



Shire of
Chapman Valley
Love the Rural Life

ORDINARY COUNCIL MEETING

Notice is hereby given that an Ordinary Meeting
of Council will be held on Wednesday 17 August 2016
at the Yuna Multipurpose Community Centre, Yuna, commencing at 9:00am.

Maurice Battilana
CHIEF EXECUTIVE OFFICER

UNCONFIRMED MINUTES

AUGUST 2016

DISCLAIMER



No responsibility whatsoever is implied or accepted by the Shire of Chapman Valley for any act, omission or statement or intimation occurring during Council Meeting. The Shire of Chapman Valley disclaims any liability for any loss whatsoever and howsoever caused arising out of reliance by any person or legal entity on any such act, omission or statement or intimation occurring during Council or Committee Meetings.

Any person or legal entity who acts or fails to act in reliance upon any statement, act or omission made in a Council Meeting does so at that person's or legal entity's own risk.

The Shire of Chapman Valley warns that anyone who has any application or request with the Shire of Chapman Valley must obtain and should rely on **WRITTEN CONFIRMATION** of the outcome of the application or request of the decision made by the Shire of Chapman Valley.

A handwritten signature in black ink, appearing to read 'M. Battilana', written over a large, stylized loop.

Maurice Battilana
CHIEF EXECUTIVE OFFICER

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Members should fill in Disclosure of Interest forms for items in which they have a financial, proximity or impartiality interest and forward these to the Presiding Member before the meeting commences.

Section 5.60A:

*"a person has a **financial interest** in a matter if it is reasonable to expect that the matter will, if dealt with by the local government, or an employee or committee of the local government or member of the council of the local government, in a particular way, result in a financial gain, loss, benefit or detriment for the person."*

Section 5.60B:

*"a person has a **proximity interest** in a matter if the matter concerns –*

- (a) a proposed change to a planning scheme affecting land that adjoins the person's land; or*
- (b) a proposed change to the zoning or use of land that adjoins the person's land; or*
- (c) a proposed development (as defined in section 5.63(5)) of land that adjoins the person's land."*

Regulation 34C (Impartiality):

*"**interest** means an interest that could, or could reasonably be perceived to, adversely affect the **impartiality** of the person having the interest and includes an interest arising from kinship, friendship or membership of an association."*

- 7.0 PETITIONS/DEPUTATIONS/PRESENTATIONS
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ORDER OF BUSINESS:

1.0 DECLARATION OF OPENING/ANNOUNCEMENTS OF VISITORS

The Chairman, Cr John Collingwood welcomed Elected Members, Staff and students from Yuna Primary School and declared the meeting open at 9.03am.

2.0 LOYAL TOAST

3.0 RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE (PREVIOUSLY APPROVED)

3.1 Present

a. Councillors

Member	Ward
Cr John Collingwood (President)	North East Ward
Cr Anthony Farrell (Deputy President)	North East Ward
Cr Pauline Forrester	North East Ward
Cr Kirrilee Warr	North East Ward
Cr Trevor Royce	North East Ward
Cr Peter Humphrey	South West Ward
Cr Veronica Wood	South West Ward

b. Staff

Officer	Position
Mr Maurice Battilana	Chief Executive Officer
Simon Lancaster	Deputy Chief Executive Officer
Mrs Karen McKay	Executive Assistant (Minute Taker)
Mrs Dianne Raymond	Manager of Finance & Corporate Services
Mr Esky Kelly	Manager of Works & Services
Mrs Nicole Batten	Community Development Officer

c. Visitors

Name
Yuna Primary Students x 12 and teachers Mrs Brenda Williamson & Ms Sam Thompson

3.2 Apologies

Name	
Cr Ian Maluish – Leave of Absence	South West Ward

4.0 PUBLIC QUESTION TIME

4.1 Questions On Notice

Nil

4.2 Questions Without Notice

The Yuna students asked the following questions:

Ben Creasy: When will the mobile phone towers be fully connected?

Mr Battilana: Nabawa and Naraling Towers are up and running and the other two towers (Yuna & South Yuna) should be up and running by September.

Zac Williamson: On East Nabawa Road strips have been cleared in the paddocks, what is happening?

Mr Battilana: This is in preparation for bitumen seal and the clearing is to make the curve in the road less dangerous.

Maverick Williamson: At the Yuna Park there is a flat bit of ground is there going to be a basketball ring put there?

Mrs Batten: There is currently grant funding available and you could approach maybe CABY to submit a grant.

5.0 APPLICATIONS FOR LEAVE OF ABSENCE

Nil

6.0 DISCLOSURE OF INTEREST

Cr Wood declared an impartiality interest in item 9.1.1 Bill Hemsley Park as she is a member of the Parkfalls Residents Association.

7.0 PETITIONS/DEPUTATIONS/PRESENTATIONS

Nil

8.0 CONFIRMATION OF MINUTES FROM PREVIOUS MEETINGS

COUNCIL RESOLUTION

MOVED: CR FARRELL

SECONDED: CR FORRESTER

8.1 Ordinary Meeting of Council held on Wednesday 20 July 2016

That the minutes of the Ordinary Meeting of Council held Wednesday 20 July 2016 be confirmed as a true and accurate record.

Voting 7/0

CARRIED

Minute Reference: 08/16-1

COUNCIL RESOLUTION

MOVED: CR WOOD

SECONDED: CR FORRESTER

8.2 Special Meeting of Council held on Thursday 28 July 2016

That the minutes of the Special Council Meeting held on Thursday 28 July 2016 be confirmed as a true and accurate record.

Voting 7/0

CARRIED

Minute Reference: 08/16-2

9.0 OFFICERS REPORTS

9.1

Manager of Planning

August 2016

Contents

9.1 AGENDA ITEMS

9.1.1 Bill Hemsley Park

Cr Wood declared an impartiality interest in this item as a member of the Parkfalls Residents Association.

AGENDA ITEM:	9.1.1
SUBJECT:	BILL HEMSLEY PARK
PROPONENT:	SHIRE OF CHAPMAN VALLEY
SITE:	RESERVE 49641 ELIZA SHAW DRIVE, WHITE PEAK
FILE REFERENCE:	R49641
PREVIOUS REFERENCE:	09/09-11, 08/10-3, 04/11-4, 05/11-29, 12/11-3, 04/13-5, 06/13-25, 10/13-3, 02/14-10-13, 06/14-6, 08/14-5 & 11/14-7, 12/14-19-21, 02/15-13, 03/15-4-5, 06/15-9, 09/15-2-8, 11/15-9, 04/16-10-11 & 05/16-9-12, 06/16-1, 06/16-3-10, 07/16-6-9
DATE:	8 AUGUST 2016
AUTHOR:	SIMON LANCASTER

DISCLOSURE OF INTEREST

Nil.

BACKGROUND

A meeting of the Bill Hemsley Park Management Committee was held on 5 August 2016 and a copy of the unconfirmed minutes have been provided to Councillors as a **separate attachment**.

COMMENT

Following Council's adoption of its 2016/2017 budget on 28 July 2016, a meeting of the Bill Hemsley Park Management Committee was held on 5 August 2016 to progress the project items contained within the budget. A series of recommendations arising from the Management Committee meeting are contained in the staff recommendation.

STATUTORY ENVIRONMENT

The legal agreement between the developer of the Parkfalls Estate and the Shire provided the terms for the transfer of the park and payment of funds by the developer to the Shire to be held in trust for expenditure on the park.

The Management Committee Agreement establishes the process by which recommendations to Council on the expenditure of the trust funds must be made.

Part 3 of the Management Agreement states:

"3 *Decisions not binding on Shire*

The parties acknowledge and agree that the decisions and recommendations of the Management Committee are advisory only, and are not binding on the Shire or the Shire's Council."

Part 4 of the Management Agreement states:

"4.1 *Use of Trust Payment*

The Shire covenants and agrees to deposit the Trust Payment into a trust fund in accordance with the provisions of the Local Government Act 1995, and to only use such funds for construction and development upon the Recreation Site.

4.2 *Acknowledgement*

The parties covenant and agree that the expenditure of the trust fund can only be approved by the Council of the Shire based on the recommendations of the Management Committee provided such expenditure is for construction and development upon the Recreation Site."

The Management Committee at its 5 August 2016 meeting endorsed the proposed expenditure from the Bill Hemsley Park Trust Account as contained within the 2016/2017 Council budget, and this

Management Committee endorsement, along with its 10 November 2015 endorsement, satisfies Part 4 of the Management Agreement and enables expenditure of the trust funds.

POLICY IMPLICATIONS

Section 5.70 of the Shire of Chapman Valley Policy Manual 2014/2015 notes that in accordance with Section 6.4 of the *Local Government Act 1995* and Regulation 34 of the *Financial Management Regulations 1996*, monthly reporting will be provided for trust accounts.

FINANCIAL IMPLICATIONS

Council's 2016/2017 budget contains the following allocations that will enable the progression of a number of on-ground works at Bill Hemsley Park.

Bill Hemsley Park Project - Account No.2834, Job: CHEM			
	Expenditure	Income	Funding Source
Nature Playground	\$120,000	\$100,000	Lotterywest Grant
		\$20,000	PRA Trust Funds
Building Component	\$462,300	\$132,200	SoCV Build Res - Office Component COA GL 1315
		\$100,000	SoCV - Municipal Fund C/Fwd
		\$230,100	PRA Trust Funds
Drafting & Design Teakle & Lalor c/fwd	\$17,490	\$17,490	PRA Trust Funds
Associated Components i.e. Headworks Contingency, Road Surface, Carpark, Plants, Furnishings, Garden Design & species supply, Entrance Wall, Audits, etc.	\$210,440	\$10,440	PRA Trust Funds
		\$200,000	Loan/Grant Funds & in-kind
Totals	\$810,230	\$810,230	

Contribution Summary	
Lotterywest Grant	\$100,000
PRA Trust	\$278,030
Loan/Grants/In-Kind	\$200,000
Shire (Municipal \$100,000/Building Reserve \$132,200)	\$232,200
Total	\$810,230

The 2016/2017 budget also includes an allocation of \$20,000 for groundwater testing funded from the Shire's own resources (Account 1522).

The Management Committee discussed at its 5 August 2016 meeting potential opportunities to leverage funds in the 'Associated Components' budget allocation with external funds through grant applications, for eligible components of the Bill Hemsley Park project (this might include rainwater tanks, pumps, garden design and planting, foot/cycle paths, building fit-out etc.).

- **Long Term Financial Plan:**

The Shire of Chapman Valley Long Term Financial Plan received by Council at its 18 September 2013 meeting identifies this as a major project to be determined by the Management Committee.

STRATEGIC IMPLICATIONS

The Bill Hemsley Park project is contained within the Capital Building Works Program, as reviewed by the Building & Disability Services Committee and endorsed by Council at its 20 April 2016 meeting.

- **Strategic Community Plan/Corporate Business Plan:**

The Shire of Chapman Valley Strategic Community Plan was adopted by Council at its 19 June 2013 meeting, and reviewed and approved by Council at its 16 March 2016 meeting. The Plan lists developing community facilities to provide gathering places as a Community Strategy to achieve the outcome of stronger, inclusive communities across the Shire.

CONSULTATION

The preparation of the Bill Hemsley Park Concept Plan was informed by a community survey undertaken by the Parkfalls Residents Association of 215 White Peak landowners that sought to ascertain what facilities the community wanted, and did not want, to see developed upon the park site. 62 surveys were returned (29% response rate) and the results of the community survey were presented to the Management Committee at its 15 August 2013 meeting.

Council resolved at the 20 August 2014 meeting to accept the Bill Hemsley Park preliminary concept plan (which included all the preferences listed in the community survey, and a meeting room and public toilets to cater for expected demand) and prepare a draft concept plan to send out to all landowners in the Parkfalls Estate seeking feedback.

The draft Bill Hemsley Park Concept Plan was advertised from 30 June 2015 until 24 July 2015 and the consultation period included the following actions:

- direct mail-out of the concept plan to all landowners in the Parkfalls Estate;
- placement of the concept plan on the Shire website;
- placement of a notice in the Shire E-News;
- placement of a sign on-site; &
- placement of a notice on the Parkfalls Estate noticeboard.

There are 222 lots in the Parkfalls Estate owned by 211 landowners, at the conclusion of the consultation period 42 submissions had been received, representing a response rate of 18.96% (this percentage figure discounts 1 of the 2 supporting submissions that were received from the same address, and 1 supporting submission from the Parkfalls Residents Association).

Following its advertising, Council resolved at its 16 September 2015 meeting to adopt the Bill Hemsley Park Concept Plan.

Council resolved at its 18 November 2015 meeting to endorse the Management Committee's recommendation that the following items be considered priorities for the development of the Bill Hemsley Park:

- Bore, tank, power, scheme water connection;
- Community Building/Pavilion/Viewing Decks (meeting room/toilets) (concept plan legend no.8, 9);
- Nature Playground (concept plan legend no.12, 17, 18, 19, 20);
- Walk Trail around Nature Playground (concept plan legend no.3);
- Turfed Play Area and BBQ/Shelter (concept plan legend no.11, 22, 15);
- Car Park (concept plan legend no.14);
- Entry Statement/Sign & Mrs Hemsley's Tree (concept plan legend no.7).

Council also resolved at its 18 November 2015 meeting to endorse the Management Committee's recommendation that funds from the Bill Hemsley Park trust account be referenced as a matching contribution in any external funding or Shire financial contribution for these items, and instruct Shire staff to seek external funding (matched from the Bill Hemsley Park trust account) for these items.

RISK ASSESMENT

Not Applicable.

VOTING REQUIREMENTS

Simple Majority required.

COUNCIL RESOLUTION / STAFF RECOMMENDATION

MOVED: CR WOOD

SECONDED: CR ROYCE

That Council:

- 1 Receive the 5 August 2016 minutes of the Bill Hemsley Park Management Committee.
- 2 Note the Bill Hemsley Park Management Committee's endorsement of the proposed expenditure from the Bill Hemsley Park Trust Account as contained within the 2016/2017 Council budget.
- 3 Endorse the Bill Hemsley Park Nature Playground Landscape Architectural Drawings and accompanying Specifications included as Attachment 5.2(a) and Attachment 5.2(b) with the 5 August 2016 Bill Hemsley Park Management Committee minutes (subject to the inclusion of a 2nd FS15 Backhoe play equipment item and noting there is potential for use of locally sourced rocks e.g. granite or limestone) and that Council approve the Shire CEO to advertise by local public notice for at least two weeks the tender for construction of the nature playground, and at the conclusion of the notice period any received submissions be presented to a meeting of the Bill Hemsley Park Management Committee for its consideration and formulation of a recommendation to Council.
- 4 Endorse the Bill Hemsley Park Community Centre plans included as Attachment 5.3(a) with the 5 August 2016 Bill Hemsley Park Management Committee minutes (subject to masonry wall with insulated cavity replacing the framed wall component; 316 grade stainless steel vertical bar balustrade replacing the horizontal wire balustrade; specifying for electric oven, gas stove top and instant gas hot water system; the tender documents to request pricing based on the 2 options of the limestone retaining wall/balustrades and an alternative of groundworks with slope of approximately 1 in 4; and the tender documents to request submitted prices to itemise with and without solar roof panels) and that Council request the engaged consultant to prepare the building drawings, and associated specifications, so that they may be utilised for tender purposes.
- 5 Approve the Shire CEO, upon the completion of the detailed Bill Hemsley Park Community Centre plans, to advertise by local public notice for at least two weeks the tender for construction of the building, and at the conclusion of the notice period any received submissions be presented to a meeting of the Bill Hemsley Park Management Committee for its consideration and formulation of a recommendation to Council.
- 6 Instruct Shire staff to obtain water and power connection information from the relevant service authorities to inform the tender process.
- 7 Engage the appointed consultant to update the Bill Hemsley Park Concept Plan to reflect the subsequent detailed design work that has been undertaken for the community centre and nature playground aspects of the plan, and to revise the area between these two elements with regard for access and coordinated delivery for further consideration by the Management Committee and Council.
- 8 Engage the services of a contractor to undertake test drilling on-site at Bill Hemsley Park to inform further discussion on water grant applications and expenditure.
- 9 Express its appreciation to Keith & Anne Bird for their generous contribution of plants to the community planting event at Bill Hemsley Park.

- 10 Instruct Shire staff to explore the ability to utilise the funds in the 'Associated Components' allocation in the 2016/2017 budget to leverage external funds through grant applications, for eligible components of the Bill Hemsley Park project (including potential external funding items as identified in the 5 August 2016 Bill Hemsley Park Management Committee minutes).

COUNCIL RESOLUTION

MOVED: CR HUMPHREY SECONDED: CR FARRELL

That Standing Orders be suspended.

**Voting 4/3
CARRIED
Minute Reference: 08/16-3**

COUNCIL RESOLUTION

MOVED: CR FORRESTER SECONDED: CR WOOD

That Standing Orders be re-introduced.

**Voting 7/0
CARRIED
Minute Reference: 08/16-4**

The Substantive Motion was put.

**Voting 7/0
CARRIED
Minute Reference: 08/16-5**

The Yuna students thanked Councillors for letting them attend the meeting and left at 9.35am

9.2 Finance August 2016

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9.2 AGENDA ITEMS

9.2.1 Financial Reports for June/July 2016

AGENDA ITEM:	9.2.1
SUBJECT:	FINANCIAL REPORTS FOR JUNE/JULY 2016
PROPONENT:	SHIRE OF CHAPMAN VALLEY
SITE:	SHIRE OF CHAPMAN VALLEY
FILE REFERENCE:	307.04
PREVIOUS REFERENCE:	N/A
DATE:	17 AUGUST 2016
AUTHOR:	DIANNE RAYMOND

DISCLOSURE OF INTEREST

Nil

BACKGROUND

Financial Regulations require a monthly statement of financial activity report to be presented to Council.

COMMENT

The monthly financial statements for June/July 2016 have been provided as a **separate attachment** for Council's review.

STATUTORY ENVIRONMENT

Local Government Act 1995 Section 6.4

Local Government (Financial Management) Regulations 1996 Section 34

POLICY IMPLICATIONS

Policy 5.70 Significant Accounting Policies

Extract:

"2. Monthly Reporting

In accordance with Section 6.4 of the Local Government Act 1995 and Regulation 34 of the Financial Management Regulations 1996, monthly reporting will be provided as follows:

- 1. Statement of Financial Activity*
 - 2. Balance Sheet and statement of changes in equity*
 - 3. Schedule of Investments*
 - 4. Operating Schedules 3 – 16*
 - 5. Acquisition of Assets*
 - 6. Trust Account*
 - 7. Reserve Account*
 - 8. Loan Repayments Schedule*
 - 9. Restricted Assets*
 - 10. Disposal of Assets*
- A value of 10 percent is set for reporting of all material variances."*

FINANCIAL IMPLICATIONS

As presented in June/July 2016 financial statements.

• **Long Term Financial Plan (LTFP):**

No significant affect on the LTFP

STRATEGIC IMPLICATIONS

Nil

- **Strategic Community Plan/Corporate Business Plan:**

Nil

CONSULTATION

Not applicable

RISK ASSESSMENT

The associated risk would be the failure to comply with Local Government Financial Regulations requiring monthly reporting of financial activity.

VOTING REQUIREMENTS

Simple Majority

COUNCIL RESOLUTION / STAFF RECOMMENDATION

MOVED: CR FORRESTER

SECONDED: CR WOOD

That Council receives the financial report supplied under separate attachment for the months of June/July 2016 comprising the following:

- Summary of Payments
- Summary of Financial Activity,
- Net Current Assets
- Detailed Statement of Financial Activity,
- Details of Cash and Investments,
- Statement of Significant Variations,
- Summary of Outstanding Debts
- Reserve Funds
- Information on Borrowings
- Disposal of Assets
- Acquisition of Assets
- Rating Information
- Trust Fund Reconciliations
- Bank Reconciliation
- Credit Card Statement

Voting 7/0

CARRIED

Minute Reference: 08/16-6

9.3

Chief Executive Officer

August 2016

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9.3 AGENDA ITEMS

- 9.3.1 Shire of Chapman Valley Repeal of Defunct and Obsolete Local Laws
- 9.3.2 Shire of Chapman Valley Standing Orders Local Law 2016
- 9.3.3 Shire of Chapman Valley Activities on Thoroughfares and Public Places and Trading Local Laws 2016
- 9.3.4 Shire of Chapman Valley Dogs Local Law 2016
- 9.3.5 Chapman Valley Online Platform & Brand Refresh Project

Ms Lind joined the meeting via phone link.

AGENDA ITEM:	9.3.1
SUBJECT:	SHIRE OF CHAPMAN VALLEY REPEAL OF DEFUNCT AND OBSOLETE LOCAL LAWS
PROPONENT:	SHIRE OF CHAPMAN VALLEY
SITE:	SHIRE OF CHAPMAN VALLEY
FILE REFERENCE:	409.05
PREVIOUS REFERENCE:	08/15-7; 10/15-6; 04/16-21
DATE:	17 AUGUST 2016
AUTHOR:	MAURICE BATTILANA, CHIEF EXECUTIVE OFFICER LEANNE LIND, CONSULTANT

DISCLOSURE OF INTEREST

Nil

BACKGROUND

The following was resolved at the 19 August 2015 Council meeting:

MOVED: CR FORRESTER

SECONDED: CR HUMPHREY

That Council:

- 1. Resolves to undertake a review of its existing Local Laws; and*
- 2. In accordance with section 3.16 (2) of the Local Government Act 1995, give public notice of its intention to undertake a review of its Local Laws.*

Voting 8/0

CARRIED

Minute Reference: 08/15-7

The following was resolved at the 14 October 2015 Council meeting:

MOVED: CR WARR

SECONDED: CR FORRESTER

That Council:

- 1. Adopt the report of the review of the Local Laws under s3.16 of the Local Government Act 1995, noting that no community submissions were received in respect to the following local laws:*
 - Building – Minimum Area for Dwelling House*
 - Vehicle Drivers on Certain Land*
 - Dogs Local Law*
 - Standing Orders Local Law 2000*
 - Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law*
- 2. Determine that the review outcome in respect to each Local Law is as follows:*
 - Building – Minimum Area for Dwelling House be repealed as outlined in the report and Discussion Paper;*
 - Vehicle Drivers on Certain Land be repealed as outlined in the report and Discussion Paper;*
 - Dogs Local Law be repealed and replaced with a new Dogs Local Law;*
 - Standing Orders Local Law 2000 be repealed and replaced with a new Standing Orders Local Law;*
 - Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law be repealed and replaced with a new Activities in Thoroughfares and Public Places and Trading Local Law.*

Voting 7/0

CARRIED

Minute Reference: 10/15-6

The following was resolved at the April 2016 OCM:

MOVED: CR ROYCE

SECONDED: CR WOOD

Council gives statewide public notice that it intends to make the Shire of Chapman Valley Repeal Local Law 2016, as contained in the Attachment 1.

Voting 7/0

CARRIED

Minute Reference: 04/16-21

Sections 3.5 of the *Local Government Act 1995* ('the Act') provides the power for local governments to make local laws and prescribing all matters that are required or permitted to be prescribed by a local law, or are necessary or convenient for it to perform any of its functions.

The Shire of Chapman Valley has a series of old local laws, which are now superfluous or obsolete as a result of the introduction of the Act and/or other legislation. It is proposed that these old local laws be repealed in accordance with section 3.12 of the Act, as they no longer serve any functional purpose.

The Shire has the following defunct and obsolete local laws:

- (a) Building – Minimum Area for Dwelling House as published in the Government Gazette on 19 May 1950
- (b) Speed of Vehicles Driven on Certain Land as published in the Government Gazette on 5 March 1976.

At the 20 April 2016 OCM Council gave statewide public notice that it intended to make the Shire of Chapman Valley Repeal Local Law 2016.

COMMENT

The purpose of this report is to:

1. Consider the submissions received on the proposed Shire of Chapman Valley Repeal Local Law 2016;
2. Give notice to the purpose and effect of the Shire of Chapman Valley Repeal Local Law 2016;
3. Make the Shire of Chapman Valley Repeal Local Law 2016;
4. Authorise the local law's gazettal in the *Government Gazette*;
5. Give public notice, (after gazettal), of the date of the Shire of Chapman Valley Repeal Local Law 2016;
6. Authorise the affixing of the Common Seal to this local law.

To comply with the provisions of section 3.12 of the Act, when proposing to make a local law, the Presiding Person is required to give notice of the purpose and effect of the proposed local law at the Council meeting where the local law is being considered.

The purpose and effect of the proposed Repeal local law is –

- The purpose of the local law is to repeal superfluous, defunct and obsolete local laws.
- The effect of the local law being more efficient and effective local government by removing outdated local laws from the public record.

STATUTORY ENVIRONMENT

Section 3.12 of the *Local Government Act 1995* specifies the procedures to be followed when making a Local Law.

3.12. Procedure for making local laws

- (1) *In making a local law a local government is to follow the procedure described in this section, in the sequence in which it is described.*
- (2) *At a council meeting the person presiding is to give notice to the meeting of the purpose and effect of the proposed local law in the prescribed manner.*
- (3) *The local government is to –*
 - (a) *give Statewide public notice stating that –*
 - (i) *the local government proposes to make a local law the purpose and effect of which is summarized in the notice; and*
 - (ii) *a copy of the proposed local law may be inspected or obtained at any place specified in the notice; and*

- (iii) *submissions about the proposed local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;*
- and
- (b) *as soon as the notice is given, give a copy of the proposed local law and a copy of the notice to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister; and*
- (c) *provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.*
- (3a) *A notice under subsection (3) is also to be published and exhibited as if it were a local public notice.*
- (4) *After the last day for submissions, the local government is to consider any submissions made and may make the local law* as proposed or make a local law* that is not significantly different from what was proposed.*
- * Absolute majority required.*
- (5) *After making the local law, the local government is to publish it in the Gazette and give a copy of it to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister.*
- (6) *After the local law has been published in the Gazette the local government is to give local public notice —*
 - (a) *stating the title of the local law; and*
 - (b) *summarizing the purpose and effect of the local law (specifying the day on which it comes into operation); and*
 - (c) *advising that copies of the local law may be inspected or obtained from the local government's office.*
- (7) *The Minister may give directions to local governments requiring them to provide to the Parliament copies of local laws they have made and any explanatory or other material relating to them.*

POLICY IMPLICATIONS

There is no policy implications associated with this item.

FINANCIAL IMPLICATIONS

Adequate budget allocations have been made in 2016/2017 to accommodate the cost to undertake the review process for both advertising and using a consultancy services.

- **Long Term Financial Plan (LTFP):**

No effect on Council's LTFP.

STRATEGIC IMPLICATIONS

It is important Council has up to date and relevant Local Laws; hence the statutory requirement to review all Local Laws at least once every eight (8) years.

- **Strategic Community Plan/Corporate Business Plan:**

We want a representation and governance model that reflects our community's unique attributes	The President and Councillors to be representative of the community and provide strong leadership	Develop Council appropriate policies that enable good: governance, development, services and growth
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CONSULTATION

Elected Members and Officers have had the opportunity to examine the existing Local Laws in conjunction with the consultant the opportunity to comment on the recommended new draft Local Laws.

The draft Repeal Law was advertised for public comment for a period in excess of legislated minimum seven (7) weeks closing on 30 June 2016. No comments were received from the public.

The WA Department of Local Government and Communities made a number of comments on behalf of the Minister for Local Government:

Comment	Recommended Action
<p>1. Enactment clause</p> <p>The date that currently appears in the enactment clause (i.e. 20 April 2016) is incorrect. Under section 3.12(4) of the Local Government Act 1995, a local law can only be made after the public submission period has closed.</p> <p>The date that should appear in the enactment clause will be a date after the public submission period, when the Council considers the final copy of the proposed local law and resolves to “make” that local law.</p> <p>The Shire should ensure that the correct date appears in the final copy of the local law when it is formally made by the Council. A failure to do this may result in the Delegated Legislation Committee requesting an undertaking to amend the local law.</p>	<p>This date was inserted into the Draft Local Law when submitted to the Minister for Local Government for review. Changes to this Local Law were subsequently deemed an administrative error by the Shire of Chapman Valley.</p> <p>Council is advised that the date to be included as part of the proposed Local Law will be the OCM date when Council adopts the Repeal Local Law 2016.</p>
<p>2. Clause 3 – Repeal</p> <p>a) It is suggested that “Building – Minimum Area for Dwelling House Gazetted on 8 August 1950” is replaced with “Building – Minimum Area for Dwelling House as published in the Government Gazette on 19 May 1950”; and</p> <p>b) It is suggested that “Vehicle Drivers on Certain Land Gazetted 8 August 1976” is replaced with “Speed of Vehicles Driven on Certain Land as published in the Government Gazette on 5 March 1976”.</p>	<p>It is noted that the titles of the Repeal Local Laws were not an accurate reflection of the names Gazetted in 1950 and 1976.</p> <p>Council is advised that the correct titles have now been amended to reflect what is printed in the Government Gazette for the proposed Repeal Local Law 2016.</p>

RISK ASSESSMENT

The associated risk would be both the failure to comply a statutory review of Local Laws in accordance with section 3.16 of the *Local Government Act 1995* and the existence of Local Laws which have been superseded by legislation and/or current day relevance.

VOTING REQUIREMENT

Absolute Majority Required.

COUNCIL RESOLUTION / STAFF RECOMMENDATION

MOVED: CR WARR

SECONDED: CR FARRELL

That Council –

1. Adopt by Absolute Majority the Shire of Chapman Valley Repeal Local Law 2016 as per Attachment 9.3.1 in accordance with Section 3.12(4) of the *Local Government Act 1995*.
2. Note the purpose and effect of the local law being:
 - The purpose of the local law is to repeal superfluous, defunct and obsolete local laws.
 - The effect of the local law being more efficient and effective local government by removing outdated local laws from the public record.
3. Authorise the local law’s gazettal in the Government Gazette.
4. Authorise the public notice advertisement, (after gazettal), of the date of the Shire of Chapman Valley Repeal Local Law 2016.

5. Authorise the Shire President and the Chief Executive Officer to affix the Shire's Common Seal to the Shire of Chapman Valley Repeal Local Law 2016.

Voting 7/0

CARRIED

Minute Reference: 08/16-7

WESTERN AUSTRALIA

LOCAL GOVERNMENT ACT 1995

SHIRE OF CHAPMAN VALLEY

REPEAL LOCAL LAW 2016

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

1. Citation

This local law is cited as the *Shire of Chapman Valley Repeal Local Law 2016*.

2. Operation

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

3. Repeal

The following local laws are hereby repealed -

- (a) *Building – Minimum Area for Dwelling House* as published in the *Government Gazette* on 19 May 1950; and
- (b) *Speed of Vehicles Driven on Certain Land* as published in the *Government Gazette* on 5 March 1976.

Dated of 20__ .

The Common Seal of the
Shire of Chapman Valley
was affixed by authority of a
resolution of the Council in the
presence of: }

JOHN COLLINGWOOD
PRESIDENT

MAURICE BATTILANA
CHIEF EXECUTIVE OFFICER

AGENDA ITEM:	9.3.2
SUBJECT:	SHIRE OF CHAPMAN VALLEY STANDING ORDERS LOCAL LAW 2016
PROPONENT:	SHIRE OF CHAPMAN VALLEY
SITE:	SHIRE OF CHAPMAN VALLEY
FILE REFERENCE:	409.05
PREVIOUS REFERENCE:	08/15-7; 10/15-6; 04/16-22
DATE:	17 AUGUST 2016
AUTHOR:	MAURICE BATTILANA, CHIEF EXECUTIVE OFFICER LEANNE LIND, CONSULTANT

DISCLOSURE OF INTEREST

Nil

BACKGROUND

The following was resolved at the 19 August 2015 Council meeting:

MOVED: CR FORRESTER

SECONDED: CR HUMPHREY

That Council:

1. *Resolves to undertake a review of its existing Local Laws; and*
2. *In accordance with section 3.16 (2) of the Local Government Act 1995, give public notice of its intention to undertake a review of its Local Laws.*

Voting 8/0

CARRIED

Minute Reference: 08/15-7

The following was resolved at the 14 October 2015 Council meeting:

MOVED: CR WARR

SECONDED: CR FORRESTER

That Council:

1. *Adopt the report of the review of the Local Laws under s3.16 of the Local Government Act 1995, noting that no community submissions were received in respect to the following local laws:*
 - *Building – Minimum Area for Dwelling House*
 - *Vehicle Drivers on Certain Land*
 - *Dogs Local Law*
 - *Standing Orders Local Law 2000*
 - *Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law*
2. *Determine that the review outcome in respect to each Local Law is as follows:*
 - *Building – Minimum Area for Dwelling House be repealed as outlined in the report and Discussion Paper;*
 - *Vehicle Drivers on Certain Land be repealed as outlined in the report and Discussion Paper;*
 - *Dogs Local Law be repealed and replaced with a new Dogs Local Law;*
 - *Standing Orders Local Law 2000 be repealed and replaced with a new Standing Orders Local Law;*
 - *Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law be repealed and replaced with a new Activities in Thoroughfares and Public Places and Trading Local Law.*

Voting 7/0

CARRIED

Minute Reference: 10/15-6

The following was resolved at the April 2016 OCM:

MOVED: CR FARRELL

SECONDED: CR WARR

Council gives statewide public notice that it intends to make the Shire of Chapman Valley Standing Orders Local Law 2016, as contained in the Attachment 1.

Voting 7/0

CARRIED

Minute Reference: 04/16-22

Sections 3.5 of the *Local Government Act 1995* ('the Act') provides the power for local governments to make local laws and prescribing all matters that are required or permitted to be prescribed by a local law, or are necessary or convenient for it to perform any of its functions.

The Shire of Chapman Valley Standing Orders Local Law is a key component of how the Council conducts its business at a political and officer level. Standing Orders regulate how business is carried out at committee meetings. The Standing Orders are subsidiary legislation to the Act and are considered enforceable procedures.

The Standing Orders Local Law Gazetted on 8 August 2000 was adopted by reference to the Model Local Law (Standing Orders) 1998 published in the Government Gazette on 3 April 1998 with a very minor amendment. Since that time, WALGA has developed a new model local law entitled Local Government (Council Meetings) Local Law which most local governments that have adopted as a new Standing Orders Local Law.

At the Council meeting on 19 August 2015 Council resolved to undertake a review of its existing Local Laws.

As required by the LGA the community was invited to comment on the review of the Council's Local Laws. Public consultation was undertaken as part of the advertising process required by section 3.12(3), for a minimum period of 42 days. The review was advertised on 24 August 2015 with a closing date for submissions of 8 October 2015. No submissions were received. Following this, at the Council Meeting on 14 October 2015 approval was given to proceed to repeal and replace the current Local Law under this review process.

At the April 2016 OCM Council gave statewide public notice that it intended to make the Shire of Chapman Valley Standing Orders Local Law 2016.

COMMENT

The purpose of this report is to:

1. Consider the submissions received on the proposed Shire of Chapman Valley Standing Orders Local Law 2016;
2. Give notice to the purpose and effect of the Shire of Chapman Valley Standing Orders Local Law 2016;
3. Make the Shire of Chapman Valley Standing Orders Local Law 2016;
4. Authorise the local law's gazettal in the *Government Gazette*;
5. Give public notice, (after gazettal), of the date of the Shire of Chapman Valley Standing Orders Local Law 2016;
6. Authorise the affixing of the Common Seal to this local law.

To comply with the provisions of section 3.12 of the Act, when proposing to make a local law, the Presiding Person is required to give notice of the purpose and effect of the proposed local law at the Council meeting where the local law is being considered.

Purpose: The purpose of these standing orders is to provide for the orderly conduct of the proceedings and business of the Council, and for the safe custody and use of the Council's common seal.

Effect: The effect of these standing orders is that all Council meetings, committee meetings, and other meetings as described in the Act, and the use of Council's common seal, shall be governed by these standing orders unless otherwise provided in the Act, regulations or other written law.

Up to date and relevant local laws are an important cornerstone of good governance. Local Government has a statutory and moral obligation to ensure that the regulation of local matters is conducted in a fair, efficient and reasonable manner.

STATUTORY ENVIRONMENT

Section 3.12 of the Act specifies the procedures to be followed when making a local law. Section 3.12 states:

3.12. Procedure for making local laws

- (1) *In making a local law a local government is to follow the procedure described in this section, in the sequence in which it is described.*
- (2) *At a council meeting the person presiding is to give notice to the meeting of the purpose and effect of the proposed local law in the prescribed manner.*
- (3) *The local government is to —*
 - (a) *give Statewide public notice stating that —*
 - (i) *the local government proposes to make a local law the purpose and effect of which is summarized in the notice; and*
 - (ii) *a copy of the proposed local law may be inspected or obtained at any place specified in the notice; and*
 - (iii) *submissions about the proposed local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;*
 - and*
 - (b) *as soon as the notice is given, give a copy of the proposed local law and a copy of the notice to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister; and*
 - (c) *provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.*
- (3a) *A notice under subsection (3) is also to be published and exhibited as if it were a local public notice.*
- (4) *After the last day for submissions, the local government is to consider any submissions made and may make the local law* as proposed or make a local law* that is not significantly different from what was proposed.*

** Absolute majority required.*
- (5) *After making the local law, the local government is to publish it in the Gazette and give a copy of it to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister.*
- (6) *After the local law has been published in the Gazette the local government is to give local public notice —*
 - (a) *stating the title of the local law; and*
 - (b) *summarizing the purpose and effect of the local law (specifying the day on which it comes into operation); and*
 - (c) *advising that copies of the local law may be inspected or obtained from the local government's office.*
- (7) *The Minister may give directions to local governments requiring them to provide to the Parliament copies of local laws they have made and any explanatory or other material relating to them.*

POLICY IMPLICATIONS

There is no policy implications associated with this item.

FINANCIAL IMPLICATIONS

Adequate budget allocations have been made in 2016/2017 to accommodate the cost to undertake the review process for both advertising and using a consultancy services.

- **Long Term Financial Plan (LTFP):**

No effect on Council's LTFP.

STRATEGIC IMPLICATIONS

It is important Council has up to date and relevant Local Laws; hence the statutory requirement to review all Local Laws at least once every eight (8) years.

- **Strategic Community Plan/Corporate Business Plan:**

We want a representation and governance model that reflects our community's unique attributes	The President and Councillors to be representative of the community and provide strong leadership	Develop Council appropriate policies that enable good: governance, development, services and growth
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CONSULTATION

Elected Members and Officers have had the opportunity to examine the existing Local Laws in conjunction with the consultant the opportunity to comment on the recommended new draft Local Laws.

The draft Shire of Chapman Valley Standing Orders Local Law, 2016, was advertised for public comment for a period in excess of legislated minimum seven (7) weeks closing on 30 June 2016. No comments were received from the public.

The WA Department of Local Government and Communities made a number of comments on behalf of the Minister for Local Government:

Comment	Recommended Action
1.4 Interpretation It is suggested that the Shire inserts a definition for each of the following terms which are used throughout the local law. This will ensure that the meanings of these terms are clear: WALGA advice sort on this – outcomes for editing are: <ul style="list-style-type: none"> • “Officer”; • “original motion”; • “procedural motion”; • “special majority”. 	Noted WALGA advice sort on inserting definitions and on their recommendation the agreed amends are: “Officer”; definition not included. “original motion”; definition not included “procedural motion”; “special majority” 75% Majority has been amended in the local law.
5.2 (3) – Bracketed references Subclause 5.2(3) contains bracketed references to clauses of the local law. The Delegated Legislation Committee has expressed concerns regarding this practice because the references have no legal effect in themselves they will become misleading if the legislation is amended. It is suggested that the bracketed references be removed from the final draft of the local law prior to gazettal. The Shire may include this information as part of an “administration version” of the local law which may be made available at the Shire’s offices but these notes should not be in the official gazetted version of the local law.	Noted and deleted.

<p>6.16 - Recording of Proceedings</p> <p>a) This clause provides that a person must not use “vocal” recording devices. The Delegated Legislation Committee has requested that “vocal” be replaced with “audio”.</p> <p>b) Depending on the Shire’s intentions, it may wish to add the following new subclause (2). If this new subclause is inserted, the existing text should be designated as subclause “(1)”:</p> <p>---</p> <p>(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.</p>	<p>Noted and amended.</p>
<p>8.7 Relevance</p> <p>In subclause (2)(a)(ii), it is suggested that “or decorum” is deleted.</p> <p>This term is vague and may be subject to various interpretations. It is arguable that the other parts of paragraph (a) provide sufficient coverage on this issue.</p>	<p>Noted and deleted.</p>
<p>9.5 Ruling by the Presiding Member</p> <p>It is suggested that subclause (2)(a) is deleted.</p> <p>The Delegated Legislation Committee has objected to this paragraph in several local laws. The most likely reason is because the prohibition of any “debate or comment” could hinder the Council’s ability to consider motions under paragraph (b).</p>	<p>Noted and deleted</p>
<p>19.1 Penalties</p> <p>It is suggested that the penalty for a breach of the local law is reduced to \$1,000 with a daily penalty of \$100 for continuing offences.</p> <p>Offences under standing orders are relatively minor when compared to local laws that involve matters of public safety or local government property. The Delegated Legislation Committee has previously requested undertakings when local governments try to impose the maximum penalty permitted under the Local Government Act 1995.</p>	<p>Noted and amended</p>

The Department also recommended a number of minor edits, which have been undertaken.

The local law can now be finalised, and will come into effect 14 days after its publication in the Government Gazette.

RISK ASSESSMENT

The associated risk would be both the failure to comply a statutory review of Local Laws in accordance with section 3.16 of the Act and the existence of Local Laws which have been superseded by legislation and/or current day relevance.

VOTING REQUIREMENT

Absolute Majority Required.

COUNCIL RESOLUTION / STAFF RECOMMENDATION

MOVED: CR WARR

SECONDED: CR FORRESTER

That Council –

1. Adopt by Absolute Majority the Shire of Chapman Valley Standing Orders Local Law 2016 as per Attachment 9.3.2 in accordance with Section 3.12(4) of the *Local Government Act 1995*.
2. Note the purpose and effect of the local law being:

Purpose: The purpose of these standing orders is to provide for the orderly conduct of the proceedings and business of the Council, and for the safe custody and use of the Council's common seal.

Effect: The effect of these standing orders is that all Council meetings, committee meetings, and other meetings as described in the Act, and the use of Council's common seal, shall be governed by these standing orders unless otherwise provided in the Act, regulations or other written law.
3. Authorise the local law's gazettal in the Government Gazette.
4. Authorise the public notice advertisement, (after gazettal), of the date of the Shire of Chapman Valley Standing Orders Local Law 2016.
5. Authorise the Shire President and the Chief Executive Officer to affix the Shire's Common Seal to the Shire of Chapman Valley Standing Orders Local Law 2016.

Voting 7/0

CARRIED

Minute Reference: 08/16-8

WESTERN AUSTRALIA

*Local Government Act 1995***SHIRE OF CHAPMAN VALLEY**
Standing Orders Local Law 2016

ARRANGEMENT

Part 1 - Preliminary

- 1.1 Citation
- 1.2 Commencement
- 1.3 Application and intent
- 1.4 Interpretation
- 1.5 Repeal

Part 2 – Establishment and membership of committees

- 2.1 Establishment of committees
- 2.2 Types of committees
- 2.3 Delegation of some powers and duties to certain committees
- 2.4 Limits on delegation of powers and duties to certain committees
- 2.5 Appointment of committee Members
- 2.6 Tenure of committee membership
- 2.7 Resignation of committee Members
- 2.8 Register of delegations to committees
- 2.9 Committees to report

Part 3 - Calling and convening meetings

- 3.1 Ordinary and special Council meetings
- 3.2 Calling Council meetings
- 3.3 Convening Council meetings
- 3.4 Calling committee meetings
- 3.5 Public notice of meetings

Part 4 – Presiding Member and quorum*Division 1: Who presides*

- 4.1 Who presides
- 4.2 When the Deputy President can act
- 4.3 Who acts if no President
- 4.4 Election of Presiding Members of committees
- 4.5 Election of Deputy Presiding Members of committees
- 4.6 Functions of Deputy Presiding Members
- 4.7 Who acts if no Presiding Member

Division 2 – Quorum

- 4.8 Quorum for meetings
- 4.9 Reduction of quorum for Council meetings
- 4.10 Reduction of quorum for committee meetings
- 4.11 Procedure where no quorum to begin a meeting
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Part 5 - Business of a meeting

- 5.1 Business to be specified
- 5.2 Order of business
- 5.3 Motions of which previous notice has been given
- 5.4 New business of an urgent nature
- 5.5 Adoption by exception resolution

Part 7 - Questions by Members

- 7.1 Questions by Members

Part 6 - Public participation

- 6.1 Meetings generally open to the public
- 6.2 Meetings not open to the public
- 6.3 Question time for the public
- 6.4 Question time for the public at certain meetings
- 6.5 Minimum question time for the public
- 6.6 Procedures for question time for the public
- 6.7 Other procedures for question time for the public
- 6.8 Distinguished visitors
- 6.9 Deputations
- 6.10 Petitions
- 6.11 Presentations
- 6.12 Participation at committee meetings
- 6.13 Council may meet to hear public submissions
- 6.14 Public Inspection of agenda materials
- 6.15 Confidentiality of information withheld
- 6.16 Recording of proceedings
- 6.17 Prevention of disturbance

Part 7 - Questions by Members**Part 8 – Conduct of Members**

- 8.1 Members to be in their proper places

- 8.2 Titles to be used
- 8.3 Advice of entry or departure
- 8.4 Members to indicate their intention to speak
- 8.5 Priority of speaking
- 8.6 Presiding Member may take part in debates
- 8.7 Relevance
- 8.8 Speaking twice
- 8.9 Duration of speeches
- 8.10 No speaking after conclusion of debate
- 8.11 No interruption
- 8.12 Personal explanations
- 8.13 No reopening of discussion
- 8.14 Adverse reflection
- 8.15 Withdrawal of offensive language
- Part 9 - Preserving order**
 - 9.1 Presiding Member to preserve order
 - 9.2 Point of order
 - 9.3 Procedures on a point of order
 - 9.4 Calling attention to breach
 - 9.5 Ruling by the Presiding Member
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 - 9.7 Right of Presiding Member to adjourn
- Part 10 - Debate of substantive motions**
 - 10.1 Motions to be stated and in writing
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 - 10.3 Unopposed business
 - 10.4 Only one substantive motion at a time
 - 10.5 Order of call in debate
 - 10.6 Limit of debate
 - 10.7 Member may require question to be read
 - 10.8 Consent of seconder required for alteration
 - 10.9 Order of amendments
 - 10.10 Form of an amendment
 - 10.11 Amendment must not negate original motion
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 - 10.13 Mover of motion may speak on amendment
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- Part 11 - Procedural motions**
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 - 11.4 Procedural motions - right of reply on substantive motion
 - 11.5 Meeting to proceed to the next business
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 - 11.7 Meeting now adjourn
 - 11.8 Question to be put
 - 11.9 Member to be no longer heard
 - 11.10 Ruling of the Presiding Member to be disagreed with
- Part 12 - Disclosure of interests**
 - 12.1 Disclosure of interests
- Part 13 - Voting**
 - 13.1 Question - when put
 - 13.2 Voting
 - 13.3 Majorities required for decisions
 - 13.4 Method of taking vote
- Part 14 - Minutes of meetings**
 - 14.1 Keeping of minutes
 - 14.2 Content of minutes
 - 14.3 Public inspection of unconfirmed minutes
 - 14.4 Confirmation of minutes
- Part 15 - Adjournment of meeting**
 - 15.1 Meeting may be adjourned
 - 15.2 Effect of adjournment
- Part 16 - Revoking or changing decisions**
 - 16.1 Requirements to revoke or change decisions
 - 16.2 Limitations on powers to revoke or change decisions
 - 16.3 Implementing a decision
- Part 17 - Suspension of Local Laws**
 - 17.1 Suspension of Local Laws
 - 17.2 Where Local Laws do not apply
 - 17.3 Cases not provided for in Local Laws
- Part 18 - Meetings of electors**
 - 18.1 Electors' general meetings
 - 18.2 Matters for discussion at general electors' meeting
 - 18.3 Electors' special meetings
 - 18.4 Requests for electors' special meetings
 - 18.5 Convening electors' meetings
 - 18.6 Who presides at electors' meetings

- 18.7 Procedure for electors' meetings
- 18.8 Participation of non-electors
- 18.9 Voting at electors' meetings
- 18.10 Minutes of electors' meetings
- 18.11 Decisions made at electors' meetings

Part 19 - Enforcement

- 19.1 Penalty for breach
- 19.2 Who can prosecute

Shire of Chapman Valley

Standing Orders Local Law 2016

Under the powers conferred by the *Local Government Act 1995* and under all other relevant powers, the *Shire of Chapman Valley* resolved on **INSERT DATE** to make the following local law.

Part 1 - Preliminary

1.1 Citation

This local law may be cited as the *Shire of Chapman Valley Standing Orders Local Law 2016*.

1.2 Commencement

By virtue of section 3.14 of the Act, this local law come into operation 14 days after the date of their publication in the *Government Gazette*.

1.3 Application and intent

- (1) This local law provide rules and guidelines which apply to the conduct of meetings of the Council and its committees and to meetings of electors.
- (2) All meetings are to be conducted in accordance with the Act, the Regulations and this local law.
- (3) This local law are intended to result in:
 - (a) better decision-making by the Council and committees;
 - (b) the orderly conduct of meetings dealing with Council business;
 - (c) better understanding of the process of conducting meetings; and
 - (d) the more efficient and effective use of time at meetings.

1.4 Interpretation

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

75% majority has the meaning given to it in the Act;

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 local government;

committee means a committee of the Council established under section 5.8 of the Act;

committee meeting means a meeting of a committee;

Council means the Council of the Shire of Chapman Valley;

Local government means the *Shire of Chapman Valley*;

President means the President of the local government or other Presiding Member at a Council meeting under section 5.6 of the Act;

meeting means a meeting of the Council or a committee, as the context requires;

Member has the meaning given to it in the Act;

Presiding Member means:

- (a) in respect of the Council, the person presiding under section 5.6 of the Act; and
- (b) in respect of a committee, the person presiding under sections 5.12, 5.13, and 5.14 of the Act;

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

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

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

- (2) Unless otherwise defined in this local law, the terms and expressions used in this local law are to have the meaning given to them in the Act and Regulations.

1.5 Repeal

The *Shire of Chapman Valley Standing Orders Local Law 2000* as published in the *Government Gazette* on 8 August 2000 is repealed.

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, officers and other persons to be appointed to the committee;
 - (c) the names or titles of the council members and officers 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 are 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, 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**
The CEO is to call a meeting of any committee when requested by the President, the Presiding Member of a committee or any two members of that committee.
- 3.5 Public notice of meetings**
Public notice of meetings is dealt with in the Regulations.

Part 4 – Presiding Member and quorum

Division 1: Who presides

- 4.1 Who presides**
Who presides at a Council meeting is dealt with in the Act.
- 4.2 When the Deputy President can act**
When the Deputy President can act is dealt with in the Act.
- 4.3 Who acts if no President**
Who acts if there is no President is dealt with in the Act.
- 4.4 Election of Presiding Members of committees**
The election of Presiding Members of committees and their deputies is dealt with in the Act.
- 4.5 Election of Deputy Presiding Members of committees**
The election of Deputy Presiding Members of committees is dealt with in the Act.
- 4.6 Functions of Deputy Presiding Members**
The functions of Deputy Presiding Members are dealt with in the Act.
- 4.7 Who acts if no Presiding Member**
Who acts if no Presiding Member is dealt with in the Act.

Division 2 – Quorum

- 4.8 Quorum for meetings**
The quorum for meetings is dealt with in the Act.
- 4.9 Reduction of quorum for Council meetings**

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

4.10 Reduction of quorum for committee meetings

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

4.11 Procedure where no quorum to begin a meeting

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

4.12 Procedure where quorum not present during a meeting

If at any time during a meeting a quorum is not present, the Presiding Member is:

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

4.13 Names to be recorded

At any meeting:

- (a) at which there is not a quorum present; or
 - (b) which is adjourned for want of a quorum,
- the names of the Members then present are to be recorded in the minutes.

Part 5 - Business of a meeting

5.1 Business to be specified

- (1) No business is to be transacted at any ordinary meeting of the Council other than that specified in the agenda, without the approval of the Presiding Member or the Council.
- (2) No business is to be transacted at a special meeting of the Council other than that given in the notice as the purpose of the meeting.
- (3) Subject to subclause (4), no business is to be transacted at an adjourned meeting of the Council other than that:
 - (a) specified in the notice of the meeting which had been adjourned; and
 - (b) which remains unresolved.
- (4) Where a meeting is adjourned to the next ordinary meeting of the Council then, unless the Council resolves otherwise, the business unresolved at the adjourned meeting is to be dealt with before considering Reports (Item 10) at that ordinary meeting.

5.2 Order of business

- (1) Unless otherwise decided by the Council the order of business at any ordinary meeting of the Council is to be as follows:
 - 1. Declaration of Opening/Announcement of Visitors
 - 2. Announcements from the Presiding Member
 - 3. Attendance
 - 3.1 Apologies
 - 3.2 Previously approved leave of absence
 - 4. Public Question Time
 - 4.1 Response to previous public questions taken on notice
 - 4.2 Public question time
 - 5. Applications for leave of absence
 - 6. Declaration of interest
 - 7. Presentations
 - 7.1 Petitions
 - 7.2 Presentations
 - 7.3 Deputations
 - 8. Confirmation of minutes
 - 9. Items to be dealt with En Bloc
 - 10. Officers' Reports
 - 11. Elected Members Motions of which previous notice has been given
 - 12. New business of an urgent nature introduced by decision of the meeting
 - 13. Delegates' reports
 - 14. Announcements by Presiding member without discussion
 - 15. Matters for which meeting may be closed to public
 - 16. Closure
- (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, 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 10 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) may, with the concurrence of the President, may exclude from the notice paper any notice of motion deemed to be, or likely to involve, a breach of any of this local law or any other written law;
 - (b) will inform Members on each occasion that a notice has been excluded and the reasons for that exclusion;
 - (c) 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 Council 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 Council 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 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 before the next meeting.
- 5.5 Adoption by exception resolution**
 - (1) In this clause 'adoption by exception resolution' means a resolution of the Council that has the effect of adopting, for a number of specifically identified reports, the officer recommendation as the Council resolution.
 - (2) Subject to subclause (3), the local government may pass an adoption by exception resolution.
 - (3) An adoption by exception resolution may not be used for a matter:
 - (a) that requires a 75% 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; and
 - (iii) any Officer 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 a vote of a Member to be included in the minutes.
- 6.3 Question time for the public**
Question time for the public is dealt with in 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 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.
 - (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) Each member of the public with a question is entitled to ask up to 2 questions before other members of the public will be invited to ask their questions.
 - (6) 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.

- (7) The Presiding Member may decide that a public question shall not be responded to where:
 - (a) the same or similar question was asked at a previous meeting, a response was provided and the member of the public is directed to the minutes of the meeting at which the response was provided;
 - (b) the member of the public uses public question time to make a statement, provided that the Presiding Member has taken all reasonable steps to assist the member of the public to phrase the statement as a question; or
 - (c) the member of the public asks a question that is offensive or defamatory in nature, provided that the Presiding Member has taken all reasonable steps to assist the member of the public to phrase the question in a manner that is not offensive or defamatory.
 - (8) A member of the public shall have two minutes to submit a question.
 - (9) The Council, by resolution, may agree to extend public question time.
 - (10) Where an answer to a question is given at a meeting, a summary of the question and the answer is to be included in the minutes.
- 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 shall be recorded in the minutes.
- 6.9 Deputations**
- (1) Any person or group wishing to be received as a deputation by the Council is to either:
 - (a) apply, before the meeting, to the CEO for approval; or
 - (b) with the approval of the Presiding Member, at the meeting, address the Council.
 - (2) The CEO may either:
 - (a) approve the request and invite the deputation to attend a meeting of the Council; or
 - (b) refer the request to the Council to decide by simple majority whether or not to receive the deputation.
 - (3) Unless the council resolves otherwise, a deputation invited to attend a Council meeting:
 - (a) is not to exceed 5 persons, only 2 of whom may address the Council, although others may respond to specific questions from Members;
 - (b) is not to address the Council for a period exceeding 10 minutes without the agreement of the Council; and,
 - (c) additional members of the deputation may be allowed to speak with the leave of the Presiding Member.
 - (4) Any matter which is the subject of a deputation to the Council is not to be decided by the Council until the deputation has completed its presentation.
- 6.10 Petitions**
- (1) A petition is to -
 - (a) be addressed to the President;
 - (b) be made by electors of the district;
 - (c) state the request on each page of the petition;
 - (d) contain the name, address and signature of each elector making the request, and the date each elector signed;
 - (e) contain a summary of the reasons for the request; and
 - (f) state the name of the person to whom, and an address at which, notice to the petitioners can be given.
 - (2) Upon receiving a petition, the local government is to submit the petition to the relevant officer to be included in his or her deliberations and report on the matter that is the subject of the petition, subject to subclause (3).
 - (3) At any meeting, the Council is not to vote on any matter that is the subject of a petition presented to that meeting, unless:
 - (a) the matter is the subject of a report included in the agenda; and
 - (b) the Council has considered the issues raised in the petition.
- 6.11 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 CEO.
- 6.12 Participation at committee meetings**
- (1) In this clause a reference to a person is to a person who:
 - (a) is entitled to attend a committee meeting;
 - (b) attends a committee meeting; and
 - (c) is not a member of that committee.
 - (2) 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.
 - (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 shall set the time and date of the meeting to provide the opportunity to be heard.
 - (3) Where the Council resolves to meet to provide the opportunity to be heard under subclause (1), the Presiding Member shall:
 - (a) instruct the CEO to provide local public notice of the time and date when the 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) shall be conducted only to hear submissions. The council shall not make resolutions at a meeting to provide the opportunity to be heard.
- (5) At a meeting held under subclause (1), each person making a submission shall be provided with the opportunity to fully state his or her case.
- (6) A member of the public shall be limited to 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 Lot 7 Chapman Valley Road, Nabawa, and 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";
 - (b) marked *Confidential* in the agenda; and
 - (c) kept confidential by Officers and Members until the Council resolves otherwise.
- (2) A member or an officer in receipt of confidential information under subclause (1) or information that is provided or disclosed during a meeting or part of a meeting that is closed to the public is not to disclose any of that information to any person other than another member or an officer to the extent necessary for the purpose of carrying out his or her duties.
- (3) Subclause (2) does not apply where a member or officer discloses the information to his or her lawyer or government officer for the purpose of seeking advice in order to lawfully fulfil his or her role and responsibilities.

6.16 Recording of proceedings

- (1) A person is not to use any electronic, visual or audio recording device or instrument to record the proceedings of the Council without the permission of the Presiding Member.
- (2) If the Presiding Member gives permission under subclause (1), the Presiding Member is to advise the meeting, immediately before the recording is commenced, that such permission has been given and the nature and extent of that permission.

6.17 Prevention of disturbance

- (1) A reference in this clause to a person is to a person other than a member.
- (2) A person addressing the Council shall extend due courtesy and respect to the Council and the processes under which it operates and shall comply with any direction by the Presiding Member.
- (3) A person observing a meeting shall not create a disturbance at a meeting, by interrupting or interfering with the proceedings, whether by expressing approval or dissent, by conversing or by any other means.
- (4) A person shall ensure that his or her mobile telephone or audible pager is not switched on or used during any meeting of the Council.
- (5) A person shall not behave in a manner that is contrary to section 75 of the Criminal Code.

Part 7 - Questions by Members

7.1 Questions by Members

- (1) Members may ask questions 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 Officer at a Council meeting may ask a question without notice and with the consent of the Presiding Member, may ask one or more further questions of that Officer or another Officer present at the meeting.
- (3) Where possible the Officer shall endeavour to answer the question to the best of his or her knowledge and ability, however, if the information is unavailable or the answer requires research or investigation, the Officer may ask that -
 - (i) the question be placed on notice for the next meeting of Council; and
 - (ii) the answer to the question be given to the Member who asked it within 14 days.
- (4) Every question and answer -
 - (i) is to be brief and concise; and
 - (ii) 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 Officer 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, the CEO is to allot alphabetically a position at the Council table to each Member.
- (2) Each Member is to occupy his or her allotted position at each Council meeting.

8.2 Titles to be used

A speaker, when referring to the President, Deputy President or Presiding Member, or a Member or Officer, is to use the title of that person's office.

8.3 Advice of entry or departure

During the course of a meeting of the Council, 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.

8.4 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. Each Member will stand when invited to speak by the Presiding Member.

8.5 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.

8.6 Presiding Member may take part in debates

The Presiding Member may take part in a discussion of any matter before the Council, subject to compliance with this local law.

8.7 Relevance

- (1) 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.
- (2) The Presiding Member, at any time, may:
 - (a) call the attention of the meeting to:
 - (i) any irrelevant, repetitious, offensive or insulting language by a Member; or
 - (ii) any breach of order by a Member; and
 - (b) direct that Member, if speaking, to discontinue his or her speech.
- (3) A Member is to comply with the direction of the Presiding Member under subclause (2) by immediately ceasing to speak.

8.8 Speaking twice

A Member is not to address the Council 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.

8.9 Duration of speeches

- (1) A Member is not to speak on any matter for more than 5 minutes without the consent of the Council 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.

8.10 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.

8.11 No interruption

A Member is not to interrupt another Member who is speaking unless:

- (a) to raise a point of order;
- (b) to call attention to the absence of a quorum;
- (c) to make a personal explanation under clause 8.13; or
- (d) to move a procedural motion that the Member be no longer heard under clause 11.1(e).

8.12 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.

8.13 No reopening of discussion

A Member is not to reopen discussion on any Council decision, except to move that the decision be revoked or changed under Part 16.

8.14 Adverse reflection

- (1) A Member is not to reflect adversely on a decision of the Council except on a motion that the decision be revoked or changed under Part 16.
- (2) A Member is not:
 - (a) to reflect adversely on the character or actions of another Member or Officer; or
 - (b) to impute any motive to a Member or Officer,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 or objectionable expressions in reference to any Member, Officer 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 may, by resolution, decide to record those words in the minutes.

8.15 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 8.14:
 - (i) reflects adversely on the character or actions of another Member or Officer; or
 - (ii) imputes any motive to a Member or Officer; 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 refuse to hear the Member further on the matter then under discussion and call on the next speaker.

Part 9 - Preserving order

9.1 Presiding Member to preserve order

- (1) The Presiding Member is to preserve order, and, whenever 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 immediately to sit down and every Member present is to preserve strict silence so that the Presiding Member may be heard without interruption.
- (3) Subclause (2) is not to be used by the Presiding Member to exercise the right provided in clause 8.6, 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 matter under discussion, 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 substantive motions

10.1 Motions to be stated and in writing

Any Member who wishes to move a substantive motion or an amendment to a substantive motion:

- (a) is to state the substance of the motion before speaking to it; and
- (b) if required by the Presiding Member, is to put the motion or amendment in writing.

10.2 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.

10.3 Unopposed business

- (1) Immediately after a substantive motion has been moved and seconded, the Presiding Member may ask the meeting if any Member opposes it.
- (2) If no Member opposes the motion, the Presiding Member may declare it carried without debate and without taking a vote.
- (3) A motion declared carried under this clause is to be recorded in the minutes as a unanimous decision of the Council.
- (4) If a Member opposes a motion, the motion is to be dealt with under this Part.
- (5) This clause does not apply to a motion to revoke or change a decision which has been made at a Council meeting under Part 16.

10.4 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.

10.5 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.

10.6 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.

10.7 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.

10.8 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.

10.9 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.

10.10 Form of an amendment

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

10.11 Amendment must not negate original motion

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

10.12 Relevance of amendments

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

10.13 Mover of motion may speak on amendment

Any Member may speak during debate on an amendment.

10.14 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.

10.15 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.

10.16 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;
 - (b) there is to be no further discussion on, or any further amendment to, the motion.
- (5) The right of the reply is to be confined to rebutting arguments raised by previous speakers and no new matter is to be introduced.
- (6) At the conclusion of the right of reply, the substantive motion, or the substantive motion as amended, is immediately to be put to the vote.

Part 11 - Procedural motions**11.1 Permissible procedural motions**

In addition to the right to move an amendment to a substantive motion (under Part 10), a Member may move the following procedural motions:

- (a) that the meeting proceed to the next item of business;
- (b) that the debate be adjourned;
- (c) that the meeting now adjourn;
- (d) that the question be now put;
- (e) that the Member be no longer heard;
- (f) that the ruling of the Presiding Member be disagreed with;
- (g) that the meeting be closed to the public under clause 6.2.

11.2 No debate

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

11.3 Who may move

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

11.4 Procedural motions - right of reply on substantive motion

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

11.5 Meeting to proceed to the next business

The motion "that the meeting proceed to the next business", if carried, has the effect that:

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

11.6 Debate to be adjourned

A motion "that the debate be adjourned":

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

11.7 Meeting now adjourn

- (1) A Member is not to move or second more than one motion of adjournment during the same sitting of the Council.
- (2) Before putting the motion for the adjournment of the Council, the Presiding Member may seek leave of the Council to deal first with matters that may be the subject of an adoption by exception resolution under clause 5.5;
- (3) A motion "that the meeting now adjourn":
 - (a) is to state the time and date to which the meeting is to be adjourned; and
 - (b) if carried, has the effect that the meeting is adjourned to the time and date specified in the motion.
- (4) A meeting adjourned under subclause (3) is to continue from the point at which it was adjourned, unless the Presiding Member or the Council determines otherwise.

11.8 Question to be put

- (1) If the motion "that the question be now put", is carried during debate on a substantive motion without amendment, the Presiding Member is to offer the right of reply and then put the motion to the vote without further debate.
- (2) If the motion "that the question be now put" is carried during discussion of an amendment, the Presiding Member is to put the amendment to the vote without further debate.
- (3) This motion, if lost, causes debate to continue.

11.9 Member to be no longer heard

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

11.10 Ruling of the Presiding Member to be disagreed with

If the motion "that the ruling of the Presiding Member be disagreed with", is carried, that ruling is to have no effect and the meeting is to proceed accordingly.

Part 12 - Disclosure of interests

12.1 Disclosure of interests

Disclosure of interests is dealt with in the Act.

Part 13 - Voting

13.1 Question - when put

- (1) Immediately after the debate on any question is concluded and the right of reply has been exercised, the Presiding Member -
 - (a) is to put the question to the Council; and
 - (b) if requested by any Member, is to again state the terms of the question.
- (2) A Member is not to leave the meeting when the Presiding Member is putting any question.

13.2 Voting

Voting is dealt with in the Act and the Regulations.

13.3 Majorities required for decisions

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

13.4 Method of taking vote

- (1) In taking the vote on any motion or amendment the Presiding Member:
 - (a) is to put the question, first in the affirmative, and then in the negative;
 - (b) may put the question in this way as often as may be necessary to enable him or her to determine whether the affirmative or the negative has the majority of votes;
 - (c) may accept a vote on the voices or may require a show of hands; and
 - (d) is, subject to this clause, to declare the result.
- (2) If a Member calls for a show of hands, the result of the vote is to be determined on the count of raised hands.
- (3) If a member of council or a committee specifically requests that there be recorded -
 - (a) his or her vote; or,
 - (b) the vote of all members present,

on a matter voted on at a meeting of the council or committee, the person presiding is to cause the vote or votes, as the case may be, to be recorded in the minutes.

- (4) If a Member calls for a division:
 - (a) those voting in the affirmative are to pass to the right of the Presiding Member; and
 - (b) those voting in the negative are to pass to the left of the Presiding Member.
- (5) For every division, the CEO is to record:
 - (a) the name of each member who voted; and
 - (b) whether he or she voted in the affirmative or negative.

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, 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 the 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 shall, at the time for confirmation of minutes -
 - (a) state the item or items with which he or she is dissatisfied; and
 - (b) propose a motion clearly outlining the alternative wording to amend the minutes.
- (3) Members must not discuss items of business contained in the minutes, other than discussion as to their accuracy as a record of the proceedings.

Part 15 - Adjournment of meeting

15.1 Meeting may be adjourned

The Council 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 8.8 [speaking twice] apply when the debate is resumed.

Part 16 – Revoking or changing decisions

16.1 Requirements to revoke or change decisions

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

16.2 Limitations on powers to revoke or change decisions

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

16.3 Implementing a decision

- (1) In this clause:
 - (a) **authorisation** means a licence, permit, approval or other means of authorising a person to do anything;
 - (b) **implement**, in relation to a decision, includes:
 - (i) communicate notice of the decision to a person affected by, or with an interest in, the decision; and
 - (ii) take any other action to give effect to the decision; and
 - (c) **valid notice of revocation motion** means a notice of motion to revoke or change a decision that complies with the requirements of the Act, Regulations and the local laws and may be considered, but has not yet been considered, by the Council or a committee as the case may be.
- (2) Subject to subclause (4), and unless a resolution is made under subclause (3), a decision made at a meeting is not to be implemented by the CEO or any other person until the afternoon of the first business day after the commencement of the meeting at which the decision was made.
- (3) The Council or a committee may, by resolution carried at the same meeting at which a decision was made, direct the CEO or another person to take immediate action to implement the decision.
- (4) A decision made at a meeting is not to be implemented by the CEO or any other person:
 - (a) if, before commencing any implementation action, the CEO or that person is given a valid notice of revocation motion; and
 - (b) unless and until the valid notice of revocation motion has been determined by the Council or the committee as the case may be.
- (5) The CEO is to ensure that members of the public attending the meeting are informed by an appropriate notice that a decision to grant an authorisation:
 - (a) is to take effect only in accordance with this clause; and

- (b) cannot be acted upon by the person who has been granted the authorisation unless and until the decision has been implemented in accordance with this clause.

Part 17 - Suspension of Local Laws

17.1 Suspension of Local Laws

- (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 Laws do 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.

17.3 Cases not provided for in Local Laws

The Presiding Member is to decide questions of order, procedure, debate, or otherwise in cases where this local law, the Act or the Regulations are silent. The decision of the Presiding Member in these cases 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 shall not take part in any discussion at an electors' meeting unless the meeting, by resolution, permits the person do so.

18.9 Voting at electors' meetings

Voting at electors' meetings is dealt with in 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 \$100.00.

19.2 Who can prosecute

Who can prosecute is dealt with in the Act.

Dated of 20__.

The Common Seal of the }

Shire of Chapman Valley }
was affixed by authority of a }
resolution of the Council in the }
presence of: }

JOHN COLLINGWOOD
PRESIDENT

MAURICE BATTILANA
CHIEF EXECUTIVE OFFICER

AGENDA ITEM:	9.3.3
SUBJECT:	SHIRE OF CHAPMAN VALLEY ACTIVITIES ON THOROUGHFARES AND PUBLIC PLACES AND TRADING LOCAL LAWS 2016
PROPOSER:	SHIRE OF CHAPMAN VALLEY
SITE:	SHIRE OF CHAPMAN VALLEY
FILE REFERENCE:	409.05
PREVIOUS REFERENCE:	08/15-7; 10/15-6; 04/16-23
DATE:	17th AUGUST 2016
AUTHOR:	MAURICE BATTILANA, CHIEF EXECUTIVE OFFICER LEANNE LIND, CONSULTANT

DISCLOSURE OF INTEREST

Nil

BACKGROUND

The following was resolved at the 19 August 2015 OCM:

MOVED: CR FORRESTER

SECONDED: CR HUMPHREY

That Council:

1. *Resolves to undertake a review of its existing Local Laws; and*
2. *In accordance with section 3.16 (2) of the Local Government Act 1995, give public notice of its intention to undertake a review of its Local Laws.*

Voting 8/0

CARRIED

Minute Reference: 08/15-7

The following was resolved at the 14 October 2015 OCM:

MOVED: CR WARR

SECONDED: CR FORRESTER

That Council:

1. *Adopt the report of the review of the Local Laws under s3.16 of the Local Government Act 1995, noting that no community submissions were received in respect to the following local laws:*
 - *Building – Minimum Area for Dwelling House*
 - *Vehicle Drivers on Certain Land*
 - *Dogs Local Law*
 - *Standing Orders Local Law 2000*
 - *Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law*
2. *Determine that the review outcome in respect to each Local Law is as follows:*
 - *Building – Minimum Area for Dwelling House be repealed as outlined in the report and Discussion Paper;*
 - *Vehicle Drivers on Certain Land be repealed as outlined in the report and Discussion Paper;*
 - *Dogs Local Law be repealed and replaced with a new Dogs Local Law;*
 - *Standing Orders Local Law 2000 be repealed and replaced with a new Standing Orders Local Law;*
 - *Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law be repealed and replaced with a new Activities in Thoroughfares and Public Places and Trading Local Law.*

Voting 7/0

CARRIED

Minute Reference: 10/15-6

The following was resolved at the April 2016 OCM:

MOVED: CR WOOD

SECONDED: CR MALUISH

Council gives statewide public notice that it intends to make the Shire of Chapman Valley Activities on Thoroughfares and Public Places and Trading Local Law 2016, as contained in the Attachment 1.

Voting 7/0

CARRIED

Minute Reference: 04/16-23

Section 3.5 of the *Local Government Act 1995* ('the Act') provides the power for local governments to make Local Laws and prescribes all matters that are required or permitted to be prescribed by a Local Law, or are necessary or convenient for it to perform any of its functions.

The Shire of Chapman Valley Activities on Thoroughfares and Public Places and Trading Local Laws 2016 relates to activities which can or cannot take place in thoroughfares and public places, including planting and landscaping, permit requirements, consumption of alcohol, vehicle movement, signage, obstruction, conservation, lighting of fires, and trading.

The purpose of this report is to allow the Presiding Person to give notice to the meeting of the purpose and effect of the proposed Activities in Thoroughfares and Public Places and Trading Amendment Local Law, for the Council to adopt the proposed Local Law and to allow for advertising of the proposed Local Law for public comment.

The Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law Gazetted on 8 August 2000 was adopted by reference to the Town of Mosman Park Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law with minor edits which was Gazetted on the 15 March 2000.

At the Council meeting on 19 August 2015 Council resolved to undertake a review of its existing Local Laws.

As required by the Act the community was invited to comment on the review of the Council's Local Laws. Public consultation was undertaken as part of the advertising process required by section 3.12(3), for a minimum period of 42 days. The review was advertised on 24 August 2015 with a closing date for submissions of 8 October 2015. No submissions were received. Following this, at the Council Meeting on 14 October 2015 approval was given to proceed to repeal and replace the current Local Law under this review process.

At the 20 April 2016 OCM Council gave statewide public notice that it intended to make the Shire of Chapman Valley Activities on Thoroughfares and Public Places and Trading Local Law 2016.

COMMENT

The purpose of this report is to:

1. Consider the submissions received on the proposed Shire of Chapman Valley Activities on Thoroughfares and Public Places and Trading Local Law 2016;
2. Give notice to the purpose and effect of the Shire of Chapman Valley Activities on Thoroughfares and Public Places and Trading Local Law 2016;
3. Make the Shire of Chapman Valley Activities on Thoroughfares and Public Places and Trading Standing Orders Local Law 2016;
4. Authorise the local law's gazettal in the *Government Gazette*;
5. Give public notice, (after gazettal), of the date of the Shire of Chapman Valley Activities on Thoroughfares and Public Places and Trading Local Law 2016;
6. Authorise the affixing of the Common Seal to this local law.

To comply with the provisions of section 3.12 of the Act, when proposing to make a local law, the Presiding Person is required to give notice of the purpose and effect of the proposed local law at the Council meeting where the local law is being considered.

- The purpose of this local law is to provide for the regulation, management and control of activities in thoroughfares and public places throughout the district.
- The effect of this local law is to establish the requirements with which any persons using or in thoroughfares and public property within the district, must comply.

STATUTORY ENVIRONMENT

Section 3.12 of the Act specifies the procedures to be followed when making a Local Law. Section 3.12 states:

3.12. Procedure for making local laws

- (1) *In making a local law a local government is to follow the procedure described in this section, in the sequence in which it is described.*
- (2) *At a council meeting the person presiding is to give notice to the meeting of the purpose and effect of the proposed local law in the prescribed manner.*
- (3) *The local government is to —*
 - (a) *give Statewide public notice stating that —*
 - (i) *the local government proposes to make a local law the purpose and effect of which is summarized in the notice; and*
 - (ii) *a copy of the proposed local law may be inspected or obtained at any place specified in the notice; and*
 - (iii) *submissions about the proposed local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;*
 - and*
 - (b) *as soon as the notice is given, give a copy of the proposed local law and a copy of the notice to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister; and*
 - (c) *provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.*
- (3a) *A notice under subsection (3) is also to be published and exhibited as if it were a local public notice.*
- (4) *After the last day for submissions, the local government is to consider any submissions made and may make the local law* as proposed or make a local law* that is not significantly different from what was proposed.*

** Absolute majority required.*
- (5) *After making the local law, the local government is to publish it in the Gazette and give a copy of it to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister.*
- (6) *After the local law has been published in the Gazette the local government is to give local public notice —*
 - (a) *stating the title of the local law; and*
 - (b) *summarizing the purpose and effect of the local law (specifying the day on which it comes into operation); and*
 - (c) *advising that copies of the local law may be inspected or obtained from the local government's office.*
- (7) *The Minister may give directions to local governments requiring them to provide to the Parliament copies of local laws they have made and any explanatory or other material relating to them.*

POLICY IMPLICATIONS

There is no policy implications associated with this item at this point in time. However as a result of the review process and amendments made to Local Laws, amendments to specific Council policies may be required.

FINANCIAL IMPLICATIONS

Adequate budget allocations have been made in 2016/2017 to accommodate the cost to undertake the review process for both advertising and using a consultancy services.

- **Long Term Financial Plan (LTFP):**

No effect on Council's LTFP.

STRATEGIC IMPLICATIONS

It is important Council has up to date and relevant Local Laws; hence the statutory requirement to review all Local Laws at least once every eight (8) years.

• **Strategic Community Plan/Corporate Business Plan:**

We want a representation and governance model that reflects our community's unique attributes	The President and Councillors to be representative of the community and provide strong leadership	Develop Council appropriate policies that enable good: governance, development, services and growth
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CONSULTATION

Elected Members and Officers have had the opportunity to examine the existing Local Laws in conjunction with the consultant the opportunity to comment on the recommended new draft Local Laws.

The draft Shire of Chapman Valley Activities on Thoroughfares and Public Places and Trading Local Law 2016, was advertised for public comment for a period in excess of legislated minimum seven (7) weeks closing on 30 June 2016. No comments were received from the public.

The WA Department of Local Government and Communities made a number of comments on behalf of the Minister for Local Government:

Comment	Recommended Action
<p>1. Table of Contents</p> <p>The Table of Contents:</p> <ul style="list-style-type: none"> at Part 4, the title is "Obstructing Animals, Vehicles or Shopping Trolleys"; however, in the local law itself the Part title is "Obstructing Animals and Vehicles". The Part title in the Table of Contents should be changed to ensure consistency with the heading in the local law; at Part 5, refers to Division 4 and then Division 6. Division 6 should be renamed to "Division 5" (and all other Divisions in this Part renumbered accordingly) and clauses 5.13 to 5.15 renumbered to 5.11 to 5.13. Additionally, the title of clause 5.13 (currently clause 5.15) in the Table of Contents should be amended to begin "When", to reflect the clause title in the local law itself; at Part 5, Division 7 (should be Division 6), the clause numbers are incorrect. Instead of 5.17 and 5.18, they should refer to 5.14 and 5.15; at Part 5, Division 8 (should be Division 7), the clause numbers are incorrect. Instead of 5.19 and 5.20, they should refer to 5.16 and 5.17; and at Part 6, refers to Division 2 – Street entertainers, and lists subclauses 6.8 to 6.20. However, this Division has not been included in the local law itself. As such, the references should be removed from the Table of Contents to ensure accuracy. The Table of Contents should list Part 6 up to 6.7 Conduct of stallholders and traders, then move on to Part 7 – Permits. <p>The Shire should ensure that the Table of Contents accurately reflects the headings in the local law.</p>	Noted and amended
<p>2. Commencement</p> <p>It is suggested that the Shire include a commencement clause stating the day that this local law will come into effect. The standard format is as follows:</p> <p>X. Commencement</p> <p><i>This local law comes into operation 14 days after the date of its publication in the Government Gazette.</i></p>	Noted and included
<p>3. 1.2 Definitions</p> <p>The definition of vehicle should be amended to exclude a shopping trolley, since shopping trolleys tend to be in the same class as the other common exceptions (wheelchairs, prams, et cetera).</p>	Noted and included
<p>4. 2.1 General prohibitions</p> <p>Paragraph 2.1(a) states that a person may not plant any plant that exceeds 0.75m in height within 10m of an intersection. By implication, this clause would allow plants up to 0.75m to be planted within 10m of an intersection. The Joint Standing Committee on Delegated Legislation has previously held that such a clause may result in traffic safety risks around intersections, particularly where small children may be crossing those intersections. These concerns have been set out in item 4 of the JSCDL's 16th report.</p>	Noted and amended

<p>It is suggested that paragraph (a) should be replaced with: (a) plant any plant (except grasses or a similar plant) within 10 metres of an intersection;</p> <p>If the Shire chooses to make this change, changes will also be required to Schedule 1 Prescribed Offences to ensure the clause is described consistently (i.e. in the description column for this offence).</p>	
<p>5. 2.6 Interpretation</p> <p>Subclause 2.6 states that an “acceptable material” is any material that appears on a particular list maintained by the local government. Since this list will be external to the local law, such a list would be an example of local government policy.</p> <p>The result is that if a person installs a material that is not included on the local government’s list, they will commit an offence. This means the local law will give legislative effect to local government policy, with the local government’s list having a direct effect on how the law is applied.</p> <p>The Delegated Legislation Committee has formed the general view that local governments do not have the legislative authority to draft local laws that give legislative effect to local policy. This is because local government policy can be changed by resolution or a simple administrative decision, which would then change the effect of a local law in a way that is not subject to parliamentary scrutiny.</p> <p>The Committee has dealt with a similar issue regarding the local laws of other local governments. The Committee’s conclusions on the subject are set out in item 7 of the JSCDL’s 38th report. It is suggested that the issue be dealt with by either of the following:</p> <ul style="list-style-type: none"> • amend clause 2.6 to include a list of acceptable materials; or • create a new schedule containing a list of acceptable materials, then amend clause 2.6 to refer to that schedule. 	<p>Noted.</p> <p>This clause has been deleted rather than include a suggested new schedule of acceptable materials as recommended. This follows the same format as the City of Busselton Activities in Thoroughfares and Public Places and Trading Local Law 2015</p>
<p>5.1 Interpretation</p> <p>This clause defines the Roadside Conservation Committee as the “Roadside Conservation Committee established under the Land Resource Policy Council within the Office of Premier and Cabinet”. The Roadside Conservation Committee is now administratively supported by the Department of Parks and Wildlife and reports to the Minister for Environment.</p> <p>The Shire of Lake Grace gazetted its <i>Activities on Thoroughfares and Public Places and Trading Amendment Local Law 2015</i> in December 2015 with the following definition:</p> <p>Roadside Conservation Committee means the Roadside Conservation Committee appointed by the Minister for Environment.</p> <p>The Shire may wish to amend its own definition in line with the above.</p>	<p>Noted and amended</p>
<p>5.4 Construction works on flora roads</p> <p>The Code of Practice for Roadside Conservation and Road Maintenance is no longer in use. It has been replaced by the Handbook of Environmental Practice for Road Construction and Road Maintenance Works. The Shire should amend this clause to reflect this change.</p>	<p>Noted and amended</p>
<p>6.3 Trader’s permit</p> <p>It is suggested that subclause (4) is deleted.</p> <p>Subclause 6.3(4) requires traders to move on from a location once a purchase has been made. In the past, the Delegated Legislation Committee has formed the view that this imposes an unreasonable condition on street traders, due to the vague language used. The Committee has, in previous cases, requested that this subclause be deleted.</p>	<p>Noted and deleted</p>
<p>Clause 6.4 Relevant considerations in determining application for permit</p> <p>In subclause (2)(b), reference is made to “a desirable or suitable person”. The Shire may wish to consider including a definition of “a desirable or suitable person” as it is unclear what is meant by this term or how that may be determined.</p>	<p>Noted and left unchanged. The <i>determination</i> and not the Local Law would be what the Council would be questioned on should the decision reached by a court</p>

	of justice on a disputed matter.												
6.7 Conduct of stallholders and traders Subclause 6.7(1)(c) refers to the <i>Trade Measurement Act 2006</i> . This Act has been repealed and is now covered by national legislation. It is suggested that the reference to this Act be changed to refer to the “ <i>National Measurements Act 1960</i> (Cth)”.	Noted and amended												
7.7 Renewal of permit Subclause 7.7(2) uses the term <i>mutatis mutandis</i> . The Delegated Legislation Committee has previously requested that this term be replaced. It may be substituted with the words “with all the necessary changes as required”.	Noted and amended												
8.1 Application of Part 9 Division 1 of Act Clause 8.1 makes reference to regulation 34 of the <i>Local Government (Functions and General) Regulations 1996</i> . This reference should be removed, as regulation 34 is no longer relevant to appeals made under the <i>Local Government Act 1995</i> .	Noted and amended												
10.4 Prescribed offences It appears that the purpose of subclause (3) is to provide guidance to an authorised person when he or she issues an infringement notice for an offence under the local law. As this clause is not placing any obligation on an authorised person, it has no legislative effect. It is suggested that clause 10.4(3) is not included in the local law but rather in a separate guidance or practice manual that officers can refer to when administering and enforcing the local law	Noted and deleted												
Schedule 1 – Prescribed offences It is suggested that Schedule titles should be bold, centralised and not in block print. The heading should then be followed by a bracketed reference to the relevant clause in the local law. It is also suggested that an item column be inserted into Schedule 1, as this will make the local law easier to amend in future. For example: Schedule 1 – Prescribed offences and modified penalties [Clause 10.4] <table><tr><th>Item</th><th>Clause</th><th>Nature of Offence</th><th>Modified penalty</th></tr><tr><td>1</td><td>xx</td><td>xx</td><td>xx</td></tr><tr><td>2</td><td>xx</td><td>xx</td><td>xx</td></tr></table> It is suggested that the offence described against clause 2.11 be amended to refer to a failure to rectify a verge treatment rather than default. The modified penalties listed for items 5.14 and 5.16 are greater than \$500. These penalties should be lowered to \$500 or less, so that they fall within the maximum amount allowed for modified penalties under section 9.17(3) of the <i>Local Government Act 1995</i> .	Item	Clause	Nature of Offence	Modified penalty	1	xx	xx	xx	2	xx	xx	xx	Noted and amended
Item	Clause	Nature of Offence	Modified penalty										
1	xx	xx	xx										
2	xx	xx	xx										

The Department also recommended a number of minor edits, which have been undertaken.

The local law can now be finalised, and will come into effect 14 days after its publication in the Government Gazette.

RISK ASSESSMENT

The associated risk would be both the failure to comply a statutory review of Local Laws in accordance with section 3.16 of the Act and the existence of Local Laws which have been superseded by legislation and/or current day relevance.

VOTING REQUIREMENT

Absolute Majority Required.

COUNCIL RESOLUTION / STAFF RECOMMENDATION

MOVED: CR WOOD

SECONDED: CR WARR

That Council –

1. Adopt by Absolute Majority the Shire of Chapman Valley Activities on Thoroughfares and Public Places and Trading Local Law 2016 as per Attachment 9.3.3 in accordance with Section 3.12(4) of the *Local Government Act 1995*.
2. Note the purpose and effect of the local law being:
 - The purpose of this local law is to provide for the regulation, management and control of activities in thoroughfares and public places throughout the district.
 - The effect of this local law is to establish the requirements with which any persons using or in thoroughfares and public property within the district, must comply.
3. Authorise the local law's gazettal in the Government Gazette.
4. Authorise the public notice advertisement, (after gazettal), of the date of the Shire of Chapman Valley Activities on Thoroughfares and Public Places and Trading Local Law 2016.
5. Authorise the Shire President and the Chief Executive Officer to affix the Shire's Common Seal to the Shire of Chapman Valley Activities on Thoroughfares and Public Places and Trading Local Law 2016.

**Voting 7/0
CARRIED**

Minute Reference: 08/16-9

WESTERN AUSTRALIA

LOCAL GOVERNMENT ACT 1995

SHIRE OF CHAPMAN VALLEY

ACTIVITIES IN THOROUGHFARES AND PUBLIC PLACES
AND TRADING LOCAL LAW 2016

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SCHEDULE 1

PRESCRIBED OFFENCES

Local Government Act 1995

**SHIRE OF CHAPMAN VALLEY
ACTIVITIES IN THOROUGHFARES AND PUBLIC PLACES AND TRADING LOCAL
LAW 2016**

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Chapman Valley resolved on **[insert date]** to make the following local law.

PART 1 - PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Chapman Valley Activities in Thoroughfares and Public Places and Trading Local Law 2016*.

1.2 Commencement

By virtue of section 3.14 of the Act, this local law come into operation 14 days after the date of their publication in the Government Gazette.

1.3 Definitions

In this local law unless the context otherwise requires -

Act means the *Local Government Act 1995*;

applicant means a person who applies for a permit;

authorised person means a person authorised 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;

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

bulk rubbish container means a bin or container designed or used for holding a substantial quantity of rubbish and which is unlikely to be lifted without mechanical assistance, but does not include a bin or container used in connection with the local government's regular domestic rubbish collection service;

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

CEO means the chief executive officer of the local government;

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

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;

district means the district of the local government;

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

garden means any part of a thoroughfare planted, developed or treated, otherwise than as a lawn, with 1 or more plants;

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

kerb includes the edge of a carriageway;

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

liquor has the meaning given to it in section 3 of the *Liquor Control Act 1988*;

local government means the Shire of Chapman Valley;

local government property means anything except a thoroughfare –

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

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

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

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

permissible verge treatment means any 1 of the 4 treatments described in clause 2.8(2), and includes any reticulation pipes and sprinklers;

permit means a permit issued under this local law;

permit holder means a person who holds a valid permit;

person does not include the local government;

premises for the purpose of the definition of public place in both this clause and clause 6.1, means a building or similar structure, but does not include a carpark or a similar place;

public place includes any 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; and
- (b) local government property;

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

rural means a sub-set of rural living, generally located on the outskirts of an existing town. Rural settlement may also be used to describe proposals for rural living as this land use results in people settling in rural areas;

rural residential means a sub-set of rural living and a land use zone with land parcels from 1 to 4 hectares in size and generally provided with scheme water and power supply;

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

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

townsite means the townsites of Nanson, Nabawa and Yuna which are –

- (a) constituted under section 26(2) of the *Land Administration Act 1997*; or
- (b) referred to in clause 37 of Schedule 9.3 of the Act;

vehicle includes –

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

but excludes –

- (a) a wheel-chair or any device designed for use by a physically impaired person on a footpath; and
- (b) a pram, a stroller, a shopping trolley or a similar device; and

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

1.4 Application

This local law applies throughout the district.

1.5 Repeal

- (1) The *Activities On Thoroughfares And Trading In Thoroughfares And Public Places Local Law* published in the *Government Gazette* on 8 August 2000 is repealed.
- (2) Where a policy was made or adopted by the local government under or in relation to a local law repealed by this local law, then the policy is to be taken to no longer have any effect on and from the commencement day.
- (3) The Council may resolve that notwithstanding subclause (2) specified policies continue, or are to be taken to have continued, to have effect on and from the commencement day.

PART 2 – ACTIVITIES IN THOROUGHFARES AND PUBLIC PLACES

Division 1 - General

2.1 General prohibitions

A person shall not -

- (a) plant any plant (except grasses or a similar plant) within 10 metres of an intersection;
- (b) damage a lawn or a garden or remove any plant or part of a plant from a lawn or a garden unless –
 - (i) the person is the owner or the occupier of the lot abutting that portion of the thoroughfare and the lawn or the garden or the particular plant has not been installed or planted by the local government; or
 - (ii) the person is acting under the authority of a written law;
- (c) plant any plant (except grass or a similar plant) on a thoroughfare so that it is within 2m of a carriageway;
- (d) place on any footpath any fruit, fruit skins or other substance or fluid (whether vegetable or otherwise, but not water) which may create a hazard for any person using the footpath;
- (e) unless at the direction of the local government, damage, remove or interfere with any signpost, direction plate, guidepost, notice, shelter, shed, fence or any structure erected on a thoroughfare by the local government or a person acting under the authority of a written law; or
- (f) play or participate in any game or sport so as to cause danger to any person or thing or impede the movement of vehicles or persons on a thoroughfare.

2.2 Activities allowed with a permit - general

(1) A person shall not, without a permit –

- (a) dig or otherwise create a trench through or under a kerb or footpath;
- (b) subject to Division 3 of this Part, throw, place or deposit any thing on a verge except for removal by the local government under a bulk rubbish collection, and then only in accordance with the terms and conditions and during the period of time advertised in connection with that collection by the local government;
- (c) cause any obstruction to a vehicle or a person using a thoroughfare as a thoroughfare;
- (d) cause any obstruction to a water channel or a water course in a thoroughfare;
- (e) throw, place or drain offensive, noxious or dangerous fluid onto a thoroughfare;
- (f) damage a thoroughfare;
- (g) light any fire or burn any thing on a thoroughfare other than in a stove or fireplace provided for that purpose or under a permit issued under clause 5.13;
- (h) fell any tree onto a thoroughfare;
- (i) unless installing, or in order to maintain, a permissible verge treatment -

- (i) lay pipes under or provide taps on any verge; or
 - (ii) place or install any thing on any part of a thoroughfare, and without limiting the generality of the foregoing, any gravel, stone, flagstone, cement, concrete slabs, blocks, bricks, pebbles, plastic sheeting, kerbing, wood chips, bark or sawdust;
 - (j) provide, erect, install or use in or on any building, structure or land abutting on a thoroughfare any hoist or other thing for use over the thoroughfare;
 - (k) on a public place use anything or do anything so as to create a nuisance;
 - (l) place or cause to be placed on a thoroughfare a bulk rubbish container; or
 - (m) interfere with the soil of, or anything in a thoroughfare or take anything from a thoroughfare.
 - (2) The local government may exempt a person from compliance with subclause (1) on the application of that person.
- 2.3 No possession and consumption of liquor on thoroughfare**
- (1) A person shall not consume any liquor or have in her or his possession or under her or his control any liquor on a thoroughfare unless –
 - (a) that is permitted under the *Liquor Control Act 1988* or under another written law; or
 - (b) the person is doing so in accordance with a permit.
 - (2) Subclause (1) does not apply where the liquor is in a sealed container.

Division 2 - Vehicle crossing

Subdivision 1 - Temporary crossings

- 2.4 Permit required**
- (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 shall obtain a permit for the construction 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) The ***person responsible for the works*** in subclause (1) is to be taken to be –
 - (a) the person named on the building permit issued under the *Building Act 2011*, if 1 has been issued in relation to the works; or
 - (b) the registered proprietor of the lot, if no building permit has been issued under the *Building Act 2011* in relation to the works.
 - (3) If the local government approves an application for a permit for the purpose of subclause (1), the permit is taken to be issued on the condition that until such time as the temporary crossing is

removed, the permit holder shall 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.

Subdivision 2 - Redundant vehicle crossings

2.5 Removal of 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 her or him 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, and the owner or occupier of the lot shall comply with that notice.

Division 3 - Verge treatments

Subdivision 1 - Preliminary

2.6 Application

This Division only applies to the gazette townsites and areas zoned rural residential and residential as prescribed by the local planning scheme.

Subdivision 2 - Permissible verge treatments

2.7 Permissible verge treatments

- (1) An owner or occupier of land which abuts on a verge may on that part of the verge directly in front of her or his land install a permissible verge treatment.
- (2) The permissible verge treatments are –
 - (a) the planting and maintenance of a lawn;
 - (b) the planting and maintenance of a garden provided that –
 - (i) clear sight visibility is maintained at all times for a person using the abutting thoroughfare in the vicinity of an intersection or bend in the thoroughfare or using a driveway on land adjacent to the thoroughfare for access to or from the thoroughfare; and
 - (ii) where there is no footpath, a pedestrian has safe and clear access of a minimum width of 2m along that part of the verge immediately adjacent to the kerb;
 - (c) the installation of an acceptable material; or
 - (d) the installation over no more than 1/3 of the area of the verge (excluding any vehicle crossing) of an acceptable material in accordance with paragraph (c), and the planting and maintenance of either a lawn or a garden on the balance of the verge in accordance with paragraph (a) or (b).

2.8 Only permissible verge treatments to be installed

- (1) A person shall not install or maintain a verge treatment which is not a permissible verge treatment.
- (2) The owner and occupier of the lot abutting a verge treatment referred to in subclause (1) are each to be taken to have installed and maintained that verge treatment for the purposes of this clause and clause 2.10.

2.9 Obligations of owner or occupier

An owner or occupier who installs or maintains a permissible verge treatment shall -

- (a) keep the permissible verge treatment in a good and tidy condition and ensure, where the verge treatment is a garden or lawn, that a footpath on the verge and a carriageway adjoining the verge is not obstructed by the verge treatment;
- (b) not place any obstruction on or around the verge treatment; and
- (c) not disturb a footpath on the verge.

2.10 Notice to owner or occupier

The local government may give a notice in writing to the owner or the occupier of a lot abutting on a verge to make good, within the time specified in the notice, any breach of a provision of this Division.

Subdivision 3 - Existing verge treatments

2.11 Transitional provision

- (1) In this clause -

former provisions means the local law of the local government which permitted certain types of verge treatments, whether with or without the consent of the local government, and which was repealed by this local law.

- (2) A verge treatment which -
 - (a) was installed prior to the commencement day; and
 - (b) on the commencement day is a type of verge treatment which was permitted under and complied with the former provisions,

is to be taken to be a permissible verge treatment for so long as the verge treatment remains of the same type and continues to comply with the former provisions.

Subdivision 4 - Public works

2.12 Power to carry out public works on verge

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

- (a) is not liable to compensate any person for that disturbance;
- (b) may backfill with sand, if necessary, any garden or lawn; and
- (c) is not liable to replace or restore any -

- (i) verge treatment and, in particular, any plant or any acceptable material or other hard surface; or
- (ii) sprinklers, pipes or other reticulation equipment.

Division 4 - Property numbers

Subdivision 1 - Preliminary

2.13 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

2.14 Assignment of numbers

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.

Division 5 - Fencing

2.15 Public place – Item 4(1) of Division 1, Schedule 3.1 of Act

The following places are specified as a public place for the purpose of item 4(1) of Division 1 of Schedule 3.1 of the Act –

- (a) a public place, as that term is defined in clause 1.2; and
- (b) local government property.

Division 6 - Signs erected by the local government

2.16 Signs

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

2.17 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 2.17 if –

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

Division 7 - Driving on a closed thoroughfare

2.18 No driving on closed thoroughfare

- (1) A person shall not drive or take a vehicle on a closed thoroughfare unless –
 - (a) that is in accordance with any limits or exceptions specified in the order made under section 3.50 of the Act; or
 - (b) the person has first obtained a permit.

- (2) In this clause –

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

PART 3 – ADVERTISING SIGNS ON THOROUGHFARES

Division 1 - Preliminary

3.1 Interpretation

In this Part, unless the context otherwise requires –

advertising sign means a sign used for the purpose of advertisement and includes an "election sign";

direction sign means a sign which indicates the direction of another place, activity or event, but does not include any such sign erected or affixed by the local government or the Commissioner of Main Roads;

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

portable direction sign means a portable free standing direction sign; and

portable sign means a portable free standing advertising sign.

Division 2 - Permit

3.2 Advertising signs and portable direction signs

- (1) A person shall not, without a permit –
 - (a) erect or place an advertising sign on a thoroughfare; or
 - (b) post any bill or paint, place or affix any advertisement on a thoroughfare.
- (2) Notwithstanding subclause (1), a permit is not required in respect of a portable direction sign which neither exceeds 500mm in height nor 0.5m² in area, provided that the sign is placed or erected on a thoroughfare on an infrequent or occasional basis only to direct attention to a place, activity or event during the hours of that activity or event.
- (3) Notwithstanding subclause (1), a person shall not erect or place an advertising sign –
 - (a) on a footpath;

- (b) over any footpath where the resulting vertical clearance between the sign and the footpath is less than 2.5m;
- (c) on or within 3m of a carriageway;
- (d) in any other location where, in the opinion of the local government, the sign is likely to obstruct lines of sight along a thoroughfare or cause danger to any person using the thoroughfare; or
- (e) on any natural feature, including a rock or tree, on a thoroughfare, or on any bridge or the structural approaches to a bridge.

3.3 Matters to be considered in determining application for permit

In determining an application for a permit for the purpose of clause 3.2(1), the local government is to have regard to -

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

Division 3 – Conditions on permit

3.4 Conditions on portable sign

If the local government approves an application for a permit for a portable sign, the application is to be taken to be approved subject to the following conditions –

- (a) the portable sign shall -
 - (i) not exceed 1m in height;
 - (ii) not exceed an area of 1m² on any side;
 - (iii) relate only to the business activity described on the permit;
 - (iv) contain letters not less than 200mm in height;
 - (v) not be erected in any position other than immediately adjacent to the building or the business to which the sign relates;
 - (vi) be removed each day at the close of the business to which it relates and not be erected again until the business next opens for trading;
 - (vii) be secured in position in accordance with any requirements of the local government;
 - (viii) be placed so as not to obstruct or impede the reasonable use of a thoroughfare or access to a place by any person; and
 - (ix) be maintained in good condition; and
- (b) no more than 1 portable sign shall be erected in relation to the 1 building or business.

3.5 Conditions on election sign

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 the election to which it relates has been officially announced;
- (g) being removed within 24 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; and
- (l) not displaying only part of a message which is to be read with other separate signs in order to obtain the whole message.

PART 4 – OBSTRUCTING ANIMALS AND VEHICLES

Division 1 - Animals and vehicles

4.1 Leaving animal or vehicle in public place or on local government property

- (1) A person shall not leave an animal or a vehicle, or any part of a vehicle, in a public place or on local government property so that it obstructs the use of any part of that public place or local government property, unless that person has first obtained a permit or is authorised to do so under a written law.
- (2) A person will not contravene subclause (1) where the animal is secured or tethered for a period not exceeding 1 hour.
- (3) A person will not contravene subclause (1) where the vehicle is left for a period not exceeding 24 hours.

4.2 Prohibitions relating to animals

- (1) In subclause (2), **owner** in relation to an animal includes –
 - (a) an owner of it;
 - (b) a person in possession of it;
 - (c) a person who has control of it; and

- (d) a person who ordinarily occupies the premises where the animal is permitted to stay.
- (2) An owner of an animal shall not –
 - (a) allow the animal to enter or remain for any time on any thoroughfare except for the use of the thoroughfare as a thoroughfare and unless it is led, ridden or driven;
 - (b) allow an animal which has a contagious or infectious disease to be led, ridden or driven in a public place; or
 - (c) train or race the animal on a thoroughfare.
- (3) An owner of a horse shall not lead, ride or drive a horse on a thoroughfare in a built-up area, unless that person does so under a permit or under the authority of a written law.

PART 5 - ROADSIDE CONSERVATION

Division 1 - Preliminary

5.1 Interpretation

In this Part -

MRWA means Main Roads Western Australia;

protected flora has the meaning given to it in section 6(1) of the *Wildlife Conservation Act 1950*;

rare flora has the meaning given to it in section 23F of the *Wildlife Conservation Act 1950*;

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 5.7.

5.2 Application

This Part does not apply to the townsites.

Division 2 - Flora roads

5.3 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.

5.4 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 Handbook of Environmental Practice for Road Construction and Road Maintenance Works.

5.5 Signposting of flora roads

The local government may signpost flora roads with the standard MRWA flora road sign.

5.6 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

5.7 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.

5.8 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

5.9 Permit to plant

A person shall not plant any plant or sow any seeds in a thoroughfare without first obtaining a permit.

5.10 Relevant considerations in determining application

In determining an application for a permit for the purpose of clause 5.9, 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 6 - Fire management

5.11 Permit to burn thoroughfare

A person shall not burn part of a thoroughfare without first obtaining a permit or unless acting under the authority of any other written law.

5.12 Application for permit

In addition to the requirements of clause 7.1(2), an application for a permit for the purposes of clause 5.13 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.

5.13 When application for permit can be approved

The local government may approve an application for a permit for the purpose of clause 5.13 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.

Division 7 - Firebreaks

5.14 Permit for firebreaks on thoroughfares

A person shall not construct a firebreak on a thoroughfare without first obtaining a permit.

5.15 When application for permit cannot be approved

- (1) The local government is not to approve an application for a permit for the purpose of clause 5.17 where the thoroughfare is equal to or less than 20m wide.
- (2) Subclause (1) does not apply where the firebreak is, in the opinion of the local government, desirable for the protection of roadside vegetation.

Division 8 - Commercial wildflower harvesting on thoroughfares

5.16 General prohibition on commercial wildflower harvesting

Subject to clause 5.17, a person shall not commercially harvest native flora on a thoroughfare.

5.17 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 6 - TRADING IN THOROUGHFARES AND PUBLIC PLACES

Division 1 - Stallholders and traders

Subdivision 1 - Preliminary

6.1 Interpretation

In this Division, unless the context otherwise requires -

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;

public place includes -

- (a) any thoroughfare or place which the public are allowed to use whether or not the thoroughfare or place is on private property; and
 - (b) local government property;
- but does not include premises on private property from which trading is lawfully conducted under a written law.

stall means a movable or temporarily fixed structure, stand or table in, on or from which goods or services are sold, hired or offered for sale or hire;

stallholder means a person in charge of a stall;

stallholder's permit means a permit issued to a stallholder;

trader means a person who carries on trading;

trader's permit means a permit issued to a trader; and

trading includes -

- (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;
- (b) displaying goods in any public place 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
- (c) the going from place to place, whether or not public places, and -
 - (i) offering goods or services for sale or hire; or
 - (ii) inviting offers or soliciting orders for the sale or the hire of goods or services,

but does not include -

- (d) the delivery of pre-ordered goods or services to the purchaser of those goods or services or to the person nominated by the purchaser of those goods or services whether or not payment for those goods or services is accepted on delivery; or

- (e) the taking of further orders for goods or services from the purchaser of those pre-ordered goods or services or from the person nominated by the purchaser of those pre-ordered goods or services when those orders are taken at the same time as a previous order is being delivered, whether or not payment is made for those goods or services at the time of taking the order;
- (f) the setting up of a stall or the conducting of a business at a stall under the authority of a stallholder's permit;
- (g) the selling or the offering for sale of goods and services to, or the soliciting of orders for goods and services from a person who sells those goods or services;
- (h) the selling or the offering for sale or hire by a person of goods of her or his own manufacture or services which he or she provides; and
- (i) the selling or hiring or the offering for sale or hire of –
 - (i) goods by a person who represents a manufacturer of the goods; or
 - (ii) services by a person who represents a provider of the services,
 which are only sold directly to consumers and not through a shop.

Subdivision 2 - Permits

6.2 Stallholder's permit

- (1) A person shall not conduct a stall on a public place unless that person is –
 - (a) the holder of a valid stallholder's permit; or
 - (b) an assistant specified in a valid stallholder's permit.
- (2) Every application for a stallholder's permit shall –
 - (a) state the full name and address of the applicant;
 - (b) specify the proposed number of assistants to be engaged by the applicant in conducting the stall, as well as their names and addresses if already engaged;
 - (c) specify the proposed location of the stall;
 - (d) specify the period of time for which the permit is sought, together with the proposed days and hours of operation;
 - (e) specify the proposed goods or services to be sold or hired or offered for sale or hire from the stall; and
 - (f) be accompanied by an accurate plan and description of the proposed stall.

6.3 Trader's permit

- (1) A person shall not carry on trading unless that person is –
 - (a) the holder of a valid trader's permit; or
 - (b) an assistant specified in a valid trader's permit.
- (2) Every application for a trader's permit shall –

- (a) state the full name and address of the applicant;
- (b) specify the proposed number of assistants, if any, to be engaged by the applicant in trading, as well as their names and addresses if already engaged;
- (c) specify the location or locations in which the applicant proposes to trade;
- (d) specify the period of time for which the permit is sought, together with the proposed days and hours of trading;
- (e) specify the proposed goods or services which will be traded; and
- (f) be accompanied by an accurate plan and description of any proposed structure or vehicle which may be used by the applicant in trading.

6.4 Relevant considerations in determining application for permit

- (1) In determining an application for a permit for the purposes of this Division, the local government is to have regard to –
 - (a) any relevant policies of the local government;
 - (b) the desirability of the proposed activity;
 - (c) the location of the proposed activity;
 - (d) the principles set out in the Competition Principles Agreement; and
 - (e) such other matters as the local government may consider to be relevant in the circumstances of the case.
- (2) The local government may refuse to approve an application for a permit under this Division on any 1 or more of the following grounds –
 - (a) that the applicant has committed a breach of any provision of this local law or of any written law relevant to the activity in respect of which the permit is sought;
 - (b) that the applicant is not a desirable or suitable person to hold a permit; or
 - (c) that –
 - (i) the applicant is an undischarged bankrupt or is in liquidation;
 - (ii) the applicant has entered into any composition or arrangement with creditors; or
 - (iii) a manager, an administrator, a trustee, a receiver, or a receiver and manager has been appointed in relation to any part of the applicant's undertakings or property.

6.5 Conditions of permit

- (1) If the local government approves an application for a permit under this Division subject to conditions, those conditions may include –
 - (a) the place, the part of the district, or the thoroughfare to which the permit applies;
 - (b) the days and hours during which a permit holder may conduct a stall or trade;
 - (c) the number, type, form and construction, as the case may be, of any stand, table, structure or vehicle which may be used in conducting a stall or in trading;
 - (d) the goods or services in respect of which a permit holder may conduct a stall or trade;

- (e) the number of persons and the names of persons permitted to conduct a stall or trade;
 - (f) the requirement for personal attendance at the stall or the place of trading by the permit holder and the nomination of assistants, nominees or substitutes for the permit holder;
 - (g) whether and under what terms the permit is transferable;
 - (h) any prohibitions or restrictions concerning the -
 - (i) causing or making of any noise or disturbance which is likely to be a nuisance to persons in the vicinity of the permit holder;
 - (ii) the use of amplifiers, sound equipment and sound instruments;
 - (iii) the use of signs; and
 - (iv) the use of any lighting apparatus or device;
 - (i) the manner in which the permit holder's name and other details of a valid permit are to be displayed;
 - (j) the care, maintenance and cleansing of the stall or any structure used for trading and the place of the stall or any structure;
 - (k) the vacating of the place of a stall or trading when the stall is not being conducted or trading is not being carried on;
 - (l) the acquisition by the stallholder or trader of public risk insurance;
 - (m) the period for which the permit is valid; and
 - (n) the designation of any place or places where trading is wholly or from time to time prohibited by the local government.
- (2) 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 that permit holder authorize another person to be a nominee of the permit holder for a specified period, and this local law and the conditions of the permit shall apply to the nominee as if he or she was the permit holder.

6.6 Exemptions from requirement to pay fee or to obtain a permit

- (1) In this clause –

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 like nature and from which any member does not receive any pecuniary profit except where the member is an employee or the profit is an honorarium; and

commercial participant means any person who is involved in operating a stall or in conducting any trading activity for personal gain or profit.

- (2) The local government may waive any fee required to be paid by an applicant for a stallholder's permit or a trader's permit on making an application for or on the issue of a permit, or may return any such fee which has been paid, if the stall is conducted or the trading is carried on –
- (a) on a portion of a public place adjoining the normal place of business of the applicant; or

- (b) by a charitable organisation that does not sublet space to, or involve commercial participants in the conduct of a stall or trading, and any assistants that may be specified in the permit are members of that charitable organisation.
- (3) The local government may exempt a person or a class of persons, whether or not in relation to a specified public place, from the requirements of this Division.

Subdivision 3 - Conduct of stallholders and traders

6.7 Conduct of stallholders and traders

- (1) A stallholder while conducting a stall or a trader while trading shall –
 - (a) display her or his permit to do so in a conspicuous place on the stall, vehicle or temporary structure or if there is no stall, vehicle or temporary structure, carry the permit with her or him while conducting a stall or trading;
 - (b) not display a permit unless it is a valid permit; and
 - (c) when selling goods by weight, carry and use for that purpose, scales tested and certified in accordance with the provisions of the *National Measurements Act 1960 (Cth)*.
- (2) A stallholder or trader shall not –
 - (a) deposit or store any box or basket containing goods on any part of a thoroughfare so as to obstruct the movement of pedestrians or vehicles;
 - (b) act in an offensive manner;
 - (c) use or cause to be used any apparatus or device including any flap or shelf, whereby the dimensions of a stall, vehicle or structure are increased beyond those specified in the permit; or
 - (d) in the case of a trader, carry on trading from a public place, unless there is adequate parking for customers' vehicles reasonably close to the place of trading.

PART 7 - PERMITS

Division 1 – Applying for a permit

7.1 Application for permit

- (1) Where a person is required to obtain a permit under this local law, that person shall apply for the permit in accordance with subclause (2).
- (2) An application for a permit under this local law shall -
 - (a) be in the form determined by the local government from time to time;
 - (b) be signed by the applicant;
 - (c) provide the information required by the form; and
 - (d) be forwarded to the CEO 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 require an applicant to provide additional information reasonably related to an application before determining an application for a permit.
- (4) The local government may require an applicant to give local public notice of the application for a permit.
- (5) The local government may refuse to consider an application for a permit which is not in accordance with subclause (2).

7.2 Decision on application for permit

- (1) The local government may –
 - (a) approve an application for a permit unconditionally or subject to any conditions; or
 - (b) refuse to approve an application for a permit.
- (2) If the local government approves an application for a permit, it is to issue to the applicant a permit in the form determined by the local government.
- (3) If the local government refuses to approve an application for a permit, it is to 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 which are to be taken to be imposed on a permit, the clause does not limit the power of the local government to impose other conditions on the permit under subclause (1)(a).
- (5) Where a clause of this local law refers to the grounds on which an application for a permit may be or is to be refused, the clause does not limit the power of the local government to refuse the application for a permit on other grounds under subclause (1)(b).

Division 2 - Conditions

7.3 Conditions which may be imposed on a permit

The local government may approve an application for a permit subject to conditions relating to -

- (a) the payment of a fee;
- (b) the duration and commencement of the permit;
- (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 approval of another application for a permit which may be required by the local government under any written law;
- (f) the area of the district to which the permit applies;
- (g) where a permit is issued for an activity which will or may cause damage to a public place, the payment of a deposit or bond against such damage;

- (h) the obtaining of public risk insurance in an amount and on terms reasonably required by the local government; and
- (i) 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 by the permit holder.

7.4 Imposing conditions under a policy

- (1) In this clause –

policy means a policy of the local government adopted by the Council containing conditions subject to which an application for a permit may be approved under clause 7.2(1)(a).

- (2) Under clause 7.2(1)(a) the local government may approve an application subject to conditions by reference to a policy.
- (3) The local government is to give a copy of the policy, or the part of the policy which is relevant to the application for a permit, with the form of permit referred to in clause 7.2(2).
- (4) An application for a permit is to be taken not to have been approved subject to the conditions contained in a policy until the local government gives the permit holder a copy of the policy or the part of the policy which is relevant to the application.
- (5) Sections 5.94 and 5.95 of the Act shall apply to a policy and for that purpose a policy is to be taken to be information within section 5.94(u)(i) of the Act.

7.5 Compliance with and variation of conditions

- (1) Where an application for a permit has been approved subject to conditions, or where a permit is to be taken to be subject to conditions under this local law, the permit holder shall comply with each of those conditions.
- (2) The local government may vary the conditions of a permit, and the permit holder shall comply with those conditions as varied.

Division 3 - General

7.6 Duration of permit

A permit is valid for 1 year from the date on which it is issued, unless it is –

- (a) otherwise stated in this local law or in the permit; or
- (b) cancelled under clause 7.10.

7.7 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 the permit.
- (2) The provisions of –
 - (a) this Part; and
 - (b) any other provision of this local law relevant to the permit which is to be renewed,

shall apply to an application for the renewal of a permit with all the necessary changes as required.

7.8 Transfer of permit

- (1) An application for the transfer of a valid permit is to –
 - (a) be made in writing;
 - (b) be signed by the permit holder and the proposed transferee of 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 CEO 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.
- (2) The local government may approve an application for the transfer of a permit, refuse to approve it or approve it subject to any conditions.
- (3) 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 CEO; or
 - (b) issuing to the transferee a permit in the form determined by the local government.
- (4) 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.

7.9 Production of permit

A permit holder is to produce to an authorised person her or his permit immediately upon being required to do so by that authorised person.

7.10 Cancellation of permit

- (1) Subject to clause 8.1, a permit may be cancelled by the local government if the permit holder has not complied with a –
 - (a) condition of the permit; or
 - (b) provision of any written law which may relate to the activity regulated by the permit.
- (2) On the cancellation of a permit the permit holder –
 - (a) shall return the permit as soon as practicable to the local government; and
 - (b) is to be taken to have forfeited any fees paid in respect of the permit.

PART 8 - OBJECTIONS AND APPEALS

8.1 Application of Part 9 Division 1 of Act

When the local government makes a decision –

- (a) under clause 7.2(1); or

- (b) as to whether it will renew, vary, or cancel a permit,

the provisions of the *Local Government Act 1995* apply to that decision.

PART 9 - MISCELLANEOUS NOTICES

9.1 Notice to redirect or repair sprinkler

Where a lawn or a 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 may give a notice to the owner or the occupier of the land abutting on 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.

9.2 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 on the garden to remove, cut, move or otherwise deal with that plant so as to remove the hazard.
- (2) Subclause (1) does not apply where the plant was planted by the local government.

9.3 Notice to repair damage to thoroughfare

Where any portion of a thoroughfare has been damaged, the local government may by notice to the person who caused the damage order the person to repair or replace that portion of the thoroughfare to the satisfaction of the local government.

9.4 Notice to remove thing unlawfully placed on thoroughfare

Where any thing is placed on a thoroughfare in contravention of this local law, the local government may by notice in writing to the owner or the occupier of the property which abuts on that portion of the thoroughfare where the thing has been placed, or such other person who may be responsible for the thing being so placed, require the relevant person to remove the thing.

PART 10 - ENFORCEMENT

Division 1 - Notices given under this local law

10.1 Offence to fail to comply with notice

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

10.2 Local government may undertake requirements of notice

Where a person fails to comply with a notice referred to in clause 10.1, the local government may do the thing specified in the notice and recover from that person, as a debt, the costs incurred in so doing.

Division 2 - Offences and penalties

Subdivision 1 - General

10.3 Offences

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

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

Subdivision 2 - Infringement notices and modified penalties

10.4 Prescribed offences

- (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.

10.5 Forms

Unless otherwise specified, for the purposes of this local law -

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

SCHEDULE 1

PRESCRIBED OFFENCES

[Clause 10.4]

	Clause	Description	Modified Penalty \$
1	2.1(a)	Plant any plant (except grasses or a similar plant) within 10 metres of an intersection;	125
2	2.1(b)	Damaging lawn or garden	125
3	2.1(c)	Plant (except grass) on thoroughfare within 2m of carriageway	125
4	2.1(d)	Placing hazardous substance on footpath	125
5	2.1(e)	Damaging or interfering with signpost or structure on thoroughfare	350
6	2.1(f)	Playing games so as to impede vehicles or persons on thoroughfare	125
7	2.2(1)(a)	Digging a trench through a kerb or footpath without a permit	125
8	2.2(1)(b)	Throwing or placing anything on a verge without a permit	125
9	2.2(1)(c)	Causing obstruction to vehicle or person on thoroughfare without a permit	125
10	2.2(1)(d)	Causing obstruction to water channel on thoroughfare without a permit	250
11	2.2(1)(e)	Placing or draining offensive fluid on thoroughfare without a permit	250
12	2.2(1)(g)	Lighting a fire on a thoroughfare without a permit	350
13	2.2(1)(h)	Felling tree onto thoroughfare without a permit	125

14	2.2(1)(i)	Installing pipes or stone on thoroughfare without a permit	125
15	2.2(1)(j)	Installing a hoist or other thing on a structure or land for use over a thoroughfare without a permit	350
16	2.2(1)(k)	Creating a nuisance on a thoroughfare without a permit	125
17	2.2(1)(l)	Placing a bulk rubbish container on a thoroughfare without a permit	125
18	2.2(1)(m)	Interfering with anything on a thoroughfare without a permit	125
19	2.3(1)	Consumption or possession of liquor on thoroughfare	125
20	2.4(1)	Failure to obtain permit for temporary crossing	250
21	2.5(2)	Failure to comply with notice to remove crossing and reinstate kerb	350
22	2.8(1)	Installation of verge treatment other than permissible verge treatment	250
23	2.9	Failure to maintain permissible verge treatment or placement of obstruction on verge	125
24	2.10	Failure to rectify a verge treatment	125
25	2.16(2)	Failure to comply with sign on public place	125
26	2.18(1)	Driving or taking a vehicle on a closed thoroughfare	350
27	3.2(1)	Placing advertising sign or affixing any advertisement on a thoroughfare without a permit	125
28	3.2(3)	Erecting or placing of advertising sign in a prohibited area	125
29	4.1(1)	Animal or vehicle obstructing a public place or local government property	125
30	4.2(2)(a)	Animal on thoroughfare when not led, ridden or driven	125
31	4.2(2)(b)	Animal on public place with infectious disease	125
32	4.2(2)(c)	Training or racing animal on thoroughfare in built-up area	125
33	4.2(3)	Horse led, ridden or driven on thoroughfare in built-up area	125
34	5.6(1)	Driving a vehicle on other than the carriageway of a flora road	250
35	5.9	Planting in thoroughfare without a permit	250
36	5.14	Burning of thoroughfare without a permit	500
37	5.16	Commercial harvesting of native flora on thoroughfare	500
38	5.17(1)	Collecting seed from native flora on thoroughfare without a permit	350
39	6.2(1)	Conducting of stall in public place without a permit	350
40	6.3(1)	Trading without a permit	350
41	6.7(1)(a)	Failure of stallholder or trader to display or carry permit	125
42	6.7(1)(b)	Stallholder or trader not displaying valid permit	125
43	6.7(1)(c)	Stallholder or trader not carrying certified scales when selling goods by weight	125
44	6.7(2)	Stallholder or trader engaged in prohibited conduct	125
45	7.5	Failure to comply with a condition of a permit	125
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47	10.1	Failure to comply with notice given under local law	125

Dated of 20 ..

The Common Seal of the }
Shire of Chapman Valley }
was affixed by authority of a }
resolution of the Council in the }
presence of: }

JOHN COLLINGWOOD
PRESIDENT

MAURICE BATTILANA
CHIEF EXECUTIVE OFFICER

AGENDA ITEM:	9.3.4
SUBJECT:	SHIRE OF CHAPMAN VALLEY DOGS LOCAL LAW 2016
PROPOSER:	SHIRE OF CHAPMAN VALLEY
SITE:	SHIRE OF CHAPMAN VALLEY
FILE REFERENCE:	409.05
PREVIOUS REFERENCE:	08/15-7; 10/15-6; 04/16-24
DATE:	17 AUGUST 2016
AUTHOR:	MAURICE BATTILANA, CHIEF EXECUTIVE OFFICER LEANNE LIND, CONSULTANT

DISCLOSURE OF INTEREST

Nil

BACKGROUND

The following was resolved at the 19 August 2015 OCM:

MOVED: CR FORRESTER

SECONDED: CR HUMPHREY

That Council:

- 1. Resolves to undertake a review of its existing Local Laws; and*
- 2. In accordance with section 3.16 (2) of the Local Government Act 1995, give public notice of its intention to undertake a review of its Local Laws.*

Voting 8/0

CARRIED

Minute Reference: 08/15-7

The following was resolved at the 14 October 2015 OCM:

MOVED: CR WARR

SECONDED: CR FORRESTER

That Council:

- 1. Adopt the report of the review of the Local Laws under s3.16 of the Local Government Act 1995, noting that no community submissions were received in respect to the following local laws:*
 - Building – Minimum Area for Dwelling House*
 - Vehicle Drivers on Certain Land*
 - Dogs Local Law*
 - Standing Orders Local Law 2000*
 - Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law*
- 2. Determine that the review outcome in respect to each Local Law is as follows:*
 - Building – Minimum Area for Dwelling House be repealed as outlined in the report and Discussion Paper;*
 - Vehicle Drivers on Certain Land be repealed as outlined in the report and Discussion Paper;*
 - Dogs Local Law be repealed and replaced with a new Dogs Local Law;*
 - Standing Orders Local Law 2000 be repealed and replaced with a new Standing Orders Local Law;*
 - Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law be repealed and replaced with a new Activities in Thoroughfares and Public Places and Trading Local Law.*

Voting 7/0

CARRIED

Minute Reference: 10/15-6

The following was resolved at the 20 April 2016 OCM:

MOVED: CR WARR

SECONDED: CR WOOD

Council gives statewide public notice that it intends to make the Shire of Chapman Valley Dogs Local Law 2016, as contained in the Attachment 1.

Voting 7/0

CARRIED

Minute Reference: 04/16-24

Sections 3.5 of the *Local Government Act 1995* ('the Act') provides the power for local governments to make local laws and prescribing all matters that are required or permitted to be prescribed by a local law, or are necessary or convenient for it to perform any of its functions.

The *Dog Act 1976* is administered and enforced by local governments within their respective districts. The Act addresses the control and registration of dogs; the ownership and keeping of dogs; and the obligations and rights of dog owners and others. The State Government in 2013 passed the Dog Amendment Bill which amends the *Dog Act 1976* to:

- Improve community safety, through increased controls over dangerous dogs and higher penalties to encourage more responsible dog ownership
- Enable nuisance behaviour, including barking, to be more effectively dealt with
- Recognise assistance dogs as an extension of the guide dog provisions
- Require mandatory microchipping, lifetime dog registrations and impounding provisions.

These changes became law on 1 November 2013.

The *Dog Act 1976* contains a range of measures to improve community safety, encourage responsible dog ownership, and enable nuisance behaviour to be more effectively dealt with and to recognise assistance dogs. The legal rights and responsibilities of dog owners are outlined in the *Dog Act 1976*, the *Dog Regulations 2013* and in local government local laws. Collectively, these laws provide for the registration, ownership and control of dogs in Western Australia.

The current Dogs Local Law was gazetted on 8 August 2000 by reference to the Shire of Moora Dogs Local Law which was gazetted on 29 November 1999.

At the Council meeting on 19 August 2015 Council resolved to undertake a review of its existing Local Laws.

As required by the LGA the community was invited to comment on the review of the Council's Local Laws. Public consultation was undertaken as part of the advertising process required by section 3.12(3), for a minimum period of 42 days. The review was advertised on 24 August 2015 with a closing date for submissions of 8 October 2015. No submissions were received. Following this, at the Council Meeting on 14 October 2015 approval was given to proceed to repeal and replace the current Local Law under this review process.

At the 20 April 2016 OCM Council gave statewide public notice that it intended to make the Shire of Chapman Valley Dogs Local Law 2016.

COMMENT

The purpose of this report is to:

1. Consider the submissions received on the proposed Shire of Chapman Valley Dogs Local Law 2016;
2. Give notice to the purpose and effect of the Shire of Chapman Valley Dogs Local Law 2016;
3. Make the Shire of Chapman Valley Dogs Local Law 2016;
4. Authorise the local law's gazettal in the *Government Gazette*;
5. Give public notice, (after gazettal), of the date of the Shire of Chapman Valley Dogs Local Law 2016;
6. Authorise the affixing of the Common Seal to this local law.

To comply with the provisions of section 3.12 of the Act, when proposing to make a local law, the Presiding Person is required to give notice of the purpose and effect of the proposed local law at the Council meeting where the local law is being considered.

Purpose: To make provisions about the impounding of dogs, to control the number of dogs that can be kept on premises and the manner of keeping those dogs and to prescribe areas in which dogs are prohibited and dog exercise areas.

Effect: To extend the control over dogs which exist under the Dog Act 1976.

STATUTORY ENVIRONMENT

Section 3.12 of the *Local Government Act 1995* specifies the procedures to be followed when making a local law. Section 3.12 states:

3.12. Procedure for making local laws

- (1) *In making a local law a local government is to follow the procedure described in this section, in the sequence in which it is described.*
- (2) *At a council meeting the person presiding is to give notice to the meeting of the purpose and effect of the proposed local law in the prescribed manner.*
- (3) *The local government is to —*
 - (a) *give Statewide public notice stating that —*
 - (i) *the local government proposes to make a local law the purpose and effect of which is summarized in the notice; and*
 - (ii) *a copy of the proposed local law may be inspected or obtained at any place specified in the notice; and*
 - (iii) *submissions about the proposed local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;*
 - and*
 - (b) *as soon as the notice is given, give a copy of the proposed local law and a copy of the notice to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister; and*
 - (c) *provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.*
- (3a) *A notice under subsection (3) is also to be published and exhibited as if it were a local public notice.*
- (4) *After the last day for submissions, the local government is to consider any submissions made and may make the local law* as proposed or make a local law* that is not significantly different from what was proposed.*

** Absolute majority required.*
- (5) *After making the local law, the local government is to publish it in the Gazette and give a copy of it to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister.*
- (6) *After the local law has been published in the Gazette the local government is to give local public notice —*
 - (a) *stating the title of the local law; and*
 - (b) *summarizing the purpose and effect of the local law (specifying the day on which it comes into operation); and*
 - (c) *advising that copies of the local law may be inspected or obtained from the local government's office.*
- (7) *The Minister may give directions to local governments requiring them to provide to the Parliament copies of local laws they have made and any explanatory or other material relating to them.*

Dog Act 1976

Dog Regulations 2013

POLICY IMPLICATIONS

There is no policy implications associated with this item at this point in time. However as a result of the review process and amendments made to Local Laws, amendments to specific Council policies may be required.

FINANCIAL IMPLICATIONS

Adequate budget allocations have been made in 2016/2017 to accommodate the cost to undertake the review process for both advertising and using a consultancy services.

- **Long Term Financial Plan (LTFP):**

No effect on Council's LTFF.

STRATEGIC IMPLICATIONS

It is important Council has up to date and relevant Local Laws; hence the statutory requirement to review all Local Laws at least once every eight (8) years.

• Strategic Community Plan/Corporate Business Plan:

We want a representation and governance model that reflects our community's unique attributes	The President and Councillors to be representative of the community and provide strong leadership	Develop Council appropriate policies that enable good: governance, development, services and growth
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CONSULTATION

Elected Members and Officers have had the opportunity to examine the existing Local Laws in conjunction with the consultant the opportunity to comment on the recommended new draft Local Laws.

The draft Shire of Chapman Valley Dogs Local Law 2016; was advertised for public comment for a period in excess of legislated minimum seven (7) weeks closing on 30 June 2016. No comments were received from the public.

The WA Department of Local Government and Communities made a number of comments on behalf of the Minister for Local Government:

Comment	Recommended Action
<p>Clause 1.5 – Interpretation</p> <p>a) Currently, “dangerous” dog is defined in the local law to be limited to “a dog which is the subject of a declaration under section 33E of the Act declaring it to be a dangerous dog”.</p> <p>Subject to the Shire’s intentions, the Shire may wish to broaden this definition to cover other types of dangerous dogs under the Act, namely, dangerous dogs (restricted breed) and commercial security dogs. If the Shire wishes to make this change, the existing definition can be replaced with “has the meaning given under the Act”. This would ensure that the definition of “dangerous dog” under the local law is consistent with the definition under the Act.</p> <p>b) It is suggested that the term “nuisance” is defined. Previous local governments have defined nuisance as follows:</p> <p>nuisance means –</p> <p>(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;</p> <p>(b) an unreasonable interference with the use and enjoyment of a person of his or her ownership or occupation of land; or</p> <p>(c) interference which causes material damage to land or other property on the land affected by the interference.</p> <p>c) It is also suggested that definitions for the following terms are included to ensure that the meanings of these terms are clear:</p> <ul style="list-style-type: none"> • “townsite” – this term should be defined so that it is clear how clause 3.2 (Limitation on the number of dogs) should be applied; • “premises” – a definition for this term should be included in clause 1.5 as the term is used throughout the local law (not only in Part 4). An example definition is “has the meaning given under the Act”. 	<p>Noted</p> <p>(a) Amended</p> <p>(b) Included</p> <p>(c) Included</p>

<p>Clause 3.1 – Dogs to be confined</p> <p>Clause 3.1 addresses the confinement of dogs.</p> <p>The Department notes that the confinement of dangerous dogs is covered under the <i>Dog Act 1976</i>. The Act establishes maximum penalties of up to \$10,000 when a dangerous dog is not confined in accordance with the Act.</p> <p>To reflect this, it is suggested that the following subclause be inserted:</p> <p>---</p> <p>(3) Notwithstanding subclause (1) and (2), the confinement of dangerous dogs is dealt with in the Act and the Regulations.</p>	<p>Noted and included</p>
<p>Clause 4.9 – Compliance with conditions of approval</p> <p>This clause provides that a person must comply with the conditions of a kennel licence. It establishes a penalty of \$2,000 and a daily penalty of \$200, and for dangerous dogs, a penalty of \$4,000 and a daily penalty of \$200.</p> <p>These penalties are inconsistent with section 27(2) of the <i>Dog Act 1976</i>, which sets a penalty of \$5,000 and a daily penalty of \$100. These penalty amounts apply, irrespective of whether the offence involves a dangerous dog or not.</p> <p>If the Shire wishes to retain this clause, the penalties should be amended so that they are consistent with those under the Act and Regulations. For example, the current penalty may be replaced with:</p> <p>The penalty for an offence under this clause is \$5,000 and where the offence is of a continuing nature, an additional daily penalty of \$100.</p> <p>Alternatively, the Shire can delete clause 4.9 entirely and the relevant modified penalty in Schedule 3.</p> <p>The Shire could then enforce the penalties in the Act directly rather than under the local law.</p>	<p>Noted and deleted</p>
<p>4.13 – Variation or cancellation of a licence</p> <p>Clause 4.13 provides that a local government may cancel a licence if the licensee is not a “fit and proper person”. It is suggested that the term “fit and proper” be clarified, since it is not certain what circumstances may qualify as sufficient grounds for cancellation</p>	<p>Noted and left unchanged.</p>
<p>6.3 – Issue of Infringement Notice and 6.6 – Withdrawal of infringement notice</p> <p>Currently, clauses 6.3 and 6.6 refer to forms in the Dog Regulations.</p> <p>Since the <i>Dog Act 1976</i> and <i>Dog Regulations 2013</i> do not prescribe what form of infringement notices should be used by local governments for breaches of local laws, the relevant forms can be those prescribed by section 9.17 of the <i>Local Government Act 1995</i> and regulation 26(2) of the <i>Local Government (Functions and General) Regulations 1996</i>.</p> <p>If the Shire wishes to do this, the cross references in clauses 6.3 and 6.6 should be updated accordingly.</p> <p>Alternatively, the Shire can create its own forms for infringement notices and withdrawal notices. In that case, the local government can remove the specific references to forms and simply refer to a notice “in the form determined by the local government from time to time”.</p> <p>While the Dog Regulations have infringement notices, these notices are designed to be used for offences under the Dog Act or Dog Regulations. If the Shire wishes to use these forms, it should modify the “Alleged offence” box on the form to refer to an offence under the local law instead.</p>	<p>Noted and amended</p>

The local law can now be finalised, and will come into effect 14 days after its publication in the Government Gazette.

RISK ASSESSMENT

The associated risk would be both the failure to comply a statutory review of Local Laws in accordance with section 3.16 of the Local Government Act 1995 and the existence of Local Laws which have been superseded by legislation and/or current day relevance.

VOTING REQUIREMENT

Absolute Majority Required.

COUNCIL RESOLUTION / STAFF RECOMMENDATION

MOVED: CR FORRESTER

SECONDED: CR HUMPHREY

1. Adopt by Absolute Majority the Shire of Chapman Valley Dogs Local Law 2016 as per Attachment 1 in accordance with Section 3.12(4) of the Local Government Act.
2. Note the purpose and effect of the local law being:

Purpose: To make provisions about the impounding of dogs, to control the number of dogs that can be kept on premises and the manner of keeping those dogs and to prescribe areas in which dogs are prohibited and dog exercise areas.

Effect: To extend the control over dogs which exist under the Dog Act 1976.
3. Authorise the local law's gazettal in the Government Gazette.
4. Authorise the public notice advertisement, (after gazettal), of the date of the Shire of Chapman Valley Dogs Local Law 2016.
5. Authorise the Shire President and the Chief Executive Officer to affix the Shire's Common Seal to the Shire of Chapman Valley Dogs Local Law 2016.

Voting 7/0

CARRIED

Minute Reference: 08/16-10

Mr Battilana thanked Ms Lind for her efforts and she left the meeting at 9.44am

WESTERN AUSTRALIA

*DOG ACT 1976**LOCAL GOVERNMENT ACT 1995*SHIRE OF CHAPMAN VALLEY
DOGS LOCAL LAW 2016

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SCHEDULE 1

SCHEDULE 2

SCHEDULE 3

DOG ACT 1976
LOCAL GOVERNMENT ACT 1995
SHIRE OF CHAPMAN VALLEY
DOGS LOCAL LAW 2016

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 Chapman Valley resolved on **insert date** to make the following local law.

PART 1 - PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Chapman Valley Dogs Local Law 2016*.

1.2 Commencement

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

1.3 Application

This local law applies throughout the district.

1.4 Repeal

The *Shire of Chapman Valley Dogs Local Law* as published in the *Government Gazette* on 8 August 2000 is repealed.

1.5 Interpretation

In this local law unless the context otherwise requires -

Act means the *Dog Act 1976*;

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 of the local government;

dangerous dog has the meaning given under the Act;

district means the district of the local government;

local government means the Shire of Chapman Valley;

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.

pound keeper means a person authorised by the local government to perform all or any of the functions conferred on a “pound keeper” under this local law;

premises has the meaning given under the Act;

Regulations means the *Dog Regulations 2013*;

Schedule means a schedule in this local law;

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

town planning scheme means a town planning scheme made by the local government under the *Planning and Development Act 2005* which applies throughout the whole or a part of the district.

townsite means the townsites of Nanson, Nabawa and Yuna which are –

- (a) constituted under section 26(2) of the *Land Administration Act 1997*; or
- (b) referred to in clause 37 of Schedule 9.3 of the Act;

PART 2 - IMPOUNDING OF DOGS

2.1 Charges and costs

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 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) the costs of the destruction and the disposal of a dog referred to in section 29(15) of the Act.

2.2 Attendance of pound keeper at pound

The pound keeper is to be in attendance at the pound for the release of dogs at the times and on the days of the week as are 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 the pound keeper or in the absence of the pound keeper, to the CEO.
- (2) The pound keeper is not to release a dog seized and impounded to any person unless that person has produced, to the satisfaction of the pound keeper, satisfactory 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.

PART 3 - REQUIREMENTS AND LIMITATIONS ON THE 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 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(4) of the Act -
 - (a) 2 dogs over the age of 3 months and the young of those dogs under that age if the premises are situated within a townsite, or properties outside townsites up to a maximum of 40ha; or
 - (b) 4 dogs over the age of 3 months and the young of those dogs under that age if the premises are situated outside a townsite and have an area greater than 40ha.

PART 4 - APPROVED KENNEL ESTABLISHMENTS

4.1 Interpretation

In this Part and in Schedule 2 -

licence means a licence to keep an approved kennel establishment on premises;

licensee means the holder of a licence;

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; and

transferee means a person who applies for the transfer of a licence to her or him under clause 4.13.

4.2 Application for licence for approved kennel establishment

An application for a licence must be made in the form of that in Schedule 1, and must be lodged with the local government together with -

- (a) plans and specifications of the kennel establishment, including a site plan;
- (b) copies of the notices to be given under clause 4.3;
- (c) written evidence that either the applicant or another person who will have the charge of the dogs, will 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;
- (d) 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; and
- (e) the fee for the application for a licence referred to in clause 4.9(1).

4.3 Notice of proposed use

- (1) An applicant for a licence must give notice of the proposed use of the premises as an approved kennel establishment after the application for a licence has been lodged –
 - (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 CEO within 14 days of the date the notice is given; and
 - (b) the application and plans and specifications may be inspected at the offices of the local government.
- (3) Where –
 - (a) the notices given under subclause (1) do not clearly identify the premises; or
 - (b) a notice given under subclause (1)(a) is of a size or in a location in the newspaper which, in the opinion of the local government, would fail to serve the purpose of notifying persons of the proposed use of the premises,

then the local government may refuse to determine the application for a licence until the notices or notice, as the case may be, is given in accordance with its directions.

4.4 Exemption from notice requirements

Where 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,

under a town planning scheme, then the requirements of clauses 4.2(b), 4.3 and 4.5(a) do not apply in respect of the application for a licence.

4.5 When application can be determined

An application for a licence is not to be determined by the local government until -

- (a) the applicant has complied with clause 4.2;
- (b) the applicant submits proof that the notices referred to in clause 4.3(1) have been given in accordance with that clause; and
- (c) the local government has considered any written submissions received within the time specified in clause 4.3(2)(a) on the proposed use of the premises.

4.6 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 4.7;
- (b) any written submissions received within the time specified in clause 4.3(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.

4.7 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 town 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.

4.8 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.

4.9 Fees

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

4.10 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.

4.11 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 fee referred to in clause 4.9(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.

4.12 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) paragraph (a) of subclause (2), the date requested by the licensee; or
 - (b) paragraphs (b) and (c) of subclause (2), the date determined under section 27(6) of the Act.
- (4) If a licence is cancelled, the fee paid for that licence is not refundable for the term of the licence that has not yet expired.

4.13 Transfer

- (1) An application for the transfer of a valid licence from the licensee to another person must be –
 - (a) made in the form determined by the local government from time to time;
 - (b) made by the transferee;
 - (c) made with the written consent of the licensee; and
 - (d) 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; and
 - (ii) the fee for the application for the transfer of a licence referred to in clause 4.9(3).
- (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 4.14(b), the transferee becomes the licensee of the licence for the purposes of this local law.

4.14 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 4.12(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 4.12(2)(a); and
- (g) a licensee of the cancellation of a licence under paragraphs (b) or (c) of clause 4.12(2), which notice is to be given in accordance with section 27(6) of the Act.

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 - MISCELLANEOUS

5.1 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.

Penalty: \$1000

- (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.

PART 6 - ENFORCEMENT

6.1 Interpretation

In this Part -

infringement notice means the notice referred to in clause 6.3; and

notice of withdrawal means the notice referred to in clause 6.6(1).

6.2 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 third column of Schedule 3 directly opposite an offence is the modified penalty payable in respect of that offence if -
 - (a) the dog is not a dangerous dog; or

- (b) the dog is a dangerous dog, but an amount does not appear in the fourth column directly opposite that offence.
- (3) 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 a dangerous dog.

6.3 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 in the form determined by the local government from time to time.

6.4 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 the CEO, he or she is deemed to have declined to have the offence dealt with by way of a modified penalty.

6.5 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 the CEO, 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.

6.6 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 in the form determined by the local government from time to time.
- (2) A person authorised to issue an infringement notice under clause 6.3 cannot sign or send a notice of withdrawal.

6.7 Service

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 - Application for a licence for an approved kennel establishment

(clause 4.2)

I/we (full name)
of (postal address)
(telephone number)
(facsimile number)
(E-mail address)
Apply for a licence for an approved kennel establishment at (address of premises)

For (number and breed of dogs)

* (insert name of person) will be residing at the premises on and from (insert date)

* (insert name of person) will be residing (sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare) at(insert address of residence) on and from(insert date).

Attached are -

- (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 kennel establishment;
- (c) copy of notice of proposed use to appear in newspaper;
- (d) copy of notice of proposed use to be given to adjoining premises;
- (e) 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
- (f) if the person in item (e) is not the applicant, written evidence that the person is a person in charge of the dogs.

I confirm that I have read and agree to comply with the Code of Practice known as, in the keeping of dogs at the proposed kennel establishment.

Signature of applicant

Date

* delete where inapplicable.

Note: a licence if issued will have effect for a period of 12 months – section 27(5) of the *Dog Act 1976*.

OFFICE USE ONLY

Application fee paid on [insert date].

Schedule 2 - Conditions of a licence for an approved kennel establishment

(clause 4.8(1))

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) 25m from the front boundary of the premises and 5m from any other boundary of the premises;
 - (ii) 10m from any dwelling; and
 - (iii) 25m 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 100mm 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 upstand rising 75mm 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 50mm 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) 2m; or
 - (ii) 4 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 - Offences in respect of which modified penalty applies

(clause 6.2)

Offence	Nature of offence	Modified penalty \$	Dangerous Dog Modified Penalty \$
5.1(2)	Dog excreting in prohibited place	100	

Dated of 20

The Common Seal of the }
Shire of Chapman Valley }
was affixed by authority of a }
resolution of the Council in the }
presence of: }

JOHN COLLINGWOOD
PRESIDENT

MAURICE BATTILANA
CHIEF EXECUTIVE OFFICER

AGENDA ITEM:	9.3.5
SUBJECT:	CHAPMAN VALLEY ONLINE PLATFORM & BRAND REFRESH PROJECT
PROPOSER:	PROJECT WORKING GROUP
SITE:	SHIRE OF CHAPMAN VALLEY
FILE REFERENCE:	403.04
PREVIOUS REFERENCE:	12/15-12 & 04/16-20
DATE:	17 AUGUST 2016
AUTHORS:	MAURICE BATTILANA, CHIEF EXECUTIVE OFFICER NICOLE BATTEN, COMMUNITY DEVELOPMENT OFFICER

DISCLOSURE OF INTEREST

Nil

BACKGROUND

At the 16 December 2015 OCM the following was recommended to Council by the Tourism & Events Working Group and resolved by Council:

MOVED: CR FORRESTER

SECONDED: CR WARR

Council endorses:

1. *The Working Group's recommended recipients of the 2016 Australia Day Awards;*
2. *The 2016 Australia Day function to be held at Coronation Beach;*
3. ***Developing a Scope of Works in-house to obtain costings and the establishment of an implementation plan for the Chapman Valley Interaction & Promotion Project for presentation to Council for consideration.***
4. *Developing a new tourist brochure/map in-house incorporating the new format and businesses in the district.*
5. *The draft tourist brochure/map being distributed to working group members and local businesses for feedback via a survey prior to being presented to Council for consideration.*

Voting 7/0

CARRIED

Minute Reference 12/15-12

At the 20 April 2016 OCM the following was resolved by Council:

MOVED: CR WARR

SECONDED: CR HUMPHREY

Council:

1. *Endorse the Scope of Works as presented (Attachment1);*
2. *Undertake a Request for Quote process in accordance with the requirements of the Scope of Works from suitably qualified organisations/individuals to provide Council with:*
 - a) *Staged Implementation Plan and proposed methodology to achieve the desired minimum outcomes identified in the Scope of Works; and*
 - b) *Estimated, segregated costs to implement the Scope of Works across all stages of the project to consider for Council to consider future budget allocations;*

3. *The results of the Request for Quote be brought back to Council either as part of the 2016/2017 budget considerations or separately if timing permits this;*
4. *In the event Council endorses a respondent(s) from the Request for Quote process and the budget allocation(s) is endorsed by Council a Working Group be established to steer the implementation of the Chapman Valley Online Platform & Brand Refresh Project under the following conditions and guidelines:*

a) Composition of the Working Group:

- ~ 2 x Elected Members;
Cr Forrester and Cr Warr*
- ~ Chief Executive Officer*
- ~ Manager Finance & Corporate Services*
- ~ Community Development Officer*
- ~ 1 x Valley Vibes/Community Hub representative*
- ~ 1 x community representative (preferably a tourism operator)*

b) Purpose and Rules of the Working Group's role and responsibilities:

- ~ Assist the Chief Executive Officer with the "Request for Quotes" process;*
- ~ Assist the Chief Executive Officer with steering the project to achieve the desired outcomes, yet not direct staff, contractors, service provider, etc. as this is the role of the Chief Executive Officer;*
- ~ The Group will have no delegated authority and cannot commit the Shire of Chapman Valley in any way whatsoever. All decisions not provided to the Chief Executive Officer under delegation must be made by Council;*
- ~ The Chief Executive Officer will determine if any variations to the scope of works for the project are minor or major. Minor variations, which do not affect the overall budget allocation to the project and do not breach funding agreement conditions can be dealt with by the Chief Executive Officer.*

Any variation considered as being major by the Chief Executive Officer, whether there is an effect on the budget allocated to project and/or breach funding agreement conditions or not, is to be brought back to Council for determination;

Voting 5/2

CARRIED

Minute Reference: 04/16-20

COMMENT

This project has progressed and evolved since October 2014 through Council's Community Growth Fund contribution to the Valley Vibes Community Newspaper who undertook a Needs Analysis (completed in June 2015) on the concept of establishing a Chapman Valley Online Platform. The Needs Analysis has evidenced that an online resource providing information and a platform to promote the community's activities, facilities, capacity to connect and events would be valued. This project instigated different options in how people of Chapman Valley communicated both inward and outward. The recommended website linked to social media would meet the needs of the community and the report provides a framework to progress the project and reap the rewards of embracing the online world.

In addition to the need for a central Chapman Valley Online Platform, the Shire was also conscious of the need to improve its current methods of interacting with and promoting the community. This interaction and promotion includes branding, which could be incorporated into an overall marketing and promotion project for the Shire, businesses and community.

At the 16 December 2015 OCM Council endorsed the following recommendation by the Tourism & Events Working Group:

Develop a Scope of Works in-house to obtain costings and the establishment of an implementation plan for the Chapman Valley Interaction & Promotion Project for presentation to Council for consideration.

In developing the Scope of Works, staff brought together a Focus Group in an advisory capacity to gain an insight into their needs on branding Chapman Valley. This group included representatives from tourism businesses, farming businesses, community and heritage. Key themes for Chapman Valley branding included by-lines to reflect "Love the Rural Life" with Diverse, Lifestyle, Choices that connects all parts of Chapman Valley. This Scope of Works was presented at the 20 April 2016 OCM and adopted by Council (Minute Reference 04/16-20).

Staff have undertaken a request for quote process to source a suitable organisation to provide a cost breakdown and implementation plan that meets the requirements of the Scope of Works. The quotes received provided a number of options and functions with associated costs, as well as different management systems. This process highlighted the magnitude of online central management systems, optional add-on functions available as well as the potential limitless cost associated with these functions. This prompted further investigation into the most appropriate central management system and a package that will work for us. Staff have enquired with other local governments on their new websites, usability, functionality and cost, in addition to sourcing a demo site and analysis on a Chapman Valley website platform. See **Attachment 9.3.5 (a)**.

On 7 July 2016 staff convened a Working Group meeting to present the demo website platform as well as gain feedback into the highest priorities required for stage one of implementation as well as inclusions and timeframe for stage two. Refer to meeting minutes in **Attachment 9.3.5(b)**. This meeting enabled staff to refine the Scope of Works (**Attachment 9.3.6(c)**) to include high priority items and describe the staged implementation required, as well as state the central management system we require to maintain ownership, ease of management and progress with technology and needs into the future. Refining the Scope also enables organisations to provide an accurate quote as well as staff to compare quotes using similar systems and functions.

STATUTORY ENVIRONMENT

Not applicable

POLICY IMPLICATIONS

Not applicable

FINANCIAL IMPLICATIONS

The costs provided as part of the WALGA eQuote process undertaken in accordance with the original Scope of Works associated with implementing both the Chapman Valley Online Platform & Brand Refresh Project where considered excessive, hence no quote was accepted.

Staff have determined indicative costs based on the aforementioned quotes received and research on how other LGAs has dealt with similar projects. It is upon this research an amount of \$20,000 has been placed in the 2016/2017 Budget for this Project (COA 0682).

It is anticipated the Project will be completed within the budget allocation.

- **Long Term Financial Plan (LTFP):**

Nil effect anticipated on the current LTFP

STRATEGIC IMPLICATIONS

It has been clearly identified the existing Shire website and communication mechanisms currently in place are dated and in need of improvement. Hence the Community Growth Funds initially provided to Valley Vibes for them to investigate option (i.e. the Community Hub).

Communications with Shire constituents is strategically important for the Shire to ensure the best possible opportunities are made available for two way communication between the Council and the community.

- **Strategic Community Plan/Corporate Business Plan:**

We want to be able to spend our money locally and encourage others to do the same	Develop tourism in the Shire, including cottage industries, caravan park and events
---	---

We want to strengthen our community's position for the future	Maintain a resilient and independent Shire
---	--

CONSULTATION

There has been extensive consultation over the past eighteen months on the need to improve the Shire website and communication to (and within) the community. This was evolved from the Valley Vibes *Community Hub* proposal to the current *Chapman Valley Online Platform & Brand Refresh Project*.

The need to refresh the shire brand is considered important with priority given to electronic media with a staged approach to other aspects so as not to delay the immediate requirement to improve the Shire website and communication links to the Shire constituents

Consultation has included:

- ~ Valley Vibes – Community Hub Group;
- ~ Tourism & Events Committee;
- ~ Focus Group comprising of tourism operators within the Shire, historical society, Valley Vibes/Community Hub representatives and shire staff;
- ~ Project Working Group;
- ~ Request for Quote Process undertaken through the WALGA eQuote system;
- ~ Shire staff and external discussions with various IT service providers.

RISK ASSESSMENT

The risk of not improving the Shire's interaction between Council and the community is the inability of the Shire to fully understand/communicate with its constituents or to adequately broadcast the Shire's policies, procedures and future strategic direction.

VOTING REQUIREMENTS

Simple Majority

WORKING GROUP RECOMMENDATION

MOVED: CR WOOD

SECONDED: CR FORRESTER

Council:

1. Endorse the revised Scope of Works as provided at **Attachment 9.3.5 (c)**;
2. Delegate authority to the Chief Executive Officer to implement the Online Platform & Brand Refresh Project in accordance with the Scope of Works, in consultation with the Project Working Group and within budget constraints.

**Voting 7/0
CARRIED
Minute Reference: 08/16-11**





Shire of
Chapman Valley
Love the Rural Life

UNCONFIRMED MINUTES

CHAPMAN VALLEY ONLINE PLATFORM & BRAND REFRESH PROJECT WORKING GROUP

**THURSDAY 7TH JULY 2016
COUNCIL CHAMBERS NABAWA
9.00AM**

The Chapman Valley Online Platform & Brand
Refresh Project Working Group is comprised of:-

Cr Pauline Forrester
Cr Kirra Warr

Chief Executive Officer
Manager Finance & Corporate Services
Community Development Officer
Executive Assistant (Minute Taker)
Community Representative / Valley Vibes Representative
Tourism Operator Representative

DISCLAIMER



No responsibility whatsoever is implied or accepted by the Shire of Chapman Valley for any act, omission or statement or intimation occurring during Council Meeting. The Shire of Chapman Valley disclaims any liability for any loss whatsoever and howsoever caused arising out of reliance by any person or legal entity on any such act, omission or statement or intimation occurring during Council or Committee Meetings.

Any person or legal entity who acts or fails to act in reliance upon any statement, act or omission made in a Council Meeting does so at that person's or legal entity's own risk.

The Shire of Chapman Valley warns that anyone who has any application or request with the Shire of Chapman Valley must obtain and should rely on Written Confirmation of the outcome of the application or request of the decision made by the Shire of Chapman Valley.



Maurice Battilana
CHIEF EXECUTIVE OFFICER

UNCONFIRMED MINUTES

CHAPMAN VALLEY ONLINE PLATFORM & BRAND REFRESH PROJECT WORKING GROUP MEETING TO BE HELD IN THE COUNCIL CHAMBERS, NABAWA THURSDAY 7TH JULY 2016 AT 9.00AM

Purpose of the Working Group: Will meet on an 'as needs' basis only to:

- ~ Assist the Chief Executive Officer with the "Request for Quotes" process;
- ~ Assist the Chief Executive Officer with steering the project to achieve the desired outcomes, yet not direct staff, contractors, service provider, etc. as this is the role of the Chief Executive Officer;
- ~ The Group will have no delegated authority and cannot commit the Shire of Chapman Valley in any way whatsoever. All decisions not provided to the Chief Executive Officer under delegation must be made by Council;
- ~ The Chief Executive Officer will determine if any variations to the scope of works for the project are minor or major. Minor variations, which do not affect the overall budget allocation to the project and do not breach funding agreement conditions can be dealt with by the Chief Executive Officer.

Any variation considered as being major by the Chief Executive Officer, whether there is an effect on the budget allocated to project and/or breach funding agreement conditions or not, is to be brought back to Council for determination.

ORDER OF BUSINESS

- 1.0 Election of Presiding Person** – Cr Forrester chaired the meeting as the Presiding member of the Tourism & Events Working Group

2.0 Declaration of Opening / Announcements of Visitors

April 2016 Council Resolution

Council:

1. Endorse the Scope of Works as presented (*Attachment1*);
2. Undertake a Request for Quote process in accordance with the requirements of the Scope of Works from suitably qualified organisations/individuals to provide Council with:
 - a) Staged Implementation Plan and proposed methodology to achieve the desired minimum outcomes identified in the Scope of Works; and
 - b) Estimated, segregated costs to implement the Scope of Works across all stages of the project to consider for Council to consider future budget allocations;
3. The results of the Request for Quote be brought back to Council either as part of the 2016/2017 budget considerations or separately if timing permits this;
4. In the event Council endorses a respondent(s) from the Request for Quote process and the budget allocation(s) is endorsed by Council a Working Group be established to steer the implementation of the *Chapman Valley Online Platform & Brand Refresh Project* under the following conditions and guidelines:
 - a) Composition of the Working Group:
 - ~ 2 x Elected Members;

- ~ Cr Forrester and Cr Warr
- ~ Chief Executive Officer
- ~ Manager Finance & Corporate Services
- ~ Community Development Officer
- ~ 1 x Valley Vibes/Community Hub representative
- ~ 1 x community representative (preferably a tourism operator)

b) Purpose and Rules of the Working Group's role and responsibilities:

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- ~ The Group will have no delegated authority and cannot commit the Shire of Chapman Valley in any way whatsoever. All decisions not provided to the Chief Executive Officer under delegation must be made by Council;
- ~ The Chief Executive Officer will determine if any variations to the scope of works for the project are minor or major. Minor variations, which do not affect the overall budget allocation to the project and do not breach funding agreement conditions can be dealt with by the Chief Executive Officer.

Any variation considered as being major by the Chief Executive Officer, whether there is an effect on the budget allocated to project and/or breach funding agreement conditions or not, is to be brought back to Council for determination.

3.0 Record of Attendance

3.1 Present

Member	
Cr Pauline Forrester	Councillor
Cr John Collingwood	President
Dianne Raymond	Manager Finance & Corporate Services
Nicole Batten	Community Development Officer
Renaye Stokes	Community Member
Tegan Csepany	Community Member
Karen McKay	Executive Assistant (Minute Taker)
Esky Kelly	Manager of Works & Services (9.00am to 9.45am)
Marieke Jansen	NACC

3.2 Apologies

Name	
Cr Kirra Warr	Councillor
Maurice Battilana	Chief Executive Officer

4.0 Declarations of Interest

Nil

5.0 Agenda Items

5.1 A demonstration of a Chapman Valley Online Platform and how it could function, as well as be managed

Mrs Batten explained that the purpose of bringing the working group together was to ensure that we encompass the community and business groups into the Chapman Valley Online Platform and determine the priority of website functionalities required.

- The working group looked at a website which was created using WIX by consultant Elle MacKay - <http://efmackay.wix.com/chapmanvalley>
- Indicative costs for the demo type of website approx. \$9,000 one off for similar pages of current website content
- Using a WIX based website has the advantage over hard coded website in that anyone can update pages as it is easy to edit & maintain
- A further demonstration of a recently upgraded website from the WALGA Preferred Supplier was shown. This demonstration provided insight into a potential upgrade one off initial costs around \$10,000 plus ongoing WALGA council connect subscription fees of \$3,000.
- Current 2016/2017 Draft Budget includes \$20,000 for the commencement of the implementation of the full project to be staged over two budgets. Additional funds be allocated to future budgets for further functionality.
- A priority be given to ensure the community and businesses can link / interact on-line through the Shire website.
- Have interactive map available (Tourism map) which are mobile app friendly. This can provide info by hovering on locations and redirect people to local business & community websites etc. Suggested to make this element live when phone towers switched on to ensure interactive function can work.
- Priority be given to having community information on the website first and payment/purchasing options to wait. Third party sites for the sale of community group function tickets through the Shire website is not being suggested. A link only to direct traffic to community group sites which could then include a purchasing module. eg: website of CV Harvest Ball or CV Ag Society etc.
- Keep website simple – consolidation is the key ie Locals/Communities – one banner. Use simple words and limited info and website will redirect people.
- Analyse required information and reduce double/repeated pages of information in varying content areas ie: keep community and visitor pages separate. Community page is internal CV – Contacts, what's on, when, how to contact. Visitor page includes directory of places to eat, venues for hire, things to do, broken down into townships.
- Tegan suggested that Shopping centre directories are excellent to look at for set up ie. Places to stay, places to visit, places to eat etc
 - Directory
 - List in townships / localities
 - Nanson
 - Burnt Barrell
 - Lavender Farm
 - CV Museum etc
 - Stage 2 implementation suggestions:
 - Cr Collingwood suggested link to the cemetery plan board be added to website.
 - Purchasing programs
 - Community forums and/or blogs

- Outcome from discussion – request further quotes from sources other than the WALGA Preferred Supplier list. Continue with proposed Scope of Works timelines & milestones with the branding refresh and website upgrade to be done simultaneously with a staged implementation to further enhance website presence & functionality.

5.2 Quote received – Based on Scope of Works

Mrs Raymond advised that the Shire had received two e-quotes which were difficult to determine full costs. Neither of the e-quotes have to be accepted and further quotes from parties other than the WALGA Preferred Supplier list will be obtained.

5.3 Chapman Valley Tourism Brochure

Discussion was held on the new tourism map and information was reviewed with Marieke to make amendments and then email to working group for comment. Jess Hadley of Art Gecko Graphic Designs is currently working on layout / design of brochure.

- Suggested tourist info map board could be placed at Shire.

6.0 Closure

The chairman thanked the Committee members and staff for their attendance and declared the meeting closed at 10.30am.

JULY 2016

Chapman Valley Online Platform & Brand Refresh Project

Project scope

Deliver a powerful website providing a simple content management system making it possible for individual stakeholders to work from one platform to perform various interactions and promotions.

To improve the way council does business online while providing ~~various platforms for shared resources~~ & content with community & businesses to interact making it easier for cross promotion of Chapman Valley.

Background

The Shire of Chapman Valley (SoCV) has identified its website is dated, not universally accessible and insufficient to serve future requirements. Volunteers from the Valley Vibes were funded by SoCV through the 2014/2015 Community Growth Fund program to investigate the establishment of a Community Hub which potentially could complement and enhance the Shire's own website upgrade. The needs analysis from this funded project evidenced an online resource providing information and a platform to promote the community's activities, facilities, events and capacity to connect would be valued. The recommended website linked to social media would meet the needs of the community and the report provides a framework to progress the project and reap the rewards of embracing the online world.

Business case

The Shire is conscious of the need to improve the existing SoCV website, which could complement the Community Hub concept. As such the Shire is considering refreshing its brand, which could be incorporated into an overall marketing and promotion project for the Shire, businesses and community, is a more cost effective strategy.

The Shires current website functionality & presentation restricts room for growth and expansion into various social media ~~platforms and mobile friendly applications~~. The ability to directly link Chapman Valley to a variety of existing services, events, government and community news is disjointed and limited. Taking advantage of upskilling community groups/members and local businesses to facilitate information exchange and promotion of Chapman Valley without draining operational resources is invaluable.

Project Objectives

A fully interactive online presence and promotions staged for a gradual implementation giving consideration to costs and benefits over a 12-24 month period.

[G:\PROJECTS\Current Projects\Community Development\CD016 CV Online Platform & Brand Refresh\Scope Of Works AMENDED.Doc]

1

The Chapman Valley Online Platform & Brand Refresh Project aims to commence with the Online Platform (Website) as Stage 1 and using this platform to launch a branding refresh ~~as Stage 2~~.

Create new logo to reflect "Love the Rural Life" with Diverse, Lifestyle, Choices that connects all parts of Chapman Valley

An upgrade to the Shires' website with new logo and tag lines form the refresh commencing September 2016 with expansion for greater online presence completed by December 2017. The objectives are based on the assumption the scope of works ~~and supporting documents~~ will be endorsed at the ~~April~~ August Ordinary Council Meeting.

- Project duration will be approximately 12 - 24 months;
- Indicative costs ~~were only can be~~ provided for consideration at the April 2016 OCM;
- Performance Goals will be measured based upon 'on time' completion of key milestone tasks.

These tasks will be detailed and tracked by the Project Manager in the Project Implementation Plan.

Project outcomes and milestones as listed below:

Deliverable -

- ~~1. A single online place (website or hub) that brings Chapman Valley together creating a dynamic platform of information, interaction and promotions~~
2. Increase on-line traffic to Shire platform and local business and community websites and social media
3. App friendly for mobile devices
4. A website owned by LGA with shared resources & content between LGA & community
5. An ~~electronic~~ brand refresh of Chapman Valley using ~~holistic approach~~ a staged approach to transition print material (stage 2) to reflect "Love the Rural Life"
- ~~6. Create new logo to reflect "Love the Rural Life" with Diverse, Lifestyle, Choices that connects all parts of Chapman Valley~~
7. Brief for web developer on content, functionality & maintenance
8. A simple Content Management System ~~directing traffic quickly to relevant areas~~ which shire staff can be trained at maintaining
- ~~9. Ability for online payment options for Shire rate payments and ability to redirect third party payments / bookings for community events for local community group memberships, Shire venue bookings, ticket purchases~~
- ~~10. Improved customer service through the implementation of user friendly online business services~~
- ~~11. To incorporate news items, event calendar, etc. into electronic mediums~~
12. A facilities booking module synchronized with an events calender for whole community

13. Training in ways that community and businesses can link to optimize the Shire website and increase their online platforms
14. Easy to navigate document and form centre
15. Automated responses when someone lodges complaints, employment application, Community Growth fund, tenders, feedback for planning / building documents, rates queries
16. The ability for Newsletter integration (subscribe/unsubscribe) ie E-Newsletter and Valley Vibes to the community via social media formats
17. Interactive map
18. Google translator
19. Search Engine

Measurable –

1. Online presence can be accurately measured through google analytics to include when people look, how they reach the hub, what they are looking at, how long they spend on the website. Powerful data tool
2. Boost local economy and generate income
3. Foster community connections and business synergies
4. Promote the area as a place to work and live
5. Content Management System with inbuilt validation processes to edit/review and audit data/content for copyright and compliance, which also has templates for automated email acknowledgement responses to website generated enquiries
6. ~~Electronic lodgments of building/planning applications; availability of electronic registration of dogs & cats;~~ customer banking gateways for payment of rates, debtors, infringements etc

Milestones -

1. ~~Project commencement May 2016~~
2. ~~Chapman Valley brand refresh Sept 2016~~
3. ~~Shire website with in-built validation CMS in place Dec 2016~~
4. ~~Completed Community interactive online presence Dec 2017~~

ACTIVITY	START	END	NOTES
Project Start	17/08/2016	1/12/2016	CV Online Platform & Brand Refresh Project
Implementation Stage 1	21/08/2016		Project Scope of Works for CV Online Platform & Brand Refresh presented at August OCM
Milestone 1	21/08/2016	18/09/2016	Brand Refresh requote and engage web designer
Milestone 2	22/09/2016	21/10/2016	Brand Refresh Style Guide
Milestone 3	1/10/2016	22/10/2016	Brand Refresh inclusive of presentation to October Council meeting
Milestone 4	22/09/2016	31/10/2016	Website Development
Milestone 5	1/11/2016	8/11/2016	Website functionality Test and "Go Live"
Milestone 7	9/11/2016	26/11/2016	Live Website with inbuilt content validation
Milestone 8	1/12/2016		Working Group evaluation
Implementation Stage 2	1/08/2017		Stage 2 - Interaction online shared platform
Milestone 10	7/08/2017		Oct OCM Information Report
Project End	28/10/2017		Full Interactive Online Presence

Key people / Key stakeholders

Project Manager

The Project Manager will be responsible to ensure the project is focused on achieving its objective and delivering the product as stated in the ~~scope of works~~ contract. The Project Manager will be responsible for coordination, communication and liaison with all parties for key project tasks.

Project Management will be determined by the Working Group

Client

Shire of Chapman Valley

Monitors all aspects of project performance and outcomes independently of the Project Manager.

Project support & administration

Shire of Chapman Valley Staff, Web Developer & Community Businesses.

Responsible for delivering related documentation as identified by Council requirements.

Document Scope:

In the Scope

- Website design & development
- Branding refresh including brand guidelines & style guide
- Staff upskilling for website management
- Community upskilling for content & information

[G:\PROJECTS\Current Projects\Community Development\CD016 CV Online Platform & Brand Refresh\Scope Of Works AMENDED.Doc]

Outside of Scope

- Ongoing development
- Tourism & Marketing strategy

Project administration, monitoring and reporting

Project meetings shall be held monthly (or as deemed required) to monitor the implementation plan and delegation of administration tasks. The Project Manager shall report the monthly project progress through status reporting updates, which staff may append to monthly Staff Information Reports for council information.

List of attachments – Can be provided on request

Attachment 1 – Chapman Valley Interaction & Promotion TEWG Meeting Dec 2015
Attachment 2 – Chapman Valley Community Online Hub Report & Feasibility Study (June 2014)
Attachment 3 – Web Developer Brief
Attachment 4 – Indicative Budget Chapman Valley Online Platform & Brand Refresh Project
Attachment 5 – Sample Brand Refresh Guideline/Style guide
Attachment 6 – Sample WALGA Council Connect LG's

10.0 ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

11.0 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

11.1 Elected Member Reports

12.0 URGENT BUSINESS APPROVED BY THE PRESIDING MEMBER OR BY A DECISION OF THE COUNCIL

Cr Humphrey advised that there are community grants available to assist shires with CCTV for crime prevention.

COUNCIL RESOLUTION

MOVED: CR FARRELL

SECONDED: CR FORRESTER

Cr Collingwood requested that a letter of congratulations be written to Mrs Heather Allen as the new State President of the CWA.

Voting 7/0

CARRIED

Minute Reference: 08/16-12

13.0 MATTERS FOR WHICH MEETING TO BE CLOSED TO MEMBERS OF THE PUBLIC

14.0 CLOSURE

The Chairman thanked the Elected Members and Staff for their attendance and the meeting was closed at 9.58am.