



**CHIEF EXECUTIVE OFFICER ATTACHMENTS
ORDINARY MEETING OF COUNCIL
WEDNESDAY 21 SEPTEMBER 2022**

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Key safety performance indicators (KPI's) for the Shire workforce and contractors

	No.	No.	No.	No.	No.	No.	No.	No.
MONTH	Number Of							
	Drug and Alcohol tests performed	Positive Drug test and BAC Exceedances	Workers Compensation Claims	Current' Workers Compensation Claims	Near Misses	Medically Treated Injuries	Restricted Work Injuries	Lost Time Injuries
RESPONSIBILITIES	HR	HR	HR	HR	DO	DO	DO	DO
AUGUST								
Technical	21	0	0	0	0	0	0	0
Corporate	7	0	0	0	0	0	0	0
Development	8	0	0	0	0	0	0	0
Office of CEO	5	0	0	0	0	0	0	0
Monthly Report Totals	41	0	0	0	0	0	0	0

3.11. WALGA Best Practice Governance Review – Principles

Executive Member to move:

MOTION

That:

1. The update on the Best Practice Governance Review project be noted, and
2. The principles to inform WALGA's future governance model, as follows and as per the attached *Principles* document, be endorsed:
 - a. **Representative** – WALGA unites and represents the entire Local Government sector in WA and understands the diverse nature and needs of members, regional communities and economies.
 - b. **Responsive** – WALGA is an agile association which acts quickly to respond to the needs of members and stakeholders.
 - c. **Results Oriented** – WALGA dedicates resources and efforts to secure the best outcomes for Local Government and supports the delivery of high-quality projects, programs and services.

IN BRIEF

- State Council commissioned a Best Practice Governance Review to consider and engage with members on alternative governance models.
- The Steering Committee, appointed by State Council to oversee the project, has put forward principles to the 2022 Annual General Meeting for member consideration.
- The principles have been endorsed by State Council at their 22 August 2022 Special Meeting.
- Following consideration of the principles, a thorough consultation and engagement process will be undertaken with members on potential future models.

ATTACHMENT

- *WALGA Best Practice Governance Review: Principles*

BACKGROUND

State Council commissioned the WALGA Best Practice Governance Review in March 2022 to ensure that WALGA's governance model is contemporary and agile and maximises engagement with members.

Governance Reviews allow organisations to re-examine their membership structure, constitution, board role, board composition, governance approach and policies.

For WALGA, the Best Practice Governance Review represents an opportunity to review and reshape the governance model to ensure WALGA is well-placed to:

- Deliver strong, clear, focused, and consistent policy positions on strategic matters of the most importance to Local Governments in WA,
- Drive advocacy outcomes and impact on behalf of Local Government in WA, and the communities they serve, and
- Embed agility and responsiveness, ensuring member concerns are heard, respected, and represented in a timely, efficient, and effective manner.

There are several drivers for the review.

WALGA's [Corporate Strategy 2020-2025](#) identifies the governance model as a key enabler of performance, with the following description: *We have contemporary governance and engagement models.*

Member and stakeholder feedback from a range of sources over several years has highlighted dissatisfaction with the governance model. Specifically, feedback relates to:

- **Structure** – WALGA's governance structure is seen by members and stakeholders as creating roadblocks, hindering decision-making, and holding WALGA back.
- **Responsiveness** – there is a perception among members and stakeholders that WALGA's governance model is slow and bureaucratic in an environment that requires agility.
- **Prioritisation and focus** – members and stakeholders acknowledge the challenges of developing unified Local Government policy positions and advocacy priorities given the diversity of Local Government sector interests.
- **Transparency and accountability** – feedback from members and stakeholders suggests that WALGA should be more transparent about its decision-making processes.
- **Zones** – Feedback from members and stakeholders in relation to Zones and Zone meetings is mixed. A proportion of WALGA's membership believes that Zones are not as representative, strategic nor effective as they potentially could be.

Legislative reforms could also impact WALGA's governance arrangements. The Minister for Local Government's reforms to the *Local Government Act 1995* propose to remove WALGA from being constituted under the Local Government Act. Secondly, the Review of WA's *Industrial Relations Act 1979* provides an opportunity for WALGA to be constituted as a registered employer organisation, which would enable WALGA to make applications in its own right on behalf of the sector.

Following several reviews and amendments, the Best Practice Governance Review also represents an opportunity to ensure alignment between WALGA's governance documentation. In addition, State Council resolved in September 2021 for amendments to the Constitution to be developed to deal with matters related to State Councillors' candidature for State or Federal elections.

To undertake the Best Practice Governance Review, State Council appointed a Steering Committee comprising the following members:

President Cr Karen Chappel JP	WALGA President (Chair)
Cr Paul Kelly	WALGA Deputy President
President Cr Phil Blight	Country State Councillor
Mayor Carol Adams OAM	Metropolitan State Councillor
President Cr David Menzel, Shire of Wyndham East Kimberley	Country Elected Member
Mayor Albert Jacob, City of Joondalup	Metropolitan Elected Member
Andrew Sharpe, City of Albany	Country Chief Executive Officer
David MacLennan, City of Vincent	Metropolitan Chief Executive Officer
Nick Sloan	WALGA Chief Executive Officer

The Steering Committee is supported by consultants PwC and WALGA officers, Tony Brown, Executive Director Member Services, Tim Lane, Manager Corporate and Association Governance, and Kathy Robertson, Executive Officer Governance.

The Steering Committee has met five times to late August and has:

- Endorsed terms of reference and an overarching project plan
- Considered the 2019 review including previous deliberations and outcomes
- Commissioned and considered work on comparator membership-based advocacy organisations:
 - Australian Hotels Association (AHA)
 - Australian Medical Association (AMA)
 - Chamber of Minerals and Energy (CME)
 - Chamber of Commerce and Industry (CCI)

- Pharmacy Guild of WA
- Reviewed governance models of Local Government Associations in other States and New Zealand:
 - Local Government New South Wales (LGNSW)
 - Municipal Association of Victoria (MAV)
 - Local Government Association of Tasmania (LGAT)
 - Local Government Association of South Australia (LGASA)
 - Local Government Association of Queensland (LGAQ)
 - Local Government Association of the Northern Territory (LGAT)
 - Local Government New Zealand (LGNZ)
- Adopted a timeline for the way forward including member consultation and engagement, and
- Endorsed principles to be presented to the membership at the 2022 Annual General Meeting as per this agenda item.

SECRETARIAT COMMENT

Supported by State Council, the Steering Committee is putting forward principles to this Annual General Meeting to gauge member support for progressing the Best Practice Governance Review to the development of potential options for member consultation and engagement.

The principles put forward by the Steering Committee and endorsed by State Council at their 22 August 2022 Special Meeting, will guide the development of potential models for member consultation.

As per the attached Principles document, the three principles – Representative, Responsive and Results Oriented – comprise three or four components, component descriptions and governance implications.

Embedded in the governance implications are considerations for potential changes as well as principles that will be adhered to in the development of model options.

For instance, the principles propose that WALGA's governing body will:

- Maintain equal metropolitan and country representation,
- Continue the practice of electing the President from and by the governing body, and
- Facilitate responsive decision making with clear processes for members to influence policy and advocacy.

Potential models may be considered by the Steering Committee, and subsequently State Council and WALGA members, that could:

- Potentially lead to a reduction in the size of the governing body,
- Consider alternative election arrangements to the governing body, and
- Consider alternative arrangements to the existing Zones.

Following consideration of the principles at the 2022 Annual General Meeting, as per this item, an extensive consultation and engagement process will be undertaken with members on potential governance model options.

The consultation and engagement process will be undertaken during October, November, and December 2022. Feedback from member submissions, workshops, and discussions will inform a final report to be considered at February 2023 Zone meetings and subsequently, the March 2023 State Council meeting.

Constitutional amendments will then be prepared for consideration by State Council followed by the broader membership at the 2023 Annual General Meeting. As per WALGA's Constitution, amendments to the Constitution require endorsement by a 75 percent majority at both State Council and a general meeting of members.

The principles are put forward for member consideration.

Item 3.11 – Attachment: WALGA Best Practice Governance Review Principles

Principle	Principle component	Component description	Governance implications
Representative	WALGA unites and represents the entire local government sector in WA and understands the diverse nature and needs of Local Government members, regional communities and economies.	Composition	The composition of WALGA's governance model represents Local Government members from metropolitan and country councils
		Size	An appropriate number of representatives oversees WALGA's governance
		Diversity	WALGA's governance reflects the diversity and experience of its Local Government members
		Election Process	Considers the processes by which WALGA's governance positions are elected and appointed
Responsive	WALGA is an agile association which acts quickly to respond to the needs of Local Government members and stakeholders.	Timely Decision Making	WALGA's governance supports timely decision making
		Engaged Decision Making	WALGA's Local Government members are engaged in decision making processes
		Agility	Considers the flexibility of WALGA's governance to adapt to changing circumstances
Results Oriented	WALGA dedicates resources and efforts to secure the best outcomes for Local Government members and supports the delivery of high-quality projects, programs and services.	Focus	Considers the clarity and separation of responsibilities and accountabilities of WALGA's governance
		Value Added Decision Making	Facilitates opportunities for value to be added to decision making
		Continuous Improvement	Considers regular review processes for components of the governance model, their purpose and achieved outcomes

From: [Chatter](#)
To: [CEO Mailbox](#)
Subject: FW: I22136813 - Verge Maintenance
Date: Thursday, 4 August 2022 12:32:18 PM

From: Louise Yates <lu_lu_1956@hotmail.com>
Sent: Wednesday, 3 August 2022 4:53 PM
To: Chatter <chatter@chittering.wa.gov.au>
Subject: I22136813 - Verge Maintenance

ATTN M. Gilfellon:

Happy to maintain my own verge have been doing so for years- maybe those that choose to do so can get a reduction in rates.

Louise Yates
Lot 122 Philmore St
Muclea

Sent from [Mail](#) for Windows

From: [Chatter](#)
To: [CEO Mailbox](#); [Sasha Lee](#)
Subject: FW: Verge Policy Adoption Feedback
Date: Thursday, 4 August 2022 1:18:56 PM

From: Amy Lockhart <amylee83@hotmail.com>
Sent: Thursday, 4 August 2022 12:15 PM
To: Chatter <chatter@chittering.wa.gov.au>
Subject: Verge Policy Adoption Feedback

To the CEO Matthew Gilfellon,

I wish to raise my grievances regarding the lack of verge maintenance within parts of the Shire of Chittering.

I understand that land owners are responsible for the verge directly next to their property, that is no problem.

My concern is for the verges not adjacent to any private property, like round-a-bouts, centre road verges and the like. In my area of Maryville Heights and the adjacent Maryville Downs, I have not in the 4 years since owning our property, seen any maintenance or care taken to maintain these areas. I assume it would be the case in other estates within the shire also.

The only sort of public verges maintenance done seems to be the verge along Great Northern Highway in the Bindoon townsite, understandably being a major road and a tourist zone. But I think it is time a good amount of the rates the landowners pay for this maintenance is used to maintain the public verges around our own properties.

Kind regards

Amy Lockhart

Resident of the Shire of Chittering.

Get [Outlook for Android](#)

From: [CEO Mailbox](#)
To: [Matthew Gilfellow](#)
Subject: FW: IREG229827 - Verge ownership , I can not look after my verges as I do not have the machinery , nor the phi's all capability to do the work required , the shire can and should do all t junctions and intersections , for at least 100 meters .
Date: Thursday, 4 August 2022 3:56:45 PM

-----Original Message-----

From: sghowieson60@gmail.com <sghowieson60@gmail.com>

Sent: Thursday, 4 August 2022 12:46 PM

To: Chatter <chatter@chittering.wa.gov.au>

Subject: IREG229827 - Verge ownership , I can not look after my verges as I do not have the machinery , nor the phi's all capability to do the work required , the shire can and should do all t junctions and intersections , for at least 100 meters .

Sent from my iPhone

From: [Chatter](#)
To: [CEO Mailbox](#); [Melinda Prinsloo](#)
Subject: FW: I22137217 - Verge Policy Adoption - Feedback
Date: Thursday, 18 August 2022 2:02:27 PM
Importance: High

From: Andrew <andy.balloo@bigpond.com>
Sent: Thursday, 18 August 2022 1:22 PM
To: Chatter <chatter@chittering.wa.gov.au>
Subject: I22137217 - Verge Policy Adoption - Feedback
Importance: High

FAO: CEO Matthew Gilfellon

Outstanding arrogance from the shire to assume that every rate payer in the shire has internet access and the time to waste simply checking the shire website every few days to find out what skulduggery is being practised now.

The shire has constantly failed to maintain the verges around Maryville downs for the entire time we have been resident here. So one could say this policy is simply putting in writing what has been shire practice for many years. Not withstanding the verges around here have been a fire hazard now for several years.

My questions would be:-

1. If some ratepayers do as requested (and I have no problem with this as I have always maintained my verges) and maintain their verges, whilst others do not, how can the shire justify putting everyone's rates up to cover verge maintenance? Has the shire considered charging those "non-conforming" ratepayers separately? Otherwise there is very little incentive for individual rate payers to maintain their own verge.
2. If someone gets injured whilst maintaining "their" verge. The question arises as to liability. Especially as the verge is clearly owned by the shire. Whenever the shire does any work along the verges normally they have cones out or traffic control measures in place to ensure the safety of employees. Are all ratepayers now to be issued with cones?
3. Presumably the shire is responsible for "islands" (i.e. Roundabouts etc.) and can we now expect these to be properly maintained?

I only became aware of this latest change purely by chance when another resident mentioned it to me. I would have thought if the shire was trying to get the ratepayers "on side" the sensible thing would have been to at least do a letter drop into every post box (this could have easily been achieved by including it with the recently delivered rates' notices). Rather than simply proceeding with a policy before sounding out rate payers' opinions. Just a thought but maybe the shire could communicate better to its' rate payers.

Kind Regards

Andrew Bates

71 Hereford Way,
Lower Chittering, WA 6084

andy.baloo@bigpond.com

M: 0429 992 444

H: 08 9571 8705

From: [CEO Mailbox](#)
To: [Matthew Gilfellon](#)
Subject: FW: I22137287 - CEO Matthew Gilfellon
Date: Tuesday, 23 August 2022 8:11:00 AM

-----Original Message-----

From: Justin Dawson <dawsjj@hotmail.com>
Sent: Monday, 22 August 2022 11:43 AM
To: Chatter <chatter@chittering.wa.gov.au>
Subject: I22137287 - CEO Matthew Gilfellon

RE: verge policy adoption feedback.

Hi Matthew,

I'm for maintaining the verges myself since sadly the shire of Chittering have been extremely negligent in there duties to do so.

I have a series of questions I'd like answered should maintaining verges be on the adjacent land owner.

Where does liability lie if a tree comes down and causes death or damage to property?

Who is liable if damage is cause to property, I.e. if a stone was flicked up and cracked a windscreen or caused injury?

Maryville Downs has been left to only doing verges when people ask. They used to be done and this was considered part of our rates. With us doing them would our rates therefore come down?

If this goes ahead will the verges be prepared and left in a condition deemed suitable by the Shire? If left in a state then surely the Shore have no grounds to prosecute someone for failing to meet a standard that the Shire hardly ever kept.

Who is going to police the verges?

Is the Shire going to make established verge trees the responsibility of the adjacent landowner?

What is going to happen to verges along such roads as Wandena, Muchea East and Chittering roads?

Who will be responsible for illegally dumped rubbish, or cleaning up rubbish off of verges?

If flooding was to occur and crossovers damaged who will repair?

I apologise that this is late but hope you get the opportunity to reply.

Regards,
Justin Dawson



Shire of Chittering

Admin · August 3 · 🌐

...

VERGE POLICY ADOPTION FEEDBACK

Feedback is sought from the community on the newly adopted Verge Policy.















Due to the extensive quantity of verges within the Shire, it is impractical for the Shire to assign the level of resources that would be required to maintain all of the verges – without it impacting on rates. This situation is similar to almost all local governments in Western Australia, except that with our larger properties, the cost per ratepayer would be even larger if the Shire were to maintain verges.


To ensure the responsibilities of each party are understood, at the Ordinary Council Meeting held on 20 July 2022, Council resolved to adopt a verge maintenance policy. The intended purpose of the newly endorsed policy is to outline Council's expectation, responsibilities, and the extent to which verge maintenance services will be provided by the Shire in the overall management of the road reserve and verges, within the Shire of Chittering.



Feedback should be addressed to CEO Matthew Gilfellon and can be submitted until 4pm Friday 19 August 2022 at chatter@chittering.wa.gov.au or in person at the Administration office at 6177 Great Northern Highway, Bindoon.


More information and a copy of the policy can be found at <https://www.chittering.wa.gov.au/.../verge.../10543...>





-  **Natasha Zarb**
I would really like to know what our rates actually pay for if verge maintenance is not already included ??? Who has been responsible for the maintenance of the verges up until this point ?? Each year you increase our rates, yet we don't see any evidence of the money being spent where it should be spent - making our roads, verges etc look decent, instead they are an eyesore !!!
Like Reply Share 5w  11
-  **Amy Lockhart**
Natasha Zarb no council or shire maintain your verge. The homeowner is responsible for it. Here or in suburbia.
Like Reply Share 5w  2
-  **Natasha Zarb**
Amy Lockhart well I would still like to know what our rates actually pay for ? Whose responsibility is it to maintain the islands in the middle of the roads ? Surely that's the Shires responsibility ? And they definitely aren't doing a very good job at that.
Like Reply Share 5w  5
-  **Amy Lockhart**
Natasha Zarb we usually get something with our rates saying where it is spent.
I agree the public verges can do with some serious attention! They are quite unruly and neglected.
Like Reply Share 5w  3
-  **Nicola Lewis**
Natasha Zarb The islands look disgusting . They used to look lovely 8 +yrs ago with trees not weeds & mulched . The whole area rds & all looked neat n tidy back then .
Like Reply Share 5w  3
-  **Bevan Francis**
Natasha Zarb the majority of rates go towards wages.
Like Reply Share 4w 
-  **Steve Evers**
Wages for who?
And what job are they supposedly doing?
Like Reply Share 4w 

 **Casey Hughes**
So no verge maintenance and from what I've heard we'll soon be paying to use the tip. What are we paying for in our rates?


Like Reply Share 5w   4


 **Travis Taylor**
Casey Hughes for people to come and check to make sure your fire break is up to spec or they give you a fine.


Like Reply Share 5w Edited 


 **Natasha Zarb**
Travis Taylor also for people to come and give you a fine for maintaining your property, doing your firebreaks etc because you were using earthmoving machinery for more than the "allowed" 2 hours per day!!


Like Reply Share 5w


 **Amy Lockhart**
Casey Hughes For them to also come and tell you that having a shed at the front of your property, in front of the line of your house, is ruining the amenity of the street!!! Yet they don't give a toss about the public verges or roundabouts which has more to do with the amenity of the estate. So they can be negligent and the place look over run but they are worried about the siting of my shed on my property making the place look ugly?!?












Like Reply Share 5w 

 **Natasha Zarb**
Amy Lockhart and what about the properties around the place that have car bodies all over the property, plus other crap just laying around 🙄 - I think this looks a hell of a lot uglier than a useful shed on someone's property.

Like Reply Share 5w  2

 **Amy Lockhart**
Natasha Zarb exactly!! So many other properties have shed's in front of the line of their house, including much newer houses and recently installed sheds. Yet we had to basically argue to have ours approved and only because we would plant trees/shrubs to hide it from street view.

Like Reply Share 5w 

-  **Trudy Riley**
Amy Lockhart remind them what they approved on a house in the area 2 years ago. A bloody 3 metre tall boundary cyclone fence.. ugly as hell and no compliance check off and they are worried about a shed that doesn't even effect your neighbours, nor the look or sale price on your neighbours property.
 They set boundaries for one and not the other. Maybe just drive around and take photos of all those ones that have sheds out the front, sea containers ect and ask for reasons on why the double standards. No wonder people don't respect them.
 They set this bar with me!
 There are some wonderful people who work in the shire trying to make it good but then there's some I totally scratch my head over!
 I could only imagine the frustration some of them have to put up with!
- Like Reply Share 4w Edited
-  **Aidan Michael**
 Been here 5 years..... the council has not touched my verge once.
- Like Reply Share 5w  3
-  **Greg Edwards**
Aidan Michael been here 20+and only seen it maintained a couple of times, apart from blanket spraying round up at 40km/hr
- Like Reply Share 5w  2
-  **Jacqui PS**
 We always maintained our verges until **Shire of Chittering** put that stupid footpath in, now trying to access the mess created to maintain the verge is pretty much impossible. Come and clean up your mess @shire of chittering 🙄
- Like Reply Share 5w  2
-  **Dave Catalano**
 We got told we weren't allowed to mow our verge 🙄 couple of years ago 🙄
- Like Reply Share 5w
-  **Greg Edwards**
 So does this mean I can cut down unwanted trees, modify kerbing, plant, gravel, seal what I want? If not shire can maintain, sounds more like a dodge of responsibility if unmaintained verges cause a problem whether it be a fire or car accident etc
- Like Reply Share 5w  10
-  **Natasha Zarb**
Greg Edwards 100%



Brian Campbell
Greg Edwards spot on mate

Like Reply Share 5w



Jo Turner Gianatti
Greg Edwards us too!! Also might pop a B&B or caravan on the property as well! Cos apparently I'm not allowed 😞

Like Reply Share 5w  2



Trudy Riley
Greg Edwards I feel sorry for those that have drainage pipes that were so neglected by the shire in the last few years and caused serious problems. Do you remember the roads washing away a few years back because drain systems were not maintained properly causing them to back up and create road damage?
 Guess this is another way to wipe their hands clean of that too.
 If your driveway washes away, it's then your responsibility I suppose 🙄

Like Reply Share 4w Edited



Write a public reply...



Lenni Duffield
 We've already adopted the designated emergency access track opposite our property as the shire in the 14 years we have owned our property have only seen them twice! At one stage the grass was so long that you couldn't see the emergency sign and the track was blocked by fallen trees and had been washed out! The shires attempt at maintaining most things, buildings, grounds, open space, verges, etc... has been average at best ... they need more than this policy to up their game

Like Reply Share 5w  6



Dale Turner
Lenni Duffield I submitted a request for the verge mtce back in Dec and just received a reply.

Like Reply Share 5w  2



Ryan Murphy
Lenni Duffield

Very similar to our place ,in the 13 years we have only seen them clean up the bridal path once and they have only burnt off the nature reserve behind us once,took them 3 years to replace the chains to stop illegal vehicle access,i put a work order in at the same time for the shire to fix the bordering fence to stop the illegal access and motorbikes using it as a through fare without it fixed the chains at the two entry ways are pointless.

Ive spoke to the ranger and hes taking it up with the open space property owners,but its been going on 18 months

Anyway i find it very hypocritical that as rate payers we're required to maintain our property, but the shire can leave areas neglected for many years its a piss take.

Like Reply Share 5w Edited



5



My Wiltshire

Lenni Duffield download the app Snap Send Solve they have to reply to you. You can use it whatever shire you are in, it's awesome

Like Reply Share 5w



4



Natasha Zarb

My Wiltshire agree that app is definitely a lot quicker way to report a problem to the **Shire of Chittering** - I've used it several times to report the same issue and yeah they have responded quickly, however job not done properly, thus the reason for having to contact them several times and will be contacting them once again as same issue has re-surfaced 🙄 Just like with the road re-surfacing - do they not comprehend that if they do the job properly the first time then problem solved 🙄

Like Reply Share 5w



Kylie Jones

My Wiltshire shouldn't have to have an app to get a response! Even if you send an email you should still get a response. I couldn't even get the bus shelter (for our kids to stay dry in winter) put back up!!

Like Reply Share 5w





Aidan Barnett

Yet another thing less we get. This shire is an absolute joke. Half done road works, street lights that flash, actually thats about all we get besides rubbish collection. They should half the rates and give us rubbish collection only

Like Reply Share 5w



Ben O'Keefe

So let's jack up the rates and do less! Seems fair you lot are the most useless shire I've ever dealt with

Like Reply Share 5w



William Lee

16 years not once has my verge been touched by council and I have to ask permission to do anything to it after you have just reemed us with rates hikes you post this bad timing

Like Reply Share 5w



Lenni Duffield

William Lee I even think a sneaky tractor with a certain bloke on it went around and cleaned up fire breaks and verges, council land and tracks.. all for a box or 2 of beer, maybe instead of paying our rates we use the age old box currency instead! Maybe allot more would get done

Like Reply Share 5w



William Lee

Lenni Duffield how true 😊😊

Like Reply Share 5w



Amy Victoria Wilson

What do we actually get other than rubbish collection??







Like Reply Share 5w















Arthur Blewitt


The first class job that was done on Wandean Rd south is an example of Shire work ,,the crash barriers keep the rubbish on the road not on the verge 🙄🙄

Like Reply Share 5w

-  **Sean Higgins**
anyone happy to live in the shire of chit 🤔😂
- Like Reply Share 5w
-  **Amanda Jane**
Sean love it 👍
- Like Reply Share 5w
-  **Travis Taylor**
For years now I've had to repair my boundary fence due to large branches self pruning into it. Don't know what idiot thought gum trees were good to plant as a verge tree. It's true the shire feels I need to have the appropriate level of insurance to cover the cost of repairs their verge trees cause. If I now have to spend time and money to keep their property maintained, I suppose I could deduct it from the incredible amount of rates I pay. I reckon about \$2600 should cover it.
- Like Reply Share 5w Edited 5
-  **Greg Edwards**
Travis Taylor shire should have been repairing your fence, they did ours when verge tree fell, was years ago but still
- Like Reply Share 5w
-  **Travis Taylor**
Greg Edwards I agree, I did try but they weren't interested.
- Like Reply Share 5w
-  **Jacqui PS**
Greg Edwards Shire of Chittering backhoe operator damaged a section of my paddock fencing and the guy stood there and said nothing when I came out. Was told it would be fixed 3 days later...

6 months go by with me making repeated trips into the office, phone calls, fb enquires, being told I have to do a works request (did that, got ignored then told I needed to do a works request 😞) until I finally spat it the last time I went into the office about their BS. Fence was 'fixed' later that day but seriously a little kid could have done a better job. No wonder it's referred to as shire of shittering.
- Like Reply Share 5w 2
-  **Gloria Dinsdale**
Greg Edwards never fixed our fences or bush fire hazard verges after many requests and work orders. Gave up in the end 😞
- Like Reply Share 5w

-  **Mel Dugay**
Who is supposed to regulate what they can charge/do some sort of consumer protection?? They're as bad as the electricity provider/internet providers
Like Reply Share 5w  2
-  **Phillippa Ong**
Maybe a discount in rates for those that do keep their verges maintained, and to stop spraying the ones that are. Just a thought.
Like Reply Share 5w  9
-  **Cleo Hartford**
Phillippa Ong Like your idea. We do ours for no other reason than to give us a larger firebreak between the road and our property.
Like Reply Share 4w 
-  **Jo Turner Gianatti**
So I take it no one will dob on me for setting up a little b&b at our place right? 🤔
Like Reply Share 5w  2
-  **Zona Kable**
Jo Turner Gianatti in Toodyay we always tended our own verges
Like Reply Share 5w 
-  **Amy Lockhart**
Email sent!!! 
-  **Lyn Edwards**
Would love to know if the residents in Bindoon area will have to maintain all their verges too...as I understand it the shire has always maintained them...strange that???? 22 years here in Lower Chittering and we have had the verge maintained 3 times in all those years....if I maintain it then logic says I own it to do as I please...😏
Like Reply Share 5w 
-  **Jacqui PS**
Lyn Edwards I've lived in Bindoon for 20 years and it's only been since the wooroloo fire I've *ever* seen the shire tend to verges that are not properties in town
Like Reply Share 5w Edited
-  **Amanda Jane**
im in bindoon and we've always done our own
Like Reply Share 5w 

-  **Bevan Francis**
WTF maybe the CEO should take a pay cut. Local government is out of control.....
How about using the money in your slush fund
- Like Reply Share 4w  2
-  **Trudy Riley**
I'll be happy to maintain my verge as they did a sh!t job every time they came out after I sent a 'snap, send,solve'.
Also like to see the roundabouts and medium strips looked after by the shire as they look disgraceful!
I've even had a visitor comment on them when they drove through the area. 🗑️🗑️
- Like Reply Share 4w   3
-  **Bevan Francis**
Steve Evers
- Like Reply Share 4w
-  **Steve Evers**
Bevan Francis 😂😂😂
- Like Reply Share 4w
-  **Bevan Francis**
The Shire says we are accountable for our properties & hammer us about our firebreaks but they don't practise what they preach. I see shire vehicles drive down my street but they just turn around. . Last year they mowed my verge after a request. They mowed around a pile of rubbish & left it. When I contacted them 3 vehicles drove down the street but the pile is still there today..... ACCOUNTABILITY?????
- Like Reply Share 4w 



Bevan Francis

Just a business with an ABN

https://www.chittering.wa.gov.au/.../RESOLUTION_111218...

1.2 LEGISLATIVE OBLIGATIONS

The Shire of Chittering is required, under Section 5.56 of the Local Government Act 1995, to plan for the future of its district. In doing so, the Shire needs to comply with Regulation 19DA of the Local Government (Financial Management) Regulations 1996, which states:

(1) A local government is to ensure that a corporate business plan is made for its district in accordance with this regulation in respect of each financial year after the financial year ending June 2013.

(2) A corporate business plan for a district is to cover the period specified in the Plan, which is to be at least 4 financial years.

(3) A corporate business plan for a district is to-

(a) set out, consistently with any relevant priorities set out in the strategic community plan for the district, a local government's priorities for dealing with the objectives and aspirations of the community in the district;

b) govern a local government's internal business planning by expressing a local government's priorities by reference to

operations that are within the capacity of the local government's resources; and

(c) develop and integrate matters relating to resources, including asset management, workforce planning and long term financial planning.

Like Reply Share 4w



Jayne Southway

If you need a crossover I would be asking before the initiative comes into play.

Like Reply Share 2w



Justin Dawson

I wonder if they will hand over the verges in a reasonable state? Haha dreams are free I guess..


Like Reply Share 2w



Justin Dawson


Amy Lockhart untrue, responsibility lies with the shire, they count on us to clean up the verges but they are ultimately responsible.

Like Reply Share 2w




Amy Lockhart
Justin Dawson read any council verge Policy, they are all the same.

Like Reply Share 2w




Justin Dawson
Amy Lockhart it's shire property therefore responsibility lies with them. They will weasel there way out of it though..

Like Reply Share 2w




Amy Lockhart
Justin Dawson But if someone injures themself on something on your verge, it's is you they can sue, not the shire.

Like Reply Share 2w









Justin Dawson
Amy Lockhart not at all, that is not your land therefore not your responsibility. Sorry but to me that's like you're saying someone injured themselves on your neighbours property and you are liable?

Like Reply Share 2w





Write a public reply...




Shirley Dawson
when Targa West is on the shire will clean up the verges and even bring out the road sweeper for them, but only were the Targa west course is, thats the only time I've seen them done. You used to have to ask permission to clean up the verge.

Like Reply Share 2w 



Julie Conway
I have placed work orders with the Shire on many occasions to maintain Brockman Centre (on behalf of Bindoon Arts and Crafts) by whipper snipping and they have regularly carried out this task, without too much delay. In respect to the Shire verge - my husband tends to ours by spraying. Not much sense to have a nice, neat garden and an unruly verge!!

Like Reply Share 2w  3

1.12 Smoking, Other Drugs and Alcohol

Policy Owner: Corporate Services

Contact Person: Human Resources Coordinator

Date of Approval: 18 May 2011

Amended: 19 April 2017

Objective

The aim of this policy is to ensure a safe workplace free from the effects of smoke, drugs and alcohol. The policy is directed towards the welfare of the individual and the safety and health of other people and, although disciplinary action may be necessary, the focus is on preventative measures.

Policy Statement

The Shire of Chittering and its employees must take all reasonable care not to endanger the safety of themselves or others (including customers) in the workplace. Smoking, alcohol and other drug usage becomes an occupational safety and health issue if a worker's ability to exercise judgment, coordination, motor control, concentration and alertness at the workplace is impaired.

The underlying principles of the Shire of Chittering are fairness and transparency and providing a safe workplace that promotes and protects the well-being of all employees within the Shire of Chittering.

For the purposes of this policy, the term “**employee/s**” shall extend to cover contractors, volunteers and any person performing work for or with the Shire of Chittering in any capacity.

For the Purpose of this policy, the term “Smoking or smoking of cigarettes” shall include items identified as cigarettes, tobacco, Electronic cigarettes (e-cigarettes) and other personal vaporisers for delivery of nicotine or other substances.

The Individual's Responsibility

Under the ~~Occupational Safety and Health Act 1984~~ (the OSH Act) workers must take reasonable care of their own safety and health and not endanger the safety and health of others at the workplace.

Smoking of cigarettes in the workplace is permitted as per Policy 10.8 Smoke Free Outdoor Areas, as long as it is undertaken within the designated smoking areas as identified by provided bins and signage. The Policy aims to minimise the harmful effects of passive smoking and its related discomfort to others and to ensure a safe and healthy working environment for all staff, and should be read in conjunction with ~~OSH Regulation 3.44A~~.

~~The consumption of alcohol and/or drugs while at work is unacceptable (the hazard extends to being adversely affected, possibly as a result of the night before in addition to consumption at work), except in relation to responsible use of alcohol at workplace social functions, as authorised by the Chief Executive Officer.~~

~~Employees are required to present themselves for work and remain, while at work, capable of performing their work duties safely. An employee who is under the influence of alcohol and/or drugs at the workplace, or is impaired, may face disciplinary action including possible termination of employment.~~

~~Employees are personally responsible for any civil or criminal penalty which results from being under the influence of drugs or alcohol in the workplace.~~

Reporting Requirements

~~Under the **Occupational Safety and Health Act 1984** (the OSH Act), employees must report to their employer any situation where they genuinely believe that an employee may be affected by alcohol and/or other drugs, or smoking in non-designated areas as this presents a hazard in the workplace.~~

Confidentiality

~~All results and information in relation to drug and alcohol testing will be dealt with in the strictest confidence. The privacy and dignity of staff tested as part of this process will be protected.~~

~~The Shire of Chittering believes that the health and wellbeing of an employee is of great importance to the organisation. An employee counselling program will be offered in order to support the affected employee.~~

~~Any employee of the Shire of Chittering who is interested in receiving counselling services should seek guidance from their Manager, Human Resources or LGIS Counselling and referral services.~~

Drug Use on the Premises

~~Employees who buy, take, or sell drugs on the Shire of Chittering premises, may be found to have engaged in serious misconduct. Such behaviour may result in disciplinary action up to and including dismissal and may be referred to the relevant authorities.~~

Prescribed and Over the Counter Medications

~~The employee must follow the instructions in respect of prescribed or over the counter medications. If the medication affects their ability to perform a task they must advise their supervisor or manager. Employees taking prescribed or over the counter medication must not commence duties if their doctor or pharmacist indicates that it would not be safe to do so.~~

~~The categories of drugs and substances prohibited by the Shire of Chittering are outlined as per the **Australian Standard AS 4308:2008 Procedures for specimen collection and the detection and quantitation of drugs of abuse in urine**, as such a zero tolerance applies to non-prescribed medications.~~

Examples of drugs referred to in ~~AS4308:2008~~ include but are not limited to: Cannabis; Cocaine; Opiates (e.g. codeine and morphine); and Amphetamine type substances (e.g. pseudoephedrine, MDA and MDMA).

In circumstances where an employee indicates the consumption of prescription or pharmacy drugs, or declares prescription medication and as a result of the medication proved a non-negative result the Shire of Chittering may request further information from the practitioner conducting the assessment about the effects and proper usage of the prescription or pharmacy drugs being taken.

~~Smoking whilst on the premises and during working hours~~

Smoking by employees, visitors and members of the public is prohibited in all Council owned/leased buildings. The Shire of Chittering upholds the right of an individual to work in a smoke-free environment and there is no provision for the designation of smoking permitted rooms or areas in buildings controlled by the Shire of Chittering.

The Shire of Chittering *Smoke Free Outdoor Area Policy (Policy 10.8)* is recognised as an Occupational Health and Safety responsibility, and as such all job applicants to the Shire of Chittering shall be informed of the policy in regard to smoking in the workplace.

Smoking is not permitted within five metres of entrances to buildings or ten metres from an air-conditioning unit and is banned in all Shire of Chittering vehicles; however there are designated smoking areas available as signposted.

It is the responsibility of the department concerned to advise all potential employees and volunteers of the smoking policy and to advise designated smoking locations.

~~Consumption of Alcohol~~

Except in situations where the Shire of Chittering holds a function as authorised by the Chief Executive Officer on the premises and alcohol is provided, employees must not bring in and/or consume/or sell alcohol in the workplace.

It is illegal to drive while under the influence of alcohol or drugs, including some over the counter and prescription medicines. All legislative requirements associated with driving and alcohol consumption, and the consumption of drugs or alcohol in the workplace must be adhered to. The Shire of Chittering employees are not to be under the influence of drugs or alcohol whilst in control of a Council vehicle.

In respect to functions/events, Managers and supervisors shall:

- Ensure that the event has been authorised by the Chief Executive Officer;
- Ensure cessation of all:
 - Physical and computer based work;
 - Use of equipment and machinery (including plant and mobile plant); and
 - Dealing with enquiries and advisory functions to members of the public.

- Encourage their people to make alternative arrangements for transport to and from work prior to the function;
- Ensure that the following is made available: – low alcohol beer, soft drinks and water – beverages: tea, coffee and food;
- If the Manager believes a person may be over the Blood Alcohol Consumption (BAC) 0.05 limit, assist the person with safe transport home (including contacting a family member or arranging a taxi); and
- If the Manager has to leave the function early, appoint a delegate to oversee the rest of the function.

Blood Alcohol Concentration (BAC) Limits

Zero BAC

For employees who drive or operate vehicles classed as plant, equipment, heavy trucks, or machinery, the alcohol limit is 0.00. Plant Equipment, Heavy Trucks and Machinery include the following:

- All construction equipment (graders, rollers, loaders etc).
- Trucks which have a combined mass exceeding 22.5 tonnes.
- High risk hand held equipment such as chainsaws and quick cut saws.

A limit of 0.00 BAC also applies to:

- Novice drivers;
- Community Bus drivers*;
- Drivers of passenger vehicles with capacity to carry more than 12 adult passengers*;
- Drivers of omnibuses*;
- Drivers of certain heavy vehicles*;
- Drivers of vehicles carrying dangerous goods*;
- Extraordinary licence holders; and
- Recently disqualified drivers;

* The zero BAC limit for certain drivers may not apply at all times. Refer www.transport.wa.gov.au/dvs for further information on when a driver must have a BAC limit of zero.

0.02 BAC

A limit of 0.02 applies to all employees when at work and who are not involved in the operation of plant equipment, heavy trucks and machinery as defined under the sub-heading 'Zero BAC' as outlined above. Drivers of certain vehicles and certain classes of licence holder are also subject to 0.00 BAC as outline above.

0.05 BAC

A limit of 0.05 applies to the drivers of Private Use vehicles when those vehicles are being used for private use outside of working hours. A limit of 0.05 also applies to:

- All other licences (including overseas and interstate licence holders) not subject to a 0.02 or zero limits; and

- ~~Emergency Services Employees, Volunteers or Local Government employees when called out in response to events and in time of emergency*.~~

~~* The law provides an exemption from zero BAC for certain drivers. In this situation, the driver will continue to be subject to 0.05% BAC limit. Refer www.transport.wa.gov.au/dvs for further information.~~

Private Use Vehicles

~~While at work or on duty, or when commuting to and from home to a place of work, employees with private use of a Council supplied motor vehicle are deemed to be at work and the appropriate BAC limit as defined above, is applicable.~~

~~When a vehicle is allocated for Private Use in accordance with an employee's condition of employment or employment contract, and the vehicle is being used outside of working hours, the normal road rules apply and the BAC limits are defined as above.~~

Drug/Alcohol Treatment Programs

~~Where an employee acknowledges that they have an alcohol or drug problem and are receiving help and treatment, the Shire of Chittering may provide the following assistance to the employee.~~

- ~~The Shire of Chittering may allow an employee to access any accrued personal or annual leave while they are undergoing treatment; and~~
- ~~The Shire of Chittering may take steps to return an employee to their employment position after completion of the treatment program, if practicable in the circumstances.~~

~~Where an employee acknowledges that they have an alcohol or drug problem and are receiving help and treatment, the line manager or members of senior management, will review the full circumstances and agree on a course of action to be taken. This may include redeployment to suitable alternative employment, or possible termination from employment if the employee is unable to safely carry out the requirements of their role.~~

Pre-Employment Medical Tests

~~As part of the recruitment selection criteria, preferred candidates for employment positions may be required to attend a medical assessment which includes drug and alcohol testing.~~

Workplace Testing

~~If the Shire of Chittering has reasonable grounds to believe that an employee is affected by drugs and/or alcohol it will take steps to address the issue. Actions may include:~~

- ~~Directing an employee to attend a medical practitioner and submit to a medical assessment to determine whether the employee is fit to safely perform their duties.~~
- ~~Requiring that an employee undergo drug and alcohol testing administered by an accredited service provider nominated by the Shire of Chittering.~~
- ~~Directing an employee to go home.~~

- ~~A non-negative oral drug test result, administered by the Shire's accredited service provider, will result in a referral to an independent National Association of Testing Authorities (NATA) Certified Testing Authority.~~

Impairment Testing

~~Reasonable grounds may include (but are not limited to), where an employee's coordination appears affected, has red or bloodshot eyes or dilated pupils, smells of alcohol, acts contrary to their normal behaviour, or otherwise appears to be affected by drugs and/or alcohol.~~

Random or Blanket Testing

~~Testing may also be conducted on all employees. All employees must participate in the testing. If an employee/s is not at work on the day of the test, the employee/s must undertake a test as soon as practicable with the accredited Service Provider.~~

~~Random testing may also be conducted utilising a variety of methods for randomly selecting names. The method will be determined by the Chief Executive Officer but may be by way of picking a coloured ball or names out of a bag containing all employee names.~~

Cause Testing

~~Employees involved in significant incidents may be tested at the direction of their supervisor. Significant incidents may include but are not limited to: vehicle accidents; injuries treated by a medical practitioner; property damage; damage to equipment and machinery; and reportable near misses.~~

Testing Process

~~A medical assessment may include a drug and/or alcohol test. Testing in the first instance for alcohol and/or drugs will be via a swab test analysis or using a Breath Alcohol Testing Device, however secondary testing may include urinalysis. All testing shall be conducted in accordance with ***the Australian Standard AS/NZS 4308:2008 – Procedures for specimen collection and the detection and quantitation of drugs of abuse in urine and AS/NZS 4760:2006 Procedures for specimen collection and the detection and quantitation of drugs in oral fluid.***~~

~~If an employee refuses to attend a medical examination or refuses to submit to an alcohol or drug test, the employee will be immediately directed to go home, if there is suspicion that the person is under the influence of drugs or alcohol the manager or supervisor will encourage the person to make alternate travel arrangements so that they are not operating a motor vehicle. Refusal to attend a medical assessment or refusal to go home constitutes a breach of this policy and may result in disciplinary action being taken against the employee up to and including the termination of employment.~~

~~The following steps are to be taken where an employee who has submitted to a medical assessment returns a positive test result for alcohol and/or drugs:~~

- The employee tested and the supervisor will be informed of the result; and
- A disciplinary discussion will take place in accordance with the disciplinary policies and procedures of the Shire of Chittering.

An employee who returns a positive test will be in breach of this policy. A breach of this Policy may result in disciplinary action being taken against the employee up to and including the termination of employment.

Education, Training and Awareness

The Shire of Chittering provides a comprehensive induction program and annual refresher programs for employees. In addition, the Shire engages the services of a free and confidential counselling and referral service to employees.

Employees who recognise that they have an alcohol or drug problem, or that they are at risk of developing one, are encouraged to come forward so that they can be assisted to get the appropriate help.

Consequences of Breaching this Policy

An employee engaged by the Shire of Chittering who breaches the provisions of this policy may face disciplinary action including possible termination of employment.

Any person yielding a positive Test result (NATA Laboratory confirmed positive reading) for drugs or a blood alcohol reading above 0.02 (calibrated hand held BAC test) will be automatically tested the next three screening sessions (whether random or compulsory).

Contractors found with levels exceeding permissible levels for drugs and/or alcohol will be removed from the worksite immediately. The Shire of Chittering will insist that the contractor provide satisfactory evidence that the effect of work performance and/or safety has been addressed before they are permitted to return to the worksite.

Disciplinary Action

First Offence

1. In the case of a serious incident or high level BAC reading (above 0.05), the employee may be subject to disciplinary action up to and including dismissal.
2. In all other cases, the employee will be given the opportunity to state their case. Unless there are convincing arguments to the contrary, the action as outlined below will continue:
 - a. The employee will be suspended from duty.
 - b. The employee will not be permitted to return to work until they have been tested again and proved negative for all prescribed substances.
 - c. The employee will be counselled by their supervisor. That counselling will focus on:

- ~~i. the unacceptability of the employee's behaviour;~~
- ~~ii. the risk that such behaviour creates for the safety of the individual and other employees or members of the public;~~
- ~~iii. the employee's responsibility to demonstrate that the problem is being effectively addressed;~~
- ~~iv. that any future breach of the policy will result in second offence or possible dismissal.~~
- ~~3. The employee will be offered the opportunity to contact a professional counsellor.~~
- ~~4. A first written warning will be issued.~~

Second Offence

- ~~1. In the case of a serious incident or high level BAC reading (above 0.05), the employee may be subject to disciplinary action up to and including dismissal.~~
- ~~2. In all other cases, the process as outlined in "First Offence" Step 2 (as above) will apply.~~
- ~~3. The employee will be formally offered the opportunity to contact a professional counsellor. The decision to undertake counselling or other treatment for alcohol or other drug or substance is considered mandatory. The employee may be subject to dismissal without notice if the offer of counselling is refused for a second offence.~~
- ~~4. A second written warning will be issued.~~

Third Offence

~~The employee will be given the opportunity to state their case. Unless there are convincing arguments to the contrary, the employee will be dismissed from duty without further notice.~~

Related Corporate Documents

~~Staff Disciplinary Policy (3.17)~~

~~Procedures relating to Fitness for Work, Workplace Behaviours, Grievances, Investigations and Resolutions Procedure (where applicable)~~

~~Smoke Free Outdoor Areas Policy (10.8)~~

~~Vehicle Use Policy (3.18)~~

Related Statutory Legislation

~~Road and Traffic Act 1974~~

~~Misuse of Drugs Act 1981~~

~~Medicines and Poisons Act 2014~~

~~Fair Work Act and Regulations 2009~~

~~Liquor Control Act 1998~~

~~Occupational Safety and Health Act 1984~~

~~Workers Compensation and Rehabilitation Act 1981~~

~~Tobacco Products Control Act 2006~~

~~OSH Regulation 3.44A Protection from Tobacco Smoke~~

~~Liquor Licensing Act 1998~~

~~Variation to this Policy~~

~~This Policy is subject to review and may be cancelled or varied from time to time. All the organisation's employees will be notified of any variation to this policy by the normal correspondence method.~~

~~Appendix~~ — Definitions

~~APPENDIX 1 — DEFINITIONS~~

Definitions Term	Definition
Smoking	Cigarettes, Tobacco, Electronic cigarettes (e-cigarettes) and other personal vaporisers for delivery of nicotine or other substances.
Unfit for Work / Impaired Work Performance	Being impaired for work and therefore unable to perform duties in a safe manner or sudden or gradual deterioration in a person's ability to function appropriately at work.
Use	Eating, drinking, inhaling, injecting or dermal absorption of any substance or drug.
Misuse	Inappropriate use of a substance on the Shire of Chittering premise or property, including overdose of a drug or the failure to take a drug in accordance with medical advice.
Alcohol	Any beverage containing alcohol.
Drugs	Amphetamines, Cannabinoids THC, Opiates, Barbiturates, Cocaine, methadone, Benzodiazepines, Alcohol and other narcotics, prescription drugs and non-prescription drugs.
Substance	Any drug that may have adverse effects causing impaired work performance.
Fit for Work	Not being under the influence of or affected by the adverse effects of drugs, alcohol or any other substance; or not being fatigued.
Contractor	A contractor includes any employee or sub-contractor of any company who has been engaged by the Shire to perform services.
Volunteer	A volunteer is a person who performs a service willingly and without pay.
Managers	Includes Managers as well as the Executive Management Team.
Employees	Shall extend to cover Councillors, contractors, volunteers and any person performing work for or with the Shire of Chittering in any capacity.

References:

1.16 OSH Fleet Safety and Motor Vehicle Guidelines

Policy Owner: Chief Executive Officer

Person Responsible: Chief Executive Officer
Human Resources Coordinator

Date of Approval: 17 May 2017 Resolution 100517

Amended:

Introduction

In maintaining and operating the vehicle fleet for its employees, the Shire of Chittering has a legal obligation and duty of care under the **OHS Act 2000** to provide a safe and healthy workplace.

Fleet safety is a critical occupational health and safety issue for the Shire.

The Shire of Chittering is obliged to provide safe workplaces (vehicles are classed as a place of work), safe systems of work and to provide employees with safety information, instruction and training related to work-related driving. Taking steps to minimize the risk of injury to employees through their involvement in motor vehicle accidents will protect the health and well-being of employees. An additional benefit to the Shire is possible cost savings as employers are subjected to costs both directly (workers' compensation and vehicle repair costs) and indirectly (loss of corporate knowledge) as a result of a motor vehicle accident.

Scope and Purpose

These Guidelines are intended to assist in the implementation of a program for motor vehicle fleet selection and use, have been compiled based on research into contemporary vehicle safety features and best practice driver behaviour with the assistance from the WA Department of Transport Safe Driving.

As such, the Guidelines are aimed at raising the Shires staff awareness of the issues in the interests of employee safety and the cost effective operation of vehicle fleets. They are not intended to mandate minimum standards, as these may vary. The Shire will select, maintain and manage vehicles in accordance with best management practices and in the interests of maximising organisational efficiency and effectiveness.

Benefits of Implementing an OHS Fleet Purchase and Use Policy

It is anticipated that these Guidelines will result in the following positive outcome:

Enhancement of the Shire of Chittering's OHS reputation both internally and externally; and compliance with Occupational Health and Safety legislation.

Selection of Vehicles

The practical aim of these Guidelines is to encourage and assist the Shire's staff to choose the safest fleet vehicles, appropriate for the purposes for which the vehicles will be used. Specifying mandatory safety requirements over and above those required by law is not considered appropriate for the Shire as such an approach is not flexible enough to take into account the different operational needs of each department.

These Guidelines provide research results and information on active and passive safety features that the Shire of Chittering should consider when ordering vehicles.

The following safety features should be considered when choosing a fleet vehicle.

This list is not exhaustive the Shire of Chittering should choose vehicles having regard to the availability of safety features and individual business requirements, which may necessitate additional safety features not noted below.

Active Safety Features (Accident Prevention)

Active safety features can help prevent vehicle accidents by providing the driver with better means of controlling the vehicle and avoiding hazards. Many vehicle features make an obvious contribution to active safety, such as tyres, brakes, lights and steering. Others are not so obvious, like seats and air conditioning. Examples of active safety features include:

- Anti-lock Braking System (ABS);
- Speed alert systems;
- Daytime Running Lights (DRLs);
- Clear glazed windows;
- Cruise control including proactive cruise control;
- Air conditioning;
- Weight and size;
- Highly visible colour;
- Reversing aids i.e. warning beeper when vehicle is reversing and / or reversing camera.

Anti-lock Braking System (ABS)

Anti-lock brakes are designed to improve the manoeuvrability of a vehicle when braking by stopping the wheels from locking in an emergency stop. With better control of the vehicle, the driver of an ABS equipped vehicle has a better chance of avoiding an accident. It has been shown that vehicles with ABS are much less likely to be involved in rear end collisions and accidents on wet or icy roads.

Speed Alert Systems

A speed alert system will help drivers to drive within speed limits. This system alerts drivers when a set speed is reached. While not preventing speeding, the driver is made aware that the set speed has been reached.

Daytime Running Lights (DRLs)

DRLs are weak headlights that are illuminated during the day in order to make vehicles more conspicuous and thus reduce the likelihood of their involvement in accidents. It is possible to fit vehicles with a device that will automatically activate DRLs when the ignition is switched on, but which can be overridden when full strength headlights are on. Also, vehicles are available with headlights that automatically switch off when the engine is stopped and the driver's door opened.

DRLs have been shown to improve vehicle visibility and estimation of distance with a resultant reduction in accident rates. If a vehicle is not equipped with DRLs, an alternative is that the vehicle be driven on the open highway with dipped headlights.

Clear Glazed Windows

Unless there is a specific reason, it is suggested that no extra tint be fitted to any window in the vehicle over the body tint commonly fitted by vehicle manufacturers.

This is because tinted glass causes an unnecessary hazard by obscuring up to 25 per cent of what the driver needs to see. In particular, research has shown the recognition of approaching vehicles at intersections, and judgment of speed and distance when light levels are low, becomes more and more difficult as we get older.

Cruise Control

Cruise control helps drivers to drive within speed limits. Cruise control allows the driver to set a speed so that the vehicle will remain at that speed unless the driver touches the accelerator, brake or clutch. Where proactive cruise control is fitted the driver must familiarise themselves of how this option operates and under what conditions it improves their level of safety.

Air Conditioning

Air conditioning increases driver comfort and helps maintain attention. It is also the most efficient demister of windows to help maintain clear visibility in wet or humid weather.

Highly Visible Colours

Light, highly visible colours such as yellow and white are safer colours than colours such as black or grey which can blend into the road and are less visible. It is suggested that the choice of safe colours be a priority for vehicles used predominantly on the open road.

Reversing Aids

Having a warning beeper fitted that sounds when the vehicle is reversing can prevent accidents. Reversing camera, parking aids are available whereby an ultrasonic sensing device alerts the driver to an object behind the vehicle. They are not adequate to detect small children behind the vehicle and therefore should not be depended on for this function.

Passive Safety Requirements – Reduce Injury in an Accident

While active safety features can help reduce the chance of an accident, not all vehicle accidents are avoidable. In the event of an accident, passive safety features are designed to prevent or minimise injury to the vehicle's occupants. Some features help absorb accident forces; some restrain occupants from colliding with the vehicle interior, and others prevent objects inside the vehicle from striking the driver or passengers. Therefore, it is important to choose a vehicle with both good active and passive safety features.

Examples of passive safety features include:

- 'Acceptable' or five star rating or better on ANCAP (Australian New Car Assessment Program) Ratings;
- Seat belts;
- Air bags;
- Vehicle Stability Control (VSC);
- Traction Control (TRC);
- Brake Assist (BA);
- Head restraints;
- Cargo barriers.

'Acceptable' or Five Star Rating or Better on ANCAP (Australian New Car Assessment Program) Ratings

Information on the safety levels of new vehicles is available through the Australian New Car Assessment Program (ANCAP).

ANCAP test results determine a vehicle's "crashworthiness", or how well it protects occupants in an accident. Successive studies over recent years by the Monash University Accident Research Centre (MUARC) have shown there is strong correlation between ANCAP results and vehicle accidents. ANCAP results can be found at: www.ancap.com.au

Cargo Barriers

Loads must be secured. Cargo barriers prevent loose cargo shifting into the front of the vehicle in an accident, with serious consequences for occupants. Loose cargo can also affect air bag triggering, causing them to malfunction or not to deploy. Cargo barriers are available as an optional extra and the Shire should consider having cargo barriers fitted to vehicles without a boot for storage (i.e. station wagons, hatchbacks) where the vehicles are used to transport cargo, unless operational reasons prevent it. Cargo barriers should meet standard ~~AS/NZS 4034:1994~~, or later standards as they are developed. Where the back seat of a vehicle is used for carrying loads, it is suggested that tie down straps be installed so that the load can be well secured.

Other Safety Considerations

Vehicle Stability Control (VSC)

System that ensures control in cornering situations the way ABS does under braking and TRC does under acceleration. The VSC system utilises electronic sensors in conjunction with the ABS and TRC hardware to help control any potential understeer or oversteer situations. Understeer is when the

vehicle loses front-wheel traction and wants to push forward nose first. Oversteer is when the rear wheels lose traction and the tail begins to slide.

Traction Control (TRC)

A sophisticated electronic system designed to minimise stopping distances by maximising braking power to the wheels with the most grip. It replaces the conventional load sensing proportioning valve. EBD can adjust the fore / aft brake balance according to vehicle load and the right / left brake balance if the brakes are applied during cornering.

Brake Assist (BA)

A system designed to assist the driver in emergency braking, where the driver cannot apply the high pedal force required to obtain the shortest possible braking distance. It supplements the braking power applied if the driver has not pushed hard enough on the brake pedal in an emergency braking situation — working in conjunction with ABS.

Four Wheel Drive Vehicles

Large 4WD vehicles are much heavier than other passenger vehicles and are therefore likely to inflict more damage in accidents with smaller vehicles and pedestrians. Many of the larger vehicles are unstable and prone to roll-over accidents as a result of the vehicle height to width ratio and their high centre of gravity. As well, base model 4WDs are unlikely to be equipped with safety features such as airbags and ABS brakes. Because of their weight, 4WDs do not perform well in emergency braking situations. As a result, the Shire should only consider purchasing 4WD vehicles when there is a clear operational need.

First Aid Kits

The Shire of Chittering fleet vehicles will carry an appropriate first aid kit.

Fire Extinguisher

The Shire of Chittering will consider the benefits of fleet vehicles carrying a fire extinguisher that is securely fixed in the vehicle.

Bull Bars

The Shire of Chittering will only consider installing bull bars where they are absolutely necessary as it has been shown that they increase injury levels to pedestrians, cyclists and motorcyclists in an accident. Also Bull Bars or nudge bars must be installed correctly so as not to interfere with the vehicles safety systems i.e. air bags.

Selection of Vehicles — Responsibilities

i) Staff Responsibilities

- Where a staff member has input into vehicle selection, consider the safety issues outlined in these Guidelines in the selection and only select vehicles with maximum safety features while still meeting particular operational and financial requirements of the Shire; and

- ~~Utilise safety features provided in vehicles.~~

~~The **OHS Act 2000** covers consultation requirements. Consultation enables employees to contribute to the decisions that affect their health, safety and welfare. Consultation helps the Shire of Chittering and employees to work together to seek solutions that lead to healthier and safer workplaces.~~

~~ii) Management Responsibility~~

- ~~Consider the safety issues outlined in these Guidelines in the selection of vehicles and select vehicles with maximum safety features while still meeting particular operational and financial requirements of the Shire of Chittering; and~~
- ~~Ensure any staff that have input into vehicle selection are aware of the safety features discussed in these Guidelines. The OHS Act 2000 which sets out the employers "duty to consult" with employees about OHS matters; and~~
- ~~As a vehicle is a workplace for the purposes of the OHS Act 2000, be aware of the obligations of the Fleet Manager to provide a safe workplace (as required for all workplaces such as offices or building sites);~~
- ~~Actively select vehicles for inclusion in the motor vehicle contract that have appropriate safety features and set minimum specifications in relation to safety features where possible; and~~
- ~~Prohibit the inclusion of options that compromise safety (e.g. tinted glass, bull bars) unless justified by the Shire of Chittering for operational requirements.~~

~~**Use of Vehicles**~~

~~Improvement in vehicle safety goes a long way to addressing road safety issues. However, a safe vehicle is not enough. Driver behaviour is a contributory factor in 90-95% of vehicle accidents.~~

~~These Guidelines provide research results and information to maximise safety.~~

~~The Shire of Chittering will adopt the following vehicle use behaviours for their staff when they are driving a Shire vehicle:~~

~~**Compliance with Road Rules and Courtesy**~~

~~All legislative requirements associated with vehicle usage, in particular parking restrictions and speed limits, must be adhered to. Reducing speed is the best means of reducing vehicle accident risk and the severity of those accidents.~~

~~All Shire employees using fleet vehicles or rental vehicles must carry their driver's license with them at all times and adhere to the Road Rules relevant to the jurisdiction in which the vehicle is being driven.~~

~~The Shire of Chittering Driver is Responsible~~

- ~~Drivers are responsible for all passengers being properly restrained in a seatbelt or approved child restraint. There are fines and demerit points for a driver who is not wearing a seatbelt or~~

~~who fails to ensure that passengers use seatbelts where available. Passengers aged 16 years and over who do not use an available seatbelt will also be fined.~~

- ~~It is dangerous and illegal to have too many people in a vehicle, for example people sitting on the floor or on other people's laps. All passengers should be seated and wearing seatbelts or other restraints. Learner drivers, P1 and P2 licence holders are not allowed to carry anyone who is not wearing a seatbelt or not using a child restraint.~~

~~A national system of driver licence classes has been introduced in WA. All States and Territories in Australia have a uniform driver licence system. The licence classes are:~~

~~C — Car
R — Rider
LR — Light Rigid
MR — Medium Rigid
HR — Heavy Rigid
HC — Heavy Combination
MC — Multi-Combination~~

~~a) — Car~~

~~A 'Class C' licence covers vehicles up to 4.5 tonnes gross vehicle mass (GVM). GVM is the maximum recommended weight a vehicle can be when loaded. A 'Class C' licence allows you to drive cars, utilities, vans, some light trucks, car-based motor tricycles, tractors and implements such as graders. You can also drive vehicles that seat up to 12 adults, including the driver.~~

~~b) — Motorcycle~~

~~Motorcycle riders require a 'Class R' licence.~~

~~c) — Rigid Vehicle Licences~~

~~Different licence classes are required by drivers of rigid vehicles:~~

- ~~A Light Rigid 'Class LR' covers a rigid vehicle with a GVM of more than 4.5 tonnes but not more than 8 tonnes. Any towed trailer must not weigh more than 9 tonnes GVM. Also includes vehicles with a GVM up to 8 tonnes which carry more than 12 adult including the driver and vehicles in class 'C'.~~
- ~~A Medium Rigid 'Class MR' covers a rigid vehicle with 2 axles and a GVM of more than 8 tonnes. Any towed trailer must not weigh more than 9 tonnes GVM. Also includes vehicles in class 'LR'.~~
- ~~A Heavy Rigid 'Class HR' covers a rigid vehicle with 3 or more axles and a GVM of more than 8 tonnes. Any towed trailer must not weigh more than 9 tonnes GVM. Also includes articulated buses and vehicles in class 'MR'.~~

~~Any complaint relating to the manner in which a Shire vehicle has been driven will be investigated.~~

~~i) — Staff Responsibility~~

- ~~Be courteous drivers;~~

- Ensure driver's license is correct for the vehicle being driven, current and carried at all times whilst driving;
- Be aware of and comply with the Road Rules relevant to the jurisdiction in which the vehicle is being driven;
- Drive at speeds that are safe for the conditions, recognising that, in some circumstances, this may be below the posted speed limit; and
- Use speed alert systems and cruise control where available.

ii) All Licence Holders

The law requires the holder of a driver licence to notify, as soon as practicable, the RTA of any long term injury or illness that may impair his or her ability to drive safely. The RTA must be satisfied that all licence holders are medically fit to drive. A licence holder can be directed to have regular medical examinations because of a medical condition or because of advanced age. Some drivers must also have an annual driving test.

The rules apply to all licence holders, including people who have three or five year licences.

iii) Management Responsibility

- New employees to be informed of the Shire of Chittering policy for the safe use of fleet vehicles as part of their job induction;
- Ensure work schedules allow sufficient time for travel;
- Monitor speeding fines issued to staff whilst driving the Shire of Chittering vehicles and provide details of infringements to the driver's manager; and
- Monitor fuel consumption of vehicles and provide feedback about fuel consumption (low fuel consumption is a sign of non-aggressive / non-speeding / driving a correctly tuned vehicle).

Maintenance and Monthly Vehicle Checks

All Shire vehicles must be maintained in a safe, roadworthy condition.

Maintenance of vehicles should take place according to the vehicle manufacturer's specification.

i) Staff Responsibility

- Use the vehicle in an appropriate and safe manner;
- Conduct checks of key components against a checklist covering headlights, fuel, brakes, mirrors, tyres, and ensure windcreens are clean and free of cracks or chips, etc.; and
- Promptly report any vehicle faults in writing.
- Use "Fortnightly Vehicle Checklist"
- To advise the Shire HR Coordinator when and if they accrue demerit points.

In addition, prior to each trip, the driver is responsible to ensure the general roadworthiness of the vehicle and its suitability for the trip / work to be undertaken. This may include the checking of fuel, oil, coolant, brake fluid, lights, windscreen washers and wipers, water, battery and tyre tread and pressure and taking corrective action where necessary.

~~ii) — Management Responsibility~~

- ~~● Ensure that records are kept of vehicle inspections, maintenance, repairs and modifications (WorkCover OHS requirements);~~
- ~~● Ensure that all vehicles are maintained in a safe, roadworthy condition; and~~
- ~~● Remove unsafe vehicles from use.~~

Smoking

~~Smoking in a Shire vehicle is not permitted at any time. A Shire of Chittering vehicle is a workplace for the purposes of the **OHS Act 2000** and smoking is prohibited in the workplace.~~

~~i) — Staff Responsibility~~

- ~~● Not to smoke in a Shire fleet vehicle or permit others to smoke in the vehicle.~~

~~ii) — Management Responsibility~~

- ~~● Promote non smoking in the workplace.~~

Alcohol and Drugs

~~It is illegal to drive while under the influence of alcohol or drugs, including some over the counter and prescription medicines. All legislative requirements associated with driving and alcohol consumption, and the consumption of drugs or alcohol in the workplace must be adhered to. The Shire of Chittering employees are not to be under the influence of drugs or alcohol whilst in control of a Council vehicle.~~

~~Blood Alcohol Concentration (BAC) Limits~~

~~a) — Zero BAC~~

~~For employees who drive or operate vehicles classed as plant equipment, heavy trucks and machinery, the alcohol limit is 0.00. Plant equipment, heavy trucks and machinery include the following:~~

- ~~● All construction equipment (graders, rollers, loaders etc)~~
- ~~● Trucks which have a combined mass exceeding 22.5 tonnes~~
- ~~● High risk hand held equipment such as chainsaws and quick cut saws~~

~~A limit of 0.00 BAC also applies to:~~

- ~~i) — Novice drivers;~~
- ~~ii) — Taxi drivers*;~~
- ~~iii) — Drivers of passenger vehicles with capacity to carry more than 12 adult passengers*;~~
- ~~iv) — Drivers of omnibuses*;~~
- ~~v) — Drivers of certain heavy vehicles*;~~
- ~~vi) — Drivers of vehicles carrying dangerous goods*;~~
- ~~vii) — Extraordinary licence holders; and~~
- ~~viii) — Recently disqualified drivers;~~

**The zero BAC limit for certain drivers may not apply at all times. Refer www.transport.wa.gov.au/dvs for further information on when a driver must have a BAC limit of zero.*

b) 0.02 BAC

A limit of 0.02 applies to all employees when at work and who are not involved in the operation of plant equipment, heavy trucks and machinery as defined under sub-heading Zero BAC above. Drivers of certain vehicles and certain classes of licence holder are also subject to 0.00 BAC as outlined above.

c) 0.05 BAC

A limit of 0.05 applies to the drivers of Private Use vehicles when these vehicles are used for private use outside of working hours. A limit of 0.05 also applies to:

- All other licences (including overseas and interstate licence holders) not subject to a 0.02 or zero limits; and
- Emergency Services Employees, Volunteers or Local Government employees when called out in response to events and in time of emergency*.

**The law provides an exemption from zero BAC for certain drivers. In this situation, the driver will continue to be subject to 0.05% BAC limit. Refer www.transport.wa.gov.au/dvs for further information.*

Alcohol and Drug Related Breaches – Motor Vehicle Insurance and Workers Compensation

***** It should be noted that insurance companies may not accept a motor vehicle claim or workers' compensation claim where an accident or injury is sustained and the presence of drugs or alcohol have been identified by a positive test.**

Where an employee, contractor, volunteer or work experience person is proven to drive or attempt to drive a Council motor vehicle, truck or mobile equipment when returning a positive result of alcohol or other drugs and has an accident, Council's insurer may agree to indemnify Council for the loss or damage to Council's vehicle.

It is then normal practice for the insurer to seek a full recovery of these costs from the offending driver. It is possible the driver may have no liability cover if the prescribed content of alcohol or drugs exceeds the legal limit at the time of the incident. Workers Compensation Claims in the event of a claim involving alcohol or other drugs the insurer may not accept the claim.

i) Staff Responsibility

- Not drive a vehicle under the influence of drugs or alcohol.

ii) Management Responsibility

- Educate staff on alcohol and drugs in the workplace.
- Encourage drivers not to consume any alcohol in the period prior to driving; and
- Ensure drivers are made aware of the effect of alcohol and drugs on driving performance.

Fatigue

With the goals of the Shires Fatigue Management Plan Occupational Health and Safety Policy Statement in mind, the Shire of Chittering will use appropriate risk assessment tools to measure, mitigate and monitor the risks associated with fatigue. In addition, mitigation strategies will be reviewed and audited to ensure compliance with OHS requirements.

Under **OHS Act 2001**, the Shire has the primary duty of care. However, there is also a provision for the Shire of Chittering's employee's duty of care.

This refers to the duty of a Shire employee to assist the Shire of Chittering in meeting health and safety obligations and to take reasonable care not to put themselves, or others, at risk. In other words, an employee has a duty to take reasonable care for their own health and safety, and for the health and safety of others that may be affected by their acts or omissions at the workplace.

Fatigue is the result of inadequate rest over a period of time, leading to a markedly reduced ability to carry out a task. The Shire of Chittering staff and their supervisors should plan realistic schedules, be rested before departure, stop for appropriate rest breaks (at least every two hours, even if not feeling tired) and avoid driving during normal sleeping hours. Employees should be made aware that accumulated sleep deprivation or sleep disorders such as sleep apnoea will increase their accident risk.

It is suggested that the Shire staff and their supervisors take the following into account:

- A journey longer than two hours should be broken at least once for a 10 minute break;
- Consideration should be given to staying overnight if there is a requirement to travel a long distance and there is a risk of driver fatigue;
- Where practical, driving long distances should be avoided where driving conditions are difficult, such as driving in heavy rain, fog or into the sun; and
- If a driver is fatigued they should be encouraged to find a suitable location to pull off the road and take a "Powernap" for 10 minutes or more. Research shows that a Powernap can significantly reduce the risk of fatigue-related accidents. A preventative Powernap before the journey is also effective.
- Employees, who operate plant or other heavy vehicle, are required to abide by the legislation requirements regarding Fatigue Management from WorkSafe WA.

Signs of fatigue include:

- Constant yawning;
- Drifting in the lane;
- Sore or heavy eyes;
- Trouble keeping your head up;
- Delayed reactions;
- Daydreaming;

- Variations in driving speed; and
- Difficulty remembering the last few kilometres.

The only effective remedy for fatigue is sleep.

i) Staff Responsibility

- Do not drive while fatigued;
- Have a “Powernap” if tired;
- Share the driving if possible;
- Avoid starting a long trip after a day’s work;
- Avoid driving at times when you would normally be asleep;
- Avoid tight meeting schedules;
- Avoid driving after 17 hours since your last sleep; and
- Use other forms of travel (e.g. bus) when practical.

ii) Management Responsibility

- Ensure that appropriate work scheduling is encouraged and implemented (i.e. minimise driving in the late afternoon and encourage staff to stay overnight on long trips);
- Educate staff on the dangers of driving whilst fatigued; and
- Educate staff on sleep disorders and encourage staff to seek medical advice if they have any symptoms.

Daytime Running Lights (DRLs)

The Shire requires that vehicles be driven with dipped headlights or DRLs on during the day, especially on the open highway.

i) Staff Responsibility

- Have DRLs on at all times where fitted; and
- If DRLs are not fitted, drive with dipped headlights, especially on the open highway.

ii) Management Responsibility

- Educate staff on the benefits of using DRLs to improve vehicle visibility.

Mobile Phones

It is an offence to drive a vehicle while using a mobile phone without a hands-free kit.

Mobile phones can cause distractions in two ways:

- i) Taking your hands off the wheel; and
- ii) Becoming engrossed in an intense conversation and not concentrating on the road.

Shire of Chittering employees must pull over and stop their vehicle if required to talk on the phone.

Shire of Chittering adopt the following practices for their staff:

- Staff shall keep mobile phone use to an absolute minimum when driving. This means diverting calls to voicemail and checking messages regularly when it is safe to pull over;
- Staff do not make calls, dial numbers or text message while driving; and
- Staff to pull over to the side of the road when it is safe, before making or answering a call.

i) — Staff Responsibility

- Never use handheld mobile phones whilst driving or stationary in traffic;
- Minimise the use of a hands free mobile phone whilst driving or stationary in traffic;
- Pull over, if safe, to use a mobile phone; and
- Use message bank, where appropriate.

ii) — Management Responsibility

- Actively discourage the use of mobile phones whilst operating fleet vehicles and reiterate to employees that it is an offence to drive a vehicle while using a mobile phone without a hands-free kit.

Other Driving Distractions

Drivers should be aware of and minimise other driving distractions such as eating drinking and programming the vehicles GPS (if fitted) whilst driving. These have the potential to cause a distraction in the same way as mobile phones.

i) — Staff Responsibility

- Minimise other driving distractions such as eating and drinking whilst driving or stationary in traffic.
- Not to program the vehicles GPS whilst driving or stationary in traffic.
- Management Responsibility
- Actively discourage eating and drinking whilst operating fleet vehicles.
- Actively discourage programming a GPS whilst operating / driving or stationary in traffic.

Towing

All legislative requirements associated with towing must be adhered to. A vehicle should not tow a trailer if the trailer has a loaded mass exceeding the towing capacity of the vehicle or the towing capacity of the tow bar fitted to the vehicle. The towing capacity of a vehicle or tow bar is as specified by the manufacturer.

Towing anything heavy greatly increases the stress on any vehicle, so suspension, brakes, steering, tyres and the cooling system need to be in excellent condition.

i) — Staff Responsibility

- Comply with all legislative requirements for towing; and
- Only tow if it is safe to do so and the driver can control the towed load.

ii) — Management Responsibility

- Promote safe towing practices; and
- Ensure that appropriate vehicles are selected where they are to be used for towing purposes.

Driver Education and Awareness

An aim of these Guidelines is to encourage and assist employees to be safer drivers.

Drivers of Shire of Chittering vehicles should be aware that they have sole responsibility and legally responsible for ensuring all children aged less than seven years of age are restrained in appropriate, standards approved restraints. A penalty applies for failing to ensure children are appropriately restrained.

The regulations requires all children aged up to seven are required to travel in an approved child restraint and make sure they are protected when travelling in a vehicle.

- Children younger than six months must be secured in rearward facing restraints;
- Children between six months and four years must be secured in either a rear or forward facing restraint;
- Children between four and seven years must be secured in forward facing child restraint or booster seat;
- Children younger than four years cannot travel in the front seat of a vehicle with two or more rows;
- Children between four and less than seven years cannot travel in the front seat of a vehicle with two or more rows, unless all other back seats are occupied by children younger than seven years in a child restraint or booster seat.

Employees should consult the vehicle manufactures handbook or the vehicle supplier for the correct anchorage point locations or seek advice from an RTA Authorised Fitting Station. Call 13 22 13 to find your nearest RTA Authorised Fitting Station.

Drivers of a Shire of Chittering vehicle are responsible for the purchase, provision and fitting of child restraints at no cost to the Shire. The restraint must be removed when the vehicle is being used on Shire business.

Induction Programs

Induction is an important opportunity to inform new employees of the details of the fleet management policy and the Shires commitment to road safety. It is also critical that the vehicles assigned to new employees meet the requirements of their particular job.

The induction program undertaken by the employee's manager / supervisor consists of:

- Vehicle familiarisation in the particular types of vehicle which the employee will be driving. If necessary, this may require some specific vehicle induction training by the employees manager / supervisor;
- Maintenance procedures and cleaning requirements;

- What to do in the event of an accident;
- Expected driver behaviour, employees be informed of the Shires policy on fleet safety; and
- The importance of maintaining a courteous attitude to other road users and using government vehicles in a responsible manner.

Driver Education Programs

Driver training and education by the employee's manager / supervisor help ensure a competent workforce and increase awareness and knowledge of road safety issues.

However, manager / supervisor should be focusing on driver attitude to road safety (factors such as speed, alcohol, not wearing seat belts and driving when fatigued).

Drivers must adhere to the Road Rules relevant to the jurisdiction in which the vehicle is being driven, and be encouraged to practice defensive driving techniques. As part of this, drivers should be educated to drive at speeds that are safe for the conditions, recognising that, in some circumstances, this may be below the posted speed limit.

Also, drivers should be educated in respect to the distance needed, on average, to stop a vehicle, and to make use of advisory speed signs.

It is suggested that the Shire of Chittering manager / supervisor identify driver training needs, with particular focus on the type of vehicle to be driven, and arrange appropriate training or retraining, including providing regular tool box meetings on using seat belts, combating fatigue, driver responsibility and the impact of alcohol and drugs.

Improper Vehicle Use and Traffic Infringement Monitoring

The Shire of Chittering will develop systems to monitor and report on improper vehicle use and levels of traffic infringements and put in place processes to sanction employees who consistently have disregard for the vehicle and / or breach road rules.

Need to Travel

In order to eliminate unnecessary travel, staff should be encouraged to consider if the journey is essential. Thought should be given to alternate arrangements other than vehicle travel, such as telephone and video conferencing.

Implementation of Guidelines

A safe driving policy will only work if staff are encouraged to follow it and everyone knows about it. The Shire of Chittering will encourage employees to actively participate and communicate the policy by:

- Clearly setting out the responsibilities of managers and employees for implementing and maintaining the policy;
- Managers championing the policy;

- The establishment of an sub-working group of the current OSH Working Group to oversee accident reduction / driver safety improvement and oversee reasonable improvements to safety for vehicles and associated equipment;
- Providing audit forms in vehicles to enable drivers to ensure regular maintenance checks are carried out (such as tyre pressure, windscreen condition etc. – Fortnightly Vehicle Checklist);
- Using internal communications to make sure all staff know about the policy, and including regular features on safe driving in staff newsletters;
- Enhancing the reputation of the Shire by advertising the fact that the Shire of Chittering has a safe driving policy at every opportunity;
- Making the policy part of the Shires health and safety policy;
- Encouraging healthy eating, sleep, work and exercise habits that assist safe driving;
- Internal promotion of the reduction in injuries / vehicle accidents and costs to the Shire of Chittering to encourage continuous improvement in driver behaviour; and
- Including the policy in all staff induction.

Vehicle Accident Monitoring

Consistent monitoring and analysis of accident data is the foundation for an effective fleet safety policy. Without carefully considered evaluation systems in place, the other elements of fleet safety will be far less effective. Thorough monitoring of fleet data will ensure that the program's safety measures are actually addressing problem areas in the fleet.

Council's Reporting Procedures require that all Incidents / Accidents must be verbally reported immediately to your supervisor. Following the verbal advise of the accident, a Motor Vehicle Accident Report form is to be completed, in addition to an Incident/Hazard Report, should personal injury occur. These forms are to be completed within two business days of the accident/incident.

Review of Guidelines

Guidelines will be reviewed every 12 months by the OHS Officer.

The effectiveness of the Guidelines will be evaluated by considering the level of adherence to the Guidelines by the Shire.

Additional Resources

The Shire has a fleet safety policy that matches its particular activities and priorities. A number of Australian state jurisdictions and research organisations have developed extensive materials to help organisations develop and improve their fleet safety policy.

Examples of model fleet safety policies and resources include:

- Transport WA's drive safe handbook
- ANCAP results can be found; www.ancap.com.au

~~This policy should be read in conjunction with the following documents:~~

- ~~• Private Use Policies & Private Use Agreement~~
- ~~• WA Commerce "Staying alive on the road"~~

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References:	
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Vehicle Inspection Report

Vehicle Inspection Report

Fortnightly Vehicle Check		
Vehicle Registration No.:		Plant No.:
Vehicle Type:		Service Date:
Item	Operational Yes / No	Comments
Headlights		
Warning lights (blinkers)		
Hazard lights		
Brake lights		
Reversing lights		
Interior light		
Brakes		
Windscreen		
Tyre pressure		
Tyres - condition		
Oil level		
Water level		
Steering fluid level		
Brake fluid level		
Hands free phone unit		
All windows		
First Aid Kit		
Seat belts		
Rear Vision and Side Mirrors		
Tyre Jack		

Items to be reported/fixed:

Signed:

Date:

3.8 Work Health and Safety (WHS)

Policy Owner: Governance
Person Responsible: All Executive Managers
Date of Approval: 18 November 2009
Amended:

Objective

The Shire of Chittering is committed to providing a safe and healthy workplace for all workers and visitors. This means that we aim to avoid or eliminate the causes, which lead to:

- Accidents, injury, incidents or illness.
- Damage and downtime of plant, equipment or infrastructure.
- Unsafe or poor quality products and environmental damage.

Definitions

Under the Work Health and Safety Act 2020, work relationships are defined as:

“PCBU” Person Conducting a Business or Undertaking (*For the purpose of this document [Local Government] is the PCBU*)

“Worker” A person who carries out work in any capacity for a PCBU (E.g., An Employee, Contractor, Work Experience person or Volunteer).

“WHS” Acronym for Work Health and Safety

Policy

The Shire of Chittering will endeavour to both maintain and improve workplace health and safety with the philosophy that all injuries and accidents are preventable and that a safe and healthy working environment is conducive to job satisfaction.

Safety and Health Objectives

Commitment, co-operation and effective team work is fundamental to achieving the objectives.

The key safety and health objectives are:

- Lead by example.
- Providing a safe and healthy working environment for all our workers and visitors.
- Implementation of safe systems of work and maintenance of plant and equipment to a safe standard where associated hazards are identified, assessed and controlled.
- Taking action to eliminate, control or reduce to an acceptable level, hazards to which workers and visitors may be exposed.

- Consulting and/or involving workers and other parties to improve decision making on WHS and environmental matters.
- Developing, implementing and review of written safe work procedures.
- The distribution and communication of safety information and safe work procedures.
- Providing information, appropriate instruction and/or training on matters relating to safety including a worker's responsibilities, together with a high standard of supervision.
- Implement ongoing processes to prevent accidents, including performing work place inspections and hazard/near miss reporting.
- Fostering cooperation, consultation and involvement of workers, their representatives (where applicable) through daily prestart safety committee meetings, toolbox meetings and management safety committee meetings.
- Providing or ensuring provision of appropriate personal protective equipment (PPE) to protect all workers and visitors.
- Protecting members of the public, customers and the environment from potential adverse effects that may be associated with our activities or the use of our products.
- Supporting and assisting workers in effective injury management and rehabilitation through the Injury Management System.
- Conforming to the requirements of Legislation and Statutory authorities.
- Conducting regular audits of our WHS Management System and implement agreed outcomes to continually improve current systems of work.

Responsibilities

Work Health and Safety is both an individual and a collective responsibility of all employees.

In particular:

- *Chief Executive Officer*
The Chief Executive Officer is the responsible officer for Work Health and Safety
- *Executive Managers, Managers and Supervisors*
Executive Managers, Managers and Supervisors are responsible for implementing the Work Health and Safety Policy and also planning, developing, implementing and monitoring of Work Health and Safety Procedures.
- *All workers are expected to:*
 - Take reasonable care for the health and safety of themselves and others at work.
 - Report all hazards, incidents, injuries, near misses to their supervisor/manager.
 - Undertake relevant prestart inspections of machinery and equipment and report all faults immediately.
 - Cooperate with management in the event of an incident investigation and to enable compliance with WHS legal obligations.
 - Participate in consultative arrangements including toolbox, prestart meetings and any site specific requirements.
 - Assist management to meet WHS targets/key performance indicators (where applicable).
 - Participate in return to work programs.

-
- Comply with all reasonable instructions from supervisors/management in relation to work health and safety issues.
 - Comply with workplace specific drug and alcohol requirements, including testing.

DRAFT

References:	Staff Policy 3.17 - Use of Council Vehicles Operational Directive – “Fitness for Work”
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3.17 Staff Disciplinary

Policy Owner: Governance

Person Responsible: All Executive Managers

Date of Approval: 18 May 2011

Amended:

Objective

The objective of a disciplinary policy is:

- To ensure that the processes and outcomes of disciplinary procedures are in accordance with the relevant State and Federal laws, the **Local Government Industry Award 2010** and any enterprise agreements.
- To provide an acceptable disciplinary process to the workforce and the Shire of Chittering.
- To determine the issues expeditiously.
- To allow an employee who is the subject of a disciplinary process the right to appropriate representation.
- To ensure that the ultimate determination of a disciplinary matter is made, subject to any avenues to the courts or Industrial Tribunals, by the Chief Executive Officer.
- To ensure that the necessity for having disciplinary processes or external claims to Courts or Industrial Tribunals is minimised.
- To ensure the principles of natural justice apply to the process.

Policy

The Shire of Chittering Senior Staff in consultation with the Chief Executive Officer may consider issues of staff misconduct and unacceptable performance levels that may require disciplinary action.

Any disciplinary procedure shall be applied in a consistent, fair and objective manner. It is recommended that advice from Workplace Relations is sought before any action of a serious nature is taken.

Related Corporate Documents

- Managing and Developing Performance Guideline
- Grievances, Investigations and Resolutions Procedure
- Code of Conduct
- Staff Disciplinary Procedure

3.17 Use of Council Vehicles

Person Responsible:	All Executive Managers
Date of Approval:	27 June 2012
Amended:	17 October 2012 (N182194)
	15 July 2020 (N202570 & N202571)

Further to Council Resolution 231119 the Chief Executive Officer no longer has the ability to offer Private and/or Commuter Usage of Motor Vehicles as part of a staff member's remuneration package.

Existing arrangements with employees will remain as per the policy in place at the time that the arrangement was made.

1. Light Vehicle Fleet

Council has and will continue to implement a number of initiatives which will make the light vehicle fleet more effective and which will save money.

Specifically:

- 1.1 All council vehicles will be 4 cylinder vehicles that suit the business use needs of the Shire – delivering a more efficient vehicle fleet with reduced vehicle operating costs and reduced carbon footprint.
- 1.2 All Shire owned vehicles shall carry a log book which must be completed for a minimum of three months per annum by all drivers of the vehicle.
- 1.3 Shire owned vehicles shall be included in a car pool, for use during business hours.
- 1.4 Where applicable, Council will provide an optional increase in the base salary for Executive staff as an incentive for staff to provide their own vehicle for all business and private use. This arrangement will be identified in the employment contract as a "car allowance".
- 1.5 Shire owned vehicles remain the property of the Shire at all times.

2. Vehicle Assignment Requirements

A Shire officer assigned a Shire owned vehicle shall:

- 2.1 Enter into an agreement to confirm the type of vehicle, type of use and contribution rate, if applicable, to the use of a Shire vehicle by an officer.
- 2.2 Sign their acceptance to Council's conditions of use of a Shire vehicle, which governs use, care and maintenance as detailed in this Policy document.

- 2.3 Submit a log book of their business and non-business related travel for a period of 90 days during any FBT year (1 April – 31 March).

3. Private Use

- 3.1 Executive Managers with private use arrangements will:-
- Restrict private usage to 35,000km (including commuting) per annum, with a 0.25c per kilometre charge for any additional private use.
- 3.2 Be required to make a fortnightly after tax contribution towards the cost of a Council supplied vehicle. This arrangement will be identified in the employment contract as a "Vehicle Subsidy".
- 3.3 Have full access to their allocated vehicle during all periods of leave. When the vehicle is not required during annual leave it is to be garaged at the Shire Depot unless approved by the Chief Executive Officer.

4. Commuting Use

- 4.1. The vehicle is available for commuting use only within the Shire of Chittering boundaries.
- 4.2. Employees will not use Shire vehicles for private use such as taking family to and from work / school etc., and shall not include any substantial deviation or substantial interruption of the journey without the expressed approval of the Chief Executive Officer.
- 4.3. Diversion to attend a course of study or professional development outside normal business hours is to be authorised by the Executive Manager and taken as part of the journey to or from work.
- 4.4. Staff with Commuting use arrangements will restrict commuting usage to 25,000km per annum, with a 0.25c per kilometre charge for any additional commuter use.
- 4.5. Only utility type vehicles will be provided for commuter usage purposes.
- 4.6. Where utilities are provided for operational / business use, the Australian Taxation Office guidelines regarding use of the vehicle will apply.
- 4.7. In the event of a change of duties or change to the nature of work for which the employee is employed, the Council reserves the right to withdraw the provision of a vehicle.
- 4.8. The vehicle will be available during office hours as a pool vehicle and will be returned to the pool during periods of long service leave, annual leave and sick leave.

5. General

- 5.1. Council owned vehicles are generally linked to a specified position, not the person holding the position.
- 5.2. Vehicles will not be the subject of negotiations for the inclusion in Certified Agreements, State Workplace Agreements or Australian Workplace Agreements.

5.3. The right to participate in the Vehicle Scheme may be suspended at any time at the discretion of the Chief Executive Officer, if the officer:

- Is convicted of a serious driving offence;
- Judged to have incurred excessive insurance claims;
- Has not maintained the vehicle in a suitable manner;
- Has breached any of the agreed vehicle policy conditions;
- Fails to provide accurate FBT information as requested;
- Uses the vehicle to derive income from outside business unless authorised by the Chief Executive Officer;
- Has acted in a manner deemed inappropriate by the Chief Executive Officer.

5.4. It shall be the responsibility of the person to whom the vehicle has been allocated to ensure that:

- a. Any previous driving offences (not speeding or parking) up to five years previously, which may affect insurance cover, are to be revealed.
- b. The vehicle is housed in a secure and preferably off street location, and kept locked at all times when not in use.
- c. The vehicle will be available for Shire business on a daily basis (excluding approved periods of leave). This will take precedence over private use.
- d. Only Shire employees may drive a Shire vehicle. In an emergency any person holding a WA Drivers Licence may drive the vehicle provided the employee is a passenger in the vehicle at the time the vehicle is being driven.
- e. No pets shall be allowed in Shire vehicles other than those used for the transport of animals.

6. Council's Responsibility

6.1. In respect of Council owned vehicles:

- i. Annual Registration, Insurance and FBT payments will be met by the Shire.
- ii. Vehicles will be replaced at intervals according to the "Ten Year Plant Replacement Program" as detailed in the [Long Term Financial Plan](#).
- iii. The Council may undertake an independent random audit or inspection of vehicles to ensure that the conditions of this Policy are being met.
- iv. Vehicles will be fully serviced and maintained by the Shire.
- v. Vehicles will be provided with a fuel card which is to be used when purchasing fuel and oil only.

6.2. First Aid Kits

The Shire of Chittering fleet vehicles will carry an appropriate first aid kit.

6.3. Fire Extinguishers

The Shire of Chittering will consider the benefits of fleet vehicles carrying a fire extinguisher that is securely fixed in the vehicle.

6.4. Bull Bars

The Shire of Chittering will only consider installing bull bars where they are absolutely necessary as it has been shown that they increase injury levels to pedestrians, cyclists and motorcyclists in an accident. Also Bull Bars or nudge bars must be installed correctly so as not to interfere with the vehicles safety systems i.e. air bags.

7. Employee Responsibilities

7.1. All persons driving a Shire owned vehicle shall:-

- (a) Hold a current Western Australian Driver's Licence.
- (b) Ensure that passengers and load limits are not exceeded at any time. Off-road use is not permitted except where the vehicle is designed for such use.
- (c) Ensure that there is no smoking in Shire vehicles at any time.
- (d) To ensure that parking fines and traffic infringements are paid by the offending driver.
- (e) An employee whose licence has been suspended shall immediately advise their supervisor and arrange for the vehicle to be returned to the Council Depot. The employee will notify the Human Resources Coordinator of the situation and arrange to have any deduction of payments (if being made) discontinued until the suspension expires and / or private use rights are resumed.

8. Accident or Damage

8.1. In the event of an accident or damage to a vehicle it is the responsibility of the employee to:

- (i) Report as soon as practicable to the relevant officer, any involvement in a motor vehicle accident or upon sustaining general damage to the vehicle;
- (ii) Report any accident in a motor vehicle to the Police where required by law;
- (iii) Not accept or acknowledge any liability on behalf of the Shire arising from an accident;
- (iv) Complete as soon as practical after the accident, the appropriate claim form and in consultation with the employee's supervisor, the incident report form, and return them to the relevant officer.

8.2. Employees found to be driving a Shire owned vehicle under the influence of drugs and/or alcohol will be held personally responsible for any repairs and/or legal action resulting from any accident in which they are involved. Similar conditions shall apply to damage occurring as a result of inappropriate behaviour. Full costs relating to damage will be recovered from the employee. The employee would not normally be liable for any insurance excess costs involved if damage to the vehicle occurs in circumstances defined within authorised use.

8.3. Alcohol and Drug Related Breaches – Motor Vehicle Insurance and Workers Compensation

******* *It should be noted that insurance companies may not accept a motor vehicle claim or workers' compensation claim where an accident or injury is sustained and the presence of drugs or alcohol have been identified by a positive test.*

8.3.1 Where an employee, contractor, volunteer or work experience person is proven to drive or attempt to drive a Council motor vehicle, truck or mobile equipment when returning a positive result of alcohol or other drugs and has an accident, Council's insurer may agree to indemnify Council for the loss or damage to Council's vehicle.

8.3.2 It is then normal practice for the insurer to seek a full recovery of these costs from the offending driver. It is possible the driver may have no liability cover if the prescribed content of alcohol or drugs exceeds the legal limit at the time of the incident. Workers Compensation Claims in the event of a claim involving alcohol or other drugs the insurer may not accept the claim.

9. Maintenance and Cleaning

9.1. General maintenance of the vehicle is the responsibility of the employee to whom the vehicle is assigned. This will include:

- (i) Weekly check of oil, water and tyres.
- (ii) The vehicle is to be maintained in a clean and tidy condition at all times. Cleaning (internal and external) will be undertaken during the employee's own time.
- (iii) Additional features including advertising material, shall not be added to the vehicle unless it can be determined that these are required to undertake the functions of the person using the vehicle.
- (iv) The vehicle is to be made available for service maintenance and repairs as required. Mechanical defects are to be reported to the Technical Services Support Officer as soon as practicable.
- (v) All vehicles are designated as work places and shall be used in accordance with the Council's Occupational Safety and Health Policies including the maintenance of a smoke free environment.

Refuelling of vehicles

~~Unless there are extenuating circumstances the vehicle is to be refuelled as follows:~~

- ~~(1) Diesel vehicle to be refuelled at the Council Depot; and~~
- ~~(2) Petrol vehicle the Council supplied fuel card is to be used for all purchases.~~

10. Appropriate Use

10.1. Vehicles shall be used in a manner that is consistent with the nature of work requirements. Employees shall be responsible for ensuring an allocated vehicle is used appropriately at all times.

- 10.2. Vehicles other than 4-wheel drives should not be taken off-road.
- 10.3. Employees shall be responsible for paying for any damage that occurs when a vehicle has been deemed to have been used inappropriately.
- 10.4. Reconditioning costs at change over may be recovered from staff if the vehicle is excessively damaged through negligence.
- 10.5. The relevant officer shall report excessive reconditioning costs to the relevant Executive Manager. The Chief Executive Officer shall decide if excessive costs are required to be paid by the officer.
- 10.6. Excessive speeding or alcohol and drug offences while driving may result in Council withdrawing the use of a vehicle. ~~Disciplinary processes are in accordance with Administration Policy 1.14 Smoking Other Drugs and Alcohol.~~

11. Fringe Benefit Tax Reporting

- 11.1. All Fringe Benefits Tax (FBT) reporting requirements are to be completed and submitted to the Executive Manager Corporate Services by the due date. These include:
 - (i) Log books of vehicle use are to be completed when requested.
 - (ii) Annual returns giving details of:
 - any employee using the vehicle,
 - the start and finish dates/times of each period of use; and
 - details of the vehicle use when allocated to another person.
- 11.2. Employees allocated vehicles for commuting or private use are required to notify the Human Resources Coordinator of any changes to the allocation of the vehicle (e.g. during leave or staff rotation etc). Failure to do so will result in the Council assuming the vehicle is still under the employees control and associated fringe benefits will be attributed to the employee.

Vehicle Types

~~The Shire's fleet mix consists of a variety of makes and models of vehicles. Unless otherwise determined by the Chief Executive Officer, the vehicle types as listed in "Attachment Table 1" of this Policy will apply to the identified positions.~~

~~The total value of the vehicle entitlement (as detailed in "Attachment Table 1") will be included in the employee's total remuneration package. Only Executive Managers and the Chief Executive Officer have a choice of using the vehicle provided by the Shire or converting their vehicle entitlement to cash and providing their own vehicle for both business and private use.~~

~~No Shire owned light passenger vehicle purchases are to cost more than \$25,000.~~

12. Election to Provide Own Vehicle

12.1. Where the employee elects to provide their own vehicle:

- It must comply with the minimum vehicle standards as set out in "Minimum Vehicle Standards" below.
- It will be used by the employee for all business purposes.
- They will not have access to Shire provided pool vehicles.

12.2. Employers Responsibility

- (a) Ensure employees understand their responsibilities to ensure vehicles are legal, safe and well-maintained;
- (b) Check vehicle documents in advance of first use of vehicle for business purposes and at least annually thereafter;
- (c) Carry out periodic visual inspections of employees' own vehicles used for work, follow monitoring, authorisation and reporting procedures to help manage transport usage.

12.3. Employees Responsibility - using their own vehicles for business to:

- i. Present the vehicle's insurance policy (with the employer noted on the policy and policy for business use of the car) and service / maintenance schedule for inspection in advance of first driving for work and thereafter on request by the employer.
- ii. Present their driving licence for inspection in advance of first driving for work and thereafter on request by the employer.
- iii. Notify employer of any sanctions imposed on their licence, restrictions on ability to drive, material changes to insurance provision and vehicle defects.
- iv. Co-operate with monitoring, authorisation and reporting procedures.

12.4. Minimum Vehicle Standards

As a minimum, any employee-owned vehicle used for business purposes should meet the following standards:

- Vehicle to be of a standard normally used in local government business, (ie no exotic vehicles, sports cars, custom cars).
- ANCAP rating no lower than four stars.
- Age of car no older than five years.
- Vehicle covered for Roadside Assistance.
- Vehicle fitted with a stability control system, such as ABS and ESP.

12.5. Insurance of Private Vehicle

- 12.5.1** The vehicle entitlement will only be paid where the employee holds an insurance policy that covers bodily injury to or death of third parties, bodily injury to or

death of any passenger; and damage to the property of third parties, and permits the use of the car either in connection with the business, or the business of the employing department or agency. The employers name must be noted on the insurance policy as an interested party. When first using their car on official business, employees must declare in writing that they know and understand the ownership and insurance requirements.

- 12.5.2** It is the responsibility of the employer to verify the insurance status of their employees, via either the original insurance document or a cover note. Any material changes to the employee's insurance provision shall be notified to the employer.
- 12.5.3** The employee is to provide a declaration accepting that they are paid a vehicle allowance for providing their own vehicle for business purpose. In doing so they accept that all costs relating to the vehicle including but not limited to, fuel, maintenance, tyres, insurance, accidents, insurance excess etc are for their own account.

Version	Next Review	Record No
27 June 2012	18 October 2017	N172062
17 October 2018	20 November 2019	N182194
20 November 2019	18 November 2020	

Attachment**TABLE 1 – Vehicle Types**

Position	Use	Type of Vehicle	Vehicle Value (cap) exc GST	Employment Value in HR Package ¹	Fortnightly contribution post-tax ²
CEO	Private Use	4 cylinder automatic sedan or 4WD: — Holden Calais Tourer — Ford Everest — Mitsubishi Pajero — Maada CX8 — Nissan Pathfinder Hybrid — Mazda 6 Or equivalent	\$40,000	\$24,000	NIL
Executive Managers	Private Use	4 cylinder automatic sedan or 4WD: — Nissan Qashqai — Toyota Camry Atara Hybrid — Toyota RAV 4 GX or GXL — Mazda CX5 Or equivalent	\$30,000	\$18,000	\$140
Senior Staff	Commuter Use	4 cylinder automatic diesel/petrol crew cab utility 4x2 or van — bull bar, cruise control or other specified vehicle as required by the position: — Toyota Hilux — Renault Kangoo — Citroen Berlingo — Nissan Navara Or equivalent	\$25,000	N/A	NIL
Operational	Commuter Use	4 cylinder automatic Diesel Crew Cab utility 4x4 — bull bar, towbar, cruise control or other specified vehicle as required by the position: — Ford Ranger — Toyota Hilux — Isuzu D-Max Or equivalent	N/A	NIL	NIL

¹ Vehicle type will vary from year to year based on a best value, whole of life cost analysis² The values attributed to vehicles in the employment package are consistent with the values as published in the Western Australian Local Government Association Vehicle Values Table for 2017, with the addition of FBT

3.18 Social Media

Policy Owner: Corporate Services
Person Responsible: Executive Manager Corporate Services
Date of Approval: 19 December 2012
Amended: 15 July 2020

Policy

To use social media, the Shire requires a framework for users to ensure the organisation's integrity is protected; and that the methods used are in line with the Shire's Community Engagement Plan so that risks associated with online technologies are managed.

Before engaging in social media as a representative of the Shire, you must become authorised to comment; and to become authorised to comment in an official capacity, you will need to gain approval from your Executive Manager. An authorised contributor has been approved to engage online, with corporate goals in mind, on behalf of the Shire of Chittering.

You may not comment as a representative of the Shire unless you are authorised to do so.

Responsibilities of Authorised Contributors

The following are the responsibilities of Authorised Contributors utilising social media:

- i. They will only post specific content to their related area/department of authorisation.
- ii. At all times, the content shall be of the highest standard and should:-
 - portray a positive image of the Shire
 - keep the community informed; and/or
 - to promote (a) Shire event(s)
- iii. Anybody posting, should do so in line with the Employee, Volunteers and Contractors Code of Conduct.

References:

— Employee Code of Conduct
 — Community Engagement Plan

3.19 Training and Development

Policy Owner: Corporate Services

Person Responsible: All Executive Managers
Human Resources Coordinator

Date of Approval: 20 March 2013

Amended: 26 October 2016

Objective

To facilitate the training and development of employees within areas which are of mutual benefit for the Shire and its employees.

Policy

The Shire will support employees to attend appropriate conferences, seminars and training programs relating to their individual function and responsibilities as detailed in position descriptions and their individual Training and Development Plan.

During the budget preparation process the Chief Executive Officer, in consultation with Executive Managers, shall propose for the consideration of Council an allocation of funds for staff attendance at Conferences and Seminars and for Staff Training for the ensuing financial year.

There will be no payment of training fees or time off to attend training unless prior approval for training has been authorised through the appropriate channels:

- Approval to attend is only to be granted if the relevant budget provides sufficient funds and the conference, seminar or training course has been identified in the employee's Training and Development Plan as being deemed to be of particular relevance to Council's operations and / or to the employee's professional development needs;
- Except for Senior Staff where attendance at conferences has been included in their contract, all conferences / seminars attended outside the State will require approval of the Chief Executive Officer;
- The following expenses incurred as a result of approved training will be met by Council and if paid by an employee can only be reimbursed with the production of a detailed receipt:
 - Registration fees;
 - Accommodation and reasonable meals costs;
 - Minor expenses, such as taxi, parking fees and telephone calls; and
 - Travelling expenses.
- Alcohol, mini bars and in-house movies will not be paid by Council.
- Air travel will be limited to economy class and will be organised by the Executive Assistant;

-
- The Shire will endeavour to provide transport where training is to be held away from the Shire Office, however in the event that a personal vehicle is used, travel reimbursements may be claimed as per the *Local Government Industry Award 2010*; and
 - A written report on the attendance at each conference / seminar / course shall be prepared and submitted to the appropriate Executive Manager or Chief Executive Officer if requested.

DELETED

3.20 Study Assistance

Policy Owner: Corporate Services
Person Responsible: All Executive Managers
 Human Resources Coordinator
Date of Approval: 20 March 2013
Amended: 26 October 2016

Objective

The Shire supports employees who endeavour to further their education (as it relates to their position), through the provision of a financial subsidy and time off for study.

Policy

Study assistance relates to any qualification gained through University/TAFE/College which has a national recognisable attainment.

Permanent employees who have completed their probationary period may be eligible for study assistance subject to the conditions of this Policy.

Approval may be granted only where there is clear relevance between current or prospective duties and the studies to be undertaken. The Chief Executive Officer is authorised to approve Study Assistance based on advice from the relevant Executive Manager.

Applications for study assistance must be made annually, on the prescribed form. In the Annual Budget, the Shire will allocate a sum to assist with the costs associated with employee study assistance.

Financial Assistance

The Shire will consider reimbursement to the maximum value of \$2,500 in any year for education through a recognised provider (i.e. University or TAFE):

- Authorisation prior to commencement of the program is required, in order that the contents of the program can be assessed to ascertain the relevance to current work duties and responsibilities.
- Employees must pay for the approved unit(s) up front and pass the unit(s), prior to any reimbursement claim being made.
- In order to claim reimbursement, employees must complete the study assistance claim form, provide the receipt of payment and a transcript of results obtained.

Time off for Study

The Shire will consider up to five hours per week, paid time off for employees who wish to gain higher education through a recognised provider (i.e. University or TAFE):

- For time off to study to be approved, employees must satisfy the Shire that all endeavours have been made to study outside working hours, e.g. evening classes, correspondence, etc, and that rostered days off are being utilised (this may include a change to the rostered day off in order to accommodate study hours).
- The five hours per week shall include travel time to and from the place of study.
- Reasonable time for examinations will be considered.
- A study assistance application form must be completed and approved prior to time off for study being commenced.
- Time off is offered as an alternative to financial assistance and must be applied for on an annual basis.

Taxation Reference – Fringe Benefits Tax Guide

The Employee Study Assistance Policy allows for an opportunity for various self education expenses to be reimbursed. These expenses are an exempt benefit based on the “otherwise deductible rule” which, subject to conditions, allows for the reimbursement of various costs related to study or self education. These conditions include:

- 1.0 Can only relate to expenditure conducted by the employee on a study course attended by the employee.
- 2.0 The course undertaken must relate directly to the employment of the employee, and enhance opportunities for higher levels of pay or promotion or to maintain and improve the skill or knowledge of the employee to carry out the role that they are currently employed in.
- 3.0 Can not relate to Higher Education Contribution Payments (HECS), or payments made under the Post Graduate Education Loan Scheme (PELS).

The process currently in place for staff to apply for this benefit will ensure the above requirements are met and therefore will enable the benefit to be provided as an exempt fringe benefit.

Draft

**BUSH FIRES ACT 1954
LOCAL GOVERNMENT ACT 1995***Shire of Chittering*

Bush Fire Brigades Repeal Local Law 2022

Under the powers conferred by the *Bush Fires Act 1954*, *Local Government Act 1995* and all other powers enabling it, the Council of the Shire of Chittering resolved on [??] to make the following local law.

1. Citation

This local law is cited as the *Shire of Chittering Bush Fire Brigades Bush Fire Brigades Local Law 2022*.

2. Commencement

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

3. Repeal

This Local Law repeals the *Shire of Chittering Bush Fire Brigades Local Law 2012* as published in the *Government Gazette* on 21 January 2013.

Dated: [??]

The Common Seal of the Shire of Chittering was affixed in the presence of-

Aaron King
Shire President

Matthew Gilfellon
Chief Executive Officer

Draft – 18 August 2022

Cat Act 2011

Local Government Act 1995

SHIRE OF CHITTERING

KEEPING AND CONTROL OF CATS LOCAL LAW 2022

CAT ACT 2011

LOCAL GOVERNMENT ACT 1995

SHIRE OF CHITTERING

KEEPING AND CONTROL OF CATS LOCAL LAW 2022

Under the powers conferred by the *Cat Act 2011*, the *Local Government Act 1995* and by all other powers enabling it, the Council of the Shire of Chittering resolved on (Date) 2022 to make the following local law.

PART 1 – PRELIMINARY**1.1 Citation**

This local law may be cited as the *Shire of Chittering Keeping and Control of Cats Local Law 2022*.

1.2 Commencement

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

1.3 Application

This local law applies throughout the district.

1.4 Definitions

In this local law unless the context otherwise requires—

Act means the *Cat Act 2011*;

applicant means the occupier of the premises who makes an application for a permit under this local law;

authorised person means a person authorised by the local government, under section 9.10 of the *Local Government Act 1995* to perform the functions conferred on an authorised person under this local law;

cat means an animal of the species *felis catus* or a hybrid of that species;

cat management facility means—

- (a) a facility operated by a local government that is, or may be, used for keeping cats;
- (b) a facility for keeping cats that is operated by a person or body prescribed;
- (c) a facility for keeping cats that is operated by a person or body approved in writing by a local government;

cat prohibited area means an area as outlined in Schedule 3;

cattery means any premises where more than 6 cats are kept, bred, boarded, housed, or trained temporarily, whether for profit or otherwise, and where the

occupier of the premises is not the ordinary owner of the cats;

CEO means the Chief Executive Officer of the local government;

district means the district of the local government;

effective control in relation to a cat means any of the following methods—

(a) held By A Person Who Is Capable Of Controlling The Cat;

(b) securely Tethered;

(c) secured In A Cage; Or

(d) any other means of preventing escape;

local government means the Shire of Chittering;

nuisance means—

(a) an activity or condition which is harmful or annoying and which gives rise to legal liability in the tort of public or private nuisance at law;

(b) an unreasonable interference with the use and enjoyment of a person of his or her ownership or occupation of land; or

(c) Interference which causes material damage to land or other property on the land affected by the interference;

occupier has the meaning given to it in the *Local Government Act 1995*;

owner, in relation to a cat, has the meaning given to it in the Act;

permit means a permit issued by the local government under Part 3;

permit holder means a person who holds a valid permit under Part 3;

premises includes the following –

(a) land (whether or not vacant);

(b) the whole or part of a building or structure (whether of a permanent or temporary nature); and

(c) a vehicle;

RSPCA means the Royal Society for the Prevention of Cruelty to Animals (Inc) of Western Australia;

schedule means a schedule to this local law;

scheme means a planning scheme of the local government made by it under the *Planning and Development Act 2005* and its antecedents.

1.5 Repeal

This local law repeals *the Shire of Chittering Cats Local Law 2015* as published in the *Government Gazette* on 8 December 2015 and amended in the *Government Gazette* on 30 August 2016.

PART 2 – CAT CONTROL

2.1 Cats not to be a nuisance

(1) An owner shall not allow a cat to be or create a nuisance.

(2) Where in the opinion of an authorised person, a cat is creating a nuisance, the local government may give written notice to the owner of the cat requiring that person to abate the nuisance.

(3) When a nuisance has occurred and a notice to abate the nuisance is given, the notice remains in force for the period specified by the local government in the notice which shall not exceed 28 days.

(4) An owner given a notice to abate the nuisance shall comply with the notice within the

- period specified in the notice.
- (5) If the owner fails to comply— the owner of the cat commits an offence

2.2 Cat prohibited areas

- (1) A cat shall not be in places specified in Schedule 3 at any time, whether or not under effective control.
- (2) If a cat is in a cat prohibited area in contravention of subclause (1), then:
 - (a) The owner of the cat commits an offence; and
 - (b) An authorised person may seize and impound the cat in accordance with the Act.

PART 3 – PERMITS FOR KEEPING CATS

3.1 Interpretation

In this part, *cat* does not include a cat less than 6 months old.

3.2 Prescribed premises

For the purposes of the definition of prescribed premises in regulation 4(1) of the *Cat (Uniform Local Provisions) Regulations 2013*, this local law limits the number of cats that may be kept at any premises within the district except –

- (a) A cat management facility operated by a body prescribed as a cat management facility operator under the *Cat Regulations 2012*; or
- (b) A cat management facility operated by the local government; or
- (c) A veterinary clinic or veterinary hospital as defined under section 2 of the *Veterinary Surgeons Act 1960*.

3.3 Standard number of cats

For the purposes of the definition of *standard number of cats* in regulation 4(1) of the *Cat (Uniform Local Provisions) Regulations 2013*, no more than two (2) cats may be kept on any premises.

3.4 Cats for which a permit is required

- (1) Subject to subclause (2) a person is required to have a permit to—
 - (a) Keep more than 2 cats on any premises; or
 - (b) Use any premises as a cattery or cat management facility.
- (2) A permit is not required under subclause (1) if the premises concerned are—
 - (a) A refuge of the RSPCA or any other body prescribed in regulation 4 of the *Cat Regulations 2012*; or
 - (b) A cat management facility which has been approved by the local government;
 - (c) A veterinary surgery.

3.5 Application for permit

An application for a permit under clause 3.4 shall be—

- (a) Made in writing by an occupier of the premises in relation to those premises;

- (b) In a form approved by the local government, describing and specifying the number of cats to be kept on the premises;
- (c) Accompanied by a brief reason and justification for the request;
- (d) Accompanied by the plans of the premises to which the application relates in the form determined by the local government from time to time;
- (e) Accompanied by the consent in writing of the owner of the premises where the occupier is not the owner of the premises to which the application relates; and
- (f) Accompanied by the application fee for the permit determined by the local government from time to time.

3.6 Refusal to determine application

The local government may refuse to determine an application for a permit if it is not made in accordance with clause 3.5.

3.7 Factors relevant to the determination of application

- (1) In determining an application for a permit, the local government may have regard to—
 - (a) The reasons and justification provided for the request;
 - (b) The physical suitability of the premises for the proposed use;
 - (c) The suitability of the zoning of the premises under any Scheme which applies to the premises for the proposed use;
 - (d) The environmental sensitivity and general nature of the location surrounding the premises for the proposed use;
 - (e) The structural suitability of any enclosure in which any cat is to be kept;
 - (f) The likelihood of a cat causing nuisance, inconvenience, or annoyance to the occupiers of adjoining land;
 - (g) The likely effect on the amenity of the surrounding area of the proposed use;
 - (h) The likely effect on the local environment including any pollution or other environmental damage, which may be caused by the use;
 - (i) Any submissions received under subclause (2) within the time specified in subclause (2); and
 - (j) Such other factors which the local government may consider to be relevant in the circumstances of the particular case.
- (2) Before determining the application for the permit, the local government may—
 - (a) Consult with nearby landowners; or
 - (b) Advise nearby landowners that they may make submissions to the local government on the application for a permit within 14 days of receiving that advice.

3.8 Decision on application

- (1) The local government may—
 - (a) Approve an application for a permit as it was submitted, in which case it shall approve it subject to the conditions in clause 3.9 and may approve it

- subject to any other conditions it sees fit;
 - (b) Approve an application but specify an alternative number of cats permitted to be housed at the address; or
 - (c) Refuse to approve an application for a permit.
- (2) If the local government approves an application under subclause (1), then it shall issue a permit to the applicant in the form determined by the Local Government.
- (3) If the local government refuses to approve an application under subclause (1) then it shall advise the applicant accordingly in writing.
- (4) A permit may only be issued by the local government for a maximum of 6 cats on any premises other than a cattery or cat management facility or a premises specified in clause 3.4(2).

3.9 Conditions

- (1) Every permit is issued subject to the following conditions—
- (a) Each cat kept on the premises to which the permit relates shall comply with the requirements of the Act;
 - (b) Each cat shall be contained on the premises unless under the effective control of a person;
 - (c) The permit holder will provide adequate space for the exercise of the cats;
 - (d) The premises shall be maintained in good order and in a clean and sanitary condition; and
 - (e) Those conditions contained in Schedule 1.
- (2) In addition to the conditions subject to which a permit is to be issued under this clause, a permit may be issued subject to other conditions, as the local government considers appropriate.

3.10 Compliance with conditions of permit

A permit holder shall comply with each condition of a permit.

3.11 Duration of a permit

Unless otherwise specified in a condition on a permit, a permit commences on the date of issue and expires—

- (a) If it is revoked; or
- (b) The permit holder ceases to reside at the premises to which the permit relates.

3.12 Revocation

The local government may revoke a permit if the permit holder fails to observe any provision of this local law or a condition of a permit.

3.13 Permit not transferable

A permit issued under clause 3.8 (1) (a) is not transferable either in relation to the permit holder or the premises.

3.14 Permit to be kept at premises and available for view

- (1) A permit issued by the local government shall be kept at the premises to which it applies and shall be provided to an authorised person on demand.
- (2) In the case of a registered cattery or cat management facility, the permit shall be displayed in a prominent place within the premises.

PART 4 – MISCELLANEOUS

4.1 Giving of an infringement notice

A notice given under this local law may be given to a person—

- (a) Personally;
- (b) By postal mail addressed to the person; or
- (c) By leaving it for the person at her or his address.

PART 5 – OBJECTIONS AND APPEALS

5.1 Objections and appeal rights

Any person who is aggrieved by the conditions imposed in relation to a permit, the revocation of a permit, or by the refusal of the local government to grant a permit may object or appeal against the decision under Division 1 of Part 9 of the *Local Government Act 1995*.

PART 6 – OFFENCES AND PENALTIES

6.1 Offences

- (1) Any person who fails to do anything required or directed to do under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.
- (2) Unless otherwise specified, any 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 a further penalty not exceeding a fine of \$500 in respect of each day or part of a day during which the offence has continued.

6.2 Prescribed offences

- (1) An offence against a clause specified in Schedule 2 is a prescribed offence for the purposes of section 62(1) of the Act.
- (2) The amount appearing directly opposite each such offence is the modified penalty in relation to that offence.

6.3 Forms

- (1) The issue of infringement notices, their withdrawal and the payment of modified penalties are dealt with in Division 4 of Part 4 of the Act.
- (2) An infringement notice in respect of an offence against this local law may be

given under section 62 of the Act and is to be in the form of Schedule 1, Form 6 of the *Cat Regulations 2012*.

- (3) A notice sent under section 65 of the Act withdrawing an infringement notice is to be in the form of Schedule 1, Form 7 of the *Cat Regulations 2012*

Schedule 1
ADDITIONAL CONDITIONS APPLICABLE TO PARTICULAR PERMITS

[Clause 3.9(1) (e)]

A. Permit to keep more than the prescribed number of cats.

Additional conditions

- (1) In the case of a grouped dwelling where there is no suitable dividing fence or multiple dwellings on the same level, the written consent to the application for a permit of the occupier of the adjoining dwellings has been obtained.
- (2) Without the consent of the local government, the permit holder will not substitute or replace any cat that is the subject of a permit once that cat—
 - (a) Dies; or
 - (b) Is permanently removed from the premises.

B. Permit to use premises as a Cattery or Cat Management Facility

Additional conditions

- (1) All building enclosures must be structurally sound, have impervious flooring, be well lit and ventilated and otherwise comply with all legislative requirements.
- (2) There is to be a feed room, wash area, isolation cages and maternity section.
- (3) Materials used in structures are to be approved by the local government.
- (4) The internal surfaces of walls are, where possible, to be smooth, free from cracks, crevices, and other defects.
- (5) All fixtures, fittings and appliances are to be capable of being easily cleaned, resistant to corrosion and constructed to prevent the harbourage of vermin.
- (6) Washing basins with a minimum of running cold water are to be available to the satisfaction of the local government.
- (7) The maximum number of cats to be kept on the premises stated on the permit is not to be exceeded.
- (8) A register is to be kept recording in respect of each cat the—
 - (a) Date of admission;
 - (b) Date of departure;
 - (c) Breed, age, colour, and sex; and
 - (d) Name and residential address of the owner.
- (9) The register is to be made available for inspection on the request of an authorised person.
- (10) Enclosures are to be thoroughly cleaned each day and disinfected at least once a week to minimise disease.
- (11) Any sick or ailing cat is to be removed from the premises or transferred to an isolation cage separated from other cats kept on the premises.
- (12) Any other matter which in the opinion of the local government is deemed necessary for the health and wellbeing of any cat, or person, or adjoining premises or the amenity of the area (or any part thereof).

Schedule 2

MODIFIED PENALTIES

[Clause 6.2]

ITEM	CLAUSE	DESCRIPTION	MODIFIED PENALTY
1.	2.1(1)	Cat causing a nuisance	\$200
2.	2.1(5)	Failure to abate a nuisance	\$200
3.	2.2(2)(a)	Cat in prohibited area	\$500
5.	3.4(1)(a)	Failure of a person to hold a permit when keeping more than 2 cats	\$200
6.	3.4(1)(b)	Failure of a person to hold a permit for a cattery or cat management facility	\$200
7.	3.10	Breach of a condition of a permit	\$200
8.	6.1(2)	Other offences not specified	\$200

Schedule 3
CAT PROHIBITED AREAS

Areas where cats are prohibited—

Reserve Name	Physical Lot Boundaries	Reserve Number	Description of prohibition

Dated

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

Aaron King
Shire President

Matthew Gilfellon
Chief Executive Officer

Draft Vrs 2 (9 May 2022)

CEMETERIES ACT 1986
LOCAL GOVERNMENT ACT 1995

SHIRE OF CHITTERING

CEMETERIES LOCAL LAW 2022

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CEMETERIES ACT 1986**LOCAL GOVERNMENT ACT 1995**

SHIRE OF CHITTERING

CEMETERIES LOCAL LAW 2022

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

PART 1—PRELIMINARY**1.1 Citation**

This local law may be cited as the *Shire of Chittering Cemeteries Local Law 2022*.

1.2 Commencement

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

1.3 Application

This local law applies to the Chittering Cemetery Gray Road, Bindoon located in the district.

1.4 Repeal

This local law repeals *the Shire of Chittering Cemetery Local Law 2003* as published in the *Government Gazette* on 12 September 2003.

1.5 Definitions

In this local law, unless the context otherwise requires—

Act means the *Cemeteries Act 1986*;

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

authorised 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;

burial means placement of a coffin containing a dead body into a grave, and includes a natural burial;

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

grant of right of burial means a right granted under clause 2.3 for 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 a 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 in a cemetery;

local government means the Shire of Chittering;

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;

natural burial means burial in the ground—

- (a) without preparation of the dead body using chemical preservatives; and
- (b) by containment of the dead body only in a shroud or biodegradable coffin;

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;

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;

shroud means, as the context requires—

- (a) a cloth or cloths used to securely wrap a dead body for burial; or
- (b) a dead body contained within a cloth or cloths;

standard grave means a grave which does not exceed any of the following dimensions: 2400 millimetres long, 1000 millimetres wide and 2400 millimetres 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; 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

Division 1—General

2.1 Powers and functions of CEO

Subject to the direction of the Board, the CEO shall exercise all the powers and functions of the Board in respect of a cemetery in the district.

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 plans referred to in subclause (1) shall be open for inspection by members of the public during normal office hours of the Board.

Division 2—Right of Burial

2.3 Issuing of grants

The Board may from time to time issue to a person a grant for the term specified in the Act, upon—

- (a) Written application by that person; and
- (b) Payment of the set fee.

2.4 Right of holder

- (1) Subject to the local law, to the prior approval of the Board and to the terms and conditions (if any) imposed by the Board, a grant confers on the holder, during the term of the grant, an exclusive right—
 - (a) to be buried in a grave specified in the grant; and
 - (b) to carry out monumental works on the gravesite specified in the grant.
- (2) The Board at its absolute discretion, may determine from time to time the number of dead bodies or ashes which may be placed in the grave.
- (3) The Board or an authorised officer may request the holder to produce the grant before the exercise of any rights referred to in subclause (1) and the holder shall forthwith comply with that request.

- (4) If the location stipulated in the grant of right of burial is significantly and adversely affected prior to or at the time of burial by unforeseen conditions such as flooding, a high water table, rock, large tree roots or any other significant matter the Board may allocate any other gravesite of the grantee's choosing that is not already subject to a grant.

2.5 Renewal of grant

- (1) Where, at any time during the term of a grant, a holder—
 - (a) makes written application; and
 - (b) pays a set fee, the Board must renew the grant for a further term of twenty five (25) years commencing on the expiry date of the grant.
- (2) The set fee for the issue of a new grant pursuant to this clause shall be determined by the Board from time to time.
- (3) The Board may request the holder to deliver an existing grant to it prior to issuing a new grant.
- (4) The holder shall forthwith upon receiving a request by the Board in accordance with subclause (3) deliver the existing grant to the Board.

2.6 Replacement of grant

- (1) The Board may—
 - (a) upon the written application of a holder; and
 - (b) upon the production of evidence to the satisfaction of the Board, issue a new grant to replace a grant which is lost or destroyed.
- (2) Notwithstanding subclause (1), the Board may prior to issuing a replacement grant, require the holder to make a statutory declaration in a form determined by the Board.
- (3) The replacement grant issued by the Board shall be deemed to be the original grant.

2.7 Transfer of grant

A holder who desires to transfer a grant to another person shall make an application to the Board in a form determined by the Board and upon receipt of the application the Board may grant permission in accordance with section 26 of the Act.

2.8 Exercising the rights of holder

If evidence is produced in writing to the satisfaction of the Board that a holder is unavailable or not immediately ascertainable, or has died and

has not specifically bequeathed a grant, then the rights conferred upon that holder may be exercised by a holder's personal representative or a person acting expressly on behalf of a personal representative. If those persons are unavailable or not immediately ascertainable, the Board may approve any other person.

2.9 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, the personal representative of a deceased person, or other person approved by an authorised person 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 24 hours 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 the interment permit under clause 3.1(1).
- (2) If the Board refuses to approve an application under subclause (1), 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 3:00 pm; or
 - (c) to conclude later than 4:00 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 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 or shroud which bears the name of the deceased person indelibly inscribed in legible characters on a plate attached 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 millimetres in height.

5.2 Requirements 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, the personal representative of a deceased person, or other person approved by an authorised person, 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 1800 millimetres deep and shall not exceed 2400 millimetres in depth, unless otherwise determined by the Board.
- (3) Unless otherwise permitted by the Board, a person shall not bury a dead body within a cemetery so that the distance from the top of the coffin or shroud to the original surface of the ground is—
 - (a) subject to paragraph (b), less than 1600 millimetres, unless that person has the permission of an authorised person; or
 - (b) in any circumstances less than 750 millimetres.
- (4) The permission of the Board 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 subclause (1) 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 600 millimetres;
 - (b) placed in a family grave;
 - (c) placed in a niche wall; or
 - (d) other method approved by the Board.
- (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 clause 3.1(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 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.

5.6 Requirements for exhumation

- (1) Subject to subclause (2), a person shall not exhume a dead body 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 Board requesting the exhumation and an authorised person has authorised the exhumation.

5.7 Requirements for opening of coffin or removal of shroud

A person shall not open a coffin or remove a shroud in a cemetery unless—

- (a) the coffin is opened or shroud removed 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.

5.8 Ashes not to be held by the Board

The Board shall not accept custody of ashes of a deceased person, unless the Board determines that there are exceptional circumstances for it to do so.

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 an authorised person 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 dimensions of a standard grave.
- (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

A monument is to be constructed in a manner approved by the Board.

7.3 Specification for headstone

A headstone is to be constructed in a manner approved by the Board.

7.4 Specification for memorial plaque base

A memorial plaque base is to be constructed in a manner approved by the Board.

7.5 Specification for memorial plaque

A memorial plaque is to be made in a manner approved by the Board.

7.6 Specification for gravesite fencing

Gravesite fencing is to be constructed in a manner approved by the Board.

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 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 work.

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

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.

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 4:00 pm on a business day.

8.8 Unfinished work

A person who does not complete any work before 4:00 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 20 kilometres per hour, and shall comply with the signs and directions in the cemetery.

9.2 Animals

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

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 a cemetery.
- (2) The Board may recover from a person the reasonable costs incurred by the Board for the supply to and use of any utility services by that person at a cemetery.

9.4 Damaging and removing of objects

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

9.5 Withered flowers

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

9.6 Littering and vandalism

A person shall not—

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

9.7 Advertising

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

9.8 Signs and directions of the Board

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

9.9 Removal from a cemetery

- (1) Any person failing to comply with any provisions of this local law or behaving in a manner that in the opinion of the Board is inappropriate in a cemetery may in addition to any penalty provided by this local law be ordered to leave the cemetery.
- (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 Offensive matters

- (1) A person shall not allow or cause to be displayed any offensive materials, wording, symbols or images of any kind, whether as a sign, on a memorial or otherwise visible.
- (2) Where, in the opinion, based on reasonable grounds, of the Board, a person does not comply with subclause (1), the Board may issue a notice under clause 9.12(1).

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 anything, 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(1)]

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 reopening of a grave	50
7	5.6(1)	Unauthorised exhumation of a coffin or shroud	50
8	5.7	Unauthorised opening of a coffin or shroud	50
9	7.7	Use of trade name or mark on a memorial	50
10	7.8	Unauthorised use of wood on a gravesite	50
11	8.1	Unauthorised construction of a memorial	50
12	8.2	Unauthorised use of materials taken from within a cemetery	50
13	8.3	Failure to remove rubbish and surplus materials	50
14	8.4	Unauthorised planting of tree or shrub	50
15	8.5	Failure to comply with direction of authorised person	50
16	8.6	Unauthorised placing of grave ornaments	50
17	8.7	Works carried out during unauthorised times	50
18	8.8	Failure to leave uncompleted works in a tidy and safe condition	50
19	9.1(1)	Driving vehicle other than on vehicular access way or constructed roadways or within designated areas	50
20	9.1(2)	Exceeding speed limit	50

21	9.3	Interference with utility services	50
22	9.4	Damaging or removing object	50
23	9.5	Failure to dispose of withered flowers appropriately	50
24	9.6	Littering or vandalism within a cemetery	50
25	9.7	Unauthorised advertising and/or trading	50
26	9.8(2)	Failure to obey sign or lawful direction within cemetery	50
27	9.9(2)	Failure to comply with order to leave cemetery	50
28	9.11(1)	Display of offensive materials, wording, symbols or images	50
29	9.13	Failure to comply with notice within specified period	50

SCHEDULE 2 - INFRINGEMENT NOTICE

[cl. 10.2(3)]

Infringement Notice

INFRINGEMENT NUMBER—		
To—		
Address—		
	It is alleged that—	
Cemetery address—		
At—	Time	
On—	Date	
	You committed the following offence—	
Contrary to—	<i>Shire of Chittering Cemeteries Local Law 2022</i>	
Schedule 1 reference—	Item No.—	Clause—
Offence—		
Brief description—		
The modified penalty for the offence is—	\$	
	If you do not wish to have a complaint of the alleged offence heard and determined by a court, the amount of the modified penalty may be paid at the Shire of Chittering 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 the Shire of Chittering specifying the infringement number (b) In person at—Shire of Chittering, 6177 Great Northern Highway, Bindoon during business hours (c) By mail to—Shire of Chittering PO Box 70, Bindoon 6502 Please make cheques payable to Shire of Chittering.	

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

SCHEDULE 3 – WITHDRAWAL OF INFRINGEMENT NOTICE

[cl. 10.2(4)]

Withdrawal of Infringement Notice

No. Date / /

To: ^[1]Infringement Notice No dated ____/____/____ for the alleged offence of ^[2]Penalty ^[3] \$_____ is withdrawn.

(Delete whichever does not apply)

* No further action will be taken.

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

(Authorised Person)

^[1] Insert name and address of alleged offender.^[2] Insert short particulars of offence alleged.^[3] Insert amount of penalty prescribed.

Dated ???

The Common Seal of the Shire of Chittering was affixed in the presence of-

Aaron King
Shire PresidentMatthew Gilfellon
Chief Executive Officer

Draft (20 June 2022)

LOCAL GOVERNMENT ACT 1995

DOG ACT 1976

SHIRE OF CHITTERING

DOGS LOCAL LAW 2022

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SCHEDULE 3 - PRESCRIBED OFFENCES

LOCAL GOVERNMENT ACT 1995**DOG ACT 1976****SHIRE OF CHITTERING****DOGS LOCAL LAW 2022**

Under the powers conferred by the *Dog Act 1976*, the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Chittering resolved on [??] to make the following local law.

PART 1—PRELIMINARY**1.1 Citation**

This local law may be cited as the *Shire of Chittering Dogs Local Law 2022*.

1.2 Commencement

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

1.3 Application

This local law applies throughout the district.

1.4 Repeal

This local law repeals the *Shire of Chittering Dogs Local Law 2011* published in the *Government Gazette* on 12 August 2011.

1.5 Definitions

In this local law unless the context otherwise requires—

Act means the *Dog Act 1976*;

adjoining includes land or premises which have a portion of a common boundary with a lot or is separated from that lot by a public reserve, road, right-of-way, pedestrian access way, access leg of a battle-axe lot or the equivalent not more than 6 metres in width;

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

CEO means the Chief Executive Officer for the local government;

dangerous dog has the meaning given to it by section 3(1) of the Act;

district means the district of the Shire of Chittering;

dog management facility has the meaning given to it in section 3(1) of the Act;

infringement notice means the notice referred to in clause 7.4;

kennel establishment means any premises where more than the number of dogs under clause 3.2(2) over the age of three months are kept, boarded, trained or bred temporarily, usually for profit and where the occupier of the premises is not the ordinary keeper of the dogs;

licence means a licence to keep an approved kennel establishment on premises granted under clause 4.7;

licensee means the holder of a licence granted under clause 4.7;

local government means the Shire of Chittering;

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

notice of withdrawal means the notice referred to in clause 7.7(1);

owner, in relation to a dog, has the same meaning as in section 3(1) and (2) of the Act;

person liable for the control of the dog has the same meaning as in section 3(1) of the Act;

premises in addition to the meaning given to it in section 3 of the Act, means the premises described in the application for a licence made under clause 4.1;

public place has the meaning given to it by section 3(1) of the Act;

Regulations means the *Dog Regulations 2013*;

Schedule means a schedule to this local law;

set fee means a fee or charge made by the local government in accordance with clause 2.1 or clause 4.8;

thoroughfare has the meaning given to it in section 1.4 of the *Local Government Act 1995*;

townsite means land constituted, defined, or reserved as the site of a town or village under the *Land Administration Act 1997*; and

transferee means a person who applies for the transfer of a licence to her or him under clause 4.12.

PART 2—IMPOUNDING OF DOGS

2.1 Fees and charges

The following are to be imposed and determined by the local government under sections 6.16 to 6.19 of the *Local Government Act 1995*—

- (a) the charges to be levied under section 29(4) of the Act relating to the seizure and impounding of a dog;
- (b) the additional set fee payable under section 29(4) of the Act where a dog is released at a time or on a day other than those determined under clause 2.2; and
- (c) application for additional costs of the destruction and the disposal of a dog referred to in section 29(15) of the Act.

2.2 Attendance of authorised person at dog management facility

An authorised person is to be in attendance at the dog management facility for the release of dogs at the times and on the days of the week as determined by the CEO.

2.3 Release of impounded dog

- (1) A claim for the release of a dog seized and impounded is to be made to an authorised person.
- (2) An authorised person is not to release a dog seized and impounded to any person unless that person has produced, to the satisfaction of an authorised person, evidence—
 - (a) of her or his ownership of the dog or of her or his authority to take delivery of it; or
 - (b) that he or she is the person identified as the owner on a microchip implanted in the dog.

2.4 Unauthorised release

Unauthorised release of dogs is dealt with by section 43 of the Act.

PART 3—KEEPING OF DOGS

3.1 Dogs to be confined

- (1) An occupier of premises on which a dog is kept must—
 - (a) cause a portion of the premises on which the dog is kept to be fenced in a manner capable of confining the dog;
 - (b) ensure the fence used to confine the dog and every gate or door in the fence is of a type, height and construction which having regard to the breed, age, size and physical condition of the dog is capable of preventing the dog at all times from passing over, under or through it;
 - (c) ensure that every gate or door in the fence is kept closed at all times when the dog is on the premises (unless the gate is temporarily

- opened in a manner that ensures that the dog remains confined) and is fitted with a proper latch or other means of fastening it;
 - (d) maintain the fence and all gates and doors in the fence in good order and condition; and
 - (e) where no part of the premises consists of open space, yard or garden or there is no open space or garden or yard of which the occupier has exclusive use or occupation, ensure that other means exist on the premises (other than the tethering of the dog) for effectively confining the dog within the premises.
- (2) Where an occupier fails to comply with subclause (1), he or she commits an offence.
- (3) Notwithstanding subclause (1) and (2), the confinement of dangerous dogs is dealt with in the Act and the Regulations.

3.2 Limitation on the number of dogs

- (1) This clause does not apply to premises which have been—
- (a) licensed under Part 4 of this local law as an approved kennel establishment; or
 - (b) granted an exemption under section 26(3) of the Act.
- (2) The limit on the number of dogs which may be kept on any premises is, for the purpose of section 26(3) of the Act—
- (a) two (2) dogs over the age of three (3) months and the young of those dogs under that age if the premises are situated on land zoned townsite or residential; or
 - (b) three (3) dogs over the age of three (3) months and the young of those dogs under that age if the premises situated on land zoned other than townsite or residential.

3.3 Application to keep additional dog or dogs

- (1) Subject to clause 3.5, the local government may consider an application to keep an additional dog or dogs where—
- (a) the property is deemed suitable by an authorised person—
 - (i) having sufficient space capable of confining all dogs;
 - (ii) noise, odours, fleas, flies and other vectors of disease will be effectively controlled; and
 - (iii) the care and welfare of the dogs is considered adequate;
 - (b) the details of every dog proposed to be kept on the premises are provided including name, age, colour/description, breed, registration number and microchip details; and
 - (c) sufficient reason has been provided, including—
 - (i) to replace an elderly or sick dog not expected to live;

- (ii) a family emergency resulting in the dog being inherited;
 - (iii) merging of two households;
 - (iv) where the applicants have had approval to keep an additional dog or dogs in another local authority; or
 - (v) on premises zoned as rural or rural residential under a local planning scheme, the dog or dogs are required for stock management or to be on the premises temporarily for the purposes of training for stock management.
- (d) in the case of a tenanted property provide written consent by either the landowner or their appointed property owner

3.4 Determination of application

In determining an application for a licence, the local government is to have regard to—

- (a) the matters referred to in clause 3.3;
- (b) the effect which approval of the application may have on the environment or amenity of the neighbourhood;
- (c) whether approval of the application will create a nuisance for the owners and occupiers of adjoining premises.

3.5 Where application cannot be approved

The local government will not approve an application to keep an additional dog or dogs where—

- (a) It exceeds the limit (6) referred to in the Act.

3.6 Conditions of approval

- (1) The local government may approve an application to keep an additional dog or dogs subject to any conditions as considered appropriate.
- (2) Approval of an application is not transferable to successive owners or occupiers of the premises.
- (3) A person who fails to comply with a condition imposed under subclause (1) commits an offence.

3.7 Revocation of licence to keep additional dogs

Where a person does not comply with the conditions of approval to keep an additional dog or dogs under clause 3.6 the local government may revoke the approval to keep an additional dog or dogs.

PART 4—APPROVED KENNEL ESTABLISHMENTS

4.1 Application for licence for approved kennel establishment

An application for a licence must contain the information listed in Schedule 1, and must be lodged with the local government together with—

- (a) a written acknowledgement that the applicant has read and agrees to comply with any code of practice relating to the keeping of dogs nominated by the local government;
- (b) any other information reasonably required by the local government; and
- (c) the set fee for the application for a licence referred to in clause 4.8(1).

4.2 Notice of proposed use

- (1) Upon receipt of an application for a licence under clause 4.1, the local government is to give notice of the proposed use of the premises as an approved kennel establishment—
 - (a) once in a newspaper circulating in the district; and
 - (b) to the owners and occupiers of any premises adjoining the premises.
- (2) The notices in subclause (1) must specify that—
 - (a) any written submissions as to the proposed use are to be lodged with the local government within 14 days of the date the notice is given; and
 - (b) the application plans and specifications may be inspected at the offices of the local government.
- (3) The local government may refuse to determine the application for a licence until the notice or notices, as the case may be, is given.

4.3 Exemption from notice requirements

The requirements of clauses 4.2 and 4.4(a) and Schedule 1 clause 5(c) do not apply in respect of the application for a licence where under a local planning scheme an application for a licence is made in respect of premises on which an approved kennel establishment is either a—

- (a) permitted use; or
- (b) use which the local government may approve subject to compliance with specified notice requirements.

4.4 When application can be determined

An application for a licence is not to be determined by the local government until the local government has considered any written submissions received

within the time specified in clause 4.2(2)(a) on the proposed use of the premises.

4.5 Determination of application

In determining an application for a licence, the local government is to have regard to—

- (a) the matters referred to in clause 4.6;
- (b) any written submissions received within the time specified in clause 4.2(2)(a) on the proposed use of the premises;
- (c) any economic or social benefits which may be derived by any person in the district if the application for a licence is approved;
- (d) the effect which the kennel establishment may have on the environment or amenity of the neighbourhood;
- (e) whether the approved kennel establishment will create a nuisance for the owners and occupiers of adjoining premises; and
- (f) whether or not the imposition of and compliance with appropriate conditions of a licence will mitigate any adverse effects of the approved kennel establishment identified in the preceding paragraphs.

4.6 Where application cannot be approved

The local government cannot approve an application for a licence where—

- (a) an approved kennel establishment cannot be permitted by the local government on the premises under a local planning scheme; or
- (b) an applicant for a licence or another person who will have the charge of the dogs will not reside on the premises, or, in the opinion of the local government, sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare.

4.7 Conditions of approval

- (1) The local government may approve an application for a licence subject to the conditions contained in Schedule 2 and to such other conditions as the local government considers appropriate.
- (2) In respect of a particular application for a licence, the local government may vary any of the conditions contained in Schedule 2.
- (3) A person who fails to comply with a condition imposed under subclause (1) commits an offence.

4.8 Fees

- (1) On lodging an application for a licence, the applicant is to pay a set fee to the local government.

- (2) On the issue or renewal of a licence, the licensee is to pay a set fee to the local government.
- (3) On lodging an application for the transfer of a valid licence, the transferee is to pay a set fee to the local government.
- (4) The set fees referred to in subclauses (1) to (3) are to be imposed and determined by the local government under sections 6.16 to 6.19 of the *Local Government Act 1995*.

4.9 Form of licence

The licence is to be in the form determined by the local government from time to time and is to be issued to the licensee.

4.10 Period of licence

- (1) The period of effect of a licence is set out in section 27(5) of the Act.
- (2) A licence is to be renewed if the set fee referred to in clause 4.8(2) is paid to the local government prior to the expiry of the licence.
- (3) On the renewal of a licence the conditions of the licence at the time of its renewal continue to have effect.

4.11 Variation or cancellation of licence

- (1) The local government may vary the conditions of a licence.
- (2) The local government may cancel a licence—
 - (a) on the request of the licensee;
 - (b) following a breach of the Act, the Regulations or this local law; or
 - (c) if the licensee is not a fit and proper person.
- (3) The date a licence is cancelled is to be, in the case of—
 - (a) subclause (2)(a), the date requested by the licensee; or
 - (b) subclause (2)(b) or (c), the date determined under section 27(6) of the Act.
- (4) If a licence is cancelled the set fee paid for that licence is not refundable for the term of the licence that has not yet expired.

4.12 Transfer

- (1) A written application for the transfer of a valid licence from the licensee to another person must be—
 - (a) made by the transferee;
 - (b) made with the written consent of the licensee; and
 - (c) lodged with the local government together with—

- (i) written evidence that a person will reside at or within reasonably close proximity to the premises the subject of the licence;
 - (ii) the set fee for the application for the transfer of a licence referred to in clause 4.8(3); and
 - (iii) any other relevant information required.
- (2) The local government is not to determine an application for the transfer of a valid licence until the transferee has complied with subclause (1).
- (3) The local government may approve, whether or not subject to such conditions as it considers appropriate, or refuse to approve an application for the transfer of a valid licence.
- (4) Where the local government approves an application for the transfer of a valid licence, then on the date of approval, unless otherwise specified in the notice issued under clause 4.13(b), the transferee becomes the licensee of the licence for the purposes of this local law.

4.13 Notification

The local government is to give written notice to—

- (a) an applicant for a licence of the local government's decision on her or his application;
- (b) a transferee of the local government's decision on her or his application for the transfer of a valid licence;
- (c) a licensee of any variation made under clause 4.11(1);
- (d) a licensee when her or his licence is due for renewal and the manner in which it may be renewed;
- (e) a licensee when her or his licence is renewed;
- (f) a licensee of the cancellation of a licence under clause 4.11(2)(a); and
- (g) a licensee of the cancellation of a licence under clause 4.11(2)(b) or (c), which notice is to be given in accordance with section 27(6) of the Act.

4.14 Objections and appeals

- (1) The provisions of Division 1 of Part 9 of the *Local Government Act 1995* and regulation 33 of the *Local Government (Functions and General) Regulations 1996* apply to a decision where the local government makes a decision as to whether it will—
 - (a) grant an application for a licence;
 - (b) vary or cancel a licence;
 - (c) impose or amend a condition to which a licence is subject; or
 - (d) transfer of a licence.
- (2) Under these provisions, an affected person may have the right to object to, or to appeal against, a decision of the local government.

4.15 Inspection of kennel

With the consent of the occupier, an authorised person may inspect an approved kennel establishment at any time.

PART 5—DOGS IN PUBLIC PLACES

5.1 Places where dogs are prohibited absolutely

Designation of places where dogs are prohibited absolutely is dealt with in the Act.

5.2 Places which are dog exercise areas

Designation of places which are dog exercise areas is dealt with in the Act.

PART 6— MISCELLANEOUS

6.1 Fees and charges

Set fees and charges are to be imposed and determined by the local government under sections 6.16 to 6.19 of the *Local Government Act 1995*.

6.2 Offence to excrete

- (1) A dog must not excrete on—
 - (a) any thoroughfare or other public place; or
 - (b) any land which is not a public place without the consent of the occupier.
- (2) Subject to subclause (3), if a dog excretes contrary to subclause (1), every person liable for the control of the dog at that time commits an offence.
- (3) The person liable for the control of the dog does not commit an offence against subclause (2) if any excreta is removed immediately by that person.
- (4) Notwithstanding clause 7.2, the maximum penalty for an offence under subclause (1) is \$1000.

PART 7— ENFORCEMENT

7.1 Offences

A person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.

7.2 General penalty

A person who commits an offence under this local law is liable, on conviction, to a penalty not exceeding \$5,000 and if the offence is of a continuing nature, to an additional penalty not exceeding \$100 for each day or part of the day during which the offence has continued.

7.3 Modified penalties

- (1) The offences contained in Schedule 3 are offences in relation to which a modified penalty may be imposed.
- (2) The amount appearing in the fourth column of Schedule 3 directly opposite an offence is the modified penalty payable in respect of that offence if the dog is not a dangerous dog.
- (3) The amount appearing in the fifth column of Schedule 3 directly opposite an offence is the modified penalty payable in respect of that offence if the dog is a dangerous dog.

7.4 Issue of infringement notice

Where an authorised person has reason to believe that a person has committed an offence in respect of which a modified penalty may be imposed, he or she may issue to that person a notice in the form of Form 2 of Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

7.5 Failure to pay modified penalty

Where a person who has received an infringement notice fails to pay the modified penalty within the time specified in the notice, or within such further time as may in any particular case be allowed by an authorised person, he or she is deemed to have declined to have the offence dealt with by way of a modified penalty.

7.6 Payment of modified penalty

A person who has received an infringement notice may, within the time specified in that notice or within such further time as may in any particular case be allowed by an authorised person, send or deliver to the local government the amount of the penalty, with or without a reply as to the circumstances giving rise to the offence, and the local government may appropriate that amount in satisfaction of the penalty and issue an acknowledgment.

7.7 Withdrawal of infringement notice

- (1) Whether or not the modified penalty has been paid, an authorised person may withdraw an infringement notice by sending a notice in the form of Form 3 of Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.
- (2) A person authorised to issue an infringement notice under clause 7.4 cannot sign or send a notice of withdrawal.

7.8 Service of notices

An infringement notice or a notice of withdrawal may be served on a person personally, or by leaving it at or posting it to her or his address as ascertained from her or him, or as recorded by the local government under the Act, or as ascertained from inquiries made by the local government.

SCHEDULE 1 - INFORMATION REQUIRED FOR APPLICATION FOR A LICENCE FOR AN APPROVED KENNEL ESTABLISHMENT

[cl. 4.1]

1. Details of applicants—
 - (a) Full name/s of applicant/s;
 - (b) Postal address;
 - (c) Telephone number;
 - (d) Mobile number;
 - (e) Fax number; and
 - (f) E-mail address.
- (g) Address of proposed premises.
- (h) Dogs to be kept—
 - (a) Number; and
 - (b) Breed.
- (i) Either—
 - (a) Person residing on the premises—
 - (i) Name;
 - (ii) As from; and
 - (iii) Mobile phone number, or
 - (b) Person sufficiently close to the premises so as to control the dogs and ensure their health and welfare—
 - (i) Name;
 - (ii) Address;
 - (iii) As from; and
 - (iv) Mobile phone number.
- (j) To be included—
 - (a) a site plan of the premises showing the location of the kennels and yards and all other buildings and structures and fences;
 - (b) plans and specifications of the proposed kennel establishment;
 - (c) copy of notice of proposed use to appear in newspaper and to be given to adjoining premises under clause 4.2;
 - (d) written evidence that a person will reside—
 - (i) at the premises; or
 - (ii) sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare; and
 - (e) if the person in item (d) is not the applicant, written evidence that the person is a person in charge of the dogs.
- (k) Signature of applicant/s.
- (l) Date.

SCHEDULE 2 - CONDITIONS OF A LICENCE FOR AN APPROVED KENNEL ESTABLISHMENT

[cl. 4.7]

An application for a licence for an approved kennel establishment may be approved subject to the following conditions—

- (a) each kennel, unless it is fully enclosed, must have a yard attached to it;
- (b) each kennel and each yard must be at a distance of not less than—
 - (i) 25 metres from the front boundary of the premises and 5 metres from any other boundary of the premises;
 - (ii) 10 metres from any dwelling; and
 - (iii) 25 metres from any church, school room, hall, factory, dairy or premises where food is manufactured, prepared, packed or stored for human consumption;
- (c) each yard for a kennel must be kept securely fenced with a fence constructed of link mesh or netting or other materials approved by the local government;
- (d) the minimum floor area for each kennel must be calculated at 2.5 times the length of the breed of dog (when it is fully grown), squared, times the number of dogs to be housed in the kennel and the length of the dog is to be determined by measuring from the base of the tail to the front of its shoulder;
- (e) the floor area of the yard attached to any kennel or group of kennels must be at least twice the floor area of the kennel or group of kennels to which it is attached;
- (f) the upper surface of the kennel floor must be—
 - (i) at least 100 millimetres above the surface of the surrounding ground;
 - (ii) smooth so as to facilitate cleaning;
 - (iii) rigid;
 - (iv) durable;
 - (v) slip resistant;
 - (vi) resistant to corrosion;
 - (vii) non-toxic;
 - (viii) impervious;
 - (ix) free from cracks, crevices and other defects; and
 - (x) finished to a surface having a fall of not less than 1 in 100 to a spoon drain which in turn must lead to a suitably sized diameter sewerage pipe which must be properly laid, ventilated and trapped in accordance with the health requirements of the local government;
- (g) all kennel floor washings must pass through the drain in item (f)(x) and must be piped to approved apparatus for the treatment of sewage in accordance with the health requirements of the local government;
- (h) the kennel floor must have a durable up-stand rising 75 millimetres above the floor level from the junction of the floor and external and internal walls, or

- internal walls must be so constructed as to have a minimum clearance of 50 millimetres from the underside of the bottom plate to the floor;
- (i) where a yard is to be floored, the floor must be constructed in the same manner as the floor of any kennel;
 - (j) from the floor, the lowest internal height of a kennel must be, whichever is the lesser of—
 - (i) 2000 millimetres; or
 - (ii) four times the height of the breed of dog in the kennel, when it is fully grown, measured from the floor to the uppermost tip of its shoulders while in a stationary upright position;
 - (k) the walls of each kennel must be constructed of concrete, brick, stone or framing sheeted internally and externally with good quality new zincalume or new pre-finished colour coated steel sheeting or new fibrous cement sheeting or other durable material approved by the local government;
 - (l) all external surfaces of each kennel must be kept in good condition;
 - (m) the roof of each kennel must be constructed of impervious material;
 - (n) all kennels and yards and drinking vessels must be maintained in a clean condition and must be cleaned and disinfected when so ordered by an authorised person;
 - (o) all refuse, faeces and food waste must be disposed of daily into the approved apparatus for the treatment of sewage;
 - (p) noise, odours, fleas, flies and other vectors of disease must be effectively controlled;
 - (q) suitable water must be available at the kennel via a properly supported standpipe and tap; and
 - (r) the licensee or the person nominated in the application for a licence, must, in accordance with the application for the licence, continue to reside—
 - (i) at the premises; or
 - (ii) in the opinion of the local government, sufficiently close to the premises so as to control the dogs, and to ensure their health and welfare.
-

SCHEDULE 3 - PRESCRIBED OFFENCES

[cl. 7.3(1)]

Item	Clause	Nature of offence	Modified penalty \$	Dangerous Dog Modified Penalty \$
1	3.1	Failing to provide means for effectively confining a dog	200	As per Regulations
2	3.6	Failure to comply with conditions of approval to keep additional dog or dogs	200	500
3	4.7	Failure to comply with the conditions of a licence	200	200
4	6.2	Dog excreting in prohibited place	100	100

Dated: ?????

The Common Seal of the Shire of Chittering was affixed in the presence of-

Aaron King
Shire President

Matthew Gilfellow
Chief Executive Officer

Draft – (23 May 2022)

SHIRE OF CHITTERING

EXTRACTIVE INDUSTRIES LOCAL LAW 2022

LOCAL GOVERNMENT ACT 1995

LOCAL GOVERNMENT ACT 1995
EXTRACTIVE INDUSTRIES LOCAL LAW 2022
SHIRE OF CHITTERING

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SCHEDULE 1 – PRESCRIBED OFFENCES

LOCAL GOVERNMENT ACT 1995

SHIRE OF CHITTERING

EXTRACTIVE INDUSTRIES LOCAL LAW 2022

Under the powers conferred by the *Local Government Act 1995* and by all other powers, the local government of the Shire of Chittering resolved on [REDACTED] to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

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

1.2 Commencement

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

1.3 Definitions

In this local law, unless the context otherwise requires-

Act means the *Local Government Act 1995*;

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

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

CEO means the Chief Executive Officer of the local government;

district means the district of the local government;

excavation includes quarry;

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

licence means a licence issued under this local law;

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

local government means the Shire of Chittering;

occupier has the meaning given to it in the Act;

owner has the meaning given to it in the Act;

person does not include the local government;

planning approval means an approval for a development and/or a land use that is issued under a local planning scheme administered by the local government;
secured sum means the sum required to be paid or the amount of a bond, guarantee or other security under clause 5.1;
Schedule means a schedule to this local law; and
site means the land specified by the local government in a licence.

1.4 Application

- (1) The provisions of this local law-
 - (a) subject to paragraphs (b), (c), (d) and (e)-
 - (i) apply and have force and effect throughout the whole of the district; and
 - (ii) apply to every excavation whether commenced prior to or following the coming into operation of this local law;
 - (b) do not apply to the extraction of minerals under the *Mining Act 1978*;
 - (c) do not apply to the carrying on of an extractive industry on Crown land;
 - (d) do not apply to the carrying on of an extractive industry on land by the owner or occupier of that land for use on that land; and
 - (e) do not affect the validity of any licence issued under the local law repealed by clause 1.5 of this local law if that licence is currently in force at the date of gazettal of this local law.
- (2) In subclause (1)(d), land includes adjoining lots or locations in the same occupation or ownership of the owner or occupier referred to in subclause (1)(d).

1.5 Transitional provisions

- (1) Within 90 days of commencement of this local law or within 90 days of the date of the annual licence fee of a previous licence becoming due and payable (under clause 3.2), the local government may in respect of the licence—
 - (a) vary or delete a condition; or
 - (b) impose one or more other conditions, as specified in clause 3.1(5).
- (2) A condition that is varied, deleted or imposed under subclause (1) does not become effective until 90 days (or longer period that is specified by the local government) after written notice of the condition is given by the local government to the licensee.

1.6 Repeal

This local law repeals the *Shire of Chittering Extractive Industries Local Law 2014* as published in the *Government Gazette* on 24 October 2014.

PART 2—LICENSING REQUIREMENTS FOR AN EXTRACTIVE INDUSTRY

2.1 Extractive industries prohibited without licence

A person must not carry on an extractive industry—

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

2.2 Applicant to advertise proposal

- (1) Unless the local government first approves otherwise, a person seeking the issue of a licence shall, before applying to the local government for a licence—
 - (a) forward by registered mail a notice in the form determined by the local government from time to time to—
 - (i) the owners and occupiers of all land adjoining the land upon which it is proposed to excavate, or within an area determined by the local government as likely to be affected by the granting of a licence, advising of the application and specifying that they may, within 21 days from the date of service of the letter, object to or make representations in writing in respect of the issue of a licence by the local government;
 - (ii) every authority or person having control or jurisdiction over any of the things referred to in clause 2.3(1)(a)(vii) and (viii) within 500 metres from the boundaries of the land, or within an area determined by the local government as likely to be affected by the granting of a licence; and
 - (b) as soon as practicable after complying with the requirements of paragraph (a)—
 - (i) forward a copy of the notice to the CEO; and
 - (ii) publish the notice in a newspaper circulating in the area in which the proposed excavation is located.

- (2) The local government may, within 14 days after receiving a copy of a notice referred to in subclause (1), cause to be displayed, or require the proposed applicant to display, in a prominent position on the land one or more notices—
- (a) in the form determined by the local government from time to time;
 - (b) the content, size and construction of which have been approved by the CEO;
 - (c) specifying particulars of the proposed excavation; and
 - (d) inviting objections or comments within 21 days from the placement of the notice.

2.3 Application for licence

- (1) Subject to subclause (3), a person seeking the issue of a licence in respect of any land shall apply in the form determined by the local government from time to time and must forward the application duly completed and signed by each of the applicants, the owner of the land and any occupier of the land to the CEO together with—
- (a) one (1) copy of a plan of the excavation site to a scale of between 1:500 and 1:2000 showing—
 - (i) the existing and proposed land contours based on the Australian Height Datum and plotted at 1 metre contour intervals;
 - (ii) the land on which the excavation site is to be located;
 - (iii) the external surface dimensions of the land;
 - (iv) the location and depth of the existing and proposed excavation of the land;
 - (v) the location of existing and proposed thoroughfares or other means of vehicle access to and egress from the land and to public thoroughfares in the vicinity of the land;
 - (vi) the location of buildings, treatment plant, tanks and other improvements and developments existing on, approved for or proposed in respect of the land;
 - (vii) the location of existing power lines, telephone cables and any associated poles or pylons, sewers, pipelines, reserves, bridges, railway lines and registered grants of easement or other encumbrances over, on, under or adjacent to or in the vicinity of the land;
 - (viii) the location of all existing dams, watercourses, drains or sumps on or adjacent to the land;
 - (ix) the location and description of existing and proposed fences, gates and warning signs around the land; and

- (x) the location of the areas proposed to be used for stockpiling excavated material, treated material, overburden and soil storage on the land and elsewhere;
- (b) one (1) copy of a works and excavation programme containing—
 - (i) the nature and estimated duration of the proposed excavation for which the licence is applied;
 - (ii) the stages and the timing of the stages in which it is proposed to carry out the excavation;
 - (iii) details of the methods to be employed in the proposed excavation and a description of any on-site processing works;
 - (iv) details of the depth and extent of the existing and proposed excavation of the site;
 - (v) an estimate of the depth of and description of the nature and quantity of the overburden to be removed;
 - (vi) a description of the methods by which existing vegetation is to be cleared and topsoil and overburden removed or stockpiled;
 - (vii) a description of the means of access to the excavation site and the types of thoroughfares to be constructed;
 - (viii) details of the proposed number and size of trucks entering and leaving the site each day and the route or routes to be taken by those vehicles;
 - (ix) a description of any proposed buildings, water supply, treatment plant, tanks and other improvements;
 - (x) details of drainage conditions applicable to the land and methods by which the excavation site is to be kept drained;
 - (xi) a description of the measures to be taken to minimise sand drift, dust nuisance, erosion, watercourse siltation and dangers to the general public;
 - (xii) a description of the measures to be taken to comply with the *Environmental Protection (Noise) Regulations 1997*;
 - (xiii) a description of the existing site environment and a report on the anticipated effect that the proposed excavation will have on the environment in the vicinity of the land;
 - (xiv) details of the nature of existing vegetation, shrubs and trees and a description of measures to be taken to minimise the destruction of existing vegetation; and
 - (xv) a description of the measures to be taken in screening the excavation site, or otherwise minimising adverse visual impacts, from nearby thoroughfares or other areas;
- (c) one (1) copy of a rehabilitation and decommissioning programme indicating—

- (i) the objectives of the programme, having due regard to the nature of the surrounding area and the proposed end-use of the excavation site;
 - (ii) whether restoration and reinstatement of the excavation site is to be undertaken progressively;
 - (iii) how any face is to be made safe and batters sloped;
 - (iv) the method by which topsoil is to be replaced and revegetated;
 - (v) the numbers and types of trees and shrubs to be planted and other landscaping features to be developed;
 - (vi) how rehabilitated areas are to be maintained; and
 - (vii) the programme for the removal of buildings, plant, waste, completion of the restoration and reinstatement of the excavation site and final site clean-up;
- (d) evidence that a datum peg has been established on the land related to a point approved by the local government on the surface of a constructed public thoroughfare or such other land in the vicinity;
- (e) certificate from a licensed surveyor certifying the correctness of—
- (i) the plan referred to in paragraph (a); and
 - (ii) the datum peg and related point referred to in paragraph (d);
- (f) where the applicant is required to display a notice, evidence that the requirements of clause 2.2 (2) have been carried out;
- (g) copies of all land use planning approvals required under any planning legislation;
- (h) copies of any environmental approval required under any environmental legislation;
- (i) copies of any geotechnical information relating to the excavation site;
- (j) the consent in writing to the application from the owner of the excavation site;
- (k) the licence application fee specified by the local government from time to time; and
- (l) any other information that the local government may reasonably require.
- (2) All survey data supplied by an applicant for the purpose of subclause (1) shall comply with Australian Height Datum and Australian Map Grid standards.
- (3) Where in relation to a proposed excavation—
- (a) the surface area is not to exceed 5000 square metres; and
 - (b) the extracted material is not to exceed 5000 cubic metres;

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

PART 3—DETERMINATION OF APPLICATION

3.1 Determination of application

- (1) The local government may refuse to consider an application for a licence that does not comply with the requirements of clause 2.3, and in any event shall refuse an application for a licence where planning approval for an extractive industry use of the land has not first been obtained.
- (2) The local government may, in respect of an application for a licence—
 - (a) refuse the application; or
 - (b) approve the application—
 - (i) over the whole or part of the land in respect of which the application is made; and
 - (ii) such terms and conditions, if any, as it sees fit.
- (3) Where the local government approves an application for a licence, it shall—
 - (a) determine the licence period, not exceeding 5 years from the date of issue; and
 - (b) approve the issue of a licence in the form determined by the local government from time to time.
- (4) Where the local government approves the issue of a licence, the CEO upon receipt by the local government of—
 - (a) payment of the annual licence fee, or the relevant proportion of the annual licence fee to 30 June, determined by the local government under and in accordance with sections 6.16 to 6.19 of the *Local Government Act 1995*;
 - (b) payment of the secured sum if any, imposed under clause 5.1;
 - (c) the documents, if any, executed to the satisfaction of the CEO, under clause 5.1; and
 - (d) a copy of the public liability insurance policy required under clause 7.1(1)shall issue the licence to the applicant.
- (5) Without limiting subclause (2), the local government may impose conditions in respect of the following matters—
 - (a) the orientation of the excavation to reduce visibility from other land;
 - (b) the appropriate siting of access thoroughfares, buildings and plant;
 - (c) the stockpiling of material;
 - (d) the hours during which any excavation work may be carried out;

- (e) the hours during which any processing plant associated with, or located on, the site may be operated;
- (f) requiring all crushing and treatment plant to be enclosed within suitable buildings to minimise the emission of noise, dust, vapour and general nuisance to the satisfaction of the local government;
- (g) the depths below which a person shall not excavate;
- (h) distances from adjoining land or thoroughfares within which a person must not excavate;
- (i) the safety of persons employed at or visiting the excavation site;
- (j) the control of dust and wind-blown material;
- (k) the planting, care and maintenance of trees, shrubs and other landscaping features during the time in which the extractive industry is carried out in order to effectively screen the area to be excavated and to provide for progressive rehabilitation;
- (l) the prevention of the spread of dieback or other disease;
- (m) the drainage of the excavation site and the disposal of water;
- (n) the restoration and reinstatement of the excavation site, the staging of such works, and the minimising of the destruction of vegetation;
- (o) the provision of retaining walls to prevent subsidence of any portion of the excavation or of land abutting the excavation;
- (p) requiring the licensee to furnish to the local government a surveyor's certificate each year, prior to the renewal fee being payable, to certify the quantity of material extracted and that material has not been excavated below the final contour levels outlined within the approved excavation programme;
- (q) requiring the licensee to enter into an agreement with the local government by which it agrees to pay any extraordinary expenses incurred by the local government in repairing damage caused to thoroughfares in the district by heavy or extraordinary traffic conducted by or on behalf of the licensee under the licence;
- (r) requiring the licensee to enter into an agreement with the local government in respect of any condition or conditions imposed under this local law; and
- (s) any other matter for properly regulating the carrying on of an extractive industry.

3.2 Payment of annual licence fee

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

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

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

4.2 Cancellation of licence

- (1) The local government may cancel a licence where the licensee has—
 - (a) been convicted of an offence against—
 - (i) this local law; or
 - (ii) any other law relating to carrying on an extractive industry;
 - (b) transferred or assigned or attempted to transfer or assign the licence without the consent of the local government;
 - (c) permitted another person to carry on an extractive industry otherwise than in accordance with the terms and conditions of the licence and of the provisions of this local law;
 - (d) failed to pay the annual licence fee under clause 3.2; or

- (e) failed to have a current public liability insurance policy under clause 7.1 (1) or failed to provide a copy of the policy or evidence of its renewal as the case may be, under clause 7.1 (2).
- (2) Where the local government cancels a licence under this clause—
 - (a) the local government shall advise the licensee in writing of the cancellation;
 - (b) the cancellation takes effect on and from the day on which the licensee is served with the cancellation advice; and
 - (c) the local government shall not be required to refund any part of the fees paid by the licensee in respect of the cancelled licence.

4.3 Renewal of licence

- (1) A licensee who wishes to renew a licence must apply in writing to the local government at least 45 days before the date of expiry of the licence and shall submit with the application for renewal—
 - (a) the fee determined by the local government from time to time;
 - (b) a copy of the current licence;
 - (c) a plan showing the contours of the excavation carried out to the date of that application;
 - (d) details of the works, excavation and rehabilitation stages reached and of any changes or proposed changes with respect to any of the things referred to in clauses 2.3 (1) (b) and (c); and
 - (e) any other things referred to in clauses 2.3 and 3.1.
- (2) The local government may waive any of the requirements specified in clause 4.3 (1) (d) or (e).
- (3) If—
 - (a) an application to renew a licence is in relation to land in respect of which the current licence was issued less than 12 months prior to the date from which the new licence if granted would apply; and
 - (b) the methods to be employed in the proposed land excavation are identical to those being employed at the date of the application,then the applicant shall not be obliged, unless otherwise required by the local government to submit details of any of the things referred to in clauses 2.3 and 3.1.
- (4) Upon receipt of an application for the renewal of a licence, the local government may—

- (a) refuse the application; or
- (b) approve the application on such terms and conditions, if any, as it sees fit.

4.4 Notice of outcome

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

PART 5—SECURED SUM AND APPLICATION THEREOF

5.1 Security for restoration and reinstatement

- (1) For the purpose of ensuring that an excavation site is properly restored or reinstated, the local government may require that—
 - (a) as a condition of a licence; or
 - (b) before the issue of a licence, the licensee shall give to the local government a bond, bank guarantee or other security, of a kind and in a form acceptable to the local government, in or for a sum determined by the local government from time to time.
- (2) A bond required under subclause (1) is to be paid into a fund established by the local government for the purposes of this clause.
- (3) Subject to clause 5.2, any interest accrued in respect of the bond paid into the fund under subclause (2) is to be returned to the licensee at the completion of the restoration and reinstatement works required by the licence conditions or otherwise under this local law.

5.2 Use by the local government of secured sum

- (1) If a licensee fails to carry out or complete the restoration and reinstatement works required by the licence conditions either—
 - (a) within the time specified in those conditions; or
 - (b) where no such time has been specified, within 60 days of the completion of the excavation or portion of the excavation specified in the licence conditions,then, subject to the local government giving the licensee 14 days notice of its intention to do so—
 - (c) the local government may carry out or cause to be carried out the required restoration and reinstatement work or so much of that work as remains undone; and

- (d) the licensee shall pay to the local government on demand all costs incurred by the local government or which the local government may be required to pay under this clause.
- (2) The local government may apply the proceeds of any bond, bank guarantee or other security provided by the licensee under clause 5.1 towards its costs under this clause.
- (3) The liability of a licensee to pay the local government's costs under this clause is not limited to the amount, if any, secured under clause 5.1.

PART 6—LIMITATIONS, OBLIGATIONS OF THE LICENSEE AND PROHIBITIONS

6.1 Limits on excavations near boundary

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

- (a) 20 metres of the boundary of any land on which the excavation site is located;
- (b) 20 metres of any land affected by a registered grant of easement;
- (c) 40 metres of any thoroughfare; or
- (d) 40 metres of any watercourse.

6.2 Obligations of the licensee

A licensee shall-

- (a) where the local government so requires, securely fence the excavation to a standard determined by the local government and keep the gateways locked when not actually in use in order to prevent unauthorised entry;
- (b) erect and maintain warning signs along each of the boundaries of the area excavated under the licence so that each sign—
 - (i) is not more than 200 metres apart;
 - (ii) is not less than 1.8 metres high and not less than 1 metre wide; and
 - (iii) bears the words 'DANGER EXCAVATIONS KEEP OUT';
- (c) except where the local government approves otherwise, drain and keep drained to the local government's satisfaction any excavation to which the licence applies so as to prevent the accumulation of water;

- (d) restore and reinstate the excavation site in accordance with the terms and conditions of the licence, the site plans and the works and excavation programme approved by the local government;
- (e) take all reasonable steps to prevent the emission of dust, noise, vibration and other forms of nuisance from the excavation site; and
- (f) otherwise comply with the conditions imposed by the local government in accordance with clause 3.1.

6.3 Prohibitions

A licensee shall not—

- (a) remove any trees or shrubs within 40 metres (or such lesser distance as may be allowed, in writing, by the local government) of the boundary of any thoroughfare on land in respect of which a licence has been granted, except for the purpose of constructing access thoroughfares, erecting buildings or installing plant for use in connection with the excavation and then only with the express approval of the local government and subject to any conditions which the local government may impose in accordance with clause 3.1;
- (b) store, or permit to be stored, any explosives or explosive devices on the site to which the licence applies other than with the approval of the local government and the Department of Mines, Industry Regulation and Safety; or
- (c) fill or excavate, other than in accordance with the terms and conditions of the licence, the site plans and the works and excavation programme approved by the local government.

6.4 Blasting

- (1) A person shall not carry out or permit to be carried out any blasting in the course of excavating unless—
 - (a) the local government has otherwise given approval in respect of blasting generally or in the case of each blast;
 - (b) subject to subclause (2), the blasting takes place only between the hours of 8.00am and 5.00pm, or as determined by the local government, on Mondays to Fridays inclusive;
 - (c) the blasting is carried out in strict accordance with the AS2187 SAA Explosives Code as amended from time to time, the *Mines Safety and Inspection Act 1994*, the *Environmental Protection Act 1986*, and all relevant local laws of the local government; and
 - (d) in compliance with any other conditions imposed by the local government concerning—
 - (i) the time and duration of blasting;

- (ii) the purposes for which the blasting may be used; and
 - (iii) such other matters as the local government may reasonably require in the interests of the safety and protection of members of the public and of property within the district.
- (2) A person shall not carry out or permit to be carried out any blasting on a Saturday, Sunday or public holiday except with the prior approval of the local government.

PART 7—MISCELLANEOUS PROVISIONS

7.1 Public liability

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

7.2 Mines Safety and Inspection Act and Environmental Protection Act

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

7.3 Notice of cessation of operations

- (1) Where a licensee intends to cease carrying on an extractive industry—
 - (a) temporarily for a period in excess of 12 months; or
 - (b) permanently,the licensee shall, as well as complying with clause 7.4, give the local government written notice of the cessation not later than 1 week after those operations have ceased.
- (2) Where a licensee has given written notice to the local government of the intention to permanently cease carrying on an extractive industry on the site to which the licence applies the licence is deemed to have expired on the date such cessation is so notified.
- (3) The temporary or permanent cessation of the carrying on of an extractive industry on a site or the deemed expiration or cancellation of a licence does not entitle the licensee to any refund of any licence fee.

7.4 Works to be carried out on cessation of operations

Where the carrying on of an extractive industry on the site permanently ceases or on the expiration or cancellation of the licence applicable to the site, whichever first occurs, the licensee shall, as well as complying with the provisions of clause 7.3—

- (a) restore and reinstate the excavated site in accordance with the proposals approved by the local government or in such other manner as the local government may subsequently agree in writing with the licensee;
- (b) ensure that any face permitted to remain upon the excavation site is left safe with all loose materials removed and where the excavation site is—
 - (i) sand, the sides are sloped to a batter of not more than 1:3 (vertical:horizontal); and
 - (ii) limestone or material other than sand, the sides are sloped to a batter which, in the opinion of the local government, would enable the site to be left in a stable condition;
- (c) ensure that the agreed floor level of the excavation is graded to an even surface or is otherwise in accordance with the rehabilitation and decommissioning programme approved by the local government;
- (d) ensure that all stockpiles or dumps of stone, sand or other materials are left so that no portion of that material can escape onto land not owned or occupied by the licensee nor into any stream, watercourse or drain that is not wholly situated within the land owned or occupied by the licensee;

- (e) erect retaining walls where necessary to prevent subsidence of land in the vicinity of any excavation;
- (f) remove from the site all buildings, plant and equipment erected, installed or used for or in relation to the carrying on of an extractive industry on the site and fill all holes remaining after such removal to the level of the surrounding ground and compact such filled holes sufficiently to prevent settling; and
- (g) break up, scarify, cover with topsoil and plant with grass, trees and shrubs all parts of the site where buildings, plant and equipment were erected or installed and all areas which were used for stockpiling unless otherwise specified under this local law.

PART 8—OBJECTIONS AND REVIEW

8.1 Objection and review rights

- (1) The provisions of Division 1 of Part 9 of the Act and regulation 33 of the *Local Government (Functions and General) Regulations 1996* shall apply when the local government makes a decision as to whether it will—
 - (a) grant a person a licence under this local law; or
 - (b) renew, vary, transfer, or cancel a licence that a person has under this local law.
- (2) The provisions of this clause are subject to section 3.25 and item 12 of Division 1 of Schedule 3.1 of the *Local Government Act 1995* and any power of entry exercised by the local government under this local law is subject to Part 3, Division 3 of the *Local Government Act 1995*.

PART 9—OFFENCES, PENALTIES AND FORMS

9.1 Offences

A person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.

9.2 General penalty

A person who commits an offence under this local law is liable, on conviction, to a penalty not exceeding \$5,000 and if the offence is of a continuing nature to an additional penalty no exceeding \$500 for each day or part of the day during which the offence has occurred.

9.3 Modified penalty

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

9.4 Forms

For the purposes of this local law—

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

SCHEDULE 1
PRESCRIBED OFFENCES

(clause 9.3)

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

Dated: ??????

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

Aaron King
Shire President

Matthew Gilfellon
Chief Executive Officer

Draft

LOCAL GOVERNMENT ACT 1995

SHIRE OF CHITTERING

**LOCAL GOVERNMENT PROPERTY AND PUBLIC
PLACES LOCAL LAW 2022**

LOCAL GOVERNMENT ACT 1995

SHIRE OF CHITTERING

LOCAL GOVERNMENT PROPERTY AND PUBLIC PLACES LOCAL LAW 2022

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SCHEDULE 1—PRESCRIBED OFFENCES

LOCAL GOVERNMENT ACT 1995

SHIRE OF CHITTERING

LOCAL GOVERNMENT PROPERTY AND PUBLIC PLACES LOCAL LAW 2022

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

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Chittering Local Government Property and Public Places Local Law 2022*.

1.2 Commencement

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

1.3 Application

This local law applies throughout the district.

1.4 Repeal

This local law repeals the *Shire of Chittering Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law* as published in the *Government Gazette* on 20 April 2001.

1.5 Definitions

In this local law, unless the context otherwise requires—

Act means the *Local Government Act 1995* (WA);

advertising sign means a sign or advertisement used for the purposes of advertising or drawing attention to a product, business, person or event and includes election advertising and portable signs;

animal means any animal other than a dog;

AS or AS/NZS means an Australian or New Zealand Standard as published by Standards Australia and amended from time to time;

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 Act means the *Building Act 2011* (WA);

Building Code Australia means the Building Code of Australia which is volumes 1 and 2, as amended from time to time, of the National Construction Code series published by, or on behalf of, the Australian Building Codes Board;

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

camera device means an apparatus for taking photographs or moving pictures and includes a mobile phone when used for this purpose;

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

change room means a room designated for the changing of clothes and may include showers, toilets and hand washing basins;

charitable organisation means an institution, association, club, society or body whether incorporated or not, the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other similar nature and from which no member receives any pecuniary profit except where the member is an employee or the profit is an honorarium;

CEO means the Chief Executive Officer of the local government;

closed thoroughfare means a thoroughfare wholly or partially closed by the local government under sections 3.50 or 3.50A of the Act;

commencement day means the day on which this local law commences under clause 1.2;

Commissioner of Main Roads WA means the person appointed under section 7 of the *Main Roads Act 1930* (WA) to be the Commissioner;

Competition Principles Agreement means the Competition Principles Agreement executed by each State and Territory of the Commonwealth and the Commonwealth of Australia on 11 April 1995;

Council means the council of the local government;

crossing means a crossing giving access from a public thoroughfare to—

(a) private land; or

(b) a private thoroughfare serving private land;

determination means a determination made under clause 2.1;

detrimental to the property includes—

(a) removing anything from the local government property such as a rock, plant, fixture, fitting, chattel, equipment or furniture provided for the use, enjoyment or safety of any person;

(b) destroying, defacing or damaging a building or anything on the local government property, such as a plant, fixture, chattel, equipment or furniture provided for the use, enjoyment or safety of any person; and

(c) causing environmental harm or nuisance on the local government property;

development approval means an approval issued under the local government's planning scheme;

district means the district of the local government;

drunk has the meaning provided in the *Liquor Control Act 1988*;

election advertising means any sign or advertisement which encourages persons to vote for a candidate, political party or referenda or matter relating to any federal, state or local government election;

election date means the date on which a federal, state or local government election is held;

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 members;
- (b) the eggs or larvae; or
- (c) the carcass, skin, plumage or fur;

Firearms Act means the *Firearms Act 1973* (WA);

flora means all vascular plants other than plants recognised as weeds;

Food Act means the *Food Act 2008* (WA);

food business has the same meaning as given in the Food Act;

footpath has the meaning given in the *Road Traffic Code 2000* and includes a shared and dual use path;

gaming means has the same meaning as in the *Gaming and Wagering Commission Act 1987*;

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

liquor has the meaning given to it by the Liquor Act;

Liquor Act means the *Liquor Control Act 1988* (WA);

local government means the Shire of Chittering;

local government policy means a policy or standard adopted by the local government;

local government property means anything except a thoroughfare which—

- (a) is owned by the local government;
- (b) is vested in the local government;
- (c) is otherwise under the care, control or management of the local government, including under the *Land Administration Act 1997* (WA); or
- (d) is an 'otherwise unvested facility' within the meaning of section 3.53 of the Act;

local public notice means notice given in accordance with the procedure set out in section 1.7 of the Act;

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 common law;
- (b) an unreasonable interference with the use and enjoyment of a person of his or her ownership or occupation of land; or
- (c) interference which causes material damage to land or other property on the land affected by the interference;

occupier has the meaning given to it by the Act, but does not include the local government;

off-road vehicle has the meaning given to that term by the *Control of Vehicles (Off-road Areas) Act 1978* (WA);

other portable sign means a portable sign other than a home open sign, display home sign or garage sale sign;

owner has the meaning given to it by the Act;

permit means a permit issued under this local law;

permit holder means a person who holds a valid permit;

permitted area means the area or areas, specified in a permit for the purpose of street entertaining, in which the permit holder may perform;

permitted time means the time or times, specified in a permit for the purpose of street entertaining, during which the permit holder may perform;

planning scheme has the same meaning as "local planning scheme" in the *Planning and Development Act 2005*;

portable sign means a free standing portable advertising sign not permanently attached to a structure or fixed to the ground or pavement, and includes a 'A' frame sign;

premises for the purposes of clauses 2.8(1)(a) and 4.6 means a building, stadium or similar structure which is local government property, but not an open space such as a park or a playing field;

prohibited drug has the meaning given to it in the *Misuse of Drugs Act 1981* (WA);

promotional activity means the advertising of, promotion of, or raising of funds for, a particular group, product or service;

public interest sign means an advertising sign for an event that is open to the public to attend at no cost and is of significant interest to persons within, and visitors to, the district, and which is being held on local government property or in a public place, but does not include election advertising;

public place includes a thoroughfare or place which the public are allowed to use, whether or not the thoroughfare or place is on private property, but does not include—

- (a) premises on private property from which trading is lawfully conducted under a written law; or
- (b) local government property;

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

smoke has the meaning given to it in the *Tobacco Products Control Act 2006* (WA);

street market means a collection of stalls, stands and displays on local government property or a public place for the purposes of selling goods, wares, merchandise, produce or services, or carrying out any other transaction;

lot numbering means a number or numbers with or without an alphabetical suffix assigned to identify the street address of a property;

street tree means any tree or tall plant that has a wooden trunk and branches that grow from its upper part, planted or self-sown in the street, of an appropriate species and in an appropriate location for the purpose of contributing to the streetscape;

thoroughfare has the meaning given to it by the Act, but does not include a private thoroughfare which is not under the management or control of the local government;

tobacco product has the meaning given to it in the *Tobacco Products Control Act 2006* (WA);

trader means a person who carries on trading;

trading means—

- (a) the selling or hiring of, the offering for sale or hire of, or the soliciting of orders for, goods or services in a public place or on local government property;
- (b) displaying goods in a public place or local government property for the purpose of—
 - (i) offering them for sale or hire;
 - (ii) inviting offers for their sale or hire;
 - (iii) soliciting orders for them; or
 - (iv) carrying out any other transaction in relation to them,
 and includes the setting up of a stall, or the conducting of a business at a stall;

vehicle includes—

- (a) every conveyance and every object capable of being propelled or towed on wheels, tracks or otherwise, including an off-road vehicle; and
 - (b) an animal being ridden or driven;
- but excludes—
- (c) a wheelchair or any device designed for use by physically impaired person on a footpath;
 - (d) a pram, a stroller or a similar device;
 - (e) a bicycle or wheeled recreational device; and
 - (f) a shopping trolley;

Western Power means the body corporate known as the Electricity Networks Corporation established under section 4 of the *Electricity Corporations Act 2005* (WA) or such other entity established or constituted in its place or by which its functions have become exercisable;

wheeled recreational device means a wheeled device built to transport a person which is propelled by human power or gravity and ordinarily used for recreation or play, including—

- (a) in-line skaters, rollerskates, a skateboard or similar wheeled device;
 - (b) a scooter being used by a person 12 years of age or older; and
 - (c) a unicycle,
- but excludes a goffer, golf buggy, pram, stroller or trolley, or a bicycle, wheelchair or wheeled toy.

1.6 Transitional

Any permit, licence, consent or authorisation issued in accordance with a local law listed in clause 1.4—

- (a) is taken to be a permit granted under this local law;
- (b) is to be valid for the period specified on the permit, licence, consent or authorisation; and
- (c) may be earlier cancelled or suspended in accordance with this local law.

1.7 Application as to assistance animals

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

PART 2—DETERMINATIONS IN RESPECT OF LOCAL GOVERNMENT PROPERTY

Division 1—Determinations

2.1 Determinations as to use of local government property

The local government may make a determination in accordance with clause 2.2—

- (a) setting aside specified local government property for the pursuit of all or any of the activities referred to in clause 2.7;
- (b) prohibiting a person from pursuing all or any of the activities referred to in clause 2.8 on specified local government property;
- (c) as to the matters in clauses 2.7(2) and 2.8(2); and
- (d) as to any matter ancillary or necessary to give effect to a determination.

2.2 Procedure for making a determination

- (1) The local government is to give local public notice of its intention to make a determination.
- (2) The local public notice must state that—
 - (a) the local government intends to make a determination, the purpose and effect of which is summarised in the notice;
 - (b) a copy of the proposed determination may be inspected and obtained from the offices of the local government; and
 - (c) submissions in writing about the proposed determination may be lodged with the local government within 21 days after the date of publication.
- (3) If no submissions are received under clause 2.2(2)(c), the local government is to decide—
 - (a) to give local public notice that the proposed determination has effect as a determination on and from the date of publication;
 - (b) to amend the proposed determination, in which case clause 2.2(5) will apply; or
 - (c) not to continue with the proposed determination.
- (4) If submissions are received under clause 2.2(2)(c), the local government—
 - (a) is to consider those submissions; and
 - (b) is to decide—
 - (i) whether to amend the proposed determination; or

- (ii) not to continue with the proposed determination.
- (5) If the local government decides to amend the proposed determination, it is to give local public notice—
 - (a) of the effects of the amendments; and
 - (b) that the proposed determination has effect as a determination on and from the date of publication.
- (6) If the local government decides not to amend the proposed determination, it is to give local public notice that the proposed determination has effect as a determination on and from the date of publication.
- (7) A proposed amendment is to have effect as a determination on and from the date of publication of the local public notice referred to in clauses 2.2(3), 2.2(5) and 2.2(6).
- (8) A decision under clauses 2.2(3) or 2.2(4) is not to be delegated by Council.

2.3 Discretion to erect a sign

The local government may erect a sign on local government property to give notice of the effect of a determination.

2.4 Determination to be complied with

A person must comply with a determination.

2.5 Register of determinations

- (1) The local government is to keep a register of determinations made under clause 2.1, and of any amendments to or revocations of determinations made under clause 2.6.
- (2) Sections 5.94 and 5.95 of the Act apply to the register referred to in clause 2.5(1) and for that purpose, the register is taken to be information within section 5.94(u)(i) of the Act.

2.6 Amendment or revocation of a determination

- (1) The local government may amend or revoke a determination.
- (2) The provisions of clause 2.2 are to apply to an amendment of a determination as if the amendment were a proposed determination.
- (3) If the local government revokes a determination, it must give local public notice of the revocation and the determination will cease to have effect on and from the date of publication.

Division 2—Activities which may be pursued or prohibited on specified local government property as a result of a determination

2.7 Activities which may be pursued on specified local government property

- (1) A determination may provide that specified local government property is set aside as an area on which a person may—
 - (a) bring, ride or drive an animal;
 - (b) take, ride or drive a vehicle, or a particular class of vehicle;
 - (c) fly or use a motorised model aircraft, car, ship, glider or rocket;
 - (d) use a children's playground provided that the person is under an age specified in the determination, but the determination is not to apply to a person having the charge of a person under the specified age;
 - (e) deposit refuse, rubbish or liquid waste, whether or not of particular classes, and whether or not in specified areas of that local government property;
 - (f) play or practice—
 - (i) golf or archery;
 - (ii) pistol or rifle shooting, but subject to compliance of that person with the Firearms Act; or
 - (iii) a similar activity, specified in the determination, involving the use of a projectile which, in the opinion of the local government, may cause injury and damage to a person or property; or
 - (g) ride a bicycle, a wheeled recreational device, or similar device; or
 - (h) wear no clothing.
- (2) A determination may specify the extent to which and the manner in which an activity referred to in clause 2.7(1) may be pursued and in particular—
 - (a) the days and times during which the activity may be pursued;
 - (b) that any activity may be pursued on a class of local government property, specified local government property or all local government property;
 - (c) that an activity is taken to be prohibited on all local government property other than that specified in the determination;
 - (d) may limit the activity to a class of vehicles, equipment or things, or may extend it to all vehicles, equipment or things;
 - (e) may specify that the activity can be pursued by a class of persons or all persons; and
 - (f) may distinguish between different classes of the activity.

2.8 Activities which may be prohibited on specified local government property

- (1) A determination may provide that a person is prohibited from pursuing all or any of the following activities on specified local government property—
 - (a) smoking in premises;
 - (b) riding a bicycle, a wheeled recreational device, or a similar device;
 - (c) taking, riding or driving a vehicle on the property or a particular class of vehicle;
 - (d) riding or driving a vehicle of a particular class or any vehicle above a specified speed;
 - (e) the playing or practice of—
 - (i) golf, archery, pistol or rifle shooting; or
 - (ii) a similar activity specified in the determination involving the use of a projectile which, in the opinion of the local government may cause injury or damage to a person or property;
 - (f) the playing or practice of any ball game which may cause detriment to the property or any fauna on the property; and
 - (g) the traversing of land which in the opinion of the local government has environmental value warranting such protection, either absolutely or except by paths provided for that purpose.
- (2) A determination may specify the extent to which and the manner in which a person is prohibited from pursuing an activity referred to in clause 2.7(1) and, in particular—
 - (a) the days and times during which the activity is prohibited;
 - (b) that an activity is prohibited on a class of local government property, specified local government property or all local government property;
 - (c) that an activity is prohibited in respect of a class of vehicles, equipment or things, or all vehicles, equipment or things;
 - (d) that an activity is prohibited in respect of a class of persons or all persons; and
 - (e) may distinguish between different classes of the activity.

Division 3—Transitional

2.9 Existing signs to have effect as a determination

- (1) Where a sign erected on local government property has been erected under a local law that is repealed by this local law, then it is to be taken to have effect as a determination under this local law on and from the commencement day, except to the extent that the sign is inconsistent

with any provisions of this local law or any determination made under clause 2.1.

- (2) Clause 2.5 does not apply to a sign referred to in clause 2.9(1).

PART 3—ACTIVITIES ON LOCAL GOVERNMENT PROPERTY

Division 1—When a permit is required

3.1 Activities needing a permit — general

- (1) Subject to this local law, a person must not without a permit granted in accordance with Part 14—
- (a) hire local government property;
 - (b) cut, break, damage, injure, deface, pull up, pick, remove, or destroy any tree, shrub, flower, grass, plant or flora of any kind on any local government property;
 - (c) cut, collect or remove any timber, firewood, stone, sand or other materials on local government property;
 - (d) plant any plant or sow any seeds on local government property;
 - (e) erect any sign on local government property;
 - (f) erect on local government property a structure for public amusement or for any other performance, whether for gain or otherwise;
 - (g) erect a building or a refuelling site on local government property;
 - (h) make any excavation on, erect a fence on or remove a fence from, local government property;
 - (i) 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;
 - (j) deposit or store anything on local government property;
 - (k) depasture, tether, drive or ride any animal on local government property;
 - (l) launch an aircraft or helicopter from, or land an aircraft or helicopter into, local government property;
 - (m) camp on or lodge at local government property for the purpose of sleeping on local government property;
 - (n) occupy any structure, including a vehicle, at night for the purpose of sleeping on local government property;
 - (o) erect a tent, camp, hut or similar structure on local government property other than a sunshade or windbreak erected for use during the hours of daylight and which is dismantled during those hours on the same day;
 - (p) teach, coach or train for profit any person, animal or dog on or in local government property;
 - (q) conduct a function, or undertake any promotional activity, on local government property;

- (r) charge any person for entry to local government property, unless the charge is for entry to land or a building hired by a charitable organisation;
 - (s) light a fire on local government property except in a facility provided for that purpose;
 - (t) light or set off any fireworks or conduct a fireworks display on local government property;
 - (u) parachute, hang glide, abseil or base jump from or onto local government property;
 - (v) conduct or take part in any gambling game or contest or bet, or offer to bet, publicly on local government property; or
 - (w) erect, install, operate or use any broadcasting, public address system, loudspeaker or other device for the amplification of sound on local government property, other than those used by a sporting club in the performance of its functions.
- (2) The local government may exempt by written notice—
- (a) a person from compliance with clause 3.1(1) or any part thereof on the application by that person; or
 - (b) specified local government property or a class of local government property or any part thereof from the application of clause 3.1(1).

3.2 Possession and/or consumption of liquor

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

- (a) it is permitted under the *Liquor Control Act 1988* (WA); and
- (b) any necessary permit has been obtained for that purpose.

Division 2—Hiring local government property

3.3 Application for a permit to hire local government property

- (1) The local government may hire local government property to a person who makes an application for a permit for the hire of local government property under Part 12 and who pays the hire fee determined by the local government.
- (2) The local government may—
 - (a) determine that the requirements of this local law do not apply to the hiring of particular local government property or a class of local government property; and
 - (b) waive the requirement to pay a hire fee or any part thereof on the application of the person seeking a permit.

3.4 Decision on application where two or more applicants

In the event of two or more applications being made for the hire of the same local government property for the same date and time, the local government

may determine, in its absolute discretion, which, if any, applicant shall be granted a permit to hire the local government property.

3.5 Responsibilities of a permit holder

The holder of a permit must—

- (a) take reasonable steps to maintain law and order by all in attendance at any function for which the local government property has been hired;
- (b) 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;
- (c) prevent overcrowding;
- (d) leave the local government property in a clean and tidy condition after its use;
- (e) comply with a direction from the Chief Executive Officer or an authorised person to take the action specified in the direction for the purpose of maintaining public safety;
- (f) report any damage or defacement of the local government property to the local government;
- (g) prevent the consumption of any liquor on the local government property unless the permit allows it and a licence has been obtained under the Liquor Act for that purpose; and
- (h) comply with any other direction imposed by the local government.

3.6 Conditions on use and hire

In addition to the conditions described in clause 12.4, the local government may impose conditions on the hire of local government property relating to—

- (i) the purpose for which the local government property may be hired;
- (ii) the use of furniture, plants and effects;
- (iii) restrictions on the erection of decorations inside and outside any building which is local government property;
- (iv) the number of persons that may attend any function in or on local government property;
- (v) the right of the local government to cancel a booking at any time during the course of an annual or seasonal booking;
- (vi) securing and locking up local government property at the end of each hire period;
- (vii) the prohibition of gaming unless a gaming approval has been obtained under the *Gaming and Wagering Commission Act 1987* (WA);
- (viii) requiring that the amplification of any noise or any noise emitted during the hire complies at all times with the *Environmental Protection (Noise) Regulations 1997* (WA); or
- (ix) any other matter that the local government considers fit or appropriate.

*Division 3—Camping on local government property***3.7 Camping on local government property**

- (1) The maximum period for which the local government may approve an application for a permit in respect of the activities set out in clauses 3.1(1)(m) and 3.1(1)(o) is that provided in regulation 11(2)(a) of the *Caravan Parks and Camping Grounds Regulations 1997* (WA).
- (2) Any tent, camp, hut or similar structure erected in contravention of clause 3.1(1)(o) and associated goods may, subject to regulation 29 of the Regulations, be impounded.

PART 4—BEHAVIOUR ON ALL LOCAL GOVERNMENT PROPERTY*Division 1—Behaviour on and interference with local government property***4.1 Behaviour which interferes with others**

A person must not, in or on local government property, behave in a manner which—

- (a) is likely to or does interfere with, interrupt or disturb the enjoyment of a person who might use the property or who is using the property;
- (b) causes or is likely to cause a disturbance to nearby residents;
- (c) otherwise creates a nuisance; or
- (d) places the public at risk or interferes with the safety of others.

4.2 Behaviour detrimental to property

A person must not, in or on local government property, behave in a way which is or might be detrimental to the local government property.

4.3 Taking or injuring any fauna

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 unless that person is authorised under a written law to do so.

4.4 Drunk persons not to enter local government property

A person must not enter or remain on local government property while drunk or under the influence of a prohibited drug-

4.5 No prohibited drugs

A person must not take a prohibited drug onto or consume or use a prohibited drug on local government property.

4.6 No smoking

A person must not smoke within a 5 metre radius of any entrance, exit or aperture of premises on local government property.

4.7 Appropriate behaviour and adequate clothing

- (1) A person over the age of 6 years shall not on or in any local government property—
 - (a) appear in public unless properly dressed in clothing which covers the body to prevent indecent exposure, except where the property is set aside for the wearing of no clothes under clause 2.7(1)(h);
 - (b) loiter outside or act in an inappropriate manner in any portion of a toilet block or change room facility; or
 - (c) without the consent of the occupier, enter or attempt to enter any toilet or other compartment which is already occupied.
- (2) Where an authorised person considers that the clothing of any person on local government property is not proper or adequate to cover the body so as to prevent indecent exposure, the authorised person may direct that person to put on adequate clothing and that person shall comply with that direction immediately.

4.8 Entry to local government property

- A person, other than an authorised person performing a function or a contractor of the local government carrying out a contracted duty, shall not—
- (a) enter or leave any local government property other than by the public entrance or exit, except in an emergency;
 - (b) enter or remain on any local government property except on those days and during those times when access is available to the public; or
 - (c) enter any place that has been fenced off or closed to the public.

4.9 Refusal of entry to local government property

- (1) Subject to clauses 5.3 and 5.4, an authorised person may refuse to allow entry, or suspend admission, to any local government property to any person whom he or she reasonably suspects has behaved in a manner contrary to the provisions of this Part.
- (2) A refusal or suspension under subclause (1) can be for any period of up to 12 months as determined by an authorised person.
- (3) Subclause (1) does not apply to a venue where Council or Committee meetings are held.

*Division 2—Signs***4.10 Signs**

- (1) The local government may erect a sign on local government property specifying any conditions of use which apply to that property.
- (2) A person must comply with a sign erected under clause 4.10(1).
- (3) A condition of use specified on a sign erected under clause 4.10(1) must not be inconsistent with any provision of this local law or any determination.

PART 5—SPECIFIC MATTERS RELATING TO TYPES OF LOCAL GOVERNMENT PROPERTY*Division 1—Fenced or closed property***5.1 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 authorised by the local government.

*Division 2—Toilet blocks and change rooms***5.2 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 to the toilet block or change room; or
 - (b) males, then a person of the female gender must not use that entry to the toilet block or change room.
- (2) Clause 5.2 (1) does not apply to a child, when accompanied by a parent, guardian or caregiver where the child is—
 - (a) under the age of 6 years; or
 - (b) otherwise permitted by an authorised person to use the relevant entry.

5.3 Use of showers

- A person may use a shower in a change room provided that—
- (a) the facilities must only be used by the person for the purpose of cleansing, bathing and washing themselves; and
 - (b) the facilities must not be used for the purposes of laundering or washing any clothing or other articles.

5.4 No use of camera devices in toilet blocks or change rooms

A person must not operate a camera device in any portion of a toilet block or change room to record or transmit an image.

PART 6—FEES FOR ENTRY ONTO LOCAL GOVERNMENT PROPERTY

6.1 Payment of applicable fees for entry or participation

- (1) Subject to clause 6.1(2), where a fee is payable for entry to local government property or participation in an activity on or in any local government property, a person shall not enter that property or participate in the activity without first paying the applicable fee.
- (2) The local government may exempt a person from compliance with clause 6.1(1) on the application of that person.

PART 7—ACTIVITIES IN PUBLIC PLACES

Division 1—General

7.1 General prohibitions

- (1) Subject to this local law, a person shall not—
 - (a) plant any plant on a thoroughfare—
 - (i) within the vicinity of an intersection that creates a sight line hazard in relation to pedestrians or drivers of vehicles using that intersection and which is not maintained at or below 0.5 metres in height; or
 - (ii) so that it is within 2 metres of a carriageway, except in the case of grass or a similar plant to grass;
 - (b) damage a lawn or garden on or in a public place or remove any plant or part of a plant from a lawn or garden on or in a public place unless—
 - (i) the person is the owner or occupier of the lot abutting that portion of the thoroughfare and the lawn, garden or the particular plant was installed or planted by that owner or occupier; or
 - (ii) the person is acting under the authority of a written law;
 - (c) on a verge, repair or service any vehicle;
 - (d) place, allow to be placed or allow to remain on a thoroughfare or verge anything that results in a hazard for any person using the thoroughfare or verge;
 - (e) cause or permit any water from a hose or sprinkler to interfere with the use of any street, way or footpath by pedestrians;
 - (f) play or participate in any game or sport so as to—
 - (i) cause danger to any person on a thoroughfare; or

- (ii) obstruct the movement of vehicles or persons on a thoroughfare;
- (g) within a mall, arcade or verandah of a shopping centre, ride any bicycle, wheeled recreational device or similar device; or
- (h) use anything or do anything so as to create a nuisance on or in a public place.

7.2 Activities requiring a permit

- (1) Subject to clause 7.2(2), a person must not without a permit—
 - (a) dig or otherwise create a trench through or under a kerb or footpath;
 - (b) damage a street tree or remove a street tree or part of a street tree, including the roots, which is on or in a public place irrespective of whether the street tree was planted by the owner or occupier of the lot abutting the thoroughfare or by the local government unless the person is acting under the authority of a written law;
 - (c) damage, remove or interfere with any part of a thoroughfare, kerb, footpath or any structure or sign erected on or in a thoroughfare by the local government or a person acting under written authority;
 - (d) cause any obstruction to a vehicle or a person using a thoroughfare as a thoroughfare;
 - (e) cause any obstruction to a water channel or a water course, including drainage swales, in a thoroughfare;
 - (f) light any fire or burn anything on a thoroughfare or verge;
 - (g) lay pipes under or provide taps on any verge;
 - (h) place or install, on any part of a thoroughfare, anything such as crushed limestone, gravel, stone, flagstone, cement, concrete slabs, blocks, bricks, pebbles, plastic sheeting, kerbing, wood chips, bark or sawdust, including for the purposes of storage or stockpiling;
 - (i) provide, erect, install or use in or on any building, structure or land abutting a thoroughfare any hoist or other thing for use over the thoroughfare;
 - (j) interfere with the soil of, or anything in, a thoroughfare or take anything from a thoroughfare;
 - (k) drive any vehicle over or across a kerb or footpath except at a vehicle crossing;
 - (l) drive a vehicle or permit a vehicle to be driven across a kerb or footpath if such vehicle is so heavy or is of such a nature that it causes or is likely to cause damage to the kerb or the paving of the footpath; and
 - (m) drive or take a vehicle on a closed thoroughfare unless it is in accordance with any limit or exception specified in an order made under section 3.50 of the Act.
- (2) The local government may exempt a person from compliance with clause 7.2(1) on the application of that person.

7.3 Obstructions

Where anything is deposited or an obstruction is caused to a thoroughfare, kerb or footpath contrary to clauses 7.1 and 7.2, the local government may—

- (a) remove or cause to be removed such deposit or obstruction;
- and
- (b) recover the costs of doing so as a debt due to it.

Division 2—Vehicle crossings

7.4 Temporary crossing

- (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 permit for the construction and use of a temporary crossing to protect the existing carriageway, kerb, drains and footpath where—
 - (a) a crossing does not exist; or
 - (b) a crossing does exist, but the nature of the vehicles and their loads is such that they are likely to cause damage to the crossing.
- (2) If the local government approves an application for a permit for the purpose of clause 7.4(1), the permit is taken to be issued on the condition that, until such time as the temporary crossing is removed, the permit holder must keep the temporary crossing in good repair and in such a condition so as not to create any danger or obstruction to persons using the thoroughfare.

7.5 Removal of a redundant crossing

- (1) Where works on a lot will result in a crossing no longer giving access to a lot, the crossing 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 the local government.
- (2) The local government may give written notice to the owner or occupier of a lot requiring him or her to—
 - (a) remove any part of or all of a crossing 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.

Division 3—Property numbers *Subdivision 1—Preliminary*

7.6 Interpretation

In this Division, unless the context requires otherwise—

number means a number of a lot with or without an alphabetical suffix indicating the address of the lot by reference to a thoroughfare.

Subdivision 2—Assignment and marking of numbers

7.7 Assignment and marking of number

- (1) The local government may assign a number to a lot in the district and may assign another number to the lot instead of that previously assigned.
- (2) The owner or occupier of each property must display and maintain the current lot number assigned by the local government in a conspicuous place at the front of the property.
- (3) A person shall not place or display the lot number of the property in such a location as to cause confusion or be misleading.
- (4) Where the location of a street number causes confusion or is misleading, or an unauthorised lot number is being used or displayed on a property, the local government or an authorised person may serve notice in writing on the owner or occupier of the land specifying remedial action to be taken and the time within which action must be taken.

Division 4—Fencing

7.8 Public place—clause 4(1) of Division 1, Schedule 3.1 of the Act

Each of the following places is specified as a public place for the purpose of clause 4(1) of Division 1 of Schedule 3.1 of the Act—

- (a) a public place, as that term is defined in clause 1.5; and
- (b) local government property.

Division 5—Signs erected by the local government

7.9 Signs

- (1) The local government may erect a sign on a public place specifying any conditions of use which apply to that place.
- (2) A person must comply with a sign erected under clause 7.9(1).
- (3) A condition of use specified on a sign erected under clause 7.9(1) is to be for the purpose of giving notice of the effect of the provision of a local law.

7.10 Transitional

Where a sign erected on a public place has been erected under a local law of the local government repealed by this local law, then on and from the commencement day, it is to be taken to be a sign erected under clause 7.10 if the sign is not inconsistent with any provisions of this local law.

PART 8—ADVERTISING DEVICES ON OR IN LOCAL GOVERNMENT PROPERTY OR PUBLIC PLACES

8.1 General prohibitions

- (1) A person must not erect, place, post, paint or affix any advertising sign on, in or over local government property or a public place other than in accordance with this local law.
- (2) Subject to clauses 8.3 to 8.7, a person must not, unless authorised by the local government in writing or a written law, erect or place an advertising sign on or in local government property or a public place--
 - (a) within 30 metres of a similar or identical advertising sign erected or placed for the same purpose;
 - (b) over any footpath where the resulting vertical clearance between the advertising sign is less than 2.5 metres;
 - (c) on any roundabout;
 - (d) on any natural feature, including a rock or tree, on a thoroughfare, or on any bridge or the structural approaches to a bridge;
 - (e) on any pedestrian overpass bridges in the District; or
 - (f) in any location where, in the opinion of the local government, the advertising sign or portable direction sign is likely to—
 - (i) obstruct or impede the reasonable use of a thoroughfare or access to a place by any person;
 - (ii) obstruct a line of sight of drivers of vehicles along a thoroughfare, verge or vehicle crossing; or
 - (iii) create a hazard for any person using the thoroughfare or verge, including by obstructing or impeding the vision of a driver of a vehicle entering or leaving a thoroughfare or vehicle crossing.
- (3) Public liability insurance in respect of the erection or placement of the advertising sign must be obtained if required by the local government.

8.2 Public interest signage

- (1) Public interest signage is subject to the general prohibitions outlined in clause 8.1.
- (2) A person must not erect or display a public interest sign on or in any local government property or a public place unless that person has a permit issued by the local government for that purpose.
- (3) A permit holder must not erect or display on or in local government property or a public place—
 - (a) subject to clause 8.3(3)(b), more than 6 public interest signs for one event at any one time within the district;
 - (b) more than 10 public interest signs for one event on the day on which the event is taking place within the district;
 - (c) more than one public interest sign for one event on or in the same location, including an intersection, within the district;
 - (d) subject to clause 8.3(3)(e), a public interest sign for a period longer than 10 days in any 6 month period within the district;

- (e) a public interest sign for an event that occurs on a regular basis for a period longer than 3 days prior to the day on which the event takes place within the district;
 - (f) a public interest sign which is, at the absolute discretion of the local government, not of a professional standard and quality;
 - (g) a public interest sign in a position which—
 - (i) creates a hazard for pedestrians; or
 - (ii) causes interference with the clear visual lines of sight required by motorists for the safe movement of vehicular traffic,
 unless permitted by the terms and conditions of a permit;
 - (h) a public interest sign with colours that may cause confusion for motorists approaching an intersection controlled by traffic lights;
 - (i) a public interest sign which is not maintained in a good and orderly manner for the duration of the period that the public interest sign is on display;
 - (j) a public interest sign that exceeds dimensions of 2 metres long x 1 metre high, unless permitted by the terms and conditions of a permit;
 - (k) on a verge, a public interest sign which is—
 - (i) less than 3 metres from the kerb line;
 - (ii) if there is no kerb line, less than 3 metres from the edge line or the edge of the seal where there is no edge line; and
 - (iii) less than 80 metres from the projection of the nearest kerb line of any intersecting road; or
 - (l) a public interest sign which is tied or secured to power poles or street lights, unless permitted by Western Power.
- (4) The local government may approve an advertising sign, that is not public interest signage, associated with an event in accordance with this local law, subject to any condition imposed by the local government.

8.3 Other Portable Signs

- (1) Other portable signs are subject to the general prohibitions outlined in clause 8.2.
- (2) Subject to clause 8.5 any other portable sign shall—
 - (a) not exceed 1.2 metres in height above the finished ground or pavement level;
 - (b) not contain more than 2 sign faces;
 - (c) not exceed 1 square metre total area on any single sign face;
 - (d) not be illuminated or incorporate reflective or fluorescent materials;
 - (e) not have moving parts once the sign is in place;
 - (f) contain writing that is of a professional standard and quality, and is appropriately maintained;

- (g) in the case of any other portable sign relating to a business, only incorporate the name of the businesses operating from the lot and must not incorporate brand advertising;
 - (h) only be erected and displayed on pedestrian areas with the sign faces directed at pedestrians and not at drivers;
 - (i) not be erected and displayed within regional road reservations, as defined by the local government's planning scheme;
 - (j) in the case of another portable sign relating to a business—
 - (i) be displayed in a location immediately adjacent to the business premises to which the sign relates; and
 - (ii) be removed at the close of trading each day and not displayed again until the business opens for trading the next day;
 - (k) not be erected or displayed so as to impede the reasonable use of local government property or a public place;
 - (l) not be erected or displayed within 1.8 metres of an intersection or crossover;
 - (m) not be fixed or attached to a building, wall, fence, pole, tree or other structure within a road reserve; and
 - (n) be removed and relocated at the request of a person authorised for the purpose of a special event, parade, road or footpath works, or other event.
- (3) A person can only erect one other portable sign per business.
- (4) A person can only erect another portable sign on a verge of a road which is under the care, control and management of the local government if—
- (a) that person has provided the local government with a current certificate for public liability insurance to an amount not less than \$10 million, which notes that the cover extends to any sign that is located within a road reserve, and maintains that public liability insurance for the duration that the portable sign is so displayed;
 - (b) the portable sign is to be erected and displayed adjacent to and between the front of the business premises and the nearest kerb, as approved by the local government in writing;
 - (c) no part of the sign is to be less than 600 millimetres from the face of the nearest kerb or, if no kerb, from the edge of the nearest road surface or car parking bay; and
 - (d) the effective width of a footpath, pedestrian access way or similar access route is not reduced to less than 2 metres effective width.

8.4 Election advertising

- (1) Election advertising is subject to the general prohibitions outlined in clause 8.1.
- (2) If the local government approves an application for a permit for the erection or placement of an election sign on a thoroughfare, the application is to be taken to be approved subject to the sign—
 - (a) being erected at least 30m from any intersection;
 - (b) being free standing and not being affixed to any existing sign, post, power or light pole, or similar structure;

- (c) being placed so as not to obstruct or impede the reasonable use of a thoroughfare, or access to a place by any person;
- (d) being placed so as not to obstruct or impede the vision of a driver of a vehicle entering or leaving a thoroughfare or crossing;
- (e) being maintained in good condition;
- (f) not being erected until 6 weeks prior to the election to which it relates has been officially announced;
- (g) being removed within 72 hours of the close of polls on voting day;
- (h) not being placed within 100m of any works on the thoroughfare;
- (i) being securely installed;
- (j) not being an illuminated sign;
- (k) not incorporating reflective or fluorescent materials; or
- (l) not displaying only part of a message which is to be read with other separate signs in order to obtain the whole message.

8.5 Notification regarding removal and impounding of advertising signs

- (1) An authorised person may issue a person who has erected or placed an advertising sign on or in local government property or a public place with a notice requiring that person to remove the advertising sign within 24 hours, or earlier if, at the absolute discretion of the local government or an authorised person, the advertising sign is a potential hazard or nuisance to members of the public.
- (2) An authorised person may remove or impound an advertising sign that has been erected or placed on or in local government property or a public place contrary to this local law.

8.6 Advertising sign to be marked

Each advertising sign erected in or on local government property or a public place shall be clearly marked with the name of the person, organisation or business who erected the advertising sign.

8.7 Person or business taken to own advertising sign

In the absence of any proof to the contrary, an advertising sign is to be taken to belong to the person, organisation or business whose name is marked on the advertising sign.

8.8 Insurance

If a person is required by the local government to hold public liability insurance in respect of the erection or placement of an advertising sign on or in local government property or a public place, that person must present an authorised person with a current certificate of public liability insurance upon the direction of the authorised person.

PART 9—OBSTRUCTING ANIMALS OR VEHICLES ON OR IN LOCAL GOVERNMENT PROPERTY AND PUBLIC PLACES

Division 1—Animals

9.1 Leaving an animal on local government property or in a public place

A person must not leave an animal on local government property or a public place so that it obstructs the use of any part of that local government property or public place unless that person—

- (a) has first obtained a permit; or
- (b) is authorised to do so under a written law or a determination made under this local law.

9.2 Prohibitions relating to animals

- (1) In this clause, **owner** in relation to an animal includes—
 - (a) the owner of the animal;
 - (b) a person who has the animal in his or her possession or under his or her control; or
 - (c) the occupier of any premises where the animal is ordinarily kept or ordinarily permitted to live.
- (2) An owner of an animal must not—
 - (a) allow the animal to enter or remain for any time on any thoroughfare except for the use of the 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 or on local government or a public place;
 - (c) train or race the animal on a thoroughfare; or
 - (d) subject to clause 9.2(4), allow the animal to defecate on local government property or in a public place.
- (3) An owner of a horse must not lead, ride or drive the horse on a thoroughfare in a built-up area, unless the person does so under a permit or under the authority of a written law.
- (4) An owner of an animal does not commit an offence if the defecation is immediately removed.

9.3 Removal of animals

An authorised person may impound an animal left on or in local government property or a public place contrary to clause 9.1.

*Division 2—Vehicles***9.4 Leaving a vehicle in a public place**

A person must not leave a vehicle, or any part of a vehicle, in a public place so that it obstructs the use of any part of that public place, unless that person has first obtained a permit from the local government or is authorised to do so under a written law.

PART 10—ROADSIDE CONSERVATION*Division 1—Preliminary***10.1 Interpretations**

In this Part -

MRWA means Main Roads Western Australia;

protected flora has the meaning given to it in the *Biodiversity Conservation Act 2016*;

rare flora has the meaning given to it in the *Biodiversity Conservation Act 2016*;

Roadside Conservation Committee means the Roadside Conservation Committee appointed by the Minister for Environment; and

special environmental area means an area designated as such under clause 10.7.

10.2 Application

This Part does not apply to any townsite within the district.

*Division 2 - Flora roads***10.3 Declaration of flora road**

The local government may declare a thoroughfare which has, in the opinion of the local government, high quality roadside vegetation to be a flora road.

10.4 Construction works on flora roads

Construction and maintenance work carried out by the local government on a flora road is to be in accordance with the Code of Practice for Roadside Conservation and Road Maintenance prepared by the Roadside Conservation Committee.

10.5 Signposting of flora roads

The local government may signpost flora roads with the standard MRWA 'flora road' sign.

10.6 Driving only on carriageway of flora roads

- (1) A person driving or riding a vehicle on a flora road shall only drive or ride the vehicle on the carriageway.
- (2) Subclause (1) does not apply where –
 - (a) conditions on the thoroughfare do not reasonably permit a vehicle to remain on the carriageway;
 - (b) there is no carriageway; or
 - (c) an exemption from the application of subclause (1) has been obtained from the local government.

Division 3 - Special environmental areas

10.7 Designation of special environmental areas

The local government may designate a thoroughfare, or any part of a thoroughfare, as a special environmental area which –

- (a) has protected flora or rare flora; or
- (b) in the opinion of the local government, has environmental, aesthetic or cultural significance.

10.8 Marking of special environmental areas

The local government is to mark and keep a register of each thoroughfare, or part of a thoroughfare, designated as a special environmental area.

Division 4 – Planting in thoroughfares

10.9 Permit to plant

A person shall not plant any plant or sow any seeds in a thoroughfare without first obtaining a permit.

10.10 Relevant considerations in determining application

In determining an application for a permit for the purpose of clause 10.9, the local government is to have regard to –

- (a) existing vegetation within that part of the thoroughfare in which the planting is to take place; and
- (b) the diversity of species and the prevalence of the species which are to be planted or sown.

*Division 5 - Clearance of vegetation***10.11 Permit to clear**

- (1) A person shall not clear and maintain in a cleared state, the surface of a thoroughfare outside a gazetted town boundary, beyond 1.5m of that person's land without first obtaining a permit and any other approvals which may be required under any written law.
- (2) A person shall not clear and maintain in a cleared state, the surface of any thoroughfare within a gazetted town boundary, without first obtaining a permit and any other approvals which may be required under any written law.

10.12 Application for permit

In addition to the requirements of clause 12.1(2), a person making an application for a permit for the purpose of clause 10.11 shall submit a sketch plan clearly showing the boundary of the person's land and the portions of the thoroughfare joining that person's land which are to be cleared.

10.13 Permit to burn thoroughfare

A person shall not burn part of a thoroughfare without first obtaining a permit from an authorised person other than a Fire Control Officer, or unless acting under the authority of any other written law.

10.14 Application for permit

In addition to the requirements of clause 12.1(2), an application for a permit for the purposes of clause 10.13 shall –

- (a) include a sketch plan showing the portions of a thoroughfare which are proposed to be burned; and
- (b) advise of the estimated fire intensity and the measures to be taken to protect upper storey vegetation from the burn.

10.15 When application for permit can be approved

The local government may approve an application for a permit for the purpose of clause 10.13 only if the burning of the particular part of the thoroughfare will –

- (a) reduce a fire hazard and alternative means of reducing that hazard, such as slashing or the use of herbicides, are considered by the local government to be not feasible or more detrimental to native flora and fauna than burning; or
- (b) in the opinion of the local government, be beneficial for the preservation and conservation of native flora and fauna.

10.16 Prohibitions on burning

Notwithstanding anything to the contrary in this local law, an application for a permit for the purpose of clause 10.13 is not to be approved by the local government –

- (a) for burning between 31 August and 1 May of the following year where the intensity of the burn could damage native flora and fauna; or
- (b) in any year to any person for any part of a thoroughfare which is on the opposite side of the carriageway to that portion of the thoroughfare for which a permit to burn has been approved in the same year.

Division 7 - Firebreaks

10.17 Firebreaks on thoroughfares

A person shall not construct a firebreak on a thoroughfare.

Division 8 - Commercial wildflower harvesting on thoroughfares

10.18 General prohibition on commercial wildflower harvesting

Subject to clause 10.19, a person shall not commercially harvest native flora on a thoroughfare.

10.19 Permit for revegetation projects

- (1) A person shall not collect seed from native flora on a thoroughfare without first obtaining a permit.
- (2) The local government may approve an application for a permit under subclause (1) only where –
 - (a) the seed is required for a revegetation project in any part of the district; and
 - (b) the thoroughfare, or the relevant part of it, is not a special environmental area.
- (3) Unless the local government specifically provides to the contrary on a permit, if the local government approves an application for a permit for the purpose of subclause (1) it is to be taken to be approved subject to the following conditions –
 - (a) the collection of the seed is to be carried out so as not to endanger the long time survival of the native flora on the thoroughfare; and
 - (b) any licence or approval which may be required under any other written law is to be obtained by the applicant.

PART 11—TRADING IN PUBLIC PLACES AND LOCAL GOVERNMENT PROPERTY

11.1 Restrictions and requirement to obtain a permit

- (1) A person must not carry on trading on local government property or in a public place unless—
 - (a) subject to clause 11.1(2), that person is—
 - (i) the holder of a permit for that purpose; or
 - (ii) an assistant specified in a permit for trading; and
 - (b) if required by the local government, public liability insurance in respect of the trading activity has been taken out by the relevant permit holder; and
 - (c) if the person is trading in food, the place of trading must have access to a supply of potable water and/or a sewer for the disposal of wastewater.
- (2) The local government may by written notice exempt a person or class of persons from the need to obtain a permit.
- (3) In determining whether to grant an exemption under clause 11.1(2), the local government may have regard to the matters set out in any local government policy.

11.2 Exemptions from requirement to pay a fee

- (1) The local government may waive any fee required to be paid by an applicant for a permit for the purpose of trading on the application if the trading is carried on—
 - (a) at a portion of local government property or a public place adjoining the normal place of business of the applicant; or
 - (b) by a charitable organisation that—
 - (i) does not sublet space to commercial participants;
 - (ii) does not involve commercial participants in the conduct of the stall or trading; and
 - (iii) operates under a permit where any assistants specified in the permit are members of that charitable organisation.
- (2) In this clause 11.2, **commercial participant** means any person who is involved in operating or in conducting any trading activity for personal gain or profit.

11.3 Insurance

If required by the local government to hold public liability insurance in respect of the permit holder's trading activities, a permit holder must produce to an authorised person a current certificate of insurance upon the direction of that authorised person.

11.4 When a permit is required for a street market

A person must not conduct a street market on a public place or on local government property—

- (a) without a valid permit for that purpose; and
- (b) unless, if required by the local government, the holder of the permit has taken out public liability insurance in respect of the street market.

PART 12—PERMITS

Division 1—Applying for a permit

12.1 Application for a permit

- (1) A person who is required to obtain a permit under this local law must apply for the permit in accordance with clause 12.1(2).
- (2) An application for a permit under this local law must—
 - (a) be in the form determined by the local government;
 - (b) state the full name and address of the applicant;
 - (c) be signed by the applicant;
 - (d) contain the information required by the form;
 - (e) contain any other information required for that particular type of permit under this local law; and
 - (f) be forwarded to the local government together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.
- (3) An application for a permit for the purposes of conducting trading or a street market on or in local government property or a public place must contain the following additional information (as applicable)—
 - (a) the proposed number of assistants, if any, to be engaged by the applicant in trading or the street market, as well as their full names and addresses;
 - (b) details of any location in which the applicant proposes to trade or conduct a street market;
 - (c) the period of time for which the permit is sought, together with the proposed days and hours of operation of the street market;
 - (d) the proposed goods and services which will be traded or sold by the trader or at a street market; and
 - (e) details of any proposed structure, stall or vehicle which may be used in conducting the trading or street market and a plan showing where any such structure, stall or vehicle will be located.
- (4) The local government may refuse to consider an application for a permit which does not satisfy the requirements within clause 12.1(2).
- (5) The local government may require an applicant to give local public notice of the application for the permit.

12.2 Decision on application for permit

- (1) The local government may—
 - (a) approve an application for a permit;
 - (b) approve an application for a permit subject to conditions; or
 - (c) refuse to approve an application for a permit.
- (2) If the local government approves an application for a permit with or without conditions, it must issue to the applicant a permit in the form approved by the local government.
- (3) If the local government refuses to approve an application for a permit, it must give written notice of that refusal to the applicant.
- (4) Where a clause of this local law refers to conditions which may be imposed on a permit or the grounds on which an application for a permit may be refused, the clause does not limit the power of the local government to impose other conditions on the permit or to refuse the application for a permit on other grounds.

12.3 Relevant considerations in determining application for granting a permit

- (1) In determining an application for a permit, the local government is to have regard to—
 - (a) any relevant local government policies;
 - (b) the Competition Principles Agreement;
 - (c) the desirability of the proposed activity;
 - (d) the location of the proposed activity, including safety and health requirements, and the character and function of, the location; and
 - (e) such other matters as the local government considers relevant.
- (2) A local government may refuse to approve an application for a permit on any one or more of the following grounds—
 - (a) the application is inconsistent with a local government policy or would result in an activity being carried out contrary to this local law or any other written law;
 - (b) the applicant has committed a breach of any provision of this local law or of any other written law relevant to the activity in respect of which the permit is sought;
 - (c) the applicant is not a desirable or suitable person to hold a permit;
 - (d) the applicant is insolvent or under administration;
 - (e) the activity may result in traffic and pedestrian safety being adversely impacted;
 - (f) the activity is not in keeping with the surrounding land uses; or
 - (g) such other grounds as the local government considers relevant.

Division 2—Conditions on a permit

12.4 Examples of conditions

The local government may impose conditions on a permit relating to—

- (a) the payment of a fee;
- (b) the duration and commencement of the permit, including the days and hours within which the activity the subject of the permit may be carried out or is prohibited;
- (c) the commencement of the permit being contingent on the happening of an event;
- (d) the rectification, remedying or restoration of a situation or circumstance reasonably related to the application;
- (e) the area or specific location within the district to which the permit applies, including any set back distances applicable to the activity;
- (f) the payment of a bond against possible damage, cleaning or other expenses;
- (g) the obtaining of public liability insurance in an amount and on terms reasonably required by the local government;
- (h) the provision of an indemnity from the permit holder 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 use of the public place or local government property by the permit holder;
- (i) if the permit relates to the trading of food, the provisions to be made for the storage of cooked and uncooked food, and the storage and disposal of waste water; and
- (j) any other matter that the local government considers fit or appropriate.

12.5 Compliance with and variations to terms and conditions

- (1) A permit holder must comply with any terms and conditions imposed on a permit, including any conditions as varied.
- (2) A permit holder may apply to the local government to vary or remove any conditions imposed on a permit.
- (3) In determining whether to vary any condition imposed on a permit, the local government must have regard to any relevant local government policy.

Division 3—General

12.6 Duration of permit

- (1) A permit 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 terms and conditions of the permit; or
 - (b) cancelled under clause 12.10.

12.7 Renewal of permit

- (1) A permit holder may apply to the local government in writing prior to expiry of a permit for the renewal of a permit.
- (2) The provisions of this Part 12 regarding an application for a permit apply to an application for the renewal of a permit with any necessary modifications.

12.8 Transfer of permit

- (1) An application may be made to the local government to transfer a valid permit.
- (2) An application to transfer a permit must—
 - (a) be made in writing;
 - (b) be signed by the permit holder and the proposed transferee for the permit;
 - (c) provide such information as the local government may require to enable the application to be determined; and
 - (d) be forwarded to the local government together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.
- (3) The local government may—
 - (a) approve an application for the transfer of a permit;
 - (b) approve an application for the transfer of a permit subject to conditions; or
 - (c) refuse an application to transfer a permit.
- (4) Where the local government approves an application for the transfer of a permit, the transfer may be effected by—
 - (a) an endorsement on the permit signed by the Chief Executive Officer or an authorised person; or
 - (b) issuing to the transferee a permit in the form determined by the local government.
- (5) Where the local government approves an application for the transfer of a permit, it is not required to refund any part of any fee paid by the former permit holder.

12.9 Production of permit

A permit holder must produce to an authorised person his or her permit immediately on being directed to do so by that authorised person.

12.10 Cancellation or suspension of permit

- (1) Subject to clause 13.1, a permit may be cancelled by the local government if—
 - (a) the permit holder has not complied with a condition of the permit;

- (b) the permit holder has not complied with a provision of any written law which relates to the activity regulated by the permit; or
 - (c) the permit holder has transferred or assigned or sought to transfer or assign the permit without the approval of the local government; or
 - (d) a law is amended or repealed in a manner which is inconsistent with the terms and conditions of the permit and which renders the permit invalid, ineffective or contrary to law.
- (2) If a permit is cancelled under clause 12.10(1), the permit holder—
- (a) must return the permit to the local government as soon as practicable; and
 - (b) is to be taken to have forfeited any fees paid in respect of the permit.
- (3) The local government may cancel or suspend a permit if the local government or a utility requires access to or near the place to which a permit applies for the purposes of carrying out works in or near the vicinity of that place.
- (4) On the cancellation or suspension of a permit under clause 12.10(3), the permit holder is, subject to clause 12.10(5), to be taken to have forfeited any fees paid in respect of the permit.
- (5) Where a permit is cancelled or suspended under clause 12.10(3) through no fault of the permit holder, the local government may refund to the permit holder all or part of the fees paid in respect of what would otherwise have been the remaining term of the permit.

12.11 Nominee of permit holder

Where a permit holder by reason of illness, accident or other sufficient cause is unable to comply with this local law, the local government may, at the request of the permit holder, authorise another person to be a nominee of the permit holder for a specified period, and this local law and the conditions of the permit apply to the nominee as if he or she was the permit holder.

PART 13—OBJECTIONS AND APPEALS

13.1 Objection and appeal rights

Where the local government makes a decision as to whether it will—

- (a) grant a person a permit or consent; or
- (b) renew, vary or cancel a permit or consent that a person has under this local law, the provisions of Division 1 of Part 9 of the Act and regulation 33 of the Regulations apply to that decision.

PART 14—MISCELLANEOUS

Division 1—Authorised person

14.1 Authorised person to be obeyed

A person in or on local government property or a public place—

- (a) must obey any lawful direction of an authorised person; and
- (b) must not in any way obstruct or hinder an authorised person in the execution of his or her duties.

14.2 Persons may be directed to leave local government property or a public place

An authorised person may direct a person to leave local government property or a public place where he or she reasonably suspects that the person has contravened a provision of this local law.

Division 2—Notices

14.3 Liability for damage to local government property or a public place

- (1) Where a person unlawfully damages local government property or a public place, the local government may by notice in writing to that person require that person within the time specified in the notice to, at the option of the local government, pay the costs of—
 - (a) reinstating the property to the state it was in prior to the occurrence of the damage; or
 - (b) replacing that property.
- (2) On a failure to comply with a notice issued under clause 14.3(1), the local government may recover the costs referred to in the notice as a debt due to it.

14.4 Notice to redirect or repair sprinklers

Where a lawn or garden is being watered with a sprinkler, which is on the lawn or the garden, in a manner which causes or may cause an inconvenience or obstruction to any person using a thoroughfare, the local government or an authorised person may give a notice to the owner or the occupier of the land abutting the lawn or the garden requiring the owner or the occupier or both to move or alter the direction of the sprinkler or other watering equipment.

14.5 Notice to remove thing unlawfully placed on thoroughfare

Where anything is placed on a thoroughfare contrary to this local law, the local government or an authorised person may give a notice to—

- (a) the owner or the occupier of the property which abuts that portion of the thoroughfare where the thing has been placed; or
- (b) such other person who may be responsible for the thing being so placed, requiring the relevant person to remove the thing.

14.6 Notice to repair damage to thoroughfare

Where any portion of a thoroughfare has been damaged, the local government or an authorised person may by notice to the person who caused the damage order the person to repair or replace that portion of the thoroughfare.

14.7 Hazardous plants

- (1) Where a plant in a garden creates or may create a hazard for any person using a thoroughfare, the local government may give a notice to the owner or the occupier of the land abutting the garden to remove, cut, move or otherwise deal with that plant so as to remove that hazard.
- (2) Clause 14.7(1) does not apply where the plant was planted by the local government.

PART 15—ENFORCEMENT

Division 1—Notices given under this local law

15.1 Offence to fail to comply with a notice

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

15.2 Local government may undertake requirements of a notice

If a person fails to comply with a notice given to him or her under this local law, the local government may do, or arrange to be done, the thing specified in the notice and recover from the person to whom the notice was given, as a debt, the costs incurred in doing so.

Division 2—Offences and penalties

15.3 Offences and general penalty

- (1) A person who—
 - (a) fails to do anything required or directed to be done under this local law; or
 - (b) does an act or omits to do an act contrary to this local law,commits an offence.

- (2) A person who commits an offence under this local law is liable, upon conviction to—
 - (a) a penalty not exceeding \$5,000; and
 - (b) if the offence is a continuing offence, an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

15.4 Prescribed offences

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

15.5 Form of notices

- (1) 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 give 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 referred to in section 9.20 of the Act is that of Form 3 in Schedule 1 of the Regulations.
- (2) Where an infringement notice is given under section 9.16 of the Act in respect of an alleged offence against clause 2.4, the notice is to contain a description of the alleged offence.

Division 3—Person to give name and address on demand

15.6 Requirement to give name and address on demand

- (1) An authorised person may—
 - (a) upon finding a person committing or having committed; or
 - (b) on reasonable grounds suspecting a person of having committed, an offence against this local law, demand from the person the person's name, place of residence and date of birth.
 - (2) A person from whom information is demanded in accordance with clause 15.6(1) commits an offence if the person—
 - (a) refuses without lawful excuse to give the information; or
 - (b) gives information that is false or misleading in any material particular.
-

SCHEDULE 1—PRESCRIBED OFFENCES

[Clause 15.4(1)]

ITEM	CLAUSE	DESCRIPTION	MODIFIED PENALTY
1.	2.4	Failure to comply with a determination	\$300
2.	3.1(1)(b)	Damaging a tree or plant etc. on local government property without a permit	\$300
3.	3.1(1)(c)	Cutting, collecting or removing timber, firewood etc. on local government property without a permit	\$300
4.	3.1(1)(d)	Planting any plant or sowing any seeds on local government property without a permit	\$300
5.	3.1(1)(e)	Erecting a sign on local government property without a permit	\$300
6.	3.1(1)(f)	Erecting a structure for public amusement etc. on local government property without a permit	\$300
7.	3.1(1)(g)	Erecting a building or a refuelling site on local government property without a permit	\$300
8.	3.1(1)(h)	Making an excavation on, erecting a fence or removing a fence on local government property without a permit	\$300
9.	3.1(1)(i)	Erecting or installing structures on local government for supplying power, water etc. services without a permit	\$300
10.	3.1(1)(j)	Depositing or storing anything on local government property without a permit	\$300
11.	3.1(1)(k)	Depasturing, tethering, driving or riding animals on local government property without a permit	\$300
12.	3.1(1)(l)	Launching an aircraft or helicopter from or landing an aircraft into local government property without a permit	\$300
13.	3.1(1)(m)	Camping on or lodging at local government property for the purpose of sleeping on local government property without a permit	\$300
14.	3.1(1)(n)	Occupying a structure on local government property at night for the purpose of sleeping without a permit	\$300
15.	3.1(1)(o)	Erecting a tent, camp, hut or similar structure on local government property in certain circumstances without a permit	\$300

16.	3.1(1)(p)	Teaching, coaching or training person, animal or dog for profit in or on local government property without a permit	\$300
17.	3.1(1)(q)	Conducting a function or undertaking a promotional activity on local government property without a permit	\$300
18.	3.1(1)(r)	Charging a person for entry to local government property without a permit	\$300
19.	3.1(1)(s)	Lighting a fire on local government property without a permit	\$300
20.	3.1(1)(t)	Lighting, setting off or conducting a display of fireworks on local government property without a permit	\$300
21.	3.1(1)(u)	Parachuting, hang-gliding, abseiling or base jumping from or onto local government property without a permit	\$300
22.	3.1(1)(v)	Gambling or betting etc. on local government property without permit	\$300
23.	3.1(1)(w)	Erecting, installing, operating or using devices for the emission and amplification of noise on local government property without a permit	\$300
24.	3.5	Failure of permit holder to comply with responsibilities	\$300
25.	4.1	Behaviour on local government property which interferes with others	\$300
26.	4.2	Behaviour on local government property detrimental to property	\$300
27.	4.3	Taking or injuring any fauna on local government property	\$300
28.	4.4	Entering or remaining on local government property while drunk or under the influence of a prohibited drug	\$300
29.	4.5	Taking or consuming a prohibited drug on local government property	\$300
30.	4.6	Smoking within a 5 metre radius of an entrance, exit or aperture of premises on local government property	\$300
31.	4.7(1)(a)	Failing to wear adequate clothing to prevent indecent exposure on local government property	\$300
32.	4.7(1)(b)	Loitering outside or acting in an inappropriate manner in a toilet block or change room facility	\$300

		on local government property	
33.	4.7(1)(c)	Entering or attempting to enter an occupied toilet or other compartment without the consent of the occupier	\$300
34.	4.7(2)	Failing to comply with a direction to put on adequate clothing	\$300
35.	4.8	Unauthorised entry to local government property	\$300
36.	4.10(2)	Failure to comply with a sign on local government property regarding conditions of use	\$300
37.	5.1	Unauthorised entry to fenced off or closed local government property	\$300
38.	5.2(1)	Gender not specified using entry of toilet block or change room on local government property	\$300
39.	5.3	Using a shower in a prohibited manner	\$300
40.	5.4	Using a camera device to record or transmit an image in a toilet, shower or change room	\$300
41.	6.1(1)	Entering local government property without paying the required fee	\$300
42.	7.1(a)	Planting a plant on a thoroughfare in a prohibited manner	\$300
43.	7.1(b)	Damaging a lawn or garden or removing any plant or part of a plant on or in a public place	\$300
44.	7.1(c)	Repairing or servicing any vehicle on a verge	\$300
45.	7.1(d)	Placing, allowing to be placed or allowing to remain on a thoroughfare or verge an obstructive or hazardous thing	\$300
46.	7.1(e)	Causing or permitting water from a hose or sprinkler to interfere with the use of any street, way or footpath by pedestrians	\$300
47.	7.1(f)	Playing games or sport in a prohibited manner on or in a thoroughfare	\$300
48.	7.1(g)	Riding a bicycle or wheeled recreational device within a mall, arcade or verandah of a shopping centre	\$300
49.	7.1(h)	Creating a nuisance on or in a public place	\$300
50.	7.2(1)(a)	Digging or creating a trench through or under a kerb or footpath without a permit	\$300
51.	7.2(1)(b)	Damaging or removing a street tree without a permit	\$300

52.	7.2(1)(c)	Damaging, removing or interfering with a thoroughfare, kerb, footpath or structure or sign erected on a thoroughfare without a permit	\$300
53.	7.2(1)(d)	Causing an obstruction to a thoroughfare without a permit	\$300
54.	7.2(1)(e)	Causing an obstruction to a water channel or a water course in a thoroughfare without a permit	\$300
55.	7.2(1)(f)	Lighting a fire or burning anything on a thoroughfare or verge without a permit	\$300
56.	7.2(1)(g)	Laying pipes under or providing taps on any verge without a permit	\$300
57.	7.2(1)(h)	Placing or installing prohibited materials on a thoroughfare without a permit	\$300
58.	7.2(1)(i)	Providing, erecting, installing or using a hoist or other thing for use over a thoroughfare without a permit	\$300
59.	7.2(1)(j)	Interfering with the soil of or anything in a thoroughfare or taking anything from a thoroughfare without a permit	\$300
60.	7.2(1)(k)	Driving any vehicle over or across a kerb or footpath except at a vehicle crossing without a permit	\$300
61.	7.2(1)(l)	Driving a vehicle or permitting a vehicle to be driven across a kerb or footpath without a permit	\$300
62.	7.2(1)(m)	Driving or taking a vehicle on a closed thoroughfare without a permit	\$300
63.	7.3	Depositing anything or causing an obstruction to a thoroughfare, kerb or footpath	\$300
64.	7.4(1)	Failure to obtain a permit for a temporary vehicle crossing	\$300
65.	7.7(2)	Failure to properly display and maintain street number	\$300
66.	7.7(3)	Placing or display a street number in a location causing confusion or which is misleading	\$300
67.	7.7(4)	Adopting, using or displaying a street number other than the street number assigned.	\$300
68.	7.9(2)	Failure to comply with a sign on a public place	\$300
69.	8.1(2)	Erecting or placing etc. advertising sign in a prohibited manner	\$300
70.	8.2(1)	Erecting or displaying a public interest sign without a permit	\$300

71.	8.2(3)	Permit holder erecting or displaying a public interest sign in a prohibited manner	\$300
72.	8.3(1)	Erecting or displaying an other portable sign contrary to local law	\$300
73.	8.3(3)	Erecting or displaying more than one other portable sign per business	\$300
74.	8.3(4)	Erecting or displaying an other portable sign on a local government verge contrary to local law	\$300
75.	8.4(1)	Erecting or placing election advertising contrary to local law	\$300
76.	8.4(2)(e)	Failing to maintain election advertising in good condition	\$300
77.	8.4(2)(g)	Failing to remove election advertising within 72 hours of close of polls on election date	\$300
78.	8.4(2)(i)	Failing to securely install election advertising	\$300
79.	8.6	Erecting an advertising sign without marking a name	\$300
80.	9.1	Leaving an animal in a public place or local government property without a permit or authorisation	\$300
81.	9.2(2)(a)	Allowing an animal to enter or remain on a thoroughfare	\$300
82.	9.2(2)(b)	Allowing an animal with a contagious or infectious disease to enter local government property or a public place	\$300
83.	9.2(2)(c)	Training or racing an animal on a thoroughfare	\$300
84.	9.2(2)(d)	Allowing an animal to defecate on local government property or a thoroughfare and failing to remove defecation	\$300
85.	9.2(3)	Leading, riding or driving a horse on a thoroughfare in a built-up area without a permit or authorisation	\$300
86.	9.4	Leaving a vehicle in a public place which causes an obstruction without a permit or authorisation	\$300
87.	10.6(1)	Driving a vehicle on other than the carriageway of a flora road	\$300
88.	10.9	Planting in thoroughfare without a permit	\$300
89.	10.11	Failure to obtain permit to clear a thoroughfare	\$750
90.	10.13	Burning of thoroughfare without a permit	\$750
91.	10.17	Construction of firebreak on thoroughfare	\$750
92.	10.19	Commercial harvesting of native flora on	\$750

		thoroughfare	
93.	10.20(1)	Collecting seed from native flora on thoroughfare without a permit	\$400
94.	11.1	Carrying on trading in a restricted area without the express written consent of the local government	\$300
95.	11.1(1)	Carrying on trading in a public place or on local government property contrary to local law	\$300
96.	11.4(a)	Conducting a street market on or in a public place without a permit	\$300
97.	12.5(1)	Failure to comply with terms and conditions of a permit	\$300
98.	12.9	Failure to produce permit upon request by an authorised person	\$300
99.	14.1(a)	Failure to obey a lawful direction of an authorised person	\$300
100.	14.1(b)	Obstructing or hindering an authorised person in the execution of his or her duties	\$300
101.	15.1	Failure to comply with a notice	\$300
102.	15.6(2)(a)	Refusing to give name and address contrary to local law	\$300
103.	15.6(2)(b)	Giving false or misleading information regarding name and address etc.	\$300

Dated: *{Date}*

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

Aaron King
Shire President

Matthew Gilfellow
Chief Executive Officer

DRAFT (24 May 2022)

LOCAL GOVERNMENT ACT 1995

SHIRE OF CHITTERING

STANDING ORDERS LOCAL LAW 2022

LOCAL GOVERNMENT ACT 1995**SHIRE OF CHITTERING****STANDING ORDERS LOCAL LAW 2022****ARRANGEMENT**

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SCHEDULE 1 - PETITION OF ELECTORS OF THE SHIRE OF CHITTERING

LOCAL GOVERNMENT ACT 1955

SHIRE OF CHITTERING

STANDING ORDERS LOCAL LAW 2022

Under the powers conferred by the *Local Government Act 1955* and under all other powers enabling it, the Council of the Shire of Chittering resolved on [date to be inserted] to make the following local law.

Part 1 – Preliminary**1.1 Citation**

This local law may be cited as the *Shire of Chittering Standing Orders Local Law 2022*.

1.2 Commencement

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

1.3 Purpose and intent

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

1.4 Application

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

1.5 Repeal

This local law repeals the *Shire of Chittering (Council Meetings) Local Law 2014* as published in the *Government Gazette* on 3 June 2014.

1.6 Interpretation

In this local law, unless the contrary intention appears-

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

Act means the *Local Government Act 1995*;

CEO means the Chief Executive Officer of the Shire;

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

Council means the Council of the Shire;

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

Deputy President means the deputy president of the Shire;

district means the district of the local government;

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

Local Government means the Shire;

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

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

Minister means the Minister responsible for administering the Act;

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

President means the president of the Shire;

presiding person means the person presiding at a meeting;

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

Shire means the Shire of Chittering;

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

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

Part 2 – Establishment and membership of committees

2.1 Establishment of committees

- (1) The establishment of committees is dealt with in the Act.
- (2) A Council resolution to establish a committee under section 5.8 of the Act is to include-
 - (a) the terms of reference of the committee;
 - (b) the number of Council members, employees and other persons to be appointed to the committee;
 - (c) the names or titles of the Council members and employees to be appointed to the committee;
 - (d) the names of other persons to be appointed to the committee or an explanation of the procedure to be followed to determine the appointments; and
 - (e) details of the delegation of any powers or duties to the committee under section 5.16 of the Act.
- (3) This local law is to apply to the conduct of committee meetings.

2.2 Types of committees

The types of committees are dealt with in the Act.

2.3 Delegation of some powers and duties to certain committees

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

2.4 Limits on delegation of powers and duties to certain committees

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

2.5 Appointment of committee members

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

2.6 Tenure of committee membership

Tenure of committee membership is dealt with in the Act.

2.7 Resignation of committee members

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

2.8 Register of delegations to committees

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

2.9 Committees to report

A committee-

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

Part 3 – Calling and convening meetings

3.1 Ordinary and special Council meetings

- (1) Ordinary and special Council meetings are dealt with in the Act.
- (2) An ordinary meeting of the Council, held on a monthly basis or otherwise as determined by the Council, is for the purpose of considering and dealing with the ordinary business of the Council.
- (3) A special meeting of the Council is held for the purpose of considering and dealing with Council business that is urgent, complex in nature, for a particular purpose or confidential.

3.2 Calling Council meetings

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

3.3 Convening Council meetings

- (1) The convening of a Council meeting is dealt with in the Act.
- (2) Subject to subclause (3), the CEO is to give at least 72 hours notice, for the purposes of section 5.5 of the Act, in convening a special meeting of the Council.
- (3) Where, in the opinion of the President or at least one-third of the members, there is a need to meet urgently, the CEO may give a lesser period of notice of a special Council meeting.

3.4 Calling committee meetings

A meeting of a committee is to be held –

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

3.5 Convening committee meetings

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

3.6 Public notice of meetings

Public notice of meetings is dealt with in the Regulations.

Part 4 – Presiding member and quorum

Division 1: Who presides

4.1 Who presides

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

4.2 When the Deputy President can act

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

4.3 Who acts if no President

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

4.4 Election of presiding members of committees

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

4.5 Election of deputy presiding members of committees

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

4.6 Functions of deputy presiding members

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

4.7 Who acts if no presiding member

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

*Division 2 – Quorum***4.8 Quorum for meetings**

The quorum for meetings is dealt with in the Act.

4.9 Reduction of quorum for Council meetings

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

4.10 Reduction of quorum for committee meetings

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

4.11 Procedure where no quorum to begin a meeting

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

4.12 Procedure where quorum not present during a meeting

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

- (a) immediately to suspend the proceedings of the meeting for a period of up to 15 minutes; and

- (b) if a quorum is not present at the expiry of that period, the presiding member is to adjourn the meeting to some future time or date.

4.13 Names to be recorded

At any meeting-

- (a) at which there is not a quorum present; or which is adjourned for want of a quorum,
- (b) the names of the members then present are to be recorded in the minutes.

Part 5 – Business of a meeting

5.1 Business to be specified

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

5.2 Order of business

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

relating to the time at which public question time is to be held are to be observed.

5.3 Motions of which previous notice has been given

- (1) Unless the Act, Regulations or this local law otherwise provide, a member may raise at a meeting such business as he or she considers appropriate, in the form of a motion, of which notice has been given in writing to the CEO and which has been included on the agenda.
- (2) A notice of motion under subclause (1) is to be given at least 7 (seven) clear working days before the meeting at which the motion is moved.
- (3) A notice of motion is to relate to the good governance of the district.
- (4) The CEO-
 - (a) with the concurrence of the President, may exclude from the notice paper any notice of motion deemed to be, or likely to involve, a breach of any of this local law or any other written law;
 - (b) must inform members on each occasion that a notice has been excluded and the reasons for that exclusion;
 - (c) may, after consultation with the member where this is practicable, make such amendments to the form but not the substance as will bring the notice of motion into due form; and
 - (d) may provide to the meeting relevant and material facts and circumstances pertaining to the notice of motion on such matters as policy, budget and law.
- (5) A motion of which notice has been given is to lapse unless-
 - (a) the member who gave notice of it, or some other member authorised by the originating member in writing, moves the motion when called on; or
 - (b) the meeting on a motion agrees to defer consideration of the motion to a later stage or date.
- (6) If a notice of motion is given and lapses under subclause (5), notice of a motion in the same terms or to the same effect is not to be given again for at least 3 months from the date of such lapse.

5.4 New business of an urgent nature

- (1) In cases of extreme urgency or other special circumstances, matters may, on a motion by the presiding member that is carried by the meeting, be raised without notice and decided by the meeting.
- (2) In subclause (1), 'cases of extreme urgency or other special circumstances' means matters—

- (a) that have arisen after the preparation of the agenda that are considered by the presiding member to be of such importance and urgency that they are unable to be dealt with administratively by the Local Government and must be considered and dealt with by the Council or committee before the next meeting; and
- (b) that, if not dealt with at the meeting, are likely to–
 - (i) have a significant adverse effect (financially or otherwise) on the Local Government; or
 - (ii) result in a contravention of a written law.
- (3) Before debate begins on a matter under this clause that is not the subject of a written employee report to the meeting–
 - (a) the presiding member is to ask the CEO to give; and
 - (b) the CEO, or the CEO's nominee, is to give, a verbal report to the meeting.
- (4) The minutes of the meeting are to include–
 - (a) a summary of the verbal report and any recommendations of the CEO or the CEO's nominee; and
 - (b) the reasons for any decision made at the meeting that is significantly different from any advice or recommendations of the CEO or the CEO's nominee.

5.5 Motions without notice

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

5.6 Adoption by exception resolution

- (1) In this clause 'adoption by exception resolution' means a resolution of the Council that has the effect of adopting, recommendations from any committee or, for a number of specifically identified reports, the employee recommendation as the Council resolution.
- (2) Subject to subclause (3), the Council may pass an adoption by exception resolution.
- (3) An adoption by exception resolution may not be used for a matter–
 - (a) that requires an absolute majority;
 - (b) in which an interest has been disclosed;
 - (c) that has been the subject of a petition or deputation;
 - (d) that is a matter on which a member wishes to make a statement; or
 - (e) that is a matter on which a member wishes to move a motion that is different to the recommendation.

Part 6 – Public participation

6.1 Meetings generally open to the public

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

6.2 Meetings not open to the public

- (1) The CEO may, at any time, recommend that a meeting or part of a meeting be closed to members of the public.
- (2) The Council or a committee, in one or more of the circumstances dealt with in the Act, may at any time, by resolution, decide to close a meeting or part of a meeting.
- (3) If a resolution under subclause (2) is carried-
 - (a) the presiding member is to direct everyone to leave the meeting except-
 - (i) the members;
 - (ii) the CEO;
 - (iii) any employee specified by the presiding member; and
 - (b) the meeting is to be closed to the public until, at the conclusion of the matter justifying the closure of the meeting to the public, the Council or the committee, by resolution, decides otherwise.
- (4) A person who fails to comply with a direction under subclause (3)(a) may, by order of the presiding member, be removed from the meeting.
- (5) While the resolution under subclause (2) remains in force, the operation of clause 8.9 is to be suspended until the Council or the committee, by resolution, decides otherwise.
- (6) A resolution under this clause may be made without notice.
- (7) Unless the Council resolves otherwise, once the meeting is reopened to members of the public, the presiding member is to ensure that any resolution of the Council made while the meeting was closed is to be read out including the vote of a member or members that is required under clause 13.4(3) to be included in the minutes.

6.3 Question time for the public

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

6.4 Question time for the public at certain meetings

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

6.5 Minimum question time for the public

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

6.6 Procedures for question time for the public

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

6.7 Other procedures for question time for the public

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

- (8) Where an answer to a question is given at a meeting, a summary of the question and the answer is to be included in the minutes.
- (9) In this clause: “**relevant person**” has the same meaning as in section 5.59 of the Act.

6.8 Distinguished visitors

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

6.9 Deputations

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

6.10 Petitions

- (1) Where a member or the CEO receives a petition conforming to the requirements of clause 6.10 (2), that petition is to be presented to the next Council meeting.
- (2) Except where required by the Act, the Regulations or any other written law, any petition to the Council-
 - (a) must be addressed to the Council;
 - (b) state the name and address of the person to whom correspondence in respect of the petition may be served; and
 - (c) be in the form detailed in Schedule 1 of this local law.
- (3) Once a petition is presented to the Council, a motion may be moved to receive the petition and refer it to the CEO for action.

6.11 Presentations

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

6.12 Participation at committee meetings

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

6.13 Council may meet to hear public submissions

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

6.14 Public Inspection of agenda materials

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

6.15 Confidentiality of information withheld

- (1) Information withheld by the CEO from the public under regulation 14(2) of the Regulations is to be-
 - (a) identified in the agenda of a Council meeting under the item "Matters for which meeting may be closed"; and
 - (b) marked "*Confidential*" in the agenda.
- (2) A member or an employee who has-
 - (a) confidential information under subclause (1); or
 - (b) information that is provided or disclosed during a meeting or part of a meeting that is closed to the public,is not to disclose any of that information to any person other than member employee to the extent necessary for the purpose of carrying out his or her functions.
- (3) Subclause (2) does not prevent a member or employee from disclosing the information-
 - (a) at a closed meeting;
 - (b) to the extent specified by Council and subject to such other conditions as the Council determines;
 - (c) that is already in the public domain;
 - (d) to an officer of the Department;
 - (e) to the Minister;
 - (f) to a legal practitioner for the purpose of obtaining legal advice; or
 - (g) if the disclosure is required or permitted by law.
- (4) The Council may by resolution declare that any information withheld under clause 6.15 (1) must remain confidential for a specified period or indefinitely.

6.16 Recording of proceedings

- (1) A person is not to use any electronic, visual or audio recording device or instrument to record the proceedings of the Council, any committee or electors meeting without the permission of the presiding member.
- (2) If the presiding member gives permission under subclause (1), the presiding member is to advise the meeting, immediately before the recording is commenced, that such permission has been given and the nature and extent of that permission.

6.17 Standard of conduct

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

- (a) addressing the Council or a committee must, when invited to speak, extend due courtesy and respect to the person presiding and others at the meeting;
 - (b) must not reflect adversely on the character or actions of any member or employee;
 - (c) must not impute any motive to a member or employee;
 - (d) must not use offensive or objectionable expressions;
 - (e) must not create a disturbance, by interrupting or interfering with the orderly conduct of the proceedings, whether expressing approval or dissent, by conversing or by any other means;
 - (f) must ensure that his or her mobile telephone or audible pager is not switched on or used; and
 - (g) must not behave in a manner that is contrary to section 75 of the Criminal Code.
- (3) The presiding person may warn a person who fails to comply with this clause.
- (4) If a person–
- (a) after being warned, acts contrary to this clause, or to this local law; or
 - (b) refuses or fails to comply with a direction by the presiding member,
- the presiding member may expel the person from the meeting by ordering him or her to leave the meeting room.
- (5) A person who is ordered to leave the meeting room and fails to do so may, by order of the presiding person, be removed from the meeting room and, if the presiding person orders, from the premises.

6.18 Right of reply

- (1) A member who is aggrieved by a statement made (including a question asked) by a member of the public at a meeting may, with the leave of the presiding member, reply to that statement.
- (2) A reply under this clause is to be confined to a succinct response to the specific part of the statement in respect of which the member is aggrieved.

Part 7 – Questions by members

7.1 With due notice

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

- (2) If the question referred to in subclause (1) is in order, the answer is, so far as practicable, to be included in written form in the agenda of the meeting, or otherwise tabled at that meeting.
- (3) Every question and answer is to be submitted as briefly and concisely as possible and no discussion is to be allowed thereon, unless with the consent of the presiding member.

7.2 Without due notice

- (1) Members may ask questions relating to an item on the notice paper or on matters related to the good government of persons in the district.
- (2) A member requesting general information from an employee at a Council or committee meeting may ask a question without notice and with the consent of the presiding member, may ask one or more further questions of that employee or another employee present at the meeting.
- (3) Where possible the employee must endeavour to answer the question to the best of his or her knowledge and ability, however, if the information is unavailable or the answer requires research or investigation, the employee may ask that–
 - (a) the question be placed on notice for the next meeting of Council; or committee and
 - (b) the answer to the question be given to the member who asked it within 14 days.
- (4) Every question and answer–
 - (a) is to be brief and concise; and
 - (b) is not to be accompanied by argument, expression of opinion or statement of facts, except to the extent necessary to explain the question or answer.
- (5) In answering any question, an employee may qualify his or her answer and may at a later time in the meeting or at a subsequent meeting alter, correct, add to or otherwise amend the original answer.

Part 8 – Conduct of members

8.1 Members to be in their proper places

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

- (2) In any set allocation, the President is to be seated next to the CEO.
- (3) Each member is to occupy his or her position allotted position at each Council or committee meeting, until decided otherwise.

8.2 Respect to the presiding member

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

8.3 Titles to be used

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

8.4 Advice of entry or departure

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

8.5 Members to indicate their intention to speak

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

8.6 Priority of speaking

- (1) Where two or more members indicate, at the same time, their intention to speak, the presiding member is to decide which member is entitled to be heard first.
- (2) A decision of the presiding member under subclause (1) is not open to discussion or dissent.
- (3) A member is to cease speaking immediately after being asked to do so by the presiding member.

8.7 Presiding member may take part in debates

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

8.8 Relevance

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

8.9 Speaking twice

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

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

8.10 Duration of speeches

- (1) A member is not to speak on any matter for more than 5 minutes without the consent of the Council or a committee which, if given, is to be given without debate.
- (2) An extension under this clause cannot be given to allow a member's total speaking time to exceed 10 minutes.

8.11 No speaking after conclusion of debate

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

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

8.12 No interruption

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

- (a) to raise a point of order;
- (b) to call attention to the absence of a quorum;
- (c) to make a personal explanation under clause 8.13; or
- (d) to move a procedural motion that the member be no longer heard (see clause 11.1(e)).

8.13 Personal explanations

- (1) A member who wishes to make a personal explanation relating to a matter referred to by another member who is then speaking is to indicate to the presiding member his or her intention to make a personal explanation.
- (2) The presiding member is to determine whether the personal explanation is to be heard immediately or at the conclusion of the speech by the other member.
- (3) A member making a personal explanation is to confine his or her observations to a succinct statement relating to a specific part of the speech at which he or she may have been misunderstood.

8.14 No reopening of discussion

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

8.15 Adverse reflection

- (1) A member is not to reflect adversely on a decision of the Council or committee except-
 - (a) on a motion that the decision be revoked or changed; or
 - (b) where the meeting resolves, without debate, that the question then before the meeting cannot otherwise be adequately considered.
- (2) A member is not-
 - (a) to reflect adversely on the character or actions of another member or employee; or
 - (b) to impute any motive to a member or employee, unless the meeting resolves, without debate, that the question then before the meeting cannot otherwise be adequately considered.
- (3) A member is not to use offensive expressions in reference to any member, employee or other person.
- (4) If a member specifically requests, immediately after their use, that any particular words used by a member be recorded in the minutes-
 - (a) the presiding member is to cause the words used to be taken down and read to the meeting for verification; and
 - (b) the Council or committee may, by resolution, decide to record those words in the minutes.

8.16 Withdrawal of offensive language

- (1) A member who, in the opinion of the presiding member, uses an expression which-
 - (a) in the absence of a resolution under clause 8.15(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,
must, when directed by the presiding member, withdraw the expression and make a satisfactory apology.
- (2) If a member fails to comply with a direction of the presiding member under subclause (1), the presiding member may direct the member to refrain from taking any further part in the debate of that item, other than by voting, and the member must comply with that direction.

Part 9 – Preserving order

9.1 Presiding member to preserve order

- (1) The presiding member is to preserve order, and, whenever he or she considers necessary, may call any member to order.
- (2) When the presiding member speaks during a debate, any member then speaking, or indicating that he or she wishes to speak, is to preserve strict silence so that the presiding member may be heard without interruption.
- (3) Subclause (2) is not to be used by the presiding member to exercise the right provided in clause 8.7, but to preserve order.

9.2 Point of order

- (1) A member may object, by way of a point of order, only to a breach of-
 - (a) any of this local law; or
 - (b) any other written law.
- (2) Despite anything in this local law to the contrary, a point of order-
 - (a) takes precedence over any discussion; and
 - (b) until determined, suspends the consideration or discussion of any other matter.

9.3 Procedures on a point of order

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

9.4 Calling attention to breach

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

9.5 Ruling by the presiding member

- (1) The presiding member is to rule on any point of order which is raised by either upholding or rejecting the point of order.

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

9.6 Continued breach of order

If a member-

- (a) persists in any conduct that the presiding member had ruled is out of order; or
 - (b) refuses to make an explanation, retraction or apology required by the presiding member under clause 9.5(3),
- the presiding member may direct the member to refrain from taking any further part in the debate of that item, other than by voting, and the member is to comply with that direction.

9.7 Right of presiding member to adjourn

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

Part 10 – Debate of members

10.1 Recommendations in reports

- (1) Recommendations contained in a committee or employee's report are to be given first priority consideration for adoption by the Council.
- (2) Any proposed amendment to a recommendation in a committee or employees' report that is significantly different to the recommendation, is not to be accepted unless a notice of motion in accordance with clause 5.3 has been given by the mover of the proposed amendment.

- (3) The Council may by majority decision dispense with requirements of clause 5.1 (2) where the Council is satisfied that the reason for the proposed amendment meets the criteria of "*extreme urgency or other special circumstances*" in clause 5.4 (2).
- (4) The requirements for recording of written reasons in the minutes of a meeting for each decision made at the meeting that is significantly different from the relevant written recommendation of a committee or an employee are dealt with in the regulations.

10.2 Alternative motion

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

10.3 Motions to be stated 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.
- (c) for complex amendments they must be in writing.

10.4 Motions to be supported

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

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

10.5 Unopposed business

- (1) Immediately after a substantive motion has been moved and seconded, the presiding member may ask the meeting-
 - (a) if any member opposes it; or
 - (b) if any member wishes the mover to speak to the motion before deciding whether to oppose it.
- (2) If any member wishes the mover to speak to the motion, the presiding member may-
 - (a) call on the mover to speak to the motion; and
 - (b) after the mover has spoken to the motion, again ask the meeting if any member opposes it.
- (3) If no member opposes the motion, the presiding member may declare it carried without debate and without taking a vote.
- (4) A motion declared carried under this clause is to be recorded in the minutes as a "carried without dissent" decision of the Council.
- (5) If a member opposes a motion, the motion is to be dealt with under this Part.
- (6) This clause does not apply to a motion to revoke or change a decision which has been made at a Council meeting.

10.6 Only one substantive motion at a time

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

10.7 Order of call in debate

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

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

10.8 Limit of debate

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

10.9 Member may require question to be read

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

10.10 Consent of seconder required for alteration

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

10.11 Order of amendments

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

10.12 Form of an amendment

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

10.13 Amendment must not negate original motion

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

10.14 Relevance of amendments

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

10.15 Mover of motion may speak on amendment

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

10.16 Effect of an amendment

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

10.17 Withdrawal of motion or amendment

- (1) Subject to subclause (2), the Council may, without debate, grant leave to withdraw a motion or amendment on the request of the mover of the motion or amendment and with the approval of the seconder.
- (2) Where an amendment has been proposed to a substantive motion, the substantive motion is not to be withdrawn, except by consent of the majority of members present, until the amendment proposed has been withdrawn or lost.

10.18 Right of reply

- (1) The mover of a substantive motion has the right of reply.
- (2) The mover of any amendment to a substantive motion has a right of reply.
- (3) The right of the reply may only be exercised-
 - (a) where no amendment is moved to the substantive motion – at the conclusion of the discussion on the motion; or
 - (b) where one or more amendments have been moved to the substantive motion – at the conclusion of the discussion on the substantive motion and any amendments.
- (4) After the mover of the substantive motion has commenced the reply-
 - (a) no other member is to speak on the question; and
 - (b) there is to be no further discussion on, or any further amendment to, the motion.
- (5) The right of the reply is to be confined to rebutting arguments raised by previous speakers and no new matter is to be introduced.
- (6) At the conclusion of the right of reply, the substantive motion, or the substantive motion as amended, is immediately to be put to the vote.

10.19 Foreshadowing alternative motions

- (1) Should a member wish to negate a substantive motion and have a meeting consider a new substantive motion on the matter with different intent, the member is to foreshadow the new substantive motion prior to the right of reply.
- (2) Should a substantive motion be lost, the presiding member is to call upon the member who foreshadowed the new substantive motion to move the proposed motion.
- (3) Once moved and seconded, the foreshadowed motion becomes the substantive motion and the same procedures and rules of debate apply to this motion as any other motion.
- (4) If more than one foreshadowed motion is proposed for any item before a meeting, the presiding member is to deal with them in the order in which they were presented.

Part 11 – Procedural motion

11.1 Permissible procedural motions

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

- (a) that the motion be deferred;
- (b) that the meeting now adjourn;
- (c) that the debate be adjourned;
- (d) that the motion be now put;
- (e) that the motion lie on the table;
- (f) that the meeting proceed to the next item of business;
- (g) that the meeting be closed to members of the public;
- (h) that the ruling of the Presiding Member be overruled;
- (i) that the member be no longer heard; or
- (j) that the item be referred back to the (appropriate) Committee.

11.2 No debate

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

11.3 Who may move

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

11.4 Procedural motions - right of reply on substantive motion

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

11.5 Effect of procedural motions

11.5.1 The motion be deferred

- (1) If a motion "that the motion be deferred", is carried, then all debate on the primary motion and any amendment is to cease and the motion or amendment is to be resubmitted for consideration at a time and date specified in the motion.
- (2) A motion "that the motion be deferred" must not be moved in respect of the election of a Presiding Member or the Deputy President.
- (3) A member must not, at the same meeting, move or second more than one motion "that the motion be deferred" in respect of the same item.

11.5.2 The meeting now adjourn

- (1) If a motion "that the meeting now adjourn", is carried then the meeting is to be adjourned to a time and date specified in the motion, or where no time and date is specified, to such time and date as the Presiding Member declares, or to the next ordinary meeting.
- (2) Where debate on a motion is interrupted by an adjournment under subclause (1)—
 - (a) the debate is to be resumed at the date and time specified as required in subclause (1) and at the point where it was so interrupted; and
 - (b) the names of members who have spoken on the matter prior to the adjournment are to be recorded in the minutes; and

- (c) the provisions of clause 8.9 apply when the debate is resumed.
- (3) If a motion “that the meeting now adjourn” is lost, no similar motion is to be moved until—
 - (a) after the conclusion of the business under discussion at the time the motion was moved; or
 - (b) if the motion was moved on the conclusion of an item of business, after the conclusion of the next item of business; or
 - (c) after the conclusion of any other business allowed precedence by the meeting.
- (4) A member must not, at the same meeting, move or second more than one motion for the adjournment of the meeting.

11.5.3 The debate be adjourned

- (1) If a motion “that the debate be adjourned”, is carried —
 - (a) all debate on the primary motion or amendment is to cease and is to continue at a time and date specified in the motion;
 - (b) the names of members who have spoken on the matter are to be recorded in the minutes; and
 - (c) the provisions of clause 8.9 apply when the debate is resumed.
- (2) A motion “that the debate be adjourned” must not be moved in respect of the election of a Presiding Member or the Deputy President.
- (3) A member must not, at the same meeting, move or second more than one motion “that the debate be adjourned” in respect of the same item.

11.5.4 The motion be now put

- (1) If a motion “that the motion be now put”, is carried during discussion of a primary motion, the Presiding Member is to offer the right of reply and then immediately put the motion to the vote without further debate.
- (2) If the motion “that the motion be now put” is carried during debate of an amendment, the Presiding Member is to put the amendment to the vote without further debate.

- (3) If the motion "that the motion be now put" is lost, debate is to continue.

11.5.5 The motion lie on the table

- (1) If a motion "that the motion lie on the table", is carried, debate on the primary motion and any amendment must cease and the meeting is to proceed to the next item of business.
- (2) Debate on the motion laid on the table is to be adjourned until such time (if any) as the meeting resolves to take the motion from the table.
- (3) Where debate on a motion is interrupted by laying a motion on the table under subclause (1)—
 - (a) the names of members who have spoken on the matter are to be recorded in the minutes; and
 - (b) the provisions of clause 7.11 apply when the debate is resumed.
- (4) A motion "that the motion lie on the table" must not be moved in respect of the election of a Presiding Member or the Deputy President.
- (5) A member moving the taking of the motion from the table is entitled to speak first on the resumption of the debate.

11.5.6 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) A motion that "the meeting proceed to the next item of business" must not be moved in respect of the election of a Presiding Member or the Deputy President.

11.5.7 Meeting be closed to members of the public

If a motion "that the meeting be closed to members of the public" is carried then the Presiding Member is to close the meeting in accordance with clause 6.2.

11.5.8 Ruling by the Presiding Member be overruled

If a motion “that the ruling of the Presiding Member be overruled” is carried, that ruling is to have no effect and the meeting is to proceed accordingly.

11.5.9 Member be no longer heard

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

11.5.10 Item be referred back to Committee

- (1) If a motion “that the item be referred back to Committee” is carried, debate on the primary motion and any amendment is to cease and the primary motion, excluding any amendment, is to be referred back to the appropriate Committee for further consideration.
- (2) If the motion in subclause (1) is lost, debate on the primary motion or amendment is to continue.

Part 12 – Disclosure of interests**12.1 Disclosure of interests**

Disclosure of interests is dealt with in the Act.

Part 13 - Voting**13.1 Question - when put**

- (1) Immediately after the debate on any question is concluded and the right of reply has been exercised, the presiding member-
 - (a) is to put the question to the Council; and
 - (b) if requested by any member, is to again state the terms of the question.
- (2) A member is not to leave the meeting when the presiding member is putting any question.

13.2 Voting

Voting is dealt with in the Act and the Regulations.

13.3 Majorities required for decisions

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

13.4 Method of taking vote

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

Part 14 – Minutes of meetings

14.1 Keeping of minutes

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

14.2 Content of minutes

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

14.3 Public inspection of unconfirmed minutes

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

14.4 Confirmation of minutes

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

Part 15 - Adjournment of meeting

15.1 Meeting may be adjourned

The Council or a committee may adjourn any meeting-

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

15.2 Effect of adjournment

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

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

Part 16 – Revoking or changing decisions

16.1 Requirements to revoke or change decisions

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

16.2 Limitations on powers to revoke or change decisions

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

16.3 Implementing a decision

- (1) In this clause-
 - (a) **authorisation** means a licence, permit, approval or other means of authorising a person to do anything;
 - (b) **implement**, in relation to a decision, includes-
 - (i) communicate notice of the decision to a person affected by, or with an interest in, the decision; and
 - (ii) take any other action to give effect to the decision; and
 - (c) **valid notice of revocation motion** means a notice of motion to revoke or change a decision that complies with the requirements of the Act, Regulations and the local laws and may be considered, but has not yet been considered, by the Council or a committee as the case may be.
- (2) Subject to subclause (4), and unless a resolution is made under subclause (3), a decision made at a meeting is not to be implemented by the CEO or any other person until the morning of the first business day after the commencement of the meeting at which the decision was made.
- (3) The Council or a committee may, by resolution carried at the same meeting at which a decision was made, direct the CEO or another person to take immediate action to implement the decision.
- (4) A decision made at a meeting is not to be implemented by the CEO or any other person-
 - (a) if, before commencing any implementation action, the CEO or that person is given a valid notice of revocation motion; and
 - (b) unless and until the valid notice of revocation motion has been determined by the Council or the committee as the case may be.

- (5) The CEO is to ensure that members of the public attending the meeting are informed by an appropriate notice that a decision to grant an authorisation-
 - (a) is to take effect only in accordance with this clause; and
 - (b) cannot be acted upon by the person who has been granted the authorisation unless and until the decision has been implemented in accordance with this clause.

Part 17 – Suspension of local law

17.1 Suspension of local law

- (1) A member may at any time move that the operation of one or more of the provisions of this local law be suspended.
- (2) A member moving a motion under subclause (1) is to state the reasons for the motion but no other discussion is to take place.
- (3) A motion under subclause (1) which is-
 - (a) seconded; and
 - (b) carried by an absolute majority,is to suspend the operation of the clause or clauses to which the motion relates for the duration of the meeting unless the meeting earlier resolves otherwise.

17.2 Where local law does not apply

- (1) In situations where-
 - (a) one or more provisions of this local law have been suspended; or
 - (b) a matter is not regulated by the Act, the Regulations or this local law,the presiding member is to decide questions relating to the conduct of the meeting.
- (2) The decision of the presiding member under subclause (1) is final, except where a motion is moved and carried under clause 11.10.

Part 18 – Meetings of electors

18.1 Electors' general meetings

Electors' general meetings are dealt with in the Act.

18.2 Matters for discussion at electors' general meetings

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

18.3 Electors' special meetings

Electors' special meetings are dealt with in the Act.

18.4 Requests for electors' special meetings

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

18.5 Convening electors' meetings

Convening electors' meetings is dealt with in the Act.

18.6 Who presides at electors' meetings

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

18.7 Procedure for electors' meetings

- (1) The procedure for electors' meetings is dealt with in the Act and the Regulations.
- (2) In exercising his or her discretion to determine the procedure to be followed at an electors' meeting, the presiding member is to have regard to this local law.

18.8 Participation of non-electors

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

18.9 Voting at electors' meetings

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

18.10 Minutes of electors' meetings

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

18.11 Decisions made at electors' meetings

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

Part 19 - Enforcement

19.1 Penalty for breach

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

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

19.2 Who can prosecute

Who can prosecute is dealt with in the Act.

SCHEDULE 1 - PETITION OF ELECTORS OF THE SHIRE OF CHITTERING

To the Shire President and Councillors of the Shire of Chittering

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

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

Correspondence in respect of this petition should be addressed to—

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

The names and addresses of your petitioners are as follows—

Date	Full Name	Address	Signature	Agree/Disagree / No Opinion

Dated: [REDACTED]

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

Aaron King
Shire President

Matthew Gilfellon
Chief Executive Officer

Potential Aged Care Land

SHIRE OF CHITTERING

SUMMARY									
	Lot 215 GNH, Bindoon	11 Edmonds Place, Bindoon	68 Woolah Rise, Bindoon	Lot 20&30 Archibald St, Muchea	7 Chittering St, Muchea	Lot 100 Muchea East Rd, Lower Chittering	Lot 18 Muchea East Rd, Lower Chittering	2619 Bindoon- Moora Rd, Wannamal	2610 Bindoon- Moora Rd, Wannamal
Ownership	SoC	SoC	SoC	State Govt	State Govt	State Govt	SoC	State Govt	State Govt
Size	2.39ha	5.62ha	11.85ha	1.86ha	12.83ha	7.07ha	8.94ha	1.60ha	4.26ha
Currently Used	No	Yes	Yes	No	Yes	No	No	Yes	Yes
Zoning	Townsite	Townsite	Townsite	Townsite	Reserve	Reserve	Reserve	Reserve	Reserve
Strategic	Yes	No	No	No	No	No	No	No	No
Power	Accessible	Yes	Yes	Accessible	Yes	Accessible	Accessible	Yes	Yes
Water	Accessible	Yes	Yes	No	No	No	No	No	No
Sewerage	No	No	No	No	No	No	No	No	No
Road Access	Limited	Yes	Yes	Yes	Yes	Yes	Yes	Limited	Yes
Gradient	Yes	No	Yes	No	No	No	No	No	No
Bushfire Risk	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Facilities	Recreation & Community Centre Shops Café Medical Centre Ambulance	Recreation & Community Centre Shops Café Medical Centre Ambulance	Recreation & Community Centre Shops Café Medical Centre Ambulance	Recreation & Communit y Centre Shops Medical Centre	Recreation & Community Centre Shops Medical Centre	Nil	Nil	Recreation & Community Centre	Recreation & Community Centre

LOT 215 GREAT NORTHERN HIGHWAY, BINDOON

Tenure	Freehold to Shire of Chittering
Size	2.3900ha
Planning Zone	Townsite
Infrastructure	Power – Accessible Water – Accessible Sewerage – No Road Connection - Limited
Strategic	Bindoon Masterplan – Identified as Independent Living Unit Cluster Council Decision – Reserve Northern 25% of lot for Aged Care

- The site is currently used occasionally as a parking area for large events;
- The site was nominated by the community as the preferred Aged Care area during the Bindoon Masterplan process and Aged Care Forum due to the proximity to the community and services;
- The Feasibility Study for Independent Living Units used this lot;
- The Bindoon Masterplan identified this and neighbouring lots as future townsite expansion;
- Staffing is potentially an issue due to the distance that workers may need to travel;
- The site is constrained due to;
 - Waste water disposal (sewage sensitive area – ATU irrigation area);
 - Access to local road network;
 - Gradient of land (retaining requirements);
 - Bushfire prone planning area;
 - Servicing with a reticulated water supply;

- Servicing with an adequate power supply.



11 EDMONDS PLACE, BINDOON

Tenure	Freehold to Shire of Chittering
Size	5.6200ha
Planning Zone	Townsite
Infrastructure	Power – Yes Water – Yes Sewerage – No Road Connection - Yes
Strategic	Bindoon Masterplan – Identified as additional parking

- The site is currently used as a dog exercise area and shares the title with Joint Venture Units, Bindoon Fire Station, the shire depot and the IGA ATU;
- The site was identified in the Bindoon Masterplan as overflow parking;
- The full area is not available for aged care development;
- Strata titling will be required;
- The site gives good access to the shops and services;
- A Nature Reserve is located next to the site;
- Staffing is potentially an issue due to the distance that workers may need to travel;
- The site is constrained due to;
 - Waste water disposal (sewage sensitive area – ATU irrigation area);
 - Bushfire prone planning area;
 - Servicing with a reticulated water supply;
 - Servicing with an adequate power supply.



LOT 68 WOOLAH RISE, BINDOON & LOT 89 KOOMAL STREET,
BINDOON

Tenure	Freehold to Shire of Chittering
Size	11.8552ha
Planning Zone	Townsite
Infrastructure	Power – Yes Water – Yes Sewerage – No Road Connection - Yes
Strategic	Bindoon Masterplan – Identified as Caravan Park and MTB Trailhead

- The site was previously used as a golf course but not currently used. It has the Bindoon Medical Centre on the lot;
- The site was identified in the Bindoon Masterplan as a potential caravan park and Mountain Bike Trailhead;
- This site has been the subject of previous investigations for retirement villages;
- Staffing is potentially an issue due to the distance that workers may need to travel;
- The site is constrained due to;
 - Waste water disposal (sewage sensitive area – ATU irrigation area);
 - Gradient of land (retaining requirements);
 - Bushfire prone planning area;
 - Servicing with a reticulated water supply;
 - Servicing with an adequate power supply.



LOT 20 ARCHIBALD STREET & LOT 30 ARCHIBALD STREET,
MUCHEA

Tenure	Unallocated Crown Land
Size	1.8624ha (1.5872ha & 2752m2)
Planning Zone	Townsite
Infrastructure	Power – Accessible Water – No Sewerage – No Road Connection - Yes
Strategic	Nil

- This site is currently not used;
- This site is under the ownership of the Crown and has no vesting order. Purchase of the site from Crown would be necessary, which historical has occurred at a significantly discounted rate;
- The site is approximately 1.5 hectares and is relatively flat so civil works would be kept to a minimum;
- It is within the heart of the Muchea Townsite, adjacent to the Muchea Oval;
- There is currently a Medical Centre and Pharmacy being built in Muchea. Ambulance coverage is from Bullsbrook and Bindoon and Gingin. The IGA will potentially receive upgrades;
- The proximity to the metro may assist in finding staff;
- The site is constrained due to;
 - Waste water disposal (sewage sensitive area – ATU irrigation area);
 - Bushfire prone planning area;
 - Servicing with a reticulated water supply;
 - Servicing with an adequate power supply.



7 CHITTERING STREET, MUCHEA

Tenure	Reserve vested to Shire of Chittering for Recreation
Size	12.8306ha
Planning Zone	Parks & recreation - Reserve
Infrastructure	Power – Yes Water – No Sewerage – No Road Connection - Yes
Strategic	Nil

- The site is known as Sandown Park and is currently used for the Muchea BFB and recreation (mainly equine);
- Purchase of the site from Crown would be necessary, which historical has occurred at a significantly discounted rate;
- The site is relatively flat so civil works will be kept to a minimum;
- There is currently a Medical Centre and Pharmacy being built in Muchea. Ambulance coverage is from Bullsbrook and Bindoon and Gingin. The IGA will potentially receive upgrades;
- It is on the edge of the Muchea Townsite which puts it close to shops but further from recreation;
- The proximity to the metro may assist in finding staff and place it closer to hospitals;
- The site is constrained due to;
 - Waste water disposal (sewage sensitive area – ATU irrigation area);
 - Bushfire prone planning area;
 - Servicing with a reticulated water supply;
 - Servicing with an adequate power supply.



LOT 100 MUCHEA EAST ROAD, LOWER CHITTERING

Tenure	Reserve vested to Shire of Chittering for Public Recreation
Size	7.0738ha
Planning Zone	Parks & Recreation - Reserve
Infrastructure	Power – Yes Water – No Sewerage – No Road Connection - Yes
Strategic	Lower Chittering Masterplan – Community Centre and other Community and Recreation Activities

- The site is currently not used. The site has been master-planned and planning is currently underway for the construction of a Community Centre;
- This site was previously earmarked for the Lower Chittering Sports Facility;
- Access to the site is good from Muchea East Road and has a negligible grade;
- Considerations would need to be made towards the lack of medical related services in close proximity (no chemist, medical centre) and limited offerings for recreation and socialisation of the aged community (no shops, café etc.);
- The site is constrained due to;
 - Waste water disposal (sewage sensitive area – ATU irrigation area);
 - Bushfire prone planning area;
 - Servicing with a reticulated water supply;
 - Servicing with an adequate power supply.



LOT 18 MUCHEA EAST ROAD, LOWER CHITTERING

Tenure	Freehold to Shire of Chittering
Size	8.9485ha
Planning Zone	Conservation - Reserve
Infrastructure	Power – No Water – No Sewerage – No Road Connection - Yes
Strategic	Nil

- The site is known as Marbling Brook Reserve and the trails on the lot are currently used as recreation;
- Access to the site is good from Muchea East Road and has a negligible grade;
- Clearing of the site will need to occur;
- Considerations would need to be made towards the lack of medical related services in close proximity (no chemist, medical centre) and limited offerings for recreation and socialisation of the aged community (no shops, café etc.);
- The site is constrained due to;
 - Waste water disposal (sewage sensitive area – ATU irrigation area);
 - Bushfire prone planning area;
 - Servicing with a reticulated water supply;
 - Servicing with an adequate power supply.



2619 BINDOON-MOORA RD, WANNAMAL

Tenure	Reserve vested to Shire of Chittering for Recreation
Size	1.6043ha
Planning Zone	Gravel – Public Purpose
Infrastructure	Power – No Water – No Sewerage – No Road Connection - Limited
Strategic	Nil

- This site would be better known of the Wannamal Community Centre however it contains the Wannamal BFB and half of the Wannamal Tennis Courts;
- This would be the furthest site from Perth, but with the new Bypass and Northlink, would be the same time from Perth as Bindoon previously was;
- Community facilities are easily accessible;
- Access to shops and medical facilities is very limited;
- The refuse site to the south of this Lot could provide additional land;
- The site is constrained due to;
 - Waste water disposal (sewage sensitive area – ATU irrigation area);
 - Access to local road network;
 - Bushfire prone planning area;
 - Servicing with a reticulated water supply;
 - Servicing with an adequate power supply.



2610 BINDOON-MOORA RD, WANNAMAL

Tenure	Reserve vested to Shire of Chittering for Recreation
Size	4.2699ha
Planning Zone	Parks and Recreation - Reserve
Infrastructure	Power – No Water – No Sewerage – No Road Connection - Yes
Strategic	Nil

- This site would be better known of the Wannamal Rest Area;
- This would be the furthest site from Perth, but with the new Bypass and Northlink, would be the same time from Perth as Bindoon previously was;
- Community facilities are easily accessible;
- Access to shops and medical facilities is very limited;
- The site is constrained due to;
 - Waste water disposal (sewage sensitive area – ATU irrigation area);
 - Access to local road network;
 - Bushfire prone planning area;
 - Servicing with a reticulated water supply;
 - Servicing with an adequate power supply.

