Cr Pauline Bantock	None appointed
	Cr Stephanie Penn	
	Cr Neville Clarke	
	Ms Lou Witham	
	Mr Gary McGill	

All Council Committees established prior to 16 May 2018 are discontinued.
All previous memberships of Council Committees are revoked.

Council Advisory Groups

Advisory Groups are those where Council does exercise control (establishment, dissolution etc). Do not fall within the requirements of the Local Government Act.

Appointed - 16 May 2018 Concluding – October 2019

Advisory Group	Members	Deputy/s
ANZAC Commemorative Advisory Group	Cr Stephanie Penn	None appointed
	Cr Jackie Corless-Crowther	
	Mr Gary McGill	
Suicide Prevention Advisory Group	Cr Jaymie King	None appointed
	Cr Jackie Corless-Crowther	
	Cr Stephanie Penn	
	Cr Neville Clarke	

Australia Day Celebrations Advisory Group To be determined if continuing	Cr David Lovelock	None appointed
	Cr Jaymie King	
	Cr Jacquie Corless-Crowther	
	Cr Stephanie Penn	
	Cr Neville Clarke	

No Advisory Groups were established prior to 16 May 2018.

All previous memberships of Committees having functions now transferred to Advisory Groups are revoked.

External organisations: Council delegates & deputy delegates

External organisations are those where Council does not exercise control (establishment, dissolution etc). Responsibility for the organisations does not rest with Council.

Commencing - 25 October 2017

Concluding – October 2019

External Organisation	Delegate/s	Deputy/s
Development Advisory Panel must be elected member expiring 26 July 2018	Cr Pauline Bantock ----- Cr Stephanie Penn	Cr Jacquie Corless-Crowther Cr Neville Clarke
Avon Midland Country Zone WALGA must be elected member	Cr David Lovelock -----	Cr Pauline Bantock
Wheatbelt North Regional Road Group (& Moora Sub-Group) must be elected member	Cr David Lovelock -----	Cr Neville Clarke
Avon Voluntary Regional Organisation of Councils must be elected member	Cr David Lovelock -----	None appointed
Rural Water Council	Cr Andrew Broadhurst ----- Cr Stephanie Penn	None appointed
Joint Local Emergency Management Committee CBFCO subject to Council appointment	Cr Jaymie King ----- Cr Andrew Broadhurst ----- Cr Neville Clarke ----- Chief Bush Fire Control Officer (Mr Gary Manning) ----- Bush Fire Brigades (Mr Gavin Halligan) ----- Chief Executive Officer	None appointed

All previous nominations of representatives and deputies prior to 16 May 2018 are revoked.

10.12 PART PURCHASE LOT 100 MOGUMBER

File reference	D4.2
Report date	6 May 2018
Applicant/proponent	P Toms
Officer disclosure of interest	Nil
Previous meeting references	P02/2018 of April 2018
Prepared by	Niel Mitchell, Governance
Authorised by	Glenda Teede, CEO
Attachments	
Attachment 1	Map of Lot 100 Mogumber.

PURPOSE

To consider referral by Dept of Lands for a request to purchase a portion of Lot 100, Mogumber.

BACKGROUND

In April 2018, Council confirmed that Dept of Lands be approached for Lot 100 to be dedicated as a road reserve. Letters have since gone to all adjoining owners and to all service authorities as required by the Lands Act.

The Dept of Lands then advised that an application had been received from Ms Toms to purchase the portion of Lot 100 separating Lots 34 & 35 as circled on the attachment. They had then advised Ms Toms of the Shire's intent for the Lot to be a road reserve.

Ms Toms has since also confirmed her request to the Shire. In her letter to the Shire, Ms Toms–

- noted that her family has owned and lived on her land (Lot 35) since 1970;
- advised in that time the section requested for purchase has never been used in any capacity except for access to her property;
- requested attention to the matter as soon as possible as it may affect decisions as to the positioning of her new house.

COMMENT

In 2010, the owners of the farm immediately to the east of Lot 100 and Lots 20 to 43, prepared a plan of a possible development of the farm for hobby farm or rural residential lots (Elders Real Estate website of 5 Aug 2010). It appears that the proposal never proceeded, and no subdivision plan lodged for approval with WA Planning Commission.

WAPC approvals always have a timespan placed on the proposed development, usually 4 years. As there is no development, any approval for development of the farm is long since expired.

As an intention of the owner, there is no obligation on Council to consider the future possibility of a firm proposal ever being lodged for the development of this land. In reviewing the 2010 map of the planned intention, sale of this portion of Lot 100 would not affect any proposed development, as all lots intended would still have access to the Mogumber-Yarawimdah Road.

Lot 100 or any extension of it, is not required in order to provide access to any of the intended lots.

Accordingly, the matter before Council is solely the application by Ms Toms to the Dept of Lands for the purchase of the highlighted section.

Other than potentially providing access to future lots for which there is no firm proposal, and would not need it in any case, there does not appear to be any reason for Council to oppose the application.

For the application to proceed, Council does need to vary the resolution made at the April 2018 meeting, for the whole of Lot 100 to be dedicated as a road reserve.

CONSULTATION

Glenda Teede, CEO
Cr Pauline Bantock, Deputy President
Craig Binks, A/Senior State Lands Office, Dept of Lands

STATUTORY CONTEXT

Land Administration Act 1997 –
- s.56 – vesting of land for road reserve – resolution and process etc

CORPORATE CONTEXT

None

STRATEGIC IMPLICATIONS

Strategic Community Plan adopted 28 March 2018 –

	None

FINANCIAL IMPLICATIONS

Likely future rates income (minimal)

VOTING REQUIREMENTS

Absolute majority required: No

OFFICER RECOMMENDATION

Moved Cr _____ Seconded Cr _____

That Dept of Lands be advised that –

1. Council has no objection to the sale of part Lot 100 being the portion between Lots 34 and 35; and
2. the application to dedicate Lot 100 as a road reserve is modified to exclude this portion should the sale proceed.

Commonly-used abbreviations	
CEO	Chief Executive Officer

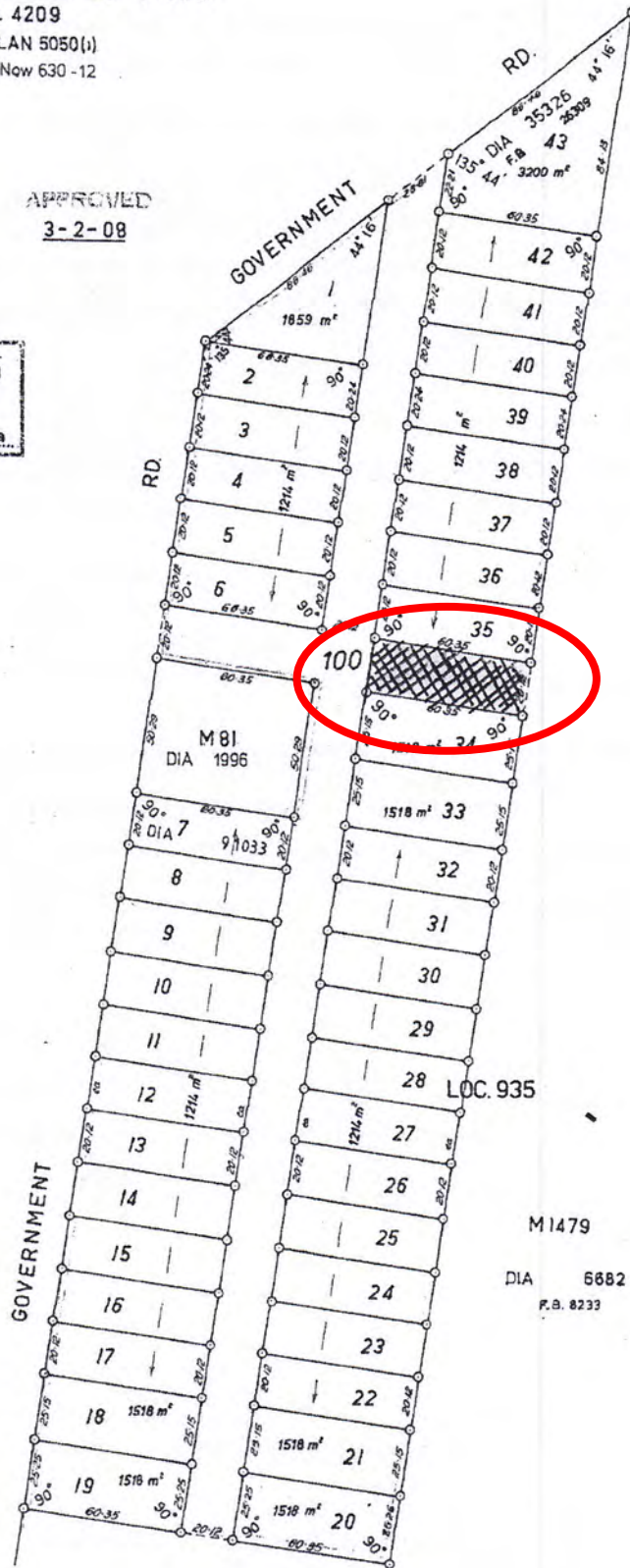
PLAN 2960

PT MELBOURNE LOC. 935

F. B. 4209
INDEX PLAN 5050(i)
Cs.T. 211-86, Now 630-12

APPROVED
3-2-08

Land Parcel Transfer provided -
Regulation 6 of Transfer of Land
(Survey) Regulations 1995
Con. 1779-2060-01
Date: 15.06.2010 13



31.1.78

P 002960 F 01



SCALE
0 20 40 60 80 100 120 140 160
ALL DISTANCES ARE IN METRES



PLAN 2960

10.13 LOT 500 BOLGART – Bolgart Progress Association

File reference	D4.2
Report date	8 May 2018
Applicant/proponent	Shire of Victoria Plains
Officer disclosure of interest	Nil
Previous meeting references	n/a
Prepared by	Niel Mitchell, Governance
Authorised by	Glenda Teede, CEO
Attachments	
Attachment 1	Certificate of Title – Lot 500 Bolgart
Attachment 2	Management Order, Reserve 39255 Lot 500 Bolgart

PURPOSE

To consider the purpose and conditions of the Management Order

BACKGROUND

Lot 500 is the land where the old bush fire brigade building is situated. Council had previously agreed to sell the block to the Bolgart Progress Association.

COMMENT

In preparing the documentation, Civic Legal ascertained that the lot is actually a reserve for which the Shire holds the management order. On examination two issues were noted –

- there is no power to lease the land, and
- the purpose of the reserve is “Community Centre”

It is understood that the intended use by Bolgart Progress Association is for a plant nursery. As such, this does not meet the definition of “Community Centre” but would fit into a broader purpose of “Community Purposes”.

The options that Council has are therefore –

1. Advise the Dept of Land that there is no objection to the sale of land. This will mean that Council will need to determine an appropriate figure for the sale of the infrastructure on the land. If sold, the income is split between the State and the Shire, with the State receiving full valuation of the land, and the Shire the balance.
2. Request the Minister for Lands to –
 - a) amend the Management Order to allow leasing by the Shire for up to 21 years, and
 - b) amend the purpose to “Community Purposes”, and
 - c) then lease the property to the Association.

Option 1 means that Council has no further interest in either the land or the building.

Option 2 means that Council still has some controls over both land and buildings, subject to the terms of any lease agreed with the Association.

Being a community non for profit organisation, sale (of the infrastructure) or lease of Lot 500 will be an exempt disposition of property.

CONSULTATION

Glenda Teede, CEO

Ms Geraldine O'Reilly, Civic Legal

STATUTORY CONTEXT

Local Government Act 1995

- s.3.58 – Disposition of property

Functions and General Regulations 1996 –

30. Dispositions of property excluded from Act s. 3.58

(1) A disposition that is described in this regulation as an exempt disposition is excluded from the application of section 3.58 of the Act.

(2) A disposition of land is an exempt disposition if —

(b) the land is disposed of to a body, whether incorporated or not —

(i) the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature; and

(ii) the members of which are not entitled or permitted to receive any pecuniary profit from the body's transactions;

CORPORATE CONTEXT

None

STRATEGIC IMPLICATIONS

Strategic Community Plan adopted 28 March 2018 –

1.	Community – to enhance and improve a sense of community in the Shire
1.3	Promote community health and wellbeing
1.4	Support sporting, volunteer and community groups
1.5	Increase community activities
1.6	Develop new / reuse existing community facilities
2.	Economic – to improve and add to local economic development and activity
2.3	Improve community connectivity

FINANCIAL IMPLICATIONS

Cost of documentation for either sale or lease, estimated to be approx. \$5,000 ex GST plus disbursements

VOTING REQUIREMENTS

Absolute majority required: Yes

OFFICER RECOMMENDATION

Moved Cr _____

Seconded Cr _____

That –

1. the Bolgart Progress Association be requested to advise their preference for purchase of Reserve 39255 (Lot 500), both land and buildings, from the State and the Shire;
2. the CEO be authorised to make the arrangements for sale or lease of the Reserve, including as appropriate –
 - a) negotiation of an appropriate price in consultation with the Dept of Lands, and completion of all sale documents; or
 - b) amend the purpose of the reserve to “Community Purposes” with power to lease for 21 years, and to finalise lease arrangements;
3. the President and CEO be authorised to affix the Common Seal to the sale or lease as negotiated.

Commonly-used abbreviations	
CEO	Chief Executive Officer

WESTERN



AUSTRALIA

REGISTER NUMBER 500/DP62747	
DUPLICATE EDITION N/A	DATE DUPLICATE ISSUED N/A

**RECORD OF QUALIFIED CERTIFICATE
OF
CROWN LAND TITLE
UNDER THE TRANSFER OF LAND ACT 1893
AND THE LAND ADMINISTRATION ACT 1997
NO DUPLICATE CREATED**

VOLUME **LR3158** FOLIO **550**

The undermentioned land is Crown land in the name of the STATE OF WESTERN AUSTRALIA, subject to the interests and Status Orders shown in the first schedule which are in turn subject to the limitations, interests, encumbrances and notifications shown in the second schedule.



REGISTRAR OF TITLES

LAND DESCRIPTION:

LOT 500 ON DEPOSITED PLAN 62747

**STATUS ORDER AND PRIMARY INTEREST HOLDER:
(FIRST SCHEDULE)**

STATUS ORDER/INTEREST: RESERVE UNDER MANAGEMENT ORDER

PRIMARY INTEREST HOLDER: SHIRE OF VICTORIA PLAINS OF POST OFFICE BOX 21, CALINGIRI
(XE L288218) REGISTERED 15/4/2010

**LIMITATIONS, INTERESTS, ENCUMBRANCES AND NOTIFICATIONS:
(SECOND SCHEDULE)**

- 1. L167648 RESERVE 39255 FOR THE PURPOSE OF BUSH FIRE BRIGADE PURPOSES REGISTERED 9/12/2009.
- L167649 CHANGE OF RESERVE PURPOSE. PURPOSE CHANGED TO COMMUNITY CENTRE REGISTERED 9/12/2009.
- L288218 MANAGEMENT ORDER. CONTAINS CONDITIONS TO BE OBSERVED. REGISTERED 15/4/2010.

- Warning:
- (1) A current search of the sketch of the land should be obtained where detail of position, dimensions or area of the lot is required. Lot as described in the land description may be a lot or location.
 - (2) The land and interests etc. shown hereon may be affected by interests etc. that can be, but are not, shown on the register.
 - (3) The interests etc. shown hereon may have a different priority than shown.

-----END OF CERTIFICATE OF CROWN LAND TITLE-----

STATEMENTS:

The statements set out below are not intended to be nor should they be relied on as substitutes for inspection of the land and the relevant documents or for local government, legal, surveying or other professional advice.

SKETCH OF LAND: DP62747
PREVIOUS TITLE: LR3142-23, LR3158-549
PROPERTY STREET ADDRESS: LOT 500 GEORGE ST, BOLGART.

END OF PAGE 1 - CONTINUED OVER

ORIGINAL CERTIFICATE OF CROWN LAND TITLE
QUALIFIED

REGISTER NUMBER: 500/DP62747

VOLUME/FOLIO: LR3158-550

PAGE 2

LOCAL GOVERNMENT AUTHORITY:
RESPONSIBLE AGENCY:

SHIRE OF VICTORIA PLAINS
DEPARTMENT OF PLANNING, LANDS AND HERITAGE (SLSD)

NOTE 1: L167646 CORRESPONDENCE FILE 02857-1984-02RO

ORIGINAL

FORM LAA-1023

SECTION 46

WESTERN AUSTRALIA
LAND ADMINISTRATION ACT 1997 as amended
TRANSFER OF LAND ACT 1893 as amended

MANAGEMENT ORDER (XE)

RESERVE DESCRIPTION (NOTE 1)

RESERVE DESCRIPTION (NOTE 1)	EXTENT	VOLUME	FOLIO
39255	Whole	3158	550

MANAGEMENT BODY (NOTE 2)

Shire of Victoria Plains, c/o PO Box 21, Calingiri WA 6569

CONDITIONS (NOTE 3)

To be utilised for the designated purpose of "Community Centre" only.

THE MINISTER FOR LANDS (IN THE NAME OF AND ON BEHALF OF THE STATE OF WESTERN AUSTRALIA) ORDERS THAT THE CARE, CONTROL AND MANAGEMENT OF THE ABOVE RESERVE BE PLACED WITH THE MANAGEMENT BODY DESCRIBED ABOVE FOR THE PURPOSE FOR WHICH THE LAND COMPRISING THE RESERVE IS RESERVED UNDER SECTION 41 OF THE LAND ADMINISTRATION ACT 1997, AND FOR PURPOSES ANCILLARY OR BENEFICIAL TO THAT PURPOSE TO THE CONDITIONS ABOVE

Dated this 15TH day of April in the year 2010

ATTESTATION (NOTE 4)



SENIOR STATE LAND OFFICER
WHEATBELT REGION
STATE LAND SERVICES

ORIGINAL

INSTRUCTIONS

1. If insufficient space in any section, Additional Sheet Form B1 should be used with appropriate headings. The boxed sections should only contain the words "See Annexure".
2. Additional Sheets shall be numbered consecutively and bound to this document by staples along the left margin prior to execution by parties.
3. No alteration should be made by erasure. The words rejected should be scored through and those substituted typed or written above them, the alteration being initialed by the person signing this document and their witnesses.

NOTES

1. RESERVE DESCRIPTION
Reserve number and details to be stated. The Volume and Folio numbers to be stated.
2. MANAGEMENT BODY
State the full name and address of management body.
3. CONDITIONS
Detail the conditions specified by the Minister to be observed by the management body in its care control and management of the Reserve.
4. ATTESTATION
This document is to be executed by the Minister for Lands or a person to whom the power to grant a management order under section 46 of the Land Administration Act 1997 has been duly delegated under section 9(1) of the Act (if applicable).

EXAMINED
Dup MO L288218. Lit 835151. DS.

Office Use Only

L288218 XE
15 Apr 2010 15:16:06 Midland



MANAGEMENT ORDER (XE)

LODGED BY State Land Services

ADDRESS RDL - Wheatbelt - Box 98C

PHONE No.
FAX No.

REFERENCE No. Leon Gammon 02857-1984-02RO ph
9347 5054 Fax 9347 5002

ISSUING BOX No.

PREPARED BY State Land Services

ADDRESS RDL - Wheatbelt - Box 98C

PHONE No.
FAX No.

INSTRUCT IF ANY DOCUMENTS ARE TO ISSUE TO OTHER THAN LODGING PARTY

TITLES, LEASES, DECLARATIONS ETC LODGED HEREWITH

1. <i>Duplicate M.O.</i>	Received Items
2. <i>Order form</i>	Nos. <i>2</i>
3. _____	
4. _____	Receiving Clerk
5. _____	<i>DS</i>
6. _____	

092140-010



Registered pursuant to the provisions of the TRANSFER OF LAND ACT 1893 as amended on the day and time shown above and particulars entered in the Register.



11. MEMBER MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

12. NEW BUSINESS OF AN URGENT NATURE REQUIRING DECISION

Admitted by resolution of Council

13. MEETING CLOSED TO PUBLIC

Matters for which the meeting may be closed in accordance with the Local Government Act 1995 s.5.23(2) –

- none notified

Public reading of resolutions made during a closed meeting.

14. CLOSURE OF MEETING

There being no further business, the presiding member declared the meeting closed at _____ pm.

CERTIFICATION

These minutes were confirmed at the Ordinary Council Meeting held on _____

Signed _____ Date _____
(Presiding member at the meeting which confirmed the minutes)

Council Minutes are unconfirmed until they have been adopted at the following meeting of Council.