



# SHIRE OF VICTORIA PLAINS

## Freedom of Information Statement

April 2019

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## Section 1 - Legislative Framework

The operations of local government in Western Australia are governed by the *Local Government Act 1995* (LG Act), the various Local Government Regulations, and any other legislation that provides powers and responsibilities to local governments.

### 1.1 Legislation

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Principal legislation that the Shire operates under includes –

- *Local Government Act 1995;*
- *Public Health Act 2016;*
- *Health Act 1911;*
- *Planning and Development Act 2005;*
- *Bush Fires Act 1954;*
- *Cat Act 2011;*
- *Dog Act.*
- *Cemeteries Act 1986*
- *Occupational Safety and Health Act 1984*
- *Waste Avoidance and Resource Recovery Act 2007*

There is a wide range of other legislation that provides powers and authorities that impose duties and obligations upon the Shire.

Each Act of Parliament generally has one or more related Regulations which also impact on the Shire.

Confirmation of current Acts and Regulations by referring to the State Law Publisher at [www.slp.wa.gov.au](http://www.slp.wa.gov.au) is recommended.

### 1.2 Local Laws

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The main enabling legislation for local laws is the *Local Government Act 1995* (the Act). Other legislation may impact on local laws adopted or being considered, such as those listed in 2.1.

At April 2019 the Shire's local laws are –

- *Bush Fire Brigades Local Law 2017;*
- *Cemetery Local Law 2016;*
- *Dogs Local Law 2016;*
- *Extractive Industries Local Law 2017;*
- *Fencing Local Law 2016;*
- *Health Local Law 2004;*
- *Meeting Procedures Local Law 2016;*
- *Public Places and Local Government Property 2016.*

These current local laws of the Shire of Victoria Plains can be accessed via our website.

## Section 2 - Organisational Structure

### 2.1 Council

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The policy-making or legislative powers of the Shire of Victoria Plains rest with the elected members of the Council.

Ordinary local government elections are held on the third Saturday in October of odd numbered years. Terms are for 4 years.

An extraordinary election may be necessary from time to time in accordance with processes prescribed by the *Local Government Act 1995*. Terms at an extraordinary election are for the balance of the vacancy being filled.

The Council consists of seven elected members –

- Central Ward – 1 councillors elected to 2019, and 1 elected to 2021
- East Ward – 1 councillors elected to 2019
- South Ward – 1 councillors elected to 2019, and 1 elected to 2021
- West Ward – 1 councillors elected to 2019, and 1 elected to 2021

The Shire President is elected by Council.

A list of the current elected members of Council is available on our website.

The Council meets in order to –

- determine matters of policy;
- exercise its discretion in determining matters that cannot be determined by staff;
- receive information.

Meetings are advertised in the Newsletter and on the Shire's website, but may be altered by Council decision from time to time. They are generally held on the last Wednesday of each month, except –

- January – no meeting held
- December – date altered to take into account the holidays

Decisions that are binding on the Shire of Victoria Plains can only be made by the Council when it meets collectively. Individually, the elected members have no decision making power.

Council may delegate some decision making powers to staff or a committee of the Council. However, the types of powers that may be delegated are limited by the *Local Government Act 1995* and other legislation.

### 2.2 Management

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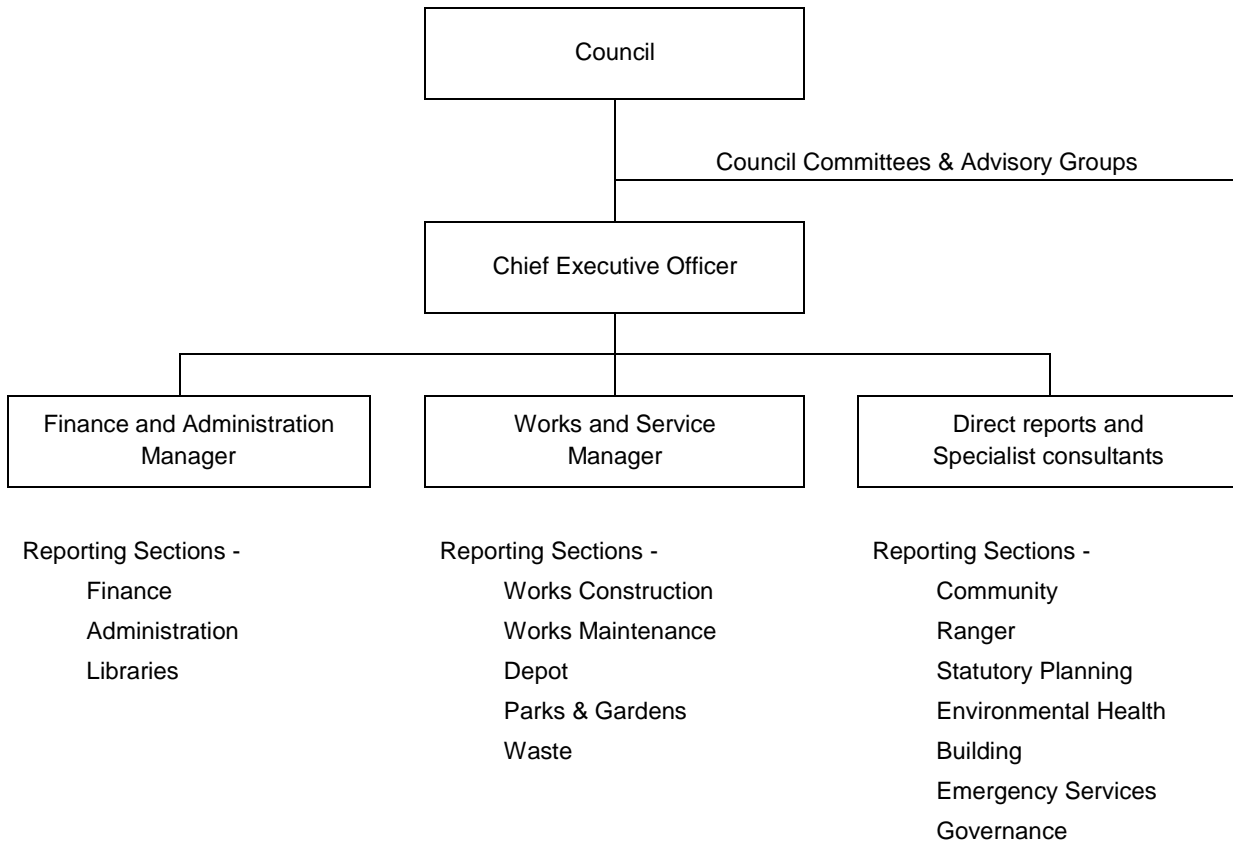
The operations of the Shire are managed by the Chief Executive Officer.

Functions of the CEO are specified under the Local Government Act. The role of CEO is to act as a conduit between Council and the administration of the Shire, and to carry ultimate responsibility for the efficient and effective utilisation of the resources available to the Shire.

The CEO is supported by several senior staff, and a number of specialist consultants.

The CEO, staff and consultants report to Council at monthly meetings with recommendations that Council can accept, reject or substitute with an amended resolution.

An overview of the management structure of the Shire of follows –



### **Section 3 - Decision Making Functions**

The Council of the Shire of Victoria Plains has the responsibility to oversee the development and progression of the local community.

Matters requiring a decision that are brought before Council have an associated recommendation which has been prepared by the responsible staff member who is employed by the Shire of Victoria Plains. The recommendations are generally based on –

- legislation;
- legal responsibilities;
- adopted documents outlining strategic direction, policy etc;
- professional opinions.

Council may modify, reject or adopt new resolutions after it considers the recommendations of the particular officer.

A range of policies have been developed by the Shire that guide and direct its actions now and into the future.

For many operation and day-to-day matters, Council has delegated decision-making authority to the CEO in some instances. These delegations are reviewed and approved by Council on an annual basis. The CEO may further delegate certain decision-making duties to Shire officers in accordance with the *LG Act 1995*.

In performing their roles as decision makers, elected member, the CEO and Shire Officers are required to make decisions that have an impact on the daily lives of the community. These decisions might be about things like the provision of footpaths, control of animals, refuse collection, cultural events, planning matters, recreation facilities and control of environmental health issues. The Shire strives to achieve a balanced and fair approach to decision making to protect and develop the amenities of the Shire, preserve heritage, encourage economic growth, and provide clarity to residents and businesses in the area.

## Section 4 - Public Participation

The Shire of Victoria Plains recognises that the community is an important resource when informing decision making, and that community input is essential to assist the Shire in choosing a path that caters for the current and future needs and expectations of the community.

### 4.1 Council Meetings

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The participation of the public in Council meetings is achieved through three avenues –

- a) Meetings generally open to the public  
The *Local Government Act 1995* provides that all Council meetings are to be open to the public. The only exception to this rule is when the Council decides that certain parts of the meeting should be closed to the public (e.g. where the meeting is dealing with the personal affairs of any person). The grounds on which a meeting can be closed to the public are limited by law and are specifically set out in the Act.
- b) Public question time  
*Local Government Act 1995* and the associated Local Government (Administration) Regulations 1996 provide for a minimum period of fifteen minutes is to be set aside at the commencement of any Council meeting to allow the public the opportunity of asking questions and receiving responses. Specific details on meeting procedures can be found within the Regulations, the Meeting Procedures Local Law and Council Policy.
- c) Deputations and Presentations  
Public participation in Council meetings can be achieved in a more formalised process which relates to the Shire receiving petitions and/or deputations. The specific details of how these are presented to Council are contained within Shire's Meeting Procedures Local Law.

### 4.2 Committees

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Public participation in Council affairs is obtained by the creation of committees which may (or may not) meet regularly. These committees generally make recommendations to Council via a responsible officer's report.

Committees in existence and functioning at the time of publication of this document are –

- Audit Committee;
- Local Emergency Management Committee;

The role of these committees is generally to provide advice to Council on specific matters where public input is thought desirable by the Council.

A number of reference groups have also been established –

- Australia Day and Honours Committee;
- Suicide Prevention Reference Group.

Public participation in the occasional committees can be achieved by a number of processes which includes advertising in the local newspaper or by invitation. Council may offer a particular community group or organization a specific seat on a committee or reference.

### 4.3 Annual and Special Electors' Meetings

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The *Local Government Act 1995* also obligates the Shire to hold an annual meeting of electors within 56 days of the Shire of Victoria Plains acceptance of the annual report for the previous financial year.

The Annual Electors' meeting provides electors with an opportunity to discuss the contents of the annual report and then any other general business. The meeting tends to be held in December or January.

In accordance with Section 5.28 of the *Local Government Act 1995*, a special meeting of electors may be held following a request made to the Shire President for such a meeting by either –

- not less than one hundred electors or 5% of the number of electors, whichever is the lesser;
- one third of the number of council members.

Any request of this nature is to specify the matters to be discussed at the Meeting and the form or content of the request is to be in accordance with the requirements of the *Local Government (Administration) Regulations 1996*.

Notice of impending Annual and Special Electors' meetings is advertised in the local newspaper and the Shire's website.

#### **4.4 Other Avenues for Public Participation**

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There are a number of other ways to contribute, including –

- a) Community consultation  
The community may be asked to comment and have their say on particular issues. Some of these are statutory consultation requirements such as local laws review, strategic community plan consultation, development approvals and so on. But there are also many occasions where community consultation is not required, but sought in order to obtain a wide consensus of opinion and could include matters such as recreation facilities, future planning etc.
- b) Petitions  
A petition is where there is a formal written request, signed by members of the community, appealing to the Council in respect to a particular issue. The subject of the petition must be something that the Council has the authority to deal with, or on which the Council has a decision-making role.
- c) Written requests  
A member of the public can write to the Shire on any policy, activity or service of the Shire.



## Section 5 - Documents Held by the Shire of Victoria Plains

### 5.1 Documents Available Outside FOI

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There are two basic types of documents held by the Shire of Victoria Plains. These can be broadly categorised as –

- those available for inspection or purchase; and
- those which must be held confidentially due to their content, with access considered only through the provisions of the FOI Act.

Any person can attend the office of the Shire of Victoria Plains during office hours and free of charge inspect, subject to section 5.95 of the *Local Government Act 1995*, any of the following in relation to the Shire of Victoria Plains, whether or not current at the time of inspection, and in the form or medium in which it may for the time being be held by the Shire –

- a) Code of Conduct;
- b) Register of Financial Interest;
- c) Annual Report
- d) Annual budget
- e) Schedule of Fees and Charges;
- f) Plan of Principal Activities (Strategic Community Plan/Corporate Business Plan);
- g) Proposed Local Law of which the Shire has given Statewide Public Notice under Sec.3.12 of the *Local Government Act 1995*;
- h) Local Laws made by the Shire in accordance with Sec.3.12 of the *Local Government Act 1995*;
- i) Regulations made by the Governor under Sec.9.60 of the *Local Government Act 1995* that operates as if they were Local Laws of the Shire;
- j) Text that –
  - Is adopted (whether directly or indirectly) by a Local Law of the Shire or by a regulation that is to operate as if it were a Local Law of the Shire; or
  - Would be adopted by a proposed Local Law of which the Shire has given Statewide public notice under Sec.3.12(3):
- k) Subsidy legislation made or adopted by the Shire under any written law other than the *Local Government Act 1995*;
- l) Any written law having a provision in respect of which the Shire has a power or duty to enforce;
- m) Rate record;
- n) Confirmed minutes of Council or Committee Meetings;
- o) Minutes of Electors Meetings;
- p) Notice papers and agenda relating to any Council or Committee Meeting and reports and other documents that have been –
  - Tabled at a Council or Committee Meeting; or
  - Produced by the Shire of Victoria Plains or a Committee for presentation at a Council or Committee Meeting and which have been presented at a meeting;
- q) Report of a review of a Local Law prepared under Sec.3.16(3) of the *Local Government Act 1995*;
- r) Business plan prepared under Sec.3.59 of the *Local Government Act 1995*;
- s) Register of Owners and Occupiers under Sec.4.32(6) of the *Local Government Act 1995* and Electoral Roll;
- t) Contract under Sec.5.39 of the *Local Government Act 1995* and variation of such contract;
- u) Such other information relating to the Shire –
  - required by a provision of the *Local Government Act 1995* to be available for public inspection; or
  - as may be prescribed,

However, it should be noted that the *Local Government Act 1995* specifies a number of limitations on the rights of those wanting to inspect the Shire's information. Despite these limitations, nothing in the *Local Government Act 1995* affects the operation of the *Freedom of Information Act 1992* (FOI Act).

Specific finance, accounting, rating and valuation records are kept for varying lengths of time in accordance with the *General Retention and Disposal Schedule for Local Government* as prepared by the Records Management Office of State Archives of Western Australia.

Other documents are also available for inspection free of charge at the administration office of the Council during office hours, including –

- Delegations Register;
- Policy Manual;
- Management Plans for public facilities and reserves;
- Community Strategic Plan;
- Corporate Business Plan;
- Burial Register;
- Cemetery Plan;
- Local Planning Scheme, maps and amendments.

Photocopies of the above documents are available at a set by Council in the annual fees and charges.

Alternatively, a copy of most of the documents listed above can be obtained from the Shire's website.

## **5.2 Documents which may be available under FOI provisions**

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The *Freedom of Information Act 1992* (FOI Act) gives the general public a right to access documents held by the Shire of Victoria Plains subject to limitations listed below.

The access provisions of the FOI Act do not apply to documents that –

- are available for purchase by the public or free distribution to the public;
- are available of inspection under Part 5 of the FOI Act (ie. information statements and internal manuals) or under another enactment.
- can be inspected in the State archives.
- are publicly available library material held by agencies for reference purposes.
- are made or acquired by an art gallery, museum or library and preserved for public reference or exhibition purposes

When a FOI Act application is made for documents that relate to another government agency, the FOI application may be transferred to that agency.

Documents accessible under the FOI Act include paper records, plans and drawings, photographs, tape recordings, films, videotapes or information stored in a computerised form.

The Shire holds its general documents in both hard and electronic formats. However, nearly all current accounting records excluding creditor invoices are held on computer and are backed up electronically on a daily basis.

## **5.3 Document availability**

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In many instances, the information sought may be able to be provided at time of application. Many applications require accessing prior records. Accordingly, it will not be possible to search and provide access to the documents at the time of request on most occasions.

At time of application, an estimate of cost, time required, and expected availability date will be made.

Should the application require substantial time and resources, costs and time etc may need to be revised.

## 5.4 Personal information

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If you apply for amendment of personal information about yourself, you must provide details to show how or why the agency's records are inaccurate, incomplete, out of date or misleading.

No fees or charges apply for personal information or amendment of personal information about yourself.

## 5.5 Reasons for Refusal of Access

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The most frequent reasons for refusal to provide access to information are –

a) Personal Information

Information that would reveal personal information about an individual (e.g. their name, contact details, signature etc.) may be exempt under Schedule 1 Clause 3 of the *Freedom of Information Act 1992*.

The Glossary, Schedule 2 of the FOI Act states that –

*personal information means information or an opinion, whether true or not, and whether recorded on a material form or not, about an individual, whether living or dead –*

- *whose identity is apparent or can reasonably be ascertained from the information or opinion; or*
- *who can be identified by reference to an identification number or other identifying particular such as a fingerprint, retina print or body sample.*

b) Commercial Information

Information that would reveal trade secrets, information of a commercial value (e.g. documents containing technical designs that, if released, would harm the company), or the financial affairs of a person (e.g. debts owed to the Shire) may be exempt under Schedule 1 Clause 4 of the *Freedom of Information Act 1992*.

c) Deliberative Process

Information that would reveal a decision made during a deliberative process closed to the public (e.g. confidential Council meeting) may be exempt under Schedule 1 Clause 6 of the *Freedom of Information Act 1992*.

d) Legal Professional Privilege

Information that would reveal legal advice may be exempt under Schedule 1 Clause 7 of the *Freedom of Information Act 1992*.

## Section 6 - FOI Processes

### 6.1 Application, Assessment, Notice of Decision and Appeal

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It is the aim of the Shire to make information available promptly and at the least possible cost and whenever possible documents will be provided outside the FOI process.

If information is not routinely available, the *Freedom of Information Act 1992* provides the right to apply for documents held by the Shire of Victoria Plains and to enable the public to ensure that personal information in documents is accurate, complete, up to date and not misleading.

### 6.2 Freedom of Information Applications

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Access applications have to –

- be in writing;
- give sufficient information so that the required documents can be easily identified;
- provide an Australian address to which any notices can be sent; and
- be lodged at the Shire of Victoria Plains' Administration Centre with the appropriate application fee.

Application and enquiries should be addressed to Freedom of Information (FOI) Officer by using the following –

By phone	on (08) 9628 7004,
Post to	the FOI Officer PO Box 21, Calingiri WA 6569; or
In person	at 28 Cavell Street, Calingiri WA 6569.

### 6.3 Access Arrangements

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Access to documents can be granted by way of inspection, a copy of a document, a copy of an audio or video tape, a computer disk, a transcript of a recorded, shorthand or encoded document from which words can be reproduced.

### 6.4 Notice of Decision

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As soon as possible but in any case, within 45 days you will be provided with a notice of decision which will include details such as –

- the date which the decision was made
- the name and the designation of the officer who made the decision
- if the document is an exempt document the reasons for classifying the matter exempt; or the fact that access is given to an edited document
- information on the right to review and the procedures to be followed to exercise those rights.

### 6.5 Costs

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Applications for documents, which are non-personal in nature require a \$30 application fee to be paid when the application is lodged. There may be other charges imposed to cover the administration costs associated with locating documents within the scope of your request.

You can ask the Shire for an estimate of charges when lodging an application. If the charges are likely to exceed the application fee we must give you an estimate of charges and ask whether you want to proceed with the application. You must notify the Shire (within 30 days) of your intention to proceed. In some instances, the Shire may request an advance deposit. The fees, charges, deposits, and possible reductions are set by the FOI Act and Regulations are as follows –

As per Regulations, Schedule 1 –

n/a	Personal Information about the applicant	No fee or charge
1	Application fee (for non-personal information)	\$30.00
2(a)	Charge for time dealing with the application (per hour or pro rata)	\$30.00
2(b)	Access time supervised by staff (per hour or pro rata)	\$30.00
2(c)	Photocopying staff time (per hour or pro rata)	\$30.00
2(c)	Per photocopy	\$0.20c
2(d)	Transcribing from tape, film or computer (per hour or pro rata)	\$30.00
2(e)	Duplicating a tape, film or computer information	Actual cost
2(f)	Delivery, packaging and postage	Actual cost
3(a)	Advance deposit that may be required in respect of estimated charges	25%
3(b)	Further advance deposit may be required to meet the charges for dealing with the application	75%
r.3(a)	For impecunious applicants (financial hardship)	25% reduction
r.3(b)	For those with prescribed valid pensioner concession cards	25% reduction

## 6.6 Financial hardship

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The Regulations of the FOI Act provide that the applicable charge will be reduced by 25%, for an applicant who is –

- impecunious [financially disadvantaged], where in the opinion of the Shire there is financial hardship; or
- the holder of a currently valid pensioner concession card issued on behalf of the Commonwealth to that person, or any other card which may be prescribed as being a pensioner concession card under the Rates and Charges (*Rebates and Deferments Act*) 1992.

## 6.7 Advance deposits

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Under section 18 of the FOI Act, an advance deposit may be required by the Shire. If a deposit is required, then it will be set at 25% of the estimated charges which will be payable in excess of the application fee.

Further advance deposits, up to 75% of the total charges payable in excess of the application fee, may also be sought by the Shire.

## 6.8 Cost estimates

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If an agency estimates that the cost of dealing with an access application may exceed \$25, section 17 of the FOI Act requires agencies to issue the applicant with a cost estimate, outlining the basis on which the estimate has been made. This must be done before the agency finishes dealing with the application.

## 6.9 Right of Review

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Applicants who are dissatisfied with a decision of the Shire FOI Officer are entitled to ask for an internal review by the Shire of Victoria Plains. Application should be made in writing within 30 days of receiving the notice of decision. You should be notified of the outcome of the review within 15 days.

### Internal Review Rights

If you are not satisfied with this decision, you have the right to apply for an internal review.

An application for internal review must be lodged with this agency within 30 days after being given this notice of decision, and must be –

- in writing;
- provide particulars of the decision to be reviewed; and
- give an address in Australia.

There is no lodgement fee for an application for internal review and there are no charges for dealing with an internal review request.

If an application for internal review is received, it will not be dealt with by the person who made the initial decision, or by any person who is subordinate to the original decision maker. The outcome of an application for internal review may result in either a confirmation, variation or reversal of the initial decision under review. You will be advised of the outcome within 15 days. The address for lodgement of an internal review request is –

Chief Executive Officer  
Shire of Victoria Plains  
PO Box 21  
CALINGIRI WA 6569

or in person at –

Shire of Victoria Plains  
28 Cavell Street  
CALINGIRI WA 6569

#### External Review Rights

If you are not satisfied with a decision, you have the right to lodge a complaint with the Information Commissioner seeking external review of the decision. You are required to lodge your complaint with the Information Commissioner's office within 60 days of receiving notice.

A complaint to the Information Commissioner must –

- be in writing;
- have attached a copy of this decision; and
- give an address in Australia

There is no charge for lodging a complaint with the Information Commissioner's office. The address of the Information Commissioner is –

Office of the Information Commissioner  
Albert Facey House  
469 Wellington Street  
PERTH WA 6000

Country Callers 1800 621 244.

Should you have any further queries or require further information about your review rights at this stage, you may contact the Office of the Information Commissioner on (08) 6551 7888.

## **6.10 Forms**

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A number of forms and documents have been prepared to assist with enquiries and are available on the Shire of Victoria Plains website.