



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 14 October 2015
at the Council Chambers, Nabawa, commencing at 9:00am.

Maurice Battilana
CHIEF EXECUTIVE OFFICER

AGENDA

OCTOBER 2015

DISCLAIMER



Shire of
Chapman Valley
Love the Rural Life

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

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6.0 DISCLOSURE OF INTEREST

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."*

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8.0 CONFIRMATION OF MINUTES FROM PREVIOUS MEETINGS

8.1 Ordinary Meeting of Council held on Wednesday 16 September 2015

That the minutes of the Ordinary Meeting of Council held Wednesday 16 September 2015 be confirmed as a true and accurate record.

9.0 OFFICERS REPORTS

9.1

Manager of Planning

October 2015

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9.1.1 Proposed Outbuilding - 426 (Lot 2462) White Peak Road, White Peak

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SUBJECT:	PROPOSED OUTBUILDING
PROPONENT:	B & H WALLACE
SITE:	426 (LOT 2462) WHITE PEAK ROAD, WHITE PEAK
FILE REFERENCE:	A104
PREVIOUS REFERENCE:	6.3.1 - 19/5/1998
DATE:	5 OCTOBER 2015
AUTHOR:	SIMON LANCASTER

DISCLOSURE OF INTEREST

Nil.

BACKGROUND

Council is in receipt of an application for an outbuilding upon Lot 2462 White Peak Road. The location for the building is within immediate vicinity of the Oakajee to Narngulu Infrastructure Corridor/Geraldton Outer Bypass alignment. This report recommends that conditional approval be granted to the application.

COMMENT

426 (Lot 2462) is a 339.143ha property located at the eastern end of the constructed portion of White Peak Road.

The property is largely cleared and utilised for farming purposes with the exception of an approximately 53ha area of remnant vegetation in the south-western corner of Lot 2462 to the rear of residence that is in good condition and adjoins the Wokatherra Nature Reserve, an approximately 35ha area of remnant vegetation around a hilltop along the lot's southern boundary, and a 5.5ha portion in the north-western corner of Lot 2462 that adjoins a Nature Reserve.

Figure 9.1.1(a) – Location Plan for Lot 2462 White Peak Road



The approximately 5.5ha portion, in the north-western corner of Lot 2462, is located north of White Peak Road and it is in this area that the applicant is seeking approval for an already constructed 39.6m² (6.6m x 6m, 2.5m wall height) colorbond outbuilding. A copy of the submitted site, elevation and floor plans have been included as **Attachment 9.1.1(a)**.

The development is located in proximity to (approximately 120m north) of the Oakajee Narngulu Infrastructure Corridor ('ONIC') and the application has therefore been referred to Council for its consideration in accordance with the Shire of Chapman Valley Local Planning Policy 'Development adjacent to the proposed Oakajee to Talling Peak and Oakajee to Narngulu Rail Corridors' which requires:

"This policy shall affect any application for a habitable building within 250m of the centre line of the railway (this distance is based on the 65dB(A) Noise Contour Line) and any

application for a non-habitable building within 150m of the centre line of the railway (this distance is based on the 75dB(A) Noise Contour Line)."

The full ONIC alignment is illustrated in **Attachment 9.1.1(b)** to this report. Relevant extracts from the Department of Planning's 'Oakajee Narngulu Infrastructure Corridor Draft Alignment Definition Report' (2014) are provided in **Attachment 9.1.1(c)**.

Lot 2462 also contains several tributary lines that run eastwards towards the Chapman River and is crossed by several unconstructed road reserve alignments and the Geraldton to Yuna rail reserve (which ceased operation in 1956).

Figure 9.1.1(b) – Cadastre Plan for Lot 2462 White Peak Road



Figure 9.1.1(c) – Aerial Photograph of subject portion of Lot 2462 White Peak Road (north-western corner)



**Figure 9.1.1(d) – relevant section of Oakajee Narngulu Infrastructure Corridor
(source: ONIC Draft Alignment Definition Report, Department of Planning, 2014)**



Shire staff do not raise an objection to the development based upon the following:

- no objection was received from the relevant state government agencies during the consultation period;
- the application is for a Class 10 (non-habitable) building, and this should form part of the conditional basis for any approval (if given);
- the proposed location, whilst in proximity to, is not within the ONIC alignment;
- the development is considered minor in nature, and in the event that the subsequent ONIC acquisition by the state government (or private proponent) determined that the land area upon which the development was located required purchase then the relatively minor (in context of the overall ONIC acquisition cost) development cost of \$15,000 provided by the applicant/landowner could be addressed, or the structure can be dismantled and re-erected elsewhere upon the property.

Figure 9.1.1(e) – View of building upon Lot 2462 looking west from White Peak Road



Figure 9.1.1(f) – View of building upon Lot 2462 in relation to White Peak Road



STATUTORY ENVIRONMENT

426 (Lot 2462) White Peak Road, White Peak is zoned 'Rural' under the Shire of Chapman Valley Local Planning Scheme No.2 ('the Scheme') and also lies within the 'Moresby Ranges Landscape Protection Special Control Area' zone.

Section 4.2.5 of the Scheme lists the objectives of the 'Rural' zone as being:

- "(a) Provide for a variety of agricultural/rural activities;*
- (b) Provide for other land-uses compatible with the predominant use of the land;*
- (c) Prevent the establishment of land-uses more appropriately undertaken in commercial and/or industrial areas;*
- (d) Provide appropriate protection from incompatible development for existing land uses; and*
- (e) Protect the environmental and landscape values of the land."*

Section 1.6 'Aims of the Scheme' lists the following aim considered to be of relevance to this application:

- "(i) Provide for the orderly and proper development of the Oakajee Industrial Estate, including the establishment of supporting infrastructure such as port facilities, roads and railways, and electricity, gas and water supplies, and the protection of the Buffer from incompatible development."*

Section 6.3 sets the Scheme requirements relevant to the 'Moresby Ranges Landscape Protection Special Control Area' zone.

"6.3.1 Special Control Area 2, as shown on the Scheme Maps, comprises the Moresby Ranges Landscape Protection Special Control Area.

6.3.2 The purpose of Special Control Area 2 is the protection of the Moresby Ranges and associated valleys from development and/or subdivision that will detrimentally affect the landscape values of the area, including preventing development that may lead to problems of erosion. In determining any application for planning approval on land within Special Control Area 2, the Local Government shall give consideration to the purpose of the Special Control Area.

6.3.3 Within Special Control Area 2 no clearing or destruction of any remnant native vegetation or re-vegetation shall be permitted except for:

- (a) Clearing to comply with the requirements of the Bush Fires Act 1954 (as amended), the Local Government's Bush Fire Notice and/or any fire management plan endorsed by the Local Government;*
- (b) Clearing as may reasonably be required to accommodate an approved building and curtilage, or vehicular access to an approved building or other land use approved by the Local Government; and/or*

- (c) *Clearing as may be allowed under the Department of Environment and Conservation Land Clearing Regulations;*
- (d) *Trees that are diseased or dangerous.*

6.3.4 *In the determination of any application for planning approval within Special Control Area 2 the Local Government may, having regard to the purpose of the Special Control Area set out in Clause 6.3.2 and the assessment criteria detailed in the Moresby Ranges Management Strategy, require modification of development proposals, or impose conditions of approval regarding:*

- (a) *The siting of the proposed development;*
- (b) *The design and layout of the proposed development;*
- (c) *The materials and finishes to be used in the proposed development;*
- (d) *The protection of remnant native vegetation or re-vegetation located on the site;*
- (e) *The installation and maintenance of vegetation to provide for the visual screening of proposed development; and/or*
- (f) *The installation and maintenance of vegetation, retaining walls or other works to prevent erosion."*

The development of an outbuilding upon a 'Rural' zoned property would generally be an application that could be deemed to not require the planning approval of a local government under Section 8.2(b) of the Scheme, and would therefore proceed to building application stage. However, the development has been determined to require planning application on the following basis; it requires assessment in relationship to a Local Planning Policy (Sections 2.3 & 10.2(f)), it is located within a Special Control Area (Sections 6.1.2, 6.3 & 8.2(b)(ii)), the development was unlawfully commenced (Section 8.4) and is relevant to Section 1.6(i) of the Scheme.

POLICY IMPLICATIONS

Shire of Chapman Valley Local Planning Policy 16.190 'Development adjacent to the proposed Oakajee to Talling Peak and Oakajee to Narngulu Rail Corridors' seeks to prevent incompatible development in vicinity to the ONIC.

On 12 May 1998 Council formally adopted a Local Planning Policy regarding development adjacent to the Oakajee to Talling Peak Rail Corridor. The policy had been developed in consultation with the (then) Shires of Greenough and Mullewa, and the Departments of Resources Development, and Environmental Protection.

Following the completion of the Consultative Environmental Review for the Oakajee to Narngulu Rail Corridor and subsequent assessment by the Department of Environmental Protection, the Minister for the Environment requested that Council extend its current policy to give regard for this second rail corridor and the expanded policy was adopted by Council at its 18 April 2000 meeting.

The policy was reviewed and adopted by Council again at the 19 February 2014 meeting following gazettal of the new Scheme.

Shire of Chapman Valley Local Planning Policy 'Development adjacent to the proposed Oakajee to Talling Peak and Oakajee to Narngulu Rail Corridors' has the following objectives and policy requirements:

"Objective

- 3.1 *To prevent incompatible development adjoining the proposed Oakajee to Talling Peak and Oakajee to Narngulu rail corridors and protect future residents from adverse noise and vibration impacts as a result of train movements on any future railway.*

Policy Statement

- 4.1 *Applications for planning consent on land adjacent to the Oakajee to Talling Peak and Oakajee to Narngulu rail corridors shall not be determined by Council until such time as advice has been received from the Environmental Protection Authority, Department of Planning, and the Department of State Development. Council shall refuse any such application should any of those agencies object to the proposal; and the objectors agree to cover all compensation costs resulting from Council's refusal of the application.*

- 4.2 *This policy shall affect any application for a habitable building within 250m of the centre line of the railway (this distance is based on the 65dB(A) Noise Contour Line) and any application for a non-habitable building within 150m of the centre line of the railway (this distance is based on the 75dB(A) Noise Contour Line).*
- 4.3 *For the purposes of this policy, the centre line of the railway corridors shall be as defined in the alignment definition study prepared by the Department of Planning and in the recommendation report prepared by the Environmental Protection Authority."*

FINANCIAL IMPLICATIONS

On determination of this application (refusal/approval) should the applicant be aggrieved by the determination or conditions of approval they have a right of appeal to the State Administrative Tribunal with a cost likely to be imposed on the Shire through its involvement in the appeal process.

The 2015 State Budget announced in May included an allocation of \$10.3 million to commence compulsory land acquisition for the ONIC and it is understood that the Department of State Development and Main Roads WA are the lead agencies in this process.

- **Long Term Financial Plan:**

The Shire of Chapman Valley Long Term Financial Plan (2013) was received by Council at its 18 September 2013 meeting. It is not considered that the determination of this application by Council would have impact in relation to the Long Term Financial Plan.

STRATEGIC IMPLICATIONS

The ONIC is the final land acquisition component (with the Oakajee Industrial Estate and buffer having now been acquired by the state government) of the broader Oakajee Mid West Development Project which is coordinated by the Department of State Development, with the aim to establish an integrated port and industrial estate at Oakajee; supporting rail and infrastructure corridors to facilitate the development of the resources sector in the Mid West; and ensure the long-term prosperity of the region.

A road and rail bypass east of the Moresby Range around Geraldton was identified in a number of planning studies including the 1976 and 1989 editions of the Department of Planning's Geraldton Region Plan. A number of studies were undertaken in the 1990's to identify and assess a suitable railway corridor from the Narngulu Industrial Estate to the proposed Oakajee Industrial Estate and to service the proposed An Feng Kingstream Steel Project.

The ONIC was further refined through the 1999 and 2011 editions of the Geraldton Region Plan (and its aligned Greater Geraldton Structure Plan) and is also recognised in the following planning documents relevant to the Shire of Chapman Valley:

- Shire of Chapman Valley Local Planning Strategy (2008).
- Moresby Range Management Strategy (2009) prepared by the Department of Planning;
- Moresby Range Management Plan (2010) prepared jointly by the Shire of Chapman Valley and City of Greater Geraldton;
- Oakajee Industrial Estate Structure Plan (2011) prepared by LandCorp.

Development of the Oakajee Industrial Estate is presently constrained by not having suitable connection or servicing, with the current road connection to the Geraldton Port and Narngulu Industrial Estate via the North West Coastal Highway having significant issues with multiple sets of traffic lights and travelling through a built up area.

The ONIC is a 34km alignment intended to provide a strategic linkage between the Oakajee Port and Oakajee Industrial Estate to the Narngulu Industrial Estate, Geraldton Port, iron ore mines and the wider heavy vehicle and rail network. The ultimate land requirements for the ONIC are estimated to be 1,048ha, based on a 230m wide corridor to accommodate road, rail and service utilities infrastructure, with certain sections of greater width to accommodate engineering requirements of the road and rail alignments. Approximately 664ha of the ONIC is across 59 privately owned lots, owned by 34 different landowners, with 7 of these landowners being located within the Shire of Chapman Valley, and the remainder in the City of Greater Geraldton. The remaining 358ha is under State Government ownership as freehold title or publically reserved land.

The ONIC would provide a strategic linkage for the Oakajee Port and Industrial Estate to the Narngulu Industrial Estate, Geraldton Port, iron ore mines to the south-east and north-east of Geraldton, and the wider heavy vehicle and rail network, and without it the Oakajee Industrial Estate is considered unlikely to develop to any significant level in the near future.

The development of strategic level industry at the Oakajee Industrial Estate is dependent on a range of macro-economic factors and the Department of State Development have advised that there is currently not sufficient demand to support the development of a port at Oakajee, and it is not clear when these circumstances might change. OPR/Mitsubishi is not advancing any proposal for port, rail or mining in the Mid West, and no longer holds any right to develop port/rail infrastructure at Oakajee. Further if circumstances were to change and mining projects advance in the region it is not certain that the port would develop in the same manner as planned by OPR.

However, the acquisition and construction of the ONIC may encourage strategic industrial projects that do not require deep water port access to establish at the Oakajee site, rather than be lost to the Mid West region due to the Narngulu Industrial Estate being constrained by its cumulative emissions modelling.

Further general/lighter industrial uses might consider the Oakajee Industrial Estate a viable location were the ONIC to be in place and providing suitable road and power servicing.

The Oakajee Industrial Estate also has potential to be attractive to significant logistics/transport/industrial uses given its location along the proposed Dongara to Northampton Corridor Alignment (currently being advertised by Main Roads WA and the Mid West Development Commission) which is seeking to establish an alignment that will enable triple road-trains to travel south from their current termination point at Carnarvon to continue through to north of Perth.

The securing of the ONIC would provide greater certainty to potential investment in the Oakajee Industrial Estate and Port with private enterprise unable to access the site which can avoid further incidents such as the socially divisive and unsuccessful application for Mining Tenement Miscellaneous Licence (for the purpose of transporting minerals) as previously lodged by Karara Mining Ltd.

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

The Shire of Chapman Valley Strategic Community Plan 2013-2023 was adopted by Council at its 19 June 2013 meeting and it is not considered that determination of this matter is contrary to this document.

The Shire of Chapman Valley Corporate Business Plan 2013-2017 was adopted by Council at its 19 June 2013 meeting and lists the following amongst its 'Future Priorities for Consideration':

"Construction of White Peak Road to provide an improved linking network between the coastal and rural areas of the Shire of Chapman Valley to assist the community, emergency services, business and tourism."

CONSULTATION

As per the requirements of the Local Planning Policy the Shire wrote to the Department of State Development, Main Roads WA, Department of Planning, Environmental Protection Authority, and the Department of Environment Regulation inviting their comments upon the received application.

All parties provided a response, none of which offered objection to the application, copies of these responses have been included as **Attachment 9.1.1(d)** for Council's information.

RISK ASSESSMENT

Not Applicable.

VOTING REQUIREMENTS

Simple majority required.

STAFF RECOMMENDATION (PART 1)

That Council grant formal planning approval for the outbuilding upon Lot 2462 White Peak Road, White Peak subject to compliance with the following conditions:

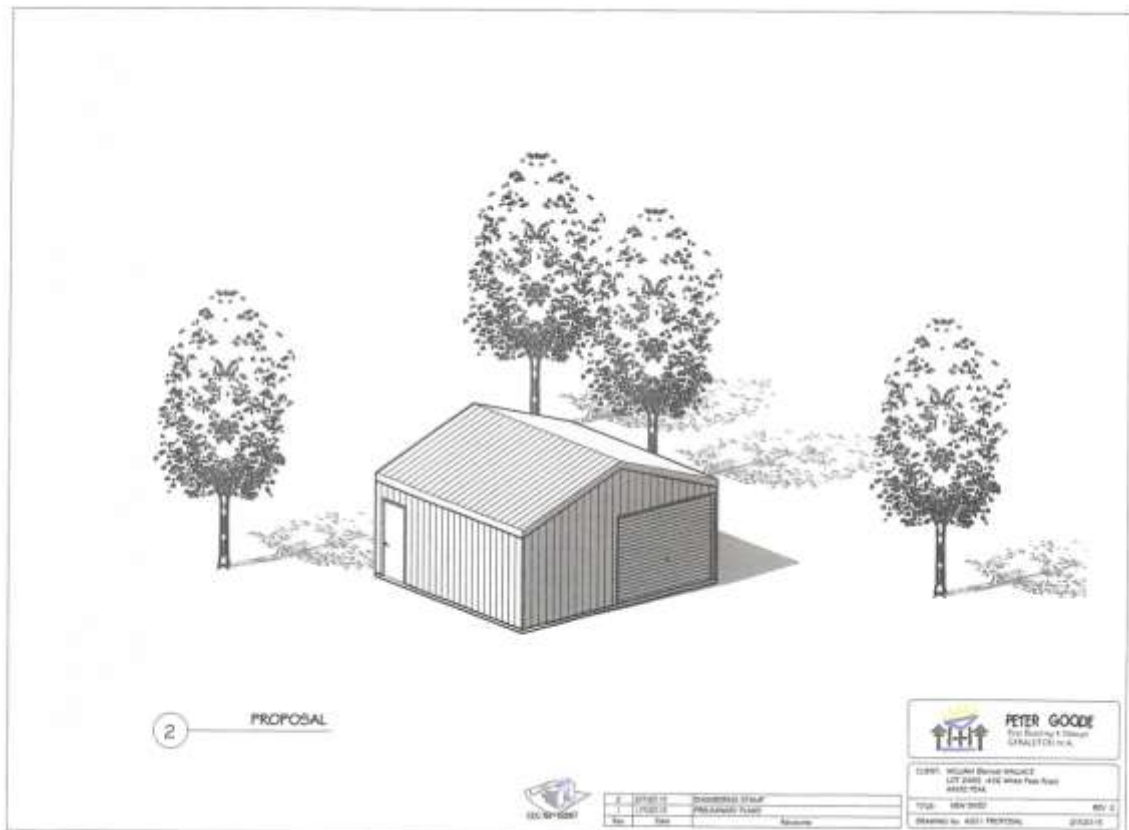
- 1 Development shall be in accordance with the plans included as Attachment 9.1.1(a) and subject to any modifications required as a consequence of any condition(s) of this approval. The endorsed plans shall not be modified or altered without the prior written approval of the local government.
- 2 Any additions to or change of use of any part of the building or land (not the subject of this consent/approval) requires further application and planning approval for that use/addition.
- 3 The building is only to be used for general storage purposes associated with the predominant use of the land and shall NOT be used for habitation, commercial or industrial purposes.
- 4 The roof and walls of the building are to be either painted, or clad in coated metal sheeting (i.e. colorbond), so that it is consistent or complementary in colour with the surrounding natural landscape features, and to a finish, to the approval of the local government.
- 5 The applicant is advised that the building is located in immediate proximity to the Oakajee Narngulu Infrastructure Corridor and may be subject to future impacts associated with the acquisition, construction and operation of this alignment.

Notes:

- (i) If an applicant is aggrieved by this determination there is a right pursuant to the *Planning and Development Act 2005* to have the decision reviewed by the State Administrative Tribunal. Such application must be lodged within 28 days from the date of determination.

STAFF RECOMMENDATION (PART 2)

That Council write to the Department of State Development seeking the state government's commencement of land acquisition discussions with the landowner of Lot 2462 White Peak Road, White Peak for the section of the Oakajee-Narngulu Infrastructure Corridor relevant to this property (noting that there is a significant land area of potentially unrequired/surplus Crown Land across Lot 2462 arising from unconstructed road reserves and the now dismantled Geraldton-Yuna rail reserve that could potentially be included as a land exchange offset in any ONIC land acquisition discussions).











Government of Western Australia
Department of State Development

Record No CR1510773

RECEIVED
22 SEP 2015

Your ref: A104
Our ref: S0782/200905
Enquiries: Gerard Treacy - Ph 92220551
Email: gerard.treacy@dsd.wa.gov.au

Simon Lancaster
Manager of Planning
Shire of Chapman Valley
PO Box 1
Nabawa WA 6532

FILE No. A104	
CEO	
CORPORATE SERVICES	
PLANNING	
WORKS & SERVICES	
RANGER	
PROPERTY MANAGER	
EXECUTIVE ASSISTANT	

Dear Mr Lancaster

Thank you for the referral of the proposed application for retrospective planning approval of a building on Lot 2462 White Peak Road.

The Department of State Development and Department of Planning are working jointly to deliver the Oakajee Narngulu Infrastructure Corridor (ONIC) project.

The location of the unapproved building is outside of the proposed ONIC alignment although the lot will be adjacent to the corridor boundary.

I understand that the building would not be approved for permanent human habitation. On this basis, Department of State Development has no objection to the proposed application.

Should you have any questions on this matter, please contact Gerard Treacy, Project Manager on 9222 0551.

Yours sincerely

Gerard Treacy
Project Manager

Project Development and Approvals

17 September 2015

Level 6, 1 Adelaide Terrace East Perth Western Australia 6004
Telephone +61 8 9222 0555 Facsimile +61 8 9222 0505
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ADSM1201



ABN: 50 060 675 021

Enquiries: Isabel Huston on 08 9956 1238
Our Ref: 05/11916, D15#480579
Your Ref: A104

02/09/2015

Simon Lancaster
Deputy Chief Executive Officer
Shire of Chapman Valley

By email: dceo@chapmanvalley.wa.gov.au

Dear Simon

Proposed Shed – Lot 2462 White Peak Road, White Peak

Thank you for consulting Main Roads on the proposed development for a shed on Lot 2462 White Peak Road, White Peak. Main Roads acknowledges that the proposed shed is close to the future road alignment for Oakajee to Narngulu Infrastructure Corridor (ONIC). As a result the shed could be affected by transport noise and vibration in the future.

In order to protect people from these effects, we would advise that the Shire of Chapman Valley imposes a condition requiring that the proposed development must not be used for habitation, industrial or commercial purposes. Subject to the imposition of this or a similarly worded condition, Main Roads does not object to the development proposal.

If you would like any further information, please contact Isabel Huston on 08 9956 1238.

Yours sincerely

Bernie Miller
Regional Manager
Mid West-Gascoyne Region

CC: Gerard Treacy, Project Manager, Department of State Development,
gerard.treacy@dsd.wa.gov.au

Main Roads Western Australia
Mid West-Gascoyne Region
Eastward Road, Geraldton WA 6531
PO Box 165, Geraldton WA 6531

Website: mainroads.wa.gov.au
Email: mwreg@mainroads.wa.gov.au
Telephone: (08) 9956 1200
Facsimile: (08) 9956 1240



Government of Western Australia
Office of the Environmental Protection Authority
Strategic Policy and Planning Division

Record No PA152524

A104

RECEIVED

10 SEP 2015

FILE No	A104
CLO	
CORPORATE SERVICES	
PLANNING	
WORKS & SERVICES	
RANGER	
PROPERTY MANAGER	
EXECUTIVE ASSISTANT	

Mr Lancaster
Manager of Planning
Shire of Chapman Valley
PO Box 1
NABAWA WA 6532

Your Ref: A104
Our Ref: CR17-2013-0006
Enquiries: Anthony Sheehan, 6145 0844
Email: anthony.sheehan@epa.wa.gov.au

Dear Mr Lancaster

PROPOSED BUIDLING - LOT 2462 WHITE PEAK ROAD, WHITE PEAK

Thank you for your letter dated 14 August 2015 regarding the above. The Office of the Environmental Protection Authority has no comment to make on the application for planning approval.

Yours sincerely

Liesl Rohl
Manager
Environmental Planning Branch

24 August 2015

The Atrium Level 8, 168 St Georges Terrace, Perth, Western Australia 6000.
Postal Address: Locked Bag 10, East Perth, Western Australia 6892.

Telephone: (08) 6145 0800.
Facsimile: (08) 6145 0845.
Website: www.epa.wa.gov.au

From: Gildenhuys, Johan [<mailto:Johan.Gildenhuys@planning.wa.gov.au>]
Sent: Wednesday, 19 August 2015 4:08 PM
To: Simon Lancaster
Subject: Your Ref: A104 Proposed Building - Lot 2462 White Peak road

Dear Simon

I refer to your letter dated 14 August 2015. The project managers for the ONIC is now the Department of State Development and the contact person is Jarrad Tracey . He can be contacted on 92220551 or by email: gerard.tracey@dsd.wa.gov.au

I suggest you contact DSD regarding this proposed building.

Regards

Johan Gildenhuys | Planning Manager | Regional Planning And Strategy
Department of Planning | 140 William Street | Perth WA 6000
T (08) 65519562 | F (08) 6551 9001 | M
E Johan.Gildenhuys@planning.wa.gov.au | W www.planning.wa.gov.au



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Government of Western Australia
Department of Environment Regulation

Your ref: A1381
Our ref: 2015/000011
Enquiries: Teresa Gepp
Phone: 6467 5383
Email: advice.coordinator@der.wa.gov.au

Record No BA151149 RECEIVED

Mr Maurice Battilana
Chief Executive Officer
Shire of Chapman Valley
PO Box 1
NABAWA WA 6532

Attention: Simon Lancaster

FILE No. A104	
CEO	
CORPORATE SERVICES	
PLANNING	
WORKS & SERVICES	
RANGER	
PROPERTY MANAGER	
EXECUTIVE ASSISTANT	

Dear Mr Battilana

PROPOSED BUILDING LOT 2462 WHITE PEAK ROAD WHITE PEAK

I refer to the letter dated 14 August 2015 from Simon Lancaster, Manager of Planning regarding the above planning application.

DER has no comment on the application in reference to regulatory responsibilities under the *Environmental Protection Act 1986*.

Yours sincerely

Jason Banks
DIRECTOR GENERAL

2 September 2015

The Atrium, 168 St Georges Terrace, Perth WA 6000
Postal address: Locked Bag 33, Cloisters Square, Western Australia 6850
Phone: (08) 6467 5000 Fax (08) 6467 5562
www.der.wa.gov.au

AGENDA ITEM:	9.1.2
SUBJECT:	TYRE VULCANISING DEVELOPMENT & SIGN
PROPONENT:	A & D KENNEDY
SITE:	1812 (LOT 103) CHAPMAN VALLEY ROAD, NARRA TARRA
FILE REFERENCE:	A1381
PREVIOUS REFERENCE:	7.5.7 - 18/11/1997, 04/00-2, 09/00-5, 04/03-2 & 06/03-4
DATE:	6 OCTOBER 2015
AUTHOR:	SIMON LANCASTER

DISCLOSURE OF INTEREST

Nil.

BACKGROUND

Council is in receipt of an application to operate a tyre vulcanising business, and site an associated advertising sign, upon 1812 (Lot 103) Chapman Valley Road, Narra Tarra. This report recommends conditional approval of the application.

COMMENT

1812 (Lot 103) Chapman Valley Road, Narra Tarra is a 47.7219ha corner property located on the eastern side of Chapman Valley Road, and the northern side of Urch Road, with the unconstructed Barndon Road on the eastern boundary. Lot 103 is approximately 17km (by road) from the North West Coastal Highway/Chapman Valley Road turnoff.

Figure 9.1.2(a) – Location Plan for 1812 (Lot 103) Chapman Valley Road, Narra Tarra



The landowner is seeking approval for an already operating tyre vulcanising (repair) business specialising in earth moving, tractor and truck tyres. The vulcanising machine is housed in an existing 270m² outbuilding, setback 120m from Chapman Valley Road, and would operate during normal business hours Monday to Friday, with occasional extended hours during busier periods.

Access to the site is by means of the existing crossover in the north-western corner of the property. Tyres would generally be delivered to and taken from the site by the landowner in their own 8 tonne truck on average 2 times per week, although there would be the ability for farmers to bring tyres to the site independently.

Vehicles associated with the business, and storage of tyres prior to and after repair work are in proximity to the shed and irreparable tyres would be returned to the owners.

A copy of the applicant's submitted correspondence has been included as **Attachment 9.1.2(a)** for Council's information.

Figure 9.1.2(b) – Aerial Photograph of 1812 (Lot 103) Chapman Valley Road, Narra Tarra



Figure 9.1.2(c) – View of Lot 103 Chapman Valley Road looking south from driveway



Lot 103 is a largely cleared property, sloping downwards across a distance of approximately 970m from a 125m contour height at the eastern boundary to a 100m contour height at the western boundary. The property contains a number of hillocks with minor pockets of remnant vegetation, and also a series of dams. The recent development history for the property is as follows:

- | | |
|------|--|
| 1988 | Outbuilding constructed (that tyre vulcanising machine is stored within); |
| 1990 | Residence constructed (approximately 380m north-east of outbuilding); |
| 1995 | Residence extended; |
| 1995 | Swimming Pool installed; |
| 1995 | Outbuilding constructed (in proximity to residence); |
| 1996 | Horse Stable constructed (in proximity to residence); |
| 1997 | Lodging House approved to operate from residence (now ceased); |
| 2003 | Property rezoned from 'Rural' to 'Special Rural' (Scheme Amendment No.32); |
| 2003 | Lot 3113 subdivided to create Lot 103 Chapman Valley Road and Lot 104 Urch Road; |
| 2013 | Property rezoned from 'Special Rural' to 'Rural Smallholding' (Scheme No.2); |
| 2015 | Landowner erected signage on-site for tyre vulcanising business, Shire wrote to landowner advising that application was required to be made for business and associated signage. |

Figure 9.1.2(d) – View of Rural Industry area upon Lot 103 Chapman Valley Road



STATUTORY ENVIRONMENT

1812 (Lot 103) Chapman Valley Road, Narra Tarra is zoned 'Rural Smallholding 2' under Shire of Chapman Valley Local Planning Scheme No.2 ('the Scheme').

Section 4.2.5 of the Scheme lists the objectives of the 'Rural Smallholding' zone as being:

- “(a) Provide for residential development within a low density environment and integrated with a variety of agricultural/rural activities, including agricultural/rural activities undertaken on a commercial basis;*
- (b) Provide for other land-uses compatible with the predominant use of the land;*
- (c) Prevent the establishment of land-uses more appropriately undertaken in commercial and/or industrial areas; and*
- (d) Protect the environmental and landscape values of the land.”*

Tyre vulcanising for tractors, earthmoving and farm transport vehicles can be deemed to meet the definition of a 'Rural Industry' which is defined under Schedule 1 of the Scheme as including “a workshop servicing plant or equipment used for rural purposes”.

'Rural Industry' is listed as an 'A' use within the 'Rural Smallholding' zone meaning that it is not permitted unless the local government has exercised its discretion by granting planning approval after advertising.

POLICY IMPLICATIONS

A Local Planning Policy does not bind the local government in respect of any application for planning approval but the local government is to have due regard to the provisions of the policy and the objectives which the policy is designed to achieve before making its determination.

In most circumstances the Council will adhere to the standards prescribed in a Local Planning Policy, however, the Council is not bound by the policy provisions and has the right to vary the standards and approve development where it is satisfied that sufficient justification warrants a concession and the variation granted will not set an undesirable precedent for future development.

Shire of Chapman Valley Local Planning Policy 'Rural Industry'

The Shire's 'Rural Industry' policy has the stated objective of specifying the minimum development standards to be applied to 'Rural Industry' applications.

Section 4.2 of the 'Rural Industry' Policy requires that:

"An application for planning consent is required to be submitted with the following criteria and minimum development standards to be met:

Criteria	Minimum Standard
<i>General Location</i>	<i>Buildings are to be sited in a clustered format well away from hills, mesa tops, and ridge-lines</i>
<i>Setbacks *</i>	<i>40m from all boundaries; 200m from neighbouring residences; 100m from any water course or water body.</i>
<i>Effluent & Waste Disposal</i>	<i>As determined by Shire Environmental Health Officer.</i>
<i>Building Materials & Colours</i>	<i>Non reflective building materials and colours complementary to the surrounding landscape to be used in areas of high visual amenity such as the Moresby Ranges and the Chapman Valley area.</i>
<i>Property Access</i>	<i>Property access is to be via a 12m form/8m gravel paved road.</i>
<i>On-site Carparking and Service Areas **</i>	<i>Carparking and service areas to be constructed to a delineated, drained and compacted gravel standard. The number of parking bays to be calculated at 1 bay for every 50m² gross area.</i>
<i>Landscaping</i>	<i>Landscaping is to be provided around all associated buildings, parking, storage and loading areas.</i>

** Depending on the nature of the proposed rural industry, local wind, topography and vegetation conditions, setbacks may need to be greater than those specified above. When determining such setbacks Council shall consider existing and potential land-uses on adjoining and nearby properties.*

*** Where a rural industry has direct access to a sealed road and car parking for ten or more staff is required (as determined by Council) and/or the projected number of vehicle movements from the site would justify such a requirement, Council may require crossover, vehicle access, loading and car parking areas to be constructed with a stable, impervious surface, with stormwater runoff being controlled. Construction of a crossover shall be in accordance with Council Policy 15.10."*

In relation to each of the policy criteria the following consideration is given:

General Location – the development operates from an existing building;

Setbacks – the development operates from a building setback 120m from the front property boundary, 520m from the Chapman River, and 230m from the nearest neighbouring residence (although the vehicle access to the building passes 60m to the south of the neighbouring residence);

Effluent & Waste Disposal – not part of this application, however, were the landowner to later make application for installation of a toilet in the shed this would be subject to standard Shire health requirements;

Building Materials & Colours - the development operates from an existing building;

Property Access – Main Roads WA have requested that the access to the property be upgraded and it is recommended that this be made a condition of any approval;

On-site Car Parking and Service Areas – sufficient area is available to ensure vehicle manoeuvring and parking is conducted on-site;

Landscaping – the development site is visible from the tourist route of Chapman Valley Road and it is recommended that the installation and maintenance of landscaping be made a condition of any approval.

Shire of Chapman Valley Local Planning Policy 'Signage'

The Shire's 'Signage' Policy has the stated objective of providing adequate controls and guidance in the use and placement of signage within the Shire of Chapman Valley taking into account the visual appearance and amenity of the area, and safety of all residents and visitors to the municipality.

The sign upon Lot 103 meets the definition under the policy of a 'pylon sign' this being "means a sign supported by one or more piers and not attached to a building and includes a detached sign framework supported by one or more piers to which sign infills may be added."

Sections 4.3 and 4.4 of the 'Signage' Policy set the following requirements:

4.3 Standards

All signs or advertising devices (including an exempted sign) erected or displayed in the Shire shall:

- (a) be constructed and erected to the satisfaction of the Council;*
- (b) be structurally sound and capable of withstanding any forces to which it would be reasonably subjected to without collapsing, deforming or moving from the position on which it was erected or displayed;*
- (c) comply with the regulation 297 of the Road Traffic Code 2000;*
- (d) be maintained in good order and clean condition to the satisfaction of the Council;*
- (e) be directly associated with the approved use of the property on which it is displayed (other than a service or tourist direction sign);*
- (f) not be erected or displayed in a position that in the opinion of Council:*
 - (i) obstructs the passage of or creates a hazard for vehicles or pedestrians;*
 - (ii) adversely affects the visual appearance or local amenity of the area;*
 - (iii) significantly obstructs or impedes all or part of a view deemed to be of significance to the local area;*

4.4 Relationship and Design

All signs, unless otherwise determined by Council, shall directly relate to the property they are positioned on and be designed to complement the existing surroundings, including buildings, landscape features and other signage structures. In this regard the Council will generally not support remote advertising or advance warning signs (other than a direction, service or tourist sign) so as to avoid proliferation of signage to the detriment of the amenity of the Shire."

Section 4.8 of the 'Signage' Policy sets the following specific requirements relevant to pylon signs:

- "(a) A pylon sign shall:*
 - (i) not have any part more than 6m above the level of the ground immediately below it;*
 - (ii) not exceed 4m² in area unless approved by the Shire;*
 - (iii) be supported on one or more piers or columns of brick, stone, concrete, timber or steel of sufficient size and strength to support the sign under all conditions;*
 - (iv) not be within 2m of the side boundaries of the lot on which it is erected unless the lot on which the pylon sign is erected abuts an intersecting street or right-of-way, where the Shire may authorise the erection of the sign at a distance less than 2m;*
 - (v) not have any part less than 6m from another sign erected on the same lot.*
- (b) Where pylon signs are to be erected on a lot on which a premise is erected or to be erected, the Shire may require all the pylon signs to be incorporated into one sign in which case:*
 - (i) all of the constituent or infill signs are of an equal size; and*
 - (ii) one constituent or infill sign is provided for each business, shop or unit on the lot."*

In the event that Council does not grant development approval for the tyre vulcanising business to operate from Lot 103 then Section 4.9 of the 'Signage' Policy becomes relevant:

4.9 Unlawful Signage

Where a sign has been erected, placed or displayed without Council approval and/or is contrary to the provisions of the Local Planning Scheme and/or this policy, the following will apply:

- (a) The sign shall be removed by the owner upon a notice being served by the Council, with an appeal right for a period twenty eight (28) days from a notice being served being afford to the owner of the sign under the Act.*

- (b) *Failure to remove the sign, or lodge an appeal, within the twenty eight (28) day period will constitute an offence under the Act, with the possibility of enforcement action being taken by the Council;*
- (c) *If removed by the Council, the sign will be impounded at the Shire of Chapman Valley Depot in Nabawa for a maximum period of two (2) months, where:*
 - (i) *the sign may be collected by the owner upon payment of an impoundment fee in accordance with the Council's Schedule of Fees to be paid at the Shire Administration Offices;*
 - (ii) *upon expiration of this time the Council may initiate proceedings to dispose of the sign and recover all costs from the owner in relation to this action;*
 - (iii) *The Council may continue with enforcement action/prosecution in relation to 8 b) above and in accordance with the provisions of the Act."*

Figure 9.1.2(e) – View of sign and development area upon Lot 103 Chapman Valley Road



Whilst the sign might be considered to meet the requirements of the Shire's 'Signage' policy (were the associated tyre vulcanising business to be approved) the sign does require the separate approval of Main Roads WA. It is therefore suggested that should Council approve the tyre vulcanising business that the landowner be made aware of the requirement for them to make application to Main Roads WA.

FINANCIAL IMPLICATIONS

On determination of this application (refusal/approval) should the applicant be aggrieved by the determination or conditions of approval they have a right of appeal to the State Administrative Tribunal with a cost likely to be imposed on the Shire through its involvement in the appeal process.

- **Long Term Financial Plan:**

The Shire of Chapman Valley Long Term Financial Plan (2013) was received by Council at its 18 September 2013 meeting. It is not considered that the determination of this application by Council would have impact in relation to the Long Term Financial Plan.

STRATEGIC IMPLICATIONS

The Shire of Chapman Valley Local Planning Strategy (2008) identifies Lot 103 as being located within 'Precinct 3 – Chapman Valley' the vision for which is:

"A diverse range of rural pursuits and incidental tourist developments that complement the sustainable use of agricultural resources.

The Strategy lists 'Rural Industry' as an appropriate land use for Precinct No.3.

The operation of the 'Rural Industry' would need to satisfy the following Precinct N0.2 environmental objectives:

"3.3.4 Ensure that land use conflicts (i.e. noise, dust, odour, spray drift, vermin etc.) are avoided through appropriate environmental and planning controls.

3.3.5 Protect the rural amenity and character of the area from incompatible land use/development, again through appropriate environmental and planning controls.

3.3.6 Ensure fire prevention measures are implemented and maintained in accordance with statutory requirements as a minimum."

Tyres can be a problematic source of waste, due to the large numbers discarded, the void space they occupy in landfill, their extended breakdown period, ability to cause air and ground pollution through fire risk and length of burn time, providing shelter for vermin, and breeding area for mosquitoes, and it may therefore be considered that a development that seeks to prolong the lifespan of a tyre rather than it being confined to landfill provides a positive environmental outcome.

- **Strategic Community Plan:**

The Shire of Chapman Valley Strategic Community Plan 2013-2023 was adopted by Council at its 19 June 2013 meeting. The Strategic Community Plan has the following economic strategies:

Objective	Strategy	Outcome	Partners
Utilise the land available in the area for a range of new businesses	Develop the semi-rural parts of the Shire to attract light industry and retail	Increased customer spending and employment in the Shire	Chapman Valley business community Community Private enterprise Shire of Chapman Valley

CONSULTATION

The application was advertised from 28 August 2015 until 21 September 2015 by means of a public notice sign being displayed on-site and the Shire writing directly to the 7 surrounding landowners and Main Roads WA, Department of Environment Regulation, Department of Fire & Emergency Services, and the Department of Health.

At the conclusion of the submission period 6 responses had been received, with none of these offering objection to the application, copies of these responses have been included as **Attachment 9.1.2(b)** for Council's information.

Several of the submission received from government agencies provided technical comment, relating to Main Roads WA requirements for upgrading of the vehicle crossover and separate signage application, and potential for separate Department of Environment Regulation works approval application, and these have been addressed through conditions and advice notes in the officer recommendation.

Figure 9.1.2(f) – Views south & north along Chapman Valley Road from Lot 103 entrance



RISK ASSESSMENT

Not Applicable.

VOTING REQUIREMENTS

Simple majority required.

STAFF RECOMMENDATION

That Council grant formal planning approval for a Rural Industry (tyre vulcanising) upon 1812 (Lot 103) Chapman Valley Road, Yetna subject to compliance with the following conditions:

- 1 Development shall be in accordance with the plan included as Attachment 9.1.2(a) and subject to any modifications required as a consequence of any condition(s) of this approval. The endorsed plans shall not be modified or altered without the prior written approval of the local government.
- 2 Any additions to or change of use of any part of the buildings or land (not the subject of this consent/approval) considered by the Chief Executive Officer to represent significant variation from the approved development plan requires further application and planning approval for that use/addition.
- 3 The applicant is to prepare, submit and adhere to a Management Plan to the approval of the local government.
- 4 The proponent is to implement and maintain reporting mechanisms for complaints concerning the operation of the development. In the event of a substantiated complaint being received the applicant is required to demonstrate mitigation response(s) to the approval of the local government. Such response(s) will be treated as conditions of approval/required modifications to the Management Plan.
- 5 The access point onto Chapman Valley Road shall be upgraded and maintained to the requirements of Main Roads WA, with all costs met by the applicant.
- 6 The associated sign shall be to the requirements of Main Roads WA, with all costs met by the applicant.
- 7 All parking of vehicles associated with the development shall be provided for within the property boundary, and the street verge area shall be kept free of such vehicles.
- 8 The internal road network and vehicle manoeuvring and parking areas shall be constructed and maintained to an all-weather compacted gravel standard to the approval of the local government, with all costs met by the applicant.
- 9 Landscaping is required to be installed and maintained between the development and the Chapman Valley Road frontage, within 6 months of the date of approval, for the purposes of screening the development, to the approval of the local government.
- 10 All lighting devices shall be installed and shaded in such a way as to not cause undue light spill to passing motorists or neighbouring residences to the approval of the local government.
- 11 The use hereby permitted shall not cause injury to or prejudicially affect the amenity of the locality by reason of the emission of smoke, dust, fumes, odour, noise, vibration, waste product, mosquitoes or otherwise.

Advice Notes

- (a) The applicant is advised that this planning approval does not negate the requirement for any additional approvals which may be required under separate legislation including but not limited to a works approval from the Department of Environment Regulation. It is the applicant's responsibility to obtain any additional approvals required before the development/use lawfully commences.
- (b) In relation to condition 3 the correspondence provided by the applicant is considered to provide the basis for the Management Plan, with some additional information required relating to fire management.
- (c) In relation to condition 5 Main Roads WA have advised that the crossover requires upgrading by means of clearing the debris from the culvert, and building up material at the crossover to ensure it is level where it meets the road.

- (d) In relation to condition 6 Main Roads WA have advised that separate application is required to be made to Main Roads WA for the proposed signage.
- (e) In the event that the applicant seeks to install/operate a toilet facility (inclusive of on-site wastewater and effluent disposal system) from the Rural Industry building a separate application is required to be made to the local government, to the requirements of the Department of Health, with all costs met by the applicant.
- (f) If an applicant is aggrieved by this determination there is a right pursuant to the *Planning and Development Act 2005* to have the decision reviewed by the State Administrative Tribunal. Such application must be lodged within 28 days from the date of determination.

SPRINGBROOK
TYRE
VULCANISING

Springbrook Partnership
1812 Chapman Valley Road
Narra Tarra 6532

10 August 2015

Mr Simon Lancaster
Manager of Planning
Shire of Chapman Valley
P O Box 1
Nabawa 6532

Dear Mr Lancaster

Operation of business on our property.

We are applying for approval of our business operation on our property and retainment of sign erected in our paddock.

It can be outlined as follows.

- Vulcanising earth moving, tractor and truck tyres. We service mostly tyre businesses in the Northern Wheatbelt and Midwest farming regions, where we repair major damage to tyres (cuts, holes and splits) to allow the continued of otherwise useable tyres.
This process involves
 - removing the damaged rubber,
 - replacing the area with new rubber,
 - cooking the rubber under pressure,
 - applying a patch, then
 - finishing the tyre.
- Our major equipment is a vulcanising machine, specialised tyre tools and tyre removal equipment, housed in the existing shed on the property. See arial map.
- The service operates Monday to Friday during normal business hours, however at busy times of the year these hours (and days) extend to ensure timely return of tyres to clients.
- Vehicles entering this property are our 8 tonne rigid truck which is used to service the tyre companies, and some farmers who may bring tyres directly to us to fix. Our truck would do on average 2 trips a week from our property.
- The tyres are stored outside before and after they are fixed. Irreparable tyres are returned to the owners.
- Vehicles delivering tyres and our truck are parked near the shed.
- We are the only business providing this service north of Perth.

If you have any questions, please do not hesitate to contact us.

Kind regards

Dan Kennedy

Anna Kennedy

SPRINGBROOK
TYRE
VULCANISING

Springbrook Tyre Vulcanising

– location of business on arial map

Entry driveway

Sign

Parking and tyre storage

Shed where operations occur





Government of Western Australia
Department of Environment Regulation

RECEIVED

10 SEP 2015

Your ref: A1381
Our ref: 2015/00011
Enquiries: Teresa Gepp
Phone: 6467 5363
Email: advice.coordinator@der.wa.gov.au

Submission 1

Record No CR1510731

Mr Maurice Battilana
Chief Executive Officer
Shire of Chapman Valley
PO Box 1
NABAWA WA 6532

Attention: Simon Lancaster

FILE No	A1381
CEO	
CORPORATE SERVICES	
PLANNING	
WORKS & SERVICES	
RANGER	
PROPERTY MANAGER	
EXECUTIVE ASSISTANT	

Dear Mr Battilana

LOT 103 CHAPMAN VALLEY ROAD NARRA TARRA

I refer to the letter dated 28 August 2015 from Simon Lancaster, Manager of Planning inviting comment from the Department of Environment Regulation (DER) on the above planning application.

There is insufficient information to determine if the referral relates to a facility that may be categorised as prescribed premises as per Schedule 1 of the *Environmental Protection Regulations 1987*. The facility may meet the definition of prescribed premises Category 57 Used tyre storage (general). If so, the *Environmental Protection Act 1986* requires a works approval to be obtained before constructing a prescribed industrial premises and make it an offence to cause an emission or discharge, unless a licence or registration (for operation) is held for the premises.

The purpose of a works approval is to allow DER to assess the environmental acceptability of a proposal against standards and policies. Works approvals also contain conditions to ensure the premises can operate in an environmentally acceptable manner and that the works themselves do not cause unacceptable environmental impacts. DER assesses proposals for their potential to cause emissions and discharges.

Applicants can be advised to determine if their proposal would make the premises prescribed and so consequently require an application for a Works Approval. Further information on licensing is available at <http://www.der.wa.gov.au/our-work/licences-and-works-approvals>

Yours sincerely

Jason Banks
DIRECTOR GENERAL

4 September 2015

The Atrium, 168 St Georges Terrace, Perth WA 6000
Postal address: Locked Bag 33, Cloisters Square, Western Australia 6850
Phone: (08) 6467 5000 Fax (08) 6467 5562
www.der.wa.gov.au

Submission 2



Government of Western Australia
Department of Fire & Emergency Services



8 September 2015

Record No CR1510745

Shire of Chapman Valley
PO Box 1
CHAPMAN VALLEY WA 6532

ATT: Simon Lancaster

RECEIVED
15 SEP 2015

FILE No.	A1381
CEO	
CORPORATE SERVICES	
PLANNING	
WORKS & SERVICES	✓
RANGER	
PROPERTY MANAGER	
EXECUTIVE ASSISTANT	

Dear Simon,

TYRE VULCANISING DEVELOPMENT & ADVERTISING SIGN – 1812 (LOT 103) CHAPMAN VALLEY ROAD, NARRA TARRA

I refer to your letter dated 28 August 2015 regarding the above Development Application.

Please be advised that the Department of Fire and Emergency Services of Western Australia (DFES) has no comment.

Should you require further information please contact Ian Thompson at our Geraldton office on 9956 6003.

Yours sincerely

Ian Thompson
District Officer
Fire Service Inland
Midwest Gascoyne Regional Office

FILE No.	A1381
CEO	
CORP. & TR. SERVICES	
PLANNING	
WORKS & SERVICES	
RANGER	
PROPERTY MANAGER	
EXECUTIVE ASSISTANT	



**Shire of
Chapman Valley**
Love the Rural Life

Record No **PA152526**

RECEIVED

15 SEP 2015

DEVELOPMENT APPLICATION SUBMISSION FORM

Submission 3

Ref: A1381

**TYRE VULCANISING DEVELOPMENT & ADVERTISING SIGN
1812 (LOT 103) CHAPMAN VALLEY ROAD, NARRA TARRA**

Name: JUSTIN COLLINS & MARY SOGGIOVANNI

Postal Address: PO BOX 3479 BLUFF POINT 6530

Phone Number: 0427 772 499

SUBMISSION: ☒ Support ☐ Object ☐ Indifferent

Give in full your comments and any arguments supporting your comments (if insufficient space, please attach additional sheets) -

Signature: [Signature] Date: 10/9/15

Please return to: Chief Executive Officer
Shire of Chapman Valley
PO Box 1
NABAWA WA 6532
or dceo@chapmanvalley.wa.gov.au

NOTE: The local government in determining the application will take into account the submissions received but is not obliged to support those views.

Submissions Close: 4pm Monday 21 September 2015



Shire of
Chapman Valley
Love the Rural Life

RECEIVED

17 SEP 2015

Record No PA152527

DEVELOPMENT APPLICATION SUBMISSION FORM

Submission 4

Ref: A1381

**TYRE VULCANISING DEVELOPMENT & ADVERTISING SIGN
1812 (LOT 103) CHAPMAN VALLEY ROAD, NARRA TARRA**

Name: SUE HEINRICH
Postal Address: PO Box 2617 SOUTH HEPLAND. WA
Phone Number: 0418 924 104

SUBMISSION: ☒ Support ☐ Object ☐ Indifferent

Give in full your comments and any arguments supporting your comments (if insufficient space, please attach additional sheets) -

Signature:  Date: 11-9-15

Please return to: Chief Executive Officer or dceo@chapmanvalley.wa.gov.au
Shire of Chapman Valley
PO Box 1
NABAWA WA 6532

NOTE: The local government in determining the application will take into account the submissions received but is not obliged to support those views.

Submissions Close: 4pm Monday 21 September 2015



Government of Western Australia
Department of Health

RECEIVED

17 SEP 2015

Submission 5

Your Ref: A1381
Our Ref: F-AA-09433 EHB15/1627
Contact: Vic Andrich
Phone: 9388 4978

Mr Maurice Battilana
Chief Executive Officer
Shire of Chapman Valley
PO Box 1
NABAWA WA 6532

Record No CR1510754

FILE No.	A1381
CEO	
CORPORATE SERVICES	
PLANNING	
WORKS & SERVICES	
RANGER	
PROPERTY MANAGER	
EXECUTIVE ASSISTANT	

Attention: Simon Lancaster, Deputy Chief Executive Officer

Dear Mr Battilana

TYRE VULCANISING DEVELOPMENT & ADVERTISING SIGN – 1812 (LOT 103) CHAPMAN VALLEY ROAD, NARRA TARRA

Thank you for your letter dated 28 August 2015 requesting comment from the Department of Health (DOH) on the above proposal.

The DOH has no objection to the proposal provided tyres are stored and maintained so that they do not become a habitat for mosquito breeding (holding water) and that the development is operated in accordance with Department of Environmental Regulation requirements.

Should you have queries or require further information please contact Vic Andrich on 9388 4978 or vic.andrich@health.wa.gov.au

Yours sincerely



Jim Dodds
DIRECTOR

ENVIRONMENTAL HEALTH DIRECTORATE

11 September 2015

Environmental Health

All correspondence PO Box 8172 Perth Business Centre Western Australia 6849
Grace Vaughan House 227 Stubbs Terrace Shenton Park WA 6008
Telephone (08) 9388 4999 Fax (08) 9388 4955
wa.gov.au
28 684 750 332



ABN: 50 860 676 021

Enquiries: Isabel Huston on 08 9956 1238
Our Ref: 05/11916, D15#506098
Your Ref: A1381

24/09/2015

Submission 6a

Simon Lancaster
Deputy Chief Executive Officer
Shire of Chapman Valley

By email: dceo@chapmanvalley.wa.gov.au

Dear Mr Lancaster

Tyre Vulcanising Development and Advertising Sign- Lot 103 Chapman Valley Road, Narra Tarra

Thank you for consulting Main Roads on the retrospective application for use and development of a tyre vulcanising business at Lot 103 Chapman Valley Road, Narra Tarra.

Information provided by the Shire of Chapman Valley indicates that the proposal would generate a low number of vehicle turning movements in and out of the site. It is therefore considered that the proposal and business operation times would have a minimal impact on the amenity, safety and operation of the Main Roads network and its users.

The proposed development would use the existing gravel crossover to the site directly onto Moonyoonooka Yuna Road with no proposed modifications. A site visit confirmed that the crossover requires some upgrades, specifically in regard to drainage and levelling the crossover up to the road level. Main Roads' Driveway Policy requires the landowner to maintain the crossover.

While available sight distances to and from the crossover do not meet the requirements set out in the Austroads Guide to Road Design, it is recognised that the crossover has operated for some time without raising any safety concerns. Given the low number of vehicles likely to be generated by the proposal, it is considered that it would be unreasonable to require significant upgrades to or relocation of the crossover to meet these standards at this stage.

Based on the above, Main Roads has no objection to the retrospective development and use application, subject to imposition of the following conditions:

- Prior to the implementation of planning approval, upgrades to the existing crossover shall be completed at the cost of the landowner. Crossover upgrade works shall include clearing the culvert of debris; and building up material at the crossover to ensure that it is level where it meets the road. Material used shall meet the Shire's specification for crossovers.
- All maintenance of the existing crossover, including the surface and culvert shall be the responsibility of the landowner.
- Damage to any Main Roads asset attributable to the proposed use and development of the site shall be repaired by the landowner or business operators as soon as practicable to at least the standard prior to the damage and satisfaction of Main Roads.

Main Roads Western Australia
Mid West-Gascoyne Region
Eastward Road, Geraldton WA 6531
PO Box 165, Geraldton WA 6531

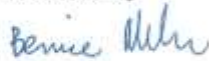
Website: mainroads.wa.gov.au
Email: mweg@mainroads.wa.gov.au
Telephone: (08) 9956 1200
Facsimile: (08) 9956 1240

Main Roads reserves the right to review the access arrangements if it becomes apparent that its use creates a hazard for road users. If concerns arise, Main Roads will contact the Shire and the landowner to discuss options.

Additionally, Main Roads would like to note that the signage approval for the site will be issued independently of these comments.

If you would like further information, please contact Isabel Huston on 08 9956 1238.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Bernie Miller'.

Bernie Miller
Regional Manager
Mid West-Gascoyne Region

Submission 6b

From: GILLIS Rod (NOC) [mailto:rod.gillis@mainroads.wa.gov.au]
Sent: Tuesday, 22 September 2015 1:53 PM
To: Simon Lancaster
Cc: HUSTON Isabel (PO)
Subject: FW: Tyre repair sign Chapman Valley Shire.

Hello Simon,

Thank you for your email.

All nonstandard signs subject to the criteria set out in MRWA roadside advertising guidelines. As the proposed sign will be positioned on private property, it would be classified as "ADVERTISING SIGNS BEYOND STATE ROAD RESERVES"
Please refer to the attached criteria for this type of application.

Please arrange completion of the attached form and submit it to myself for assessment and approval. All necessary plans, specifications, drawings, approvals by Local Government, other authorities and property owner, structural certification and any other relevant documents must be provided in the application to Main Roads.

If you have any further questions or queries please don't hesitate contact me on the below details:

Regards Rod,

Rod Gillis
Network Operations Coordinator
Central and Northern Regions
p: (08) 9956 1241 | m: 0459 072 907
w: rod.gillis@mainroads.wa.gov.au



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WESTERN AUSTRALIA



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9.2 Finance October 2015

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9.2 AGENDA ITEMS

9.2.1 Financial Reports for September 2015

AGENDA ITEM:	9.2.1
SUBJECT:	FINANCIAL REPORTS FOR SEPTEMBER 2015
PROPONENT:	SHIRE OF CHAPMAN VALLEY
SITE:	SHIRE OF CHAPMAN VALLEY
FILE REFERENCE:	307.04
PREVIOUS REFERENCE:	N/A
DATE:	14 OCTOBER 2015
AUTHOR:	KRISTY WILLIAMS & DIANNE RAYMOND

DISCLOSURE OF INTEREST

Nil

BACKGROUND

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

COMMENT

Attached to this report are the monthly financial statements for September 2015 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 September 2015 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

STAFF RECOMMENDATION

That Council receives the financial report supplied under separate attachment for the month of September 2015 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

9.3

Chief Executive Officer

October 2015

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9.3 AGENDA ITEMS

- 9.3.1 Review of Local Laws
- 9.3.2 Management Licence – Yuna Multipurpose Community Centre
- 9.3.3 Annual Office Closure
- 9.3.4 Proposed Shop Front Facility

AGENDA ITEM:	9.3.1
SUBJECT:	REVIEW OF LOCAL LAWS
PROPONENT:	SHIRE OF CHAPMAN VALLEY
SITE:	SHIRE OF CHAPMAN VALLEY
FILE REFERENCE:	409.00
PREVIOUS REFERENCE:	MINUTE REFERENCE: 08/15-7
DATE:	14th OCTOBER 2015
AUTHOR:	MAURICE BATTILANA, CHIEF EXECUTIVE OFFICER LEANNE LIND, CONSULTANT

DISCLOSURE OF INTEREST

Nil

BACKGROUND

To undertake a statutory review of the Shire of Chapman Valley Local Laws in accordance with section 3.16 of the Local Government Act 1995. The previous Local Law review as conducted in 2000.

Section 3.16 of the *Local Government Act 1995* requires that a periodic review of all Local Laws is undertaken within a period of eight (8) years from the date the Local Law commenced or was last reviewed. Section 3.16 states:

3.16. Periodic review of Local Laws

- (1) *Within a period of 8 years from the day when a Local Law commenced or a report of a review of the Local Law was accepted under this section, as the case requires, a local government is to carry out a review of the Local Law to determine whether or not it considers that it should be repealed or amended.*
- (2) *The local government is to give Statewide public notice stating that —*
 - (a) *the local government proposes to review the Local Law;*
 - (b) *a copy of the Local Law may be inspected or obtained at any place specified in the notice; and*
 - (c) *submissions about the 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.*
- (2a) *A notice under subsection (2) is also to be published and exhibited as if it were a local public notice.*
- (3) *After the last day for submissions, the local government is to consider any submissions made and cause a report of the review to be prepared and submitted to its council.*
- (4) *When its council has considered the report, the local government may determine* whether or not it considers that the Local Law should be repealed or amended.*

** Absolute majority required.*

Council resolved the following at the August 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

COMMENT

The purpose of the report is to consider and adopt the report of the outcomes of the process of

reviewing the Shire of Chapman Valley's (Shire) Local Laws as per section 3.16 of the Act. At the August 2015 Ordinary Council Meeting, Council resolved to undertake a review of its Local Laws. The following Local Laws were included for review:

Gazette Date	Page	Title	Suggested Action
19/05/1950	1076	Building – Minimum Area for Dwelling House	Repeal
5/03/1976	685	Vehicle Drivers on Certain Land	Repeal
8/08/2000	4607-4615	Dogs Local Law	Repeal/Adopt
8/08/2000	4607-4615	Standing Orders Local Law 2000	Repeal/Adopt
8/08/2000	4607-4615	Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law	Repeal/Adopt

Following the resolution to review the Local Laws the Shire advertised state-wide in The West Australian newspaper on Monday 24 August 2015 of its intention to review the above mentioned Local Laws.

As required by the Act the community was invited to comment on the review of the Shire's Local Laws. At the close of submissions on 8th October 2015 no community comments had been received.

To assist in understanding any possible amendments to the existing Local Laws, Lind Consulting has prepared a Discussion Paper on the Review of Local Laws of the Shire's Local Laws. A copy of the Discussion Paper and reviewed Local Laws is included at Attachment 1.

The Discussion Paper summary recommendations are:

Building – Minimum Area for Dwelling House (Gazetted: 8 August 1950)

No review was conducted on this By-Law as it is proposed that the Building – Minimum Area for Dwelling House By-Law be repealed as new legislation has made it invalid with the introduction of:

- Building Act 2011
- Building Services (Complaint Resolution and Administration) Act 2011
- Building Services (Registration) Act 2011

Vehicle Drivers on Certain Land (Gazetted: 8 August 1976)

No review was conducted on this By-Law as it is proposed that the Vehicle Drivers on Certain Land By-Law be repealed as new legislation has made it invalid with the introduction of the Control of Vehicles (Off-Road Areas) Act 1978.

Activities on Thoroughfares and Trading in Thoroughfares and Public Places and Trading Local Law (Gazetted: 8 August 2000)

The Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law be repealed and replaced with the relevant WALGA template to address these flaws and that it be adopted to replace the existing Local Law.

Dogs Local Law (Gazetted: 8 August 2000)

The Dogs Local Law be repealed and replaced with the relevant WALGA template to address these flaws and that it be adopted to replace the existing Local Law.

Standing Orders Local Law (Gazetted: 8 August 2000)

Recent experience by Lind Consulting with a similar local law review has identified that a Standing Orders Local Law that is more than about 10 years old is best repealed and replaced. The current local law was adopted in 2000 and as WALGA has developed a new model local law entitled Local Government (Council Meetings) Local Law most local governments that have adopted a new Standing Orders Local Law in the past few years have adopted the one based on the WALGA Model with modifications to meet local circumstances.

Therefore, it is proposed that the Standing Orders Local Law 1998 be repealed and replaced with the relevant WALGA template to address these flaws and that it be adopted to replace the

existing Local Law. Council will have the opportunity to assess the proposed new Local Law at the commencement of the Local Law making process.

S3.16 of the Act outlines the process to be followed for a review of Local Laws. It is appropriate to point out that any outcomes from a review that result in amendments (or the repeal and replacement) to an existing Local Law outlined in this report must then be processed as though it was a change to the Local Law and formally adopted using the procedures outlined in s3.12 of the Act.

STATUTORY ENVIRONMENT

The required eight year review of the Local Laws is now overdue and Council is requested to resolve that the Local Laws review process be commenced and that the review be advertised in accordance with section 3.16 (2) of the Act.

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 2015/2016 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

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

Public consultation was undertaken as part of the review process.

Councillors will be given further opportunity to make comment on the recommended new draft Local Laws.

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 REQUIREMENTS

Absolute Majority

STAFF RECOMMENDATION

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.

DISCUSSION PAPER

EIGHT YEAR REVIEW OF THE SHIRE OF CHAPMAN VALLEY LOCAL LAWS

Leanne Lind
Principal Consultant
Lind Consulting
LindConsulting@bigpond.com
0419949324

Introduction

The *Local Government Act 1995* (the Act) s3.16 requires that a local government must within a period of eight years after adoption of any local law conduct a review to ensure it still retains currency.

The Shire of Chapman Valley (the Shire) has determined to review in accordance with the Act the following local laws:

Gazette Date	Page	Title	Suggested Action
19/05/1950	1076	Building – Minimum Area for Dwelling House	Repeal
5/03/1976	685	Vehicle Drivers on Certain Land	Repeal

8/08/2000	4607-4615	Dogs Local Law	Repeal/Adopt
8/08/2000	4607-4615	Standing Orders Local Law 2000	Repeal/Adopt
8/08/2000	4607-4615	Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law	Repeal/Adopt

The Shire engaged Lind Consulting to assist with the review of the local laws.

Methodology

The methodology used by Lind Consulting in undertaking the review of the current local laws in accordance with s3.16 of the Act includes:

1. Conduct a review of all existing Shire Local Laws identified above taking into account the following:
 - a) Consolidating, if necessary, existing local laws relating to similar subjects and deleting duplication of similar clauses, if any;
 - b) Ensuring that local laws are simple, clear, and are relevant to today's needs;
 - c) Local laws to be read alone without the need to refer to other documents;
 - d) Include infringement issues as an enforcement process where required;
 - e) Matters raised previously by the Joint Standing Committee on Delegated Legislation; and
 - f) State Government policy issues.
2. Prepare a draft discussion paper for consideration by the Council which will outline a proposed course of action with respect to each of the Shire's Local Laws under review.

The draft discussion paper will identify which local laws should be repealed, amended or replaced in their entirety.

Where the proposal is to amend the local law the broad details of the amendments will be outlined in the draft discussion paper. In the event that a local law is to be repealed or replaced in its entirety it is necessary to include those details in the review process.

Any action to implement the repeal or replacement under s3.12 of the Act will then follow the adoption of the review by the Council and is not part of this quotation.

3. Submit the draft discussion paper to the Council outlining the outcome of the review of the Shire's local laws. The Act requires that the "local government" is to give statewide public notice that it proposes to conduct a review. The purpose of the report to the Council is to seek the formal endorsement of the discussion paper before proceeding to advertise for community input.
4. Prepare the advertisement, as a statewide public notice, for the review of the local laws. The advertisement will be published at the cost to the Shire in a newspaper circulating in the State.
5. Following the close of the advertising period (ie not less than 6 weeks) review all submissions received and prepare a formal report to the Council for adoption of the review as to whether a local law should be repealed or amended.

Proposed Changes

The following proposals in respect to each local law are to be considered by the Shire of Chapman Valley at the conclusion of the public submission period. Each local law has been edited to reflect the proposed changes (via track changes) and is attached to this Paper.

Building – Minimum Area for Dwelling House

Gazetted: 8 August 1950

General Comment and Conclusion

No review was conducted on this By-Law as it is proposed that the Building – Minimum Area for Dwelling House By-Law be repealed as new legislation has made it invalid with the introduction of:

- Building Act 2011
- Building Services (Complaint Resolution and Administration) Act 2011
- Building Services (Registration) Act 2011

Vehicle Drivers on Certain Land

Gazetted: 8 August 1976

General Comment and Conclusion

No review was conducted on this By-Law as it is proposed that the Vehicle Drivers on Certain Land By-Law be repealed as new legislation has made it invalid with the introduction of the Control of Vehicles (Off-Road Areas) Act 1978.

Activities on Thoroughfares and Trading in Thoroughfares and Public Places and Trading Local Law

Gazetted: 8 August 2000

The Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law 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.

Significant style and format changes throughout the document are to be made to align with the Joint Standing Committee on Delegated Legislation's recommended publishing practices.

Part 4 – Obstructing Animals, Vehicles or Shopping Trolleys

The addition of *Division 2 – Shopping Trolleys* needs to be added.

The addition of *Division 3 – Special Environmental Areas* needs to be added.

Part 5 – Trading in Thoroughfares and Public Places

The addition of *Division 2 – Street Entertainers* needs to be added.

The addition of *Division 3 – Outdoor eating facilities on public places* needs to be added.

Changes to the name of the Local Law from Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law to *Activities in Thoroughfares and Public Places and Trading Local Law* throughout the document.

ACTS and Codes

Update of all Acts and Codes within the Local Law to reflect current legislation.

Definitions

Update and add new definitions throughout the document.

Modified Penalties

Update of new penalties to bring the prescribed offence amounts in line with current values.

CONCLUSION

It is proposed that the Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law be repealed and replaced with the relevant WALGA template to address these flaws and that it be adopted to replace the existing Local Law. Council will have the opportunity to assess the proposed new Local Law at the commencement of the Local Law making process.

Dogs Local Law

Gazetted: 8 August 2000

The Dogs Local Law was adopted by reference to the *Shire of Moora Dogs Local Law* which was Gazetted on the 29 November 1999.

Significant style and format changes throughout the document are to be made to align with the Joint Standing Committee on Delegated Legislation's recommended publishing practices.

Definitions

Update and add new definitions throughout the document.

ACTS

Update of all Acts within the Local Law to reflect current legislation.

Modified Penalties

Update of new penalties to bring the prescribed offence amounts in line with current values.

Part 2 – Impounding Dogs

Remove 2.4 No breaking into or destruction of pound.

Part 3 – Dogs to be confined

To be added

CONCLUSION

It is proposed that the Dogs Local Law be repealed and replaced with the relevant WALGA template to address these flaws and that it be adopted to replace the existing Local Law. Council will have the opportunity to assess the proposed new Local Law at the commencement of the Local Law making process.

Standing Orders Local Law

Gazetted: 8 August 2000

The Standing Orders Local Law 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.

Significant style and format changes throughout the document are to be made to align with the Joint Standing Committee on Delegated Legislation's recommended publishing practices.

Recent experience by Lind Consulting with a similar local law review has identified that a Standing Orders Local Law that is more than about 10 years old is best repealed and replaced. The current local law was adopted in 2000 and as WALGA has developed a new model local law entitled Local Government (Council Meetings) Local Law most local governments that have adopted a new Standing Orders Local Law in the past few years have adopted the one based on the WALGA Model with modifications to meet local circumstances.

It is necessary, should Council amend (not including unwanted content) or add to any parts to the Model Local Law, a detailed explanation must be provided as part of the Explanatory Memorandum requirements to the Joint Standing Committee on Delegated Legislation, when adopting a new local law.

CONCLUSION

It is proposed that the Standing Orders Local Law 1998 be repealed and replaced with the relevant WALGA template to address these flaws and that it be adopted to replace the existing Local Law. Council will have the opportunity to assess the proposed new Local Law at the commencement of the Local Law making process.

|

SHIRE OF CHAPMAN VALLEY

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| **STANDING ORDERS LOCAL LAW ~~(STANDING ORDERS)~~ [DATE]**

LOCAL GOVERNMENT ACT 1995

|

WESTERN AUSTRALIA

~~Model~~ Local Government Act 1995

SHIRE OF CHAPMAN VALLEY
Standing Orders Local Law [INSERT YEAR]

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Local Government (Council Meetings)

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- ~~6.1 – Quorum to be Present~~
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- ~~9.2 – The Person Presiding to Take Part in Debates~~
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- ~~10.1 — Motions To be Stated~~
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- ~~10.14 — Withdrawal of Motion and Amendments~~
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~~1~~

~~Part 19 – Common Seal~~

- ~~19.1 – The Council's Common Seal~~

LOCAL GOVERNMENT ACT 1995

Shire of Chapman Valley Standing Orders Local Law 2000[INSERT YEAR]

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

- (1) This ~~Local Law~~local law may be cited as the *Shire of Chapman Valley Standing Orders Local Law 2000*[INSERT YEAR].
- (2) In the clauses to follow, this Local Law is referred to as "the Standing Orders."

1.2

1.2 Commencement

By virtue of section 3.14 of the Act, these Local Laws come into operation 14 days after the date of their publication in the *Government Gazette*.

1.3 Application and intent

- (1) These Local Laws 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 of the Council or a committee and other matters as prescribed are to be conducted in accordance with the Act, the Regulations and these ~~Standing Orders~~Local Laws.
- (3) These Local Laws 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 these ~~Standing Orders~~Local Laws unless the context otherwise requires:

"

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

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

Act means the *Local Government Act 1995*;

CEO means the Chief Executive Officer ~~or Acting Chief Executive Officer for the time being of the Shire of Chapman Valley~~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;

"presiding member"

Local Government means the ~~presiding member of a committee or Shire of Chapman Valley~~;

Mayor/President means the ~~deputy presiding member, or a member~~Mayor/President of the committee when performing Local Government or other Presiding Member at a ~~function~~Council meeting under section 5.6 of the Act;

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

Member has the meaning given to it in accordance with 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 means the Local Government (Administration) Regulations 1996;

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

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

- (2) Unless otherwise defined ~~herein~~ in these Local Laws, the terms and expressions used in ~~the Standing Orders~~ these Local Laws are to have the meaning given to them in the Act and Regulations.

2.1.5 Repeal

The *Standing Orders Local Law 2000* published in the *Government Gazette* on 8 August 2000 is repealed.

1.6 Provisions of the Act, Regulations and other legislation

- (1) Throughout these Local Laws, provisions of the Act and Regulations, and provisions of other legislation, are reproduced in a boxed format.
- (2) The purpose of reproducing these provisions is to assist the reader by giving a fuller picture of related legislative provisions that also apply to meetings of the Council, committees and electors.
- (3) The reproduced provisions of the Act and Regulations and other legislation:
 - (a) are to be treated as footnotes and are not part of these Local Laws (see section 32(2) of the *Interpretation Act 1984*); and
 - (b) reproduce only the provisions that were in force at the time that the Council resolved to adopt these Local Laws and therefore may not necessarily be correct at a future date.

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) These Local Laws 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 ~~Committee Meetings~~ and convening meetings

~~A~~

3.1 Ordinary and special Council meetings

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

(2) An ordinary meeting of a committee is to be the Council, held –

(a) if called for in a verbal on a monthly basis or written request to the CEO otherwise as determined by the presiding member of the committee, setting out Council, is for the date and purpose of considering and dealing with the proposed ordinary business of the Council.

(3) A special meeting:

(b) if called for by at least 1/3 of the members of the committee in a notice to Council is held for the CEO, setting out the date and purpose of the proposed meeting, or considering and dealing with Council business that is urgent, complex in nature, for a particular purpose or confidential.

(c) if so decided by the committee.

3.2.2 Notice of Special ~~Calling Council Meetings~~ meetings

~~(1)~~ 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 (2.3), the CEO is to ~~convene~~ give at least 72 hours notice, for the purposes of section 5.5, in convening a special meeting of the Council by giving each Council member.

(3) Where, in the opinion of the Mayor/President or at least 72 hours' notice of the date, time, place and purpose of the meeting.

(2) Where ~~one-third of the Members~~, there is a need to meet urgently, ~~in the opinion of the President, the CEO may give a lesser period of notice of a special Council meeting than mentioned in subclause (1).~~

3.4 Calling committee meetings

The CEO is to call a meeting of any committee when requested by the Mayor/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 Mayor/Deputy President can act

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

4.3 Who acts if no Mayor/President

Who acts if there is no Mayor/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 5.1 - Business of the Meeting

5.1 Business to be Specified on Notice Papers

- (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 ~~person presiding or a decision of the Presiding Member or~~ the Council.
 - (2) No business is to be transacted at a special meeting of the Council other than that given in the notice as the purpose of the meeting.
 - (3) ~~No business is~~ Subject to be transacted at a committee meeting other than that specified in the agenda or given in the notice as the purpose of the meeting, without the approval of the Presiding Member or a decision of the committee:
 - ~~subclause (4) — No, no~~ business is to be transacted at an adjourned meeting of the Council ~~or a committee other than that —~~
 - (a) specified in the notice of the meeting which had been adjourned; and 6.2, 12.3,
 - (b) which remains unresolved; 15.9, 16.1
- ~~except in the case of an adjournment (4) Where a meeting is adjourned to the next ordinary meeting of the Council or the committee, when then, unless the Council resolves otherwise, the business unresolved at the adjourned meeting is to have precedence 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—:
 - ~~(a) — Disclaimers provided in writing to visitors~~
 - ~~(b) 1. Declaration of Opening/Announcement of visitors~~ Visitors
 - ~~(c) — Loyal Toast~~
 - ~~Record of 2. Announcements from the Presiding Member~~
 - ~~3. Attendance~~
 - ~~3.1 Apologies~~ Leave
 - ~~3.2 Approved leave of absence~~
 - ~~4. Declaration of Absence (previously approved)~~ interest
 - ~~5. Public Question Time~~
 - ~~5.1 Response to previous public questions taken on notice~~
 - ~~5.2 Public question time~~
 - ~~6. Confirmation of minutes~~
 - ~~7. Presentations~~
 - ~~7.1 Petitions~~
 - ~~7.2 Presentations~~
 - ~~7.3 Deputations~~
 - ~~7.4 Delegates' reports~~
 - ~~8. Method of dealing with agenda business~~
 - ~~9. Reports~~
 - ~~(d) — 10. Applications for Leave of Absence~~

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- ~~(e) Petitions/Deputations/Presentations~~
- ~~(f) Confirmation of Minutes from Previous Meeting~~
- ~~(g) Announcements by the person presiding without discussion~~
~~Reports/leave of Committee and Officers/absence~~
~~Elected members motions~~ 1. Motions of which previous notice has been given
- ~~(h) General Business~~
 - 12. Questions from Members without notice
 - 13. New business of an urgent nature introduced by decision of the meeting
 - 14. Meeting closed to public
 - 14.1 Matters for which the meeting may be closed
 - 14.2 Public reading of resolutions that may be made public
 - 15. Closure

- (2) Unless otherwise decided by the ~~members present~~ Council, the order of business at any special meeting of the Council ~~or at a committee meeting~~ is to be the order in which that business stands in the agenda of the meeting.

- ~~(2) Notwithstanding subclauses (1) and (2) in (3)~~ In determining the order of business for any meeting of the Council ~~or a committee~~, the provisions of the Act and Regulations relating to the time at which public question time is to be held are to be observed. [See section 5.24 of the Act; and regulations 6 & 7 of the Regulations]

- ~~(4) Notwithstanding subclause (1), the CEO may include on the agenda of a Council or committee meeting in an appropriate place within the order of business any matter which must be decided, or which he or she considers is appropriately decided, by that meeting.~~

~~3.3 Public Question Time~~

- ~~(1) A member of the public who raises a question during question time is to state his or her name and address;~~
- ~~(2) A question may be taken on notice by the Council or committee for later response;~~
- ~~(3) When a question is taken on notice under sub clause (2) a response is to be given to the member of the public in writing by the CEO, and a copy is to be included in the agenda of the next meeting of the Council or committee as the case requires;~~

~~3.4 Petitions~~

~~A petition, in order to be effective, 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 names, addresses and signatures of the electors making the request, and the date each elector signed;~~
- ~~(e) contain a summary of the reasons for the request;~~
- ~~(f) state the name of the person upon whom, and an address at which, notice to the petitioners can be given;~~
- ~~(g) be in the form prescribed by the Act and Local Government (Constitution) Regulations 1996 if it is~~
 - ~~(i) a proposal to change the method of filling the office of President;~~
 - ~~(ii) a proposal to create a new district or the boundaries of the Local Government;~~
 - ~~(iii) a request for a poll on a recommended amalgamation;~~

- (iv) ~~a submission about changes to wards, the name of a district or ward or the number of councillors for a district or ward.~~

~~3.5 Confirmation of Minutes~~

- (1) ~~When minutes of a meeting are submitted to an ordinary meeting of the Council or committee for confirmation, if a member is dissatisfied with the accuracy of the minutes, then he or she is to –~~
~~(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.~~
- (2) ~~Discussion of any minutes, other than discussion as to their accuracy as a record of the proceedings, is not permitted.~~

~~3.6 Announcements by the Person Presiding Without Discussion~~

- (1) ~~At any meeting of the Council or a committee the person presiding may announce or raise any matter of interest or relevance to the business of the Council or committee, or propose a change to the order of business.~~
- (2) ~~Any member may move that a change in order of business proposed by the person presiding not be accepted and if carried by a majority of members present, the proposed change in order is not to take place.~~

~~3.7 Matters for which Meeting May be Closed~~

~~For the convenience of members of the public, the Council or committee may identify by decision, early in the meeting, any matter on the agenda of the meeting to be discussed behind closed doors, and that matter is to be deferred for consideration as the last item of the meeting.~~

S.5.22(2)
4.2

~~3.8 Correspondence~~

- (1) ~~The CEO is to use discretion in deciding what correspondence to place before the Council or a committee.~~
- (2) ~~Correspondence may be placed before the Council or a committee in the form of a precis, provided all relevant and material facts are contained in the precis.~~
- (3) ~~Where correspondence contains a matter to be decided by the Council or committee, the CEO is, if the circumstances permit, to recommend a course of action to the Council or committee, or state the alternative courses of action available.~~

~~2.0.3~~ **Motions of which ~~Previous Notice~~ previous notice has been Given**

- (1) ~~Unless the Act, Regulations or these Standing Orders/Local Laws otherwise provide, a member/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 four (4) clear working days before the meeting at which the motion is moved.~~
- (3) ~~A notice of motion is to relate to the good government/governance of persons in the district.~~
- (4) ~~The CEO –~~
~~(a) may, with the concurrence of the Mayor/President, may exclude from the notice paper any notice of motion deemed to be out, or likely to involve, a breach of order; or any of these Local Laws or any other written law;~~
~~(b) may will inform Members on his or her own initiative 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 thereof as will bring the notice of motion into due form; and

(d) may under his or her name 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) No notice of motion is to be out of order because the policy involved is considered to be objectionable.~~

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(5) A motion of which notice has been given is to lapse unless—

(a) the member Member who gave notice thereof it, or some other member Member authorised by him or her 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.

~~47~~

(6) If a notice of motion is given and lapses in the circumstances referred to in under subclause ~~(4)(c)~~ (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.

~~3.10 Questions by Members~~ 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 or a special majority;

(b) in which Due Notice an interest has been given 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 - ~~(4)~~ 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 ~~on notice is to be given by a~~ 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 to the CEO at least four (4) clear working days before the meeting at which it is raised; and
- (2) If the question referred to in subclause (1) ~~a summary of the response is in order, the answer is, so far as is practicable, to be included in written form in the agenda of the next meeting, or otherwise tabled at~~ 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 meeting he or she has an interest in the matter; and
- (2) Every (b) allow another person to respond to the question and.

(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 submitted as briefly and concisely 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 possible and no discussion 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 Mayor/President;
- (b) be made by electors of the district;
- (c) state the request on each page of the petition;
- thereon (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 with:
 (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.

A member of the public is entitled to attend a committee meeting only where a local government power or duty has been delegated to that committee: see section 5.23(1)(b) of the Act.

- (2) Without the consent of the person presiding, or decision of Council/Presiding Member, no person is to address a committee meeting.

3.11 General Business

- ~~In cases of extreme urgency or other special circumstance, matters may~~ (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 presiding, or by decision who fails to comply with a direction of the members present/Presiding Member under subclause (4) may, by order of the Presiding Member, be raised without notice and decided by the 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.

3.12 Deputations

- (1) ~~A deputation wishing~~ **6.13 Council may meet to be received by hear public submissions**
 (1) Where an item on the agenda at a Council or a committee meeting is contentious and is likely be the subject of a number of deputations, the Council may resolve to apply in writing/meet at another time to the provide a greater opportunity to be heard.
 (2) The CEO who is to forward the written request to and the Mayor/President, or 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 as the 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 may be.~~
- ~~(2) The President if the request is to attend a Council meeting, or the Presiding Member of the committee, if the request is to attend a meeting of a committee, may either approve the request, in which event the CEO is to invite the deputation to attend a meeting of the Council or committee as the case may be, or may instruct the CEO to refer the request to the Council or committee to decide by simple majority whether or not to receive the deputation.~~
- ~~(2) A deputation invited to attend a Council or committee meeting~~
- ~~(a) is not to exceed five persons, only two of whom may address the Council or committee, although others may respond to specific questions from the members; and~~
- ~~(b) is not to address the Council or committee for a period exceeding 15 minutes without the agreement of the Council or the committee as the case requires. (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~~
- ~~(4) Any matter which that is the subject of a deputation meeting to provide the Council or a committee is not opportunity to be decided by the Council or that committee heard until the deputation has completed its presentation it has received the CEO's report under subclause (8).~~

~~Part 4 6.14 Public Access to Agenda Material~~

~~4.1 Inspection Entitlement of agenda materials~~

~~Members The right of the public have access to agenda material inspect the documents referred to, and in the terms set out in Regulation accordance with, regulation 14 of the Regulations, may be exercised at [INSERT LOCATION] and on the Local Government's website.~~

~~4.26.15 Confidentiality of Information Withheld information withheld~~

- ~~(1) Information withheld by the CEO from members of the public under Regulation regulation 14 (2) of the Regulations, is to be:~~
- ~~(a) identified in the agenda of a Council or committee meeting under the item 2.7 "Matters for which meeting may be closed"; and~~
- ~~(b) marked "Confidential" in the agenda; and~~
- ~~(c) kept confidential in the agenda by Officers and Members until the Council resolves otherwise.~~
- ~~(2) A member of the Council or a committee or an employee of the Council 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 such any of that information to any person other than another member of the Council or the committee or an employee of the Council officer to the extent necessary for the purpose of carrying out his or her duties.~~

~~Penalty \$5,000~~

- (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.

~~Part 5~~ Disclosure of Financial Interests

~~5.1 Member with an Interest may ask to be Present~~

- (1) ~~Where a member has disclosed the nature of his or her interest in a matter, immediately before the matter is considered by the meeting, he or she may, without disclosing the extent of the interest, request that he or she be allowed to be present during any discussion or decision making procedure related to the matter.~~ ~~S.5.68~~
- (2) ~~If such a request is made, the member is to leave the room while the request is considered. If the request is allowed by the members, the member may return to the meeting and be present during the discussion or decision making procedure related to that matter, but is not permitted to participate in any way.~~

~~5.2 Member with an Interest may ask Permission to Participate~~

- (1) ~~A member who discloses both the nature and extent of an interest, may request permission to take part in the consideration or discussion of the matter, or to vote on the matter.~~ ~~S.5.68~~
- (2) ~~If such a request is made, the member is to leave the room while the request is considered. If it is decided at a meeting that a member who has disclosed both the nature and extent of an interest in a matter, be permitted to participate in the consideration and discussion of the matter or to vote on the matter, or both, then the member may return to participate to the extent permitted.~~

~~5.3 Invitation to Return to Provide Information~~

~~Where a member has disclosed an interest in a matter and has left the room in accordance with the Act, the meeting may resolve to invite the member to return to provide information in respect of the matter or in respect of the member's interest in the matter and in such case the member is to withdraw after providing the information.~~

~~5.4 Disclosures by Employees~~

- (1) ~~If an employee within the meaning of section 5.70 of the Act, presents a written report to a meeting, on a matter in which the employee has an interest, the nature of the interest is to be disclosed at the commencement of the report.~~ ~~S.5.70~~
- (2) ~~If such an employee makes a verbal report to a meeting on a matter in which the employee has an interest, the employee is to preface his or her advice to the meeting by verbally disclosing the nature of the interest.~~

~~Part 6~~ Quorum

~~6.1 Quorum to be Present~~

- (1) ~~The Council or a committee is not to transact business at a meeting unless a quorum is present.~~

~~6.2 — Loss of Quorum During a Meeting~~

- (1) If at any time during the course of a meeting of the Council or a committee a quorum is not present ~~3.1(4),~~
16.5
-
- (a) ~~in relation to a particular matter because of a member or members leaving the meeting after disclosing a financial interest, the matter is adjourned until either—~~
- ~~(i) a quorum is present to decide the matter; or~~
- ~~(ii) the Minister allows a disclosing member or members to preside at the meeting or to participate in discussions or the decision making procedures relating to the matter under section 5.69 of the Act; or~~
- (b) ~~because of a member or members leaving the meeting for reasons other than disclosure of a financial interest, the person presiding is to suspend the proceedings of the meeting for a period of fifteen minutes, and if a quorum is not present at the end of that time, the meeting is deemed to have been adjourned and the person presiding is to reschedule it to some future time or date having regard to the period of notice which needs to be given under the Act, Regulations, or the Standing Orders when calling a meeting of that type.~~
- (2) ~~Where debate on a motion is interrupted by an adjournment under subclause (1) (b)—~~
- ~~(a) the debate is to be resumed at the next meeting at the point where it was so interrupted; and~~ ~~3.1(4),~~
46.5
- ~~(b) in the case of a Council meeting the provisions of clause 9.5 apply when the debate is resumed.~~

~~Part 7 — Keeping of Minutes~~

~~7.1 — Content of Minutes~~

~~In addition to the matters contained in Regulation 11 of the Regulations, the content of minutes of a meeting of the Council or a committee is to include, where an application for approval is declined or the authorisation of a licence, permit, or certificate is otherwise withheld or cancelled, the reasons for the decision.~~ ~~S.5.25(f)~~
~~R11,~~
~~2.5~~

~~7.2 — Preservation of Minutes~~

~~Minutes including the agenda of each Council and committee meeting are to be kept as a permanent record of the activities of the local government and are to be transferred to the Public Records Office, being a directorate of the Library and Information Service of Western Australia, in accordance with the retention and disposal policy determined by that office from time to time.~~

~~Part 8 — Conduct of Persons at Council and Committee Meetings~~

~~8.1 — Official Titles to be Used~~

~~Members of the Council are to speak of each other in the Council or committee by their respective titles of President or councillor. Members of the Council, in speaking of or addressing employees, are to designate them by their respective official titles.~~

8.2 Leaving Meetings

During the course of a meeting of the Council or a committee no member is to enter or leave the meeting without first advising the person presiding, in order to facilitate the recording in the minutes of the time of entry or departure.

8.3 Recording of Proceedings

- (1) ~~No~~ A person is ~~not~~ to use any electronic, visual or vocal recording device or instrument to record the proceedings of the Council ~~or a committee~~ without the ~~written~~ permission of the ~~Council~~ Presiding Member.
- (2) Subclause (1) does not apply if the record is taken by or at the direction of the CEO, with the permission of the Council or committee.

8.4

6.17 Prevention of Disturbance

- (1) ~~Any~~ (1) A reference in this clause to a person is to a person other than a member ~~of the public.~~
- (2) A person addressing the Council ~~or a committee~~ is ~~to~~ shall extend due courtesy and respect to the Council ~~or committee~~ and the processes under which ~~they operate~~ it operates and ~~must take~~ shall comply with any direction ~~from~~ by the person presiding whenever called upon ~~to do so~~ Presiding Member.
- Penalty \$1,000
- (2) ~~No~~
- (3) A person observing a meeting, ~~is to~~ 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.
- Penalty \$1,000

8.5 Distinguished Visitors

- If a distinguished visitor is present at a
- (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 ~~or a committee, the.~~
- (5) A person shall not behave in a manner that is contrary to section 75 of the Criminal Code.

Part 7 - ~~presiding~~ Questions by Members

- (1) Members may ~~invite such person to sit beside~~ ask questions relating to an item on the ~~person presiding~~ 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 by ward, a position at the Council table to each Member.

Part 9 – Conduct of Members During Debate

~~9.1(2)~~ Each Member is to occupy his or her allotted position at each Council meeting.

8.2 Respect to the Presiding Member

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

8.3 Titles to be used

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

8.4 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.

8.5 Members to indicate their intention to speak

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

8.6 Priority of speaking

In the event of (1) Where two or more members of the Council or a committee wishing to speak indicate, at the same time, the person presiding their intention to speak, the Presiding Member is to decide which member is entitled to be heard first. ~~The~~

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

~~9.2 The Person~~ (3) A Member is to cease speaking immediately after being asked to do so by the Presiding ~~to Take Part~~ Member.

8.7 Presiding Member may take part in Debates

~~Unless otherwise prohibited by the Act, and subject to compliance with procedures for the debate of motions contained in these Standing Orders, the person presiding~~ The Presiding Member may take part in a discussion of any matter before the Council or committee as the case may be, subject to compliance with these Local Laws.

9.38.8 Relevance

~~Every member of the Council or a committee~~ (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:

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- (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 or decorum by a Member; and
- (b) direct that Member, if speaking, to discontinue his or her speech.

- (3) A Member is to comply with the direction of the Presiding Member under subclause (2) by immediately ceasing to speak.

8.9.4 Limitation of 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.

8.10 Duration of Speeches

All addresses are to be limited to a maximum of five minutes. Extension of time is permissible only with the agreement of the person presiding.

9.5 Members Not to Speak After Conclusion of Debate

- (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.

8.11 No member speaking after conclusion of the Council or a committee debate

A Member is not to speak on any motion or amendment:

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

9.6 Members Not to Interrupt

8.12 No member of the Council or a committee is interruption

6.1, 15.3

A Member is not to interrupt another member of the Council or committee whilst 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 10.16.13; or
- (d) to move a procedural motion under that the Member be no longer heard (see clause 11(1)(c)).

15.4

9.7 Re-Opening Discussion on Decisions

No member 8.13 Personal explanations

- (1) A Member who wishes to make a personal explanation relating to a matter referred to by another Member who is then speaking is to indicate to the Presiding Member his or her intention to make a personal explanation.
- (2) The Presiding Member is to determine whether the personal explanation is to be heard immediately or at the conclusion of the Council or a committee is to re-open speech by the other Member.
- (3) A Member making a personal explanation is to confine his or her observations to a succinct statement relating to a specific part of the speech at which he or she may have been misunderstood.

8.14 No reopening of discussion

A Member is not to reopen discussion on any Council decision of the Council or committee, except for the purpose of moving to move that the decision be revoked or changed- (see Part 16).

8.15 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 (see 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.

8.16 Withdrawal of offensive language

- (1) A Member who, in the opinion of the Presiding Member, uses an expression which:
 - (a) in the absence of a resolution under clause 8.15:
 - (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 8.7, but to preserve order.

9.2 Point of order

- (1) A Member may object, by way of a point of order, only to a breach of:
 - (a) any of these Local Laws; or
 - (b) any other written law.
- (2) Despite anything in these Local Laws 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.

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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 these Local Laws.

9.5 Ruling by the Presiding Member

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

9.6 Continued breach of order

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 - ~~Procedures for~~ Debate of ~~Motions~~ substantive motions

10.1 Motions ~~To~~to be ~~stated~~stated and in writing

Any ~~member of the Council or a committee~~Member who ~~moves~~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~~supported

~~No (1)~~ A substantive motion or an amendment to a substantive motion is not open to debate until it has been seconded, ~~or, in the case of a,~~

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

10.3 Unopposed ~~Business~~business

(1) ~~Upon~~Immediately after a substantive motion ~~being~~has been moved and seconded, the ~~person presiding~~Presiding Member may ask the meeting if any ~~member~~Member opposes it.

(2) If no ~~member signifies opposition to~~Member opposes the motion, the ~~person presiding~~Presiding Member may declare ~~the motion in subclause (1)~~it carried without debate and without taking a vote ~~on it~~.

(3) A motion ~~declared~~carried under ~~subclause (2)~~this clause is to be recorded in the minutes as a unanimous decision of the Council ~~or committee~~.

(4) If a ~~member signifies opposition to~~Member opposes a motion, the motion is to be dealt with ~~according to~~under this Part.

(5) This clause does not apply to ~~any~~a motion ~~or decision~~ to revoke or change a decision which has been made at a Council ~~or committee meeting, (see Part 16)~~.

10.4 Only ~~One Substantive Motion Considered~~one substantive motion at a time

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

10.5 ~~Breaking Down of Complex Questions~~

~~The person presiding may order a complex question to be broken down and put in the form of several motions, which are to be put in sequence.~~

~~10.6~~ Order of ~~Call~~call in ~~Debate~~debate

The ~~person presiding~~Presiding Member is to call speakers to a substantive motion in the following order:

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

10.76 Limit of ~~Debate~~debate

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

10.87 Member ~~May Require Questions~~may require question to be ~~Read~~read

~~Any member~~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 while~~Member who is speaking.

10.98 Consent of ~~Seconder Required to Accept Alteration of Wording~~seconder required for alteration

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

10.109 Order of Amendments

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

10.11 Amendments Must Not Negate Original Motion

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 ~~can be moved which negates~~ 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 Not to Speak on Amendment

On an amendment being moved, any member ~~may speak to the amendment, provided that if the person who moved the substantive motion does choose to speak to the amendment, the right of reply is forfeited by that person on amendment~~

10.13 Substantive Motion

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~~ Member may speak and any further amendment may be moved.

10.1415 Withdrawal of Motion and Amendments

(1) Subject to subclause (2), the Council ~~or a committee~~ may, without debate, grant leave to withdraw a motion or amendment ~~upon the request of the mover of the motion or amendment and with the approval of the seconder~~ provided that there is no voice expressed to the contrary view by any member, in which case discussion on the motion or amendment is to continue.

10.15 Limitation of Withdrawal

(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~~ Members present, until the amendment proposed has been withdrawn or lost.

10.16 Personal Explanation

No member is to speak at any meeting of the Council or a committee, except upon the matter before the Council or committee, unless it is to make a personal explanation. Any member of the Council or committee who is permitted to speak under these circumstances is to confine the observations to a succinct statement relating to a specific part of the former speech which may have been misunderstood. When a member of the Council or committee speaks to explain, no reference is to be made to matters unnecessary for that purpose.

~~10.17~~ **Personal Explanation – When Heard**

~~A member of the Council or a committee wishing to make a personal explanation of matters referred to by any member of the Council or committee then speaking, is entitled to be heard immediately, if the member of the Council or committee then speaking consents at the time, but if the member of the Council or committee who is speaking declines to give way, the explanation is to be offered at the conclusion of that speech.~~

~~10.18~~ **Ruling on Questions of Personal Explanation**

~~The ruling of the person presiding on the admissibility of a personal explanation is final unless a motion of dissent with the ruling is moved before any other business proceeds.~~

~~10.19~~ **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/Member is to speak on the question;~~
 - ~~(2b) 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.~~

~~10.20~~ **Right of Reply Provisions**

~~The right of reply is governed by the following provisions:~~

- ~~(a) if no amendment is moved to the substantive motion, the mover may reply at (6) At the conclusion of the discussion on the motion;~~
- ~~(b) if an amendment is moved to the substantive motion the mover of the substantive motion is to take the right of reply at the conclusion of the vote on any amendments;~~
- ~~(c) the mover of any amendment does not have a right of reply;~~
- ~~(d) once the right of reply has been taken, there can be no further discussion, nor any other amendment and the original motion – right of reply, the substantive motion, or the original substantive motion as amended, is immediately to be put to the vote.~~

Part 11 - Procedural ~~Motions~~ motions

11.1 Permissible ~~Procedural Motions~~

~~In addition to proposing a properly worded amendment to a substantive motion, it is permissible for a member to move the following 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 Council (or committee) meeting proceed to the next item of business;~~
 - ~~(b) that the question/debate be adjourned;~~
 - ~~(c) that the Council (or committee) meeting now adjourn;~~
 - ~~(d) that the question be now put;~~
 - ~~(e) that the member/Member be no longer heard;~~

- (f) that the ruling of the ~~person presiding~~ Presiding Member be disagreed with;
- (g) that the ~~Council (or committee) meet behind closed doors, if the meeting or part of the meeting to which the motion relates is a matter in respect of which the meeting may be closed to members of the public under section 5.23 of the Act (see clause 6.2).~~

11.2 ~~No Debate on Procedural Motions~~ debate

- (1) The mover of a motion ~~stated specified~~ in ~~each of paragraphs~~ paragraph (a), (b), (c), (f) ~~and/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 ~~stated specified~~ in ~~each of paragraphs~~ paragraph (d) ~~and/or~~ (e) of Clause 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 ~~Procedural Motions – Closing Debate – Who May Move~~ 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~~ motions - right of Reply reply on Substantive Motions 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

~~Part 12 – Effect of Procedural Motions~~

~~12.1 – Council (or Committee) to Proceed~~ proceed to the Next Business – Effect of Motion next business

The motion “that the ~~Council (or committee)~~ meeting proceed to the next business”, if carried, ~~causes~~ has the effect that:

- (a) ~~the debate to cease on the substantive motion or amendment ceases immediately and for the Council (or committee) to move to the next business of the meeting. No~~
- (b) ~~no decision will be~~ is made on the substantive motion ~~being discussed, nor is~~
- (c) ~~the Council moves to the next item of business; and~~
- (d) ~~there any is no~~ requirement for the matter to be ~~again~~ raised again for consideration.

~~12.2 – Question~~ 11.6 Debate to be Adjourned – Effect of Motion adjourned

- (1) ~~The~~ A motion “that the ~~question~~ debate be adjourned”:
- (a) ~~is to state the time to which the debate is to be adjourned”;~~ and
- (b) ~~if carried, causes~~ has the effect that all debate on the substantive motion or amendment ~~to cease~~ ceases immediately, but ~~to continue~~ continues at ~~a~~ the time stated in the motion.

(2) ~~If the~~

11.7 Meeting now adjourn

- (1) ~~A Member is not to move or second more than one motion is carried at a meeting of adjournment during the same sitting of the Council–~~
- (2) ~~Before putting the motion for the adjournment of the Council, the Presiding Member may seek leave of the Council to deal first with matters that may be the subject of an adoption by exception resolution (see clause 5.5).~~
- (3) ~~A motion “that the meeting now adjourn”;~~

- (a) ~~is to state the names of members who have spoken on the matter are to be recorded in the minutes;~~ time and

~~(b) the provisions of clause 9.5 apply when the debate is resumed.~~

~~12.3 Council (or Committee) date to Now Adjourn – Effect of Motion~~

~~(1) The motion “that the Council (or committee) now adjourn”, if carried, causes which the meeting is to stand be adjourned until it is re-opened at which time; and~~ 2.1(4) 16.1, 16.2, 16.3, 16.4, 16.5

~~(b) if carried, has the effect that the meeting continues-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 person presiding or a simple majority of members upon vote, determine Presiding Member or the Council determines otherwise.~~

~~(2) Where~~

~~11.8 Question to be put~~

~~(1) If the motion “that the question be now put”, is carried during debate on a motion is interrupted by an adjournment under subclause (1) –~~

~~(a) the debate is to be resumed at the next meeting at the point where it was so interrupted; and~~

~~(b) in the case of a Council meeting~~

~~(i) the names of members who have spoken on the matter prior to the adjournment are to be recorded in the minutes; and~~

~~(ii) the provisions of clause 9.5 apply when the debate is resumed.~~

~~12.4 Question to be Put – Effect of Motion~~

~~(1) The motion “that the question be now put”, if carried during discussion of a substantive motion without amendment, causes the person presiding Presiding Member is to offer the right of reply and then immediately put the matter under consideration motion to the vote without further debate.~~

~~(2) ThisIf the motion-if “that the question be now put” is carried during discussion of an amendment, causes the person presiding Presiding Member is to put the amendment to the vote without further debate.~~

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

~~12.511.9 Member to be No Longer Heard – Effect of Motionno longer heard~~

~~TheIf the motion “that the member be no longer heard”, ifis carried, causes the person presiding to not allow the speaker against whom the motion has been moved tocannot speak tofurther on the current substantive motion, or any amendment relating to it, except to exercise the right of reply if the personhe or she is the mover of the substantive motion.~~

~~11.10~~

~~12.6 Ruling of the Person-Presiding Disagreed With – Effect of MotionMember to be disagreed with~~

~~TheIf the motion “that the ruling of the person presiding Presiding Member be disagreed with”, ifis carried, causes thethat ruling of the person presiding about which this motion was moved, tois to have no effect and for the meeting is to proceed accordingly.~~

Part 12 - Disclosure of interests

~~12.12.7 Council (or Committee) to Meet Behind Closed Doors – Effect of Motion~~

- ~~(1) Subject to any deferral under clause 3.7 or other decision of the Council or committee, this motion, if carried, causes the general public and any officer or employee the Council or committee determines, to leave the room.~~
- ~~(2) While a decision made under this clause is in force the operation of clause 9.5 limiting the number of speeches a member of the Council may make, is suspended unless the Council decides otherwise.~~
- ~~(3) Upon the public again being admitted to the meeting the person presiding, unless the Council or committee decides otherwise, is to cause the motions passed by the Council or committee whilst it was proceeding behind closed doors to be read out including the vote of a member or members to be recorded in the minutes under section 5.21 of the Act.~~
- ~~(4) A person who is a Council member, a committee member, or an employee is not to publish, or make public any of the discussion taking place on a matter discussed behind closed doors, but this prohibition does not extend to the actual decision made as a result of such discussion and other information properly recorded in the minutes.~~
- Penalty \$5,000

1 Disclosure of interests

Disclosure of interests is dealt with in the Act.

Part 13 - Making Decisions Voting

13.1 Question - ~~When Put~~when put

- ~~When (1) Immediately after the debate upon any question is concluded and the right of reply has been exercised, the person presiding shall immediately~~ Presiding Member -
 (a) ~~is to~~ put the question to the Council or the committee; and
 (b) ~~if so desired~~ requested by any member of the Council or committee, shall 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 Question - ~~Method of Putting~~Voting

~~If a decision~~ 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 is unclear, specifically requests that there be recorded
 =
 (a) his or in doubt 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 shall put the motion or amendment as often as necessary to determine the decision from a show of hands or other method agreed upon so that no voter's vote is secret, before declaring the decision 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 Chair; and~~
- ~~(b) those voting in the negative are to pass to the left of the Chair.~~

~~(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 ~~Implementing Decisions~~ Minutes of meetings

14.1 ~~Implementation of a Decision~~

- ~~(1) If a notice of motion to revoke or change a decision of the Council or a committee is received before any action has been taken to implement that decision, then no steps are to be taken to implement or give effect to that decision until such time as the motion of revocation or change has been dealt with, except that:~~
 - ~~(a) if a notice of motion to revoke or change a decision of the Council or a committee is given during the same meeting at which the decision was made, the notice of motion is of no effect unless the number of members required to support the motion under Regulation 10 of the Regulations indicate their support for the notice of motion at that meeting; and~~
 - ~~(b) if a notice is received after the closure of the meeting at which the decision was made, implementation of the decision is not to be withheld unless the notice of motion has the support in writing, of the number of members required to support the motion under Regulation 10 of the Regulations.~~
- ~~(2) Implementation of a decision is only to be withheld under sub clause (1) if the effect of the change proposed in a notice of motion would be that the decision would be revoked or would become substantially different.~~
- ~~(3) The Council or a committee shall not vote on a motion to revoke or change a decision of the Council or committee whether the motion of revocation or change is moved with or without notice, if at the time the motion is moved or notice is given:~~
 - ~~(a) action has been taken to implement the decision; or~~
 - ~~(b) where the decision concerns the issue of an approval. 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, and where that approval or authorisation of a licence, permit or certificate has been put into effect by the Council in writing to the applicant or the applicant's agent by an employee of the Council authorised to do so, without having considered a statement of impact prepared by or at the direction of the CEO of the legal and financial consequences of the proposed revocation or change.~~

~~Part 15 Preserving Order~~

~~15.1 The Person Presiding to Preserve Order~~

~~The person presiding is to preserve order, and may call any member or other person in attendance to order, whenever, in his or her opinion, there is cause for so doing.~~ 8.6

~~15.2 Demand for Withdrawal~~

~~A member at a meeting of the Council or a committee may be required by the person presiding, or by a decision of the Council or committee, to apologise and unreservedly withdraw any expression which is considered to reflect offensively on another member or an employee, and if the member declines or neglects to do so, the person presiding may refuse to hear the member further upon the matter then under discussion and call upon the next speaker. withheld or cancelled, the reasons for the decision.~~ 8.4

~~15~~

~~14.3 PointsPublic inspection of Order—When to Raise—Procedureunconfirmed 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.~~

~~Upon a matter of order arising during the progress of a debate, any member may raise a point of order including interrupting the speaker. Any member who is speaking when a point of order is raised, is to immediately stop speaking while the person presiding listens to the point of order.~~

Part
9.8

~~15.4 Points of Order—When Valid~~

~~The following are to be recognised as valid points of order:~~

- ~~(a) that the discussion is of a matter not before the Council or committee;~~
- ~~(b) that offensive or insulting language is being used;~~
- ~~(c) drawing attention to the violation of any written law, or policy of the Local Government, provided that the member making the point of order states the written law or policy believed to be breached.~~

15 - Adjournment of meeting

~~15.5 Points Of Order—Ruling~~

~~The person presiding is to give a decision on any point of order which is raised by either upholding or rejecting the point of order.~~

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~~15.6 Points of Order – Ruling Conclusive, Unless Dissent Motion is Moved~~

~~The ruling of the person presiding upon any question of order is final, unless a majority of the members support a motion of dissent with the ruling.~~

~~15.7 Points of Order Take Precedence~~

~~Notwithstanding anything contained in these Standing Orders to the contrary, all points of order take precedence over any other discussion and until decided, suspend the consideration and decision of every other matter.~~

~~15.8 Precedence of Person Presiding~~

~~(1) When the person presiding rises during the progress of a debate, any member of the Council or committee then speaking, or offering to speak, is to immediately cease debate and every member of the Council or committee present shall preserve strict silence so that the person presiding Meeting may be heard without interruption, adjourned~~

~~(2) Subclause (1) is not to be used by the person presiding to exercise the right provided in clause 9.3, but to preserve order.~~

~~15.9 Right of the Person Presiding to Adjourn Without Explanation to Regain Order~~

~~(1) If a meeting ceases to operate in an orderly manner, the person presiding may use discretion to adjourn the meeting for a period of up to fifteen minutes without explanation, for the purpose of regaining order. Upon resumption, debate is to continue at the point at which the meeting was adjourned. If, at any one meeting, the person presiding has cause to further adjourn the meeting, such adjournment may be to a later time on the same day or to any other day.~~ 3-1(4) 16.5

~~(2) Where debate of a motion is interrupted by an adjournment under sub clause (1), in the case of a Council meeting –~~

~~(a) the names of members who have spoken in the matter prior to the adjournment are to be recorded; and~~

~~(b) the provisions of clause 9.5 apply when the debate is resumed.~~

~~Part 16 Adjournment of Meeting~~

~~16.1 Morning Tea, Lunch, Afternoon Tea and Dinner Adjournments~~

~~The Presiding Member may decide to adjourn a meeting for morning tea, lunch, afternoon tea and dinner without the requirement of a motion.~~

~~16.2 Other Adjournments~~

~~The Council or a committee may decide to adjourn any meeting to a later The Council may adjourn any meeting;~~ 3-1(4) 12.3

~~(a) to a later time on the same day; or~~

~~(b) to any other time on the same day, or to any other day.~~

~~16.3 Limit to Moving Adjournment~~

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No member is to move or second more than one motion of adjournment during the same sitting of the Council or committee, including:	12.2
16.4 Unopposed Business – Motion for Adjournment	
On a motion for the adjournment of the Council or committee, the person presiding, before putting the motion, may seek leave of the Council or committee to proceed to the transaction of unopposed business.	12.2
16.5 Withdrawal of Motion for Adjournment	
A motion or an amendment relating to the adjournment of the Council or a committee may be withdrawn by the mover, with the consent of the seconder, except that if any member objects to the withdrawal, debate of the motion is to continue.	12.2
16.6 Time To Which Adjourned	
The time to which a meeting is adjourned for want of a quorum, by the person presiding to regain order, or by decision of the Council, may be to a specified hour on a particular day or to a time which coincides with the conclusion of another meeting or event on a particular day.	2.1(4) 6.2, 12.3, 15.9, 16.4
15.2 Effect of adjournment	
Where any matter, motion, debate or meeting is adjourned under these Local Laws:	
Part 17 Committees of the Council	
17.1 Establishment and Appointment of Committees	
A committee is not to be established except on a motion setting out the proposed functions of the committee and either:	8.5.8 8.5.9 8.5.10
(a) the names of <u>Members who have spoken on the</u> Council members, employees and other persons to be appointed; <u>matter prior to the committee; or</u> (b) the number of Council members, employees and other persons to be appointed to the committee and a provision that they be appointed by a separate motion.	
17.2 Reports of Committees – Questions	
When a recommendation of any committee is submitted for adoption by the Council, any member of the Council may direct questions directly relating to the recommendation through the person presiding to the Presiding Member or to any member of the committee in attendance.	
adjournment are to be recorded	
17.3 Permissible Motions on Recommendation From Committee	
A recommendation made by or contained in the minutes of a committee may be adopted by the Council without amendment or modification, failing which, it may be:	
(a) rejected by the Council and replaced by an alternative decision; or (b) amended or modified and adopted with such amendment or modification; or	

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(c) —referred back to the committee for further consideration.

17.4 Standing Orders Apply to Committees

~~Where not otherwise specifically provided, these Standing Orders apply generally to the proceedings of committees.~~ (b) debate is to be resumed at the next meeting at the point where it was interrupted; and

(c) the provisions of clause 8.9 [speaking twice] apply when the debate is resumed.

Part 16 – Revoking or changing decisions

16

Part 18 Administrative Matters

18.1 Suspension 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 Standing Orders.~~ 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.

16.43 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 ~~decide, by simple majority vote, to suspend temporarily~~ **Suspension of Local Laws**

- (1) A Member may at any time move that the operation of one or more of the Standing Orders provisions of these Local Laws be suspended.
- (2) The mover of A Member moving a motion to suspend temporarily any one or more of the Standing Orders 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 be suspended, and the purpose of the suspension which the motion relates for the duration of the meeting, unless the meeting earlier resolves otherwise.

~~17.2~~ **17.2 Where Local Laws do not apply**

- (1) In situations where:
 - (a) one or more provisions of these Local Laws have been suspended;
 - or
 - (b) a matter is not regulated by the Act, the Regulations or these Standing Orders,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 provided for in Standing Orders Local Laws

The person presiding Presiding Member is to decide questions of order, procedure, debate, or otherwise in cases where these Standing Orders and Local Laws, the Act and/or the Regulations are silent. -The decision of the person presiding Presiding Member in these cases is final, except where a motion is moved and carried under clause 11.4 (4) 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 Council's Common Seal 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 ~~CEO~~ is to have charge of the common seal ~~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 these Local Laws.

18.8 Participation of non-electors

A person who is not an elector of the Local Government, and is responsible for the safe custody and proper use of it shall not take part in any discussion at an electors' meeting unless the meeting, by resolution, permits the person do so.

(2) The common seal of the Local Government may only be used on the authority of the Council given either generally or specifically and every document to which the seal is affixed must be signed by the President and the CEO or a senior employee authorised by him or her.

(3) The common seal of the local government is to be affixed to any local law which is made by the local government.

(4) Any person who uses the common seal of the Local Government or a replica thereof without authority.

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 these Local Laws commits an offence.

Penalty ~~\$1,000;~~ \$5,000.00 and a daily penalty of \$500.00.

19.2 Who can prosecute

Who can prosecute is dealt with in the Act.

Dated: [INSERT DATE]

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

<u>[INSERT NAME OF MAYOR/PRESIDENT]</u>	<u>[INSERT NAME OF CEO]</u>
Mayor/President	Chief Executive Officer

SHIRE OF CHAPMAN VALLEY

**Activities in Thoroughfares and Public Places and Trading
Local Law**

Local Government Act 1995

LOCAL GOVERNMENT ACT 1995

SHIRE OF CHAPMAN VALLEY

ACTIVITIES IN THOROUGHFARES AND PUBLIC PLACES AND TRADING LOCAL LAW

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SCHEDULE 1

PRESCRIBED OFFENCES

Local Government Act 1995

Shire of Chapman Valley

**ACTIVITIES ~~ON THOROUGHFARES AND TRADING~~ IN THOROUGHFARES AND
PUBLIC PLACES AND TRADING LOCAL LAW**

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 ~~on Thoroughfares and Trading~~ in Thoroughfares and Public Places and Trading Local Law*.

1.2 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;

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

"**built-up area**" has the meaning given to it in the *Road Traffic Code 1975/2000*;

"**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**" ~~means the paved or made portion of a thoroughfare used or intended for use by vehicles~~ 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" ~~means~~ ^{has} the ~~paved or made portion of a thoroughfare used or intended for use by pedestrians and cyclists~~ ^{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 one or more plants;

"intersection" has the meaning given to it in the Road Traffic Code ~~1975~~ 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 ~~Licensing~~ ^{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;

"lot" has the meaning given to it in the ~~Town Planning and Development Act 1928~~ ²⁰⁰⁵;

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

"permissible verge treatment" means any one 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*;

"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;

"town planning scheme" means a town planning scheme of the local government made under the *Town Planning and Development Act 1928/2005*;

"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 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.

1.3 Application

This local law applies throughout the district.

1.4 Repeal

The *Activities On Thoroughfares And Trading In Thoroughfares And Public Places Local Law* published in the *Government Gazette* on 8 August 2000 is repealed.

- (1) 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.
- (2) 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 ~~ON~~IN THOROUGHFARES AND PUBLIC PLACES

Division 1 - General

2.1 General prohibitions

A person shall not -

- (a) plant any plant which exceeds or which may exceed 0.75m in height on a thoroughfare so that the plant is within 6m 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;
- (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; ~~or~~
- (g) within a mall, arcade or verandah of a shopping centre, ride any bicycle, skateboard, rollerblades or similar device.

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 5.4.13;
- (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 Licensing 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 builder~~The person named on the building ~~licence~~permit issued under the ~~Local Government (Miscellaneous Provisions) Building Act 1960~~2011, if one has been issued in relation to the works; or
 - (b) the registered proprietor of the lot, if no building ~~licence~~permit has been issued under the ~~Local Government (Miscellaneous Provisions) Building Act 1960~~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 Interpretation

In this Division, unless the context otherwise requires -

"**acceptable material**" means any material which will create a hard surface, and which appears on a list of acceptable materials maintained by the local government.

2.7 Application

This Division only applies to the townsite.

Subdivision 2 - Permissible verge treatments

2.8 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; ~~and 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 one third 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).

2.9 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.

2.10 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.

2.11 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

2.12 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

2.13 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

2.14 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

2.15 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

2.16 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

2.17 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.

2.18 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

2.19 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; and

"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 ~~and compliance with the Shire of Chapman Valley's sign policy.~~
- (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.
- ~~(f) Conditions stipulated under Council's Town Planning Scheme or any policies enacted or relevant to the Scheme.~~

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 one portable sign shall be erected in relation to the one 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, VEHICLES~~
PART 4 – OBSTRUCTING ANIMALS, VEHICLES OR SHOPPING TROLLEYS

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 authorized 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.

Division 2 - Shopping trolleys

4.3 Interpretation

In this Division –

"retailer" means a proprietor of a shop in respect of which shopping trolleys are provided for the use of customers of the shop; and

"shopping trolley" means a wheeled container or receptacle supplied by a retailer to enable a person to transport goods.

4.4 Shopping trolley to be marked

A retailer shall clearly mark its name or its trading name on any shopping trolley made available for the use of customers.

4.5 Person not to leave trolley in public place

A person shall not leave a shopping trolley in a public place other than in an area set aside for the storage of shopping trolleys.

4.6 Retailer to remove abandoned trolley

(1) If a shopping trolley is found in a public place, other than in an area set aside for the storage of shopping trolleys, the local government may advise (verbally or in writing) a retailer whose name is marked on the trolley of the location of the shopping trolley.

(2) A retailer shall remove a shopping trolley within 24 hours of being so advised under subclause (1), unless the retailer -

(a) requests the local government to collect and deliver the shopping trolley to the retailer; and

(b) pays any fee for that collection and delivery (imposed and determined under and in accordance with sections 6.16 to 6.19 of the Act) within the period specified by the local government.

4.7 Retailer taken to own trolley

In the absence of any proof to the contrary, a shopping trolley is to be taken to belong to a retailer whose name is marked on the trolley.

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 established under the Land Resource Policy Council within the Office of Premier and Cabinet; and

"special environmental area" means an area designated as such under clause 5.7.

5.2 Application

This Part does not apply to the townsite.

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 'Code of Practice for Roadside Conservation and Road Maintenance' prepared by the Roadside Conservation Committee.

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

5.9.2 Permit to plant

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

5.8.10 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 5 - Clearance of vegetation

5.9.11 Permit to clear

A person shall not clear and maintain in a cleared state, the surface of a thoroughfare within 1m of that person's land without first obtaining a permit and any other approvals which may be required under any written law ~~(i.e. an adjacent landowner may clear up to a maximum of one (1) meter from their boundary without a permit).~~

~~(a) 5.10 Application for permit~~

5.12 Application for permit

In addition to the requirements of clause 7.1(2), a person making an application for a permit for the purpose of clause 5.9.11 shall submit a sketch plan clearly showing the boundary of the person's land and the portions of the thoroughfare joining that person's land which are to be cleared.

~~The responsibility rests with the permit holder to identify all services, rare flora/fauna, etc, on the thoroughfare and the permit holder is to indemnify Council against any loss or damages to such services, rare flora/fauna, etc.~~

Division 6 - Fire management

5.11.13 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.

5.14 Application for permit

~~5.13 Application for permit~~

In addition to the requirements of clause 7.1(2), an application for a permit for the purposes of clause 5.11.13 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.

~~(c) the responsibility rests with the permit holder to identify all services, rare flora/fauna, etc, on the thoroughfare and the permit holder is to indemnify Council against any loss or damages to such services, rare flora/fauna, etc.~~

5.415 When application for permit can be approved

The local government may approve an application for a permit for the purpose of clause 5.413 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.

5.416 Prohibitions on burning

Notwithstanding anything to the contrary in this local law, an application for a permit for the purpose of clause 5.413 is not to be approved by the local government -

- (a) for burning between ~~1931~~ August and ~~20 March~~ May of the following year where the intensity of the burn could damage native flora and fauna; or
- (b) in any year to any person for any part of a thoroughfare which is on the opposite side of the carriageway to that portion of the thoroughfare for which a permit to burn has been approved in the same year.

Division 7 - Firebreaks

5.417 Permit for firebreaks on thoroughfares

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

5.418 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 5.417 where the thoroughfare is 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

5.419 General prohibition on commercial wildflower harvesting

Subject to clause 5.420, a person shall not commercially harvest native flora on a thoroughfare.

5.4820 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
 - (v)
- (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; or
 - (ii) carrying out any other transaction in relation to 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
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;
- ~~(d)(e)~~ the setting up of a stall or the conducting of a business at a stall under the authority of a stallholder's permit;
- ~~(e)(f)~~ 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;
- ~~(f)(g)~~ 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
- ~~(g)(h)~~ 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.

~~(b)~~
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.

(3) 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.

(4) The conditions subject to which the local government may approve an application for a trader's permit include that the permit holder is permitted to remain at a particular location for as long as there is a customer making a purchase, but if there is no customer making a purchase the permit holder must move on from that location within a reasonable time of the last purchase having been made.

6.4 No permit required to sell newspaper

Notwithstanding any other provision of this local law, a person who sells, or offers for sale, a newspaper only is not required to obtain a permit.

6.5 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 one 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;

~~(d) such other grounds as the local government may consider to be relevant in the circumstances of the case.~~

6.6 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.

6.7 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

6.8 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 ~~Weights and Measures~~ Trade Measurement Act 1915 2006.

(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.

Division 2 - Street entertainers

Subdivision 1 - Preliminary

6.9 Interpretation

In this Division, unless the context otherwise requires –

"perform" includes to play a musical instrument, sing, mime, dance, give an acrobatic or aerobic display or entertain, but does not include public speaking;

"permit" means a permit issued for the purpose of clause 6.10;

"permitted area" means the area or areas, specified in a permit, in which the permit holder may perform; and

"permitted time" means the time or times, specified in a permit, during which the permit holder may perform.

Subdivision 2 - Permits

6.10 Permit required to perform

A person shall not perform in a public place without a permit.

6.11 Variation of permitted area and permitted time

(1) The local government may by notice in writing to a permit holder vary –

(a) the permitted area;

(b) the permitted time; or

(c) both the permitted area and the permitted time.

shown on a permit.

(2) The local government may direct a permit holder to move from one permitted area to another permitted area, if more than one area is specified in a permit.

6.12 Duration of permit

A permit is valid for a period of 3 months after the date on which it is issued unless it is sooner cancelled under this local law.

6.13 Cancellation of permit

The CEO may cancel a permit if in her or his opinion the volume of sound caused by the permit holder in connection with the performance adversely affects the enjoyment, convenience or comfort of other persons in a public place, or if, in her or his opinion, or in the opinion of an authorized person, the performance otherwise constitutes a nuisance.

6.14 Obligations of permit holder

A permit holder shall not in a public place –

(a) perform wearing dirty, torn or ragged clothing;

(b) act in an offensive manner; or

(c) place, install, erect, play or use any musical instrument or any device which emits music, including a loud speaker or an amplifier -

(i) other than in the permitted area; and

(ii) unless the musical instrument or device is specified in the permit.

Division 3 - Outdoor eating facilities on public places

6.15 Interpretation

In this Division -

"Facility" means an outdoor eating facility or establishment on any part of a public place, but does not include such a facility or establishment on private land;

"permit holder" means the person to whom a permit has been issued for the purpose of clause 6.16; and

"public place" has the meaning given to it in clause 6.1.

6.16 Permit required to conduct Facility

A person shall not establish or conduct a Facility without a permit.

6.17 Matters to be considered in determining application

In determining an application for a permit for the purpose of clause 6.16, the local government may consider in addition to any other matter it considers relevant, whether or not-

(a) the Facility is conducted in conjunction with and as an extension of a food business which abut on the Facility, and whether the applicant is the person conducting such food business;

(b) any abutting food business is registered in accordance with the *Food Act 2008* and whether the use of the business is permitted under the town planning scheme;

(c) users of the Facility will have access to proper and sufficient sanitary and ablutionary conveniences;

(d) the Facility would -

(i) obstruct the visibility or clear sight lines at an intersection of thoroughfares of any person; or

(ii) impede pedestrian access; and

(e) the tables, chairs and other equipment to be used may obstruct or impede the use of the public place for the purpose for which it was designed.

6.18 Obligations of permit holder

(1) The permit holder for a Facility shall -

(a) ensure that the Facility is conducted at all times in accordance with the provisions of this local law;

- (b) ensure that the eating area is kept in a clean and tidy condition at all times;
 - (c) maintain the chairs, tables and other structures in the eating area in a good, clean and serviceable condition at all times; and
 - (d) be solely responsible for all and any costs associated with the removal, alteration, repair, reinstatement or reconstruction of any part of the public place arising from the conduct of the Facility.
- (2) Whenever, in the opinion of the local government, any work is required to be carried out to a Facility, the local government may give a notice to the permit holder for the Facility to carry out that work within the time limited by the notice.
 - (3) In subclause (2), "work" includes the removal, alteration, repair, reinstatement or reconstruction of any part of a public place arising from or in connection with the setting up or conduct of a Facility.
- 6.19 Removal of Facility unlawfully conducted**
Where a Facility is conducted without a permit, or in contravention of a condition of a permit, any tables, chairs, umbrellas or other equipment may be removed by an authorized person and impounded in accordance with the Act.
- 6.20 Use of Facility by public**
- (1) A person shall not occupy a chair or otherwise use the equipment in a Facility the subject of a permit unless the person uses them for the purpose of consuming food or drinks provided by the Facility.
 - (2) A person shall leave a Facility when requested to do so by the permit holder.
- 6.21 Temporary removal of Facility may be requested**
- (1) The permit holder for a Facility is to temporarily remove the Facility when requested to do so on reasonable grounds by an authorized person or a member of the Police Service or an emergency service.
 - (2) The permit holder may replace the Facility removed under subclause (1) as soon as the person who directed her or him to remove it allows it to be replaced.

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;
 - (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 one 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 *mutatis mutandis*.

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 authorized person her or his permit immediately upon being required to do so by that authorized person.

7.10 Cancellation of permit

- (1) Subject to clause 8.1, a permit may be cancelled by the local government ~~on any one or more of the following grounds if~~ the permit holder has not complied with a -

- (i) condition of the permit; or
- (ii) provision of any written law which may relate to the activity regulated by the permit; ~~or,~~

~~(a) if it is relevant to the activity regulated by the permit –~~

- ~~(i) the permit holder has become bankrupt, or gone into liquidation;~~
- ~~(ii) the permit holder has entered into any composition or arrangement with creditors;~~
- ~~or~~
- ~~(iii) a manager, an administrator, a trustee, a receiver, or a receiver and manager is appointed in relation to any part of the permit holder's undertakings or property.~~

~~(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 Division 1 of Part 9 of the Act and regulations 33 and 34 of the Regulations 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.
- (3) For the purpose of guidance only, before giving an infringement notice to a person in respect of the commission of a prescribed offence, an authorized person should be satisfied that –
 - (a) commission of the prescribed offence is a relatively minor matter; and

- (b) only straightforward issues of law and fact are involved in determining whether the prescribed offence was committed, and the facts in issue are readily ascertainable.

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	DESCRIPTION	MODIFIED PENALTY \$
2.1(a)	Plant of 0.75m in height on thoroughfare within 5m of intersection	400125
2.1(b)	Damaging lawn or garden	400125
2.1(c)	Plant (except grass) on thoroughfare within 2m of carriageway	400125
2.1(d)	Placing hazardous substance on footpath	400125
2.1(e)	Damaging or interfering with signpost or structure on thoroughfare	300350
2.1(f)	Playing games so as to impede vehicles or persons on thoroughfare	400125
2.1(g)	Riding of skateboard or similar device on mall or verandah of shopping centre	400125
2.2(1)(a)	Digging a trench through a kerb or footpath without a permit	400125
2.2(1)(b)	Throwing or placing anything on a verge without a permit	400125
2.2(1)(c)	Causing obstruction to vehicle or person on thoroughfare without a permit	400125
2.2(1)(d)	Causing obstruction to water channel on thoroughfare without a permit	200250
2.2(1)(e)	Placing or draining offensive fluid on thoroughfare without a permit	200250
2.2(1)(g)	Lighting a fire on a thoroughfare without a permit	300350
2.2(1)(h)	Felling tree onto thoroughfare without a permit	400125
2.2(1)(i)	Installing pipes or stone on thoroughfare without a permit	400125
2.2(1)(j)	Installing a hoist or other thing on a structure or land for use over a thoroughfare without a permit	300350
2.2(1)(k)	Creating a nuisance on a thoroughfare without a permit	400125
2.2(1)(l)	Placing a bulk rubbish container on a thoroughfare without a permit	400125

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2.2(1)(m)	Interfering with anything on a thoroughfare without a permit	100 125
2.3(1)	Consumption or possession of liquor on thoroughfare	100 125
2.4(1)	Failure to obtain permit for temporary crossing	200 250
2.5(2)	Failure to comply with notice to remove crossing and reinstate kerb	200 350
2.9(1)	Installation of verge treatment other than permissible verge treatment	200 250
2.10	Failure to maintain permissible verge treatment or placement of obstruction on verge	100 125
2.11	Failure to comply with notice to rectify default	100 125
2.17(2)	Failure to comply with sign on public place	100 125
2.19(1)	Driving or taking a vehicle on a closed thoroughfare	200 350
3.2(1)	Placing advertising sign or affixing any advertisement on a thoroughfare without a permit	100 125
3.2(3)	Erecting or placing of advertising sign in a prohibited area	100 125
4.1(1)	Animal or vehicle obstructing a public place or local government property	100 125
4.2(2)(a)	Animal on thoroughfare when not led, ridden or driven	100 125
4.2(2)(b)	Animal on public place with infectious disease	100 125
4.2(2)(c)	Training or racing animal on thoroughfare in built-up area	100 125
4.2(3)	Horse led, ridden or driven on thoroughfare in built-up area	100 125
4.5	Person leaving shopping trolley in public place other than trolley bay	100 125
4.6(2)	Failure to remove shopping trolley upon being advised of location	100 125
5.6(1)	Driving a vehicle on other than the carriageway of a flora road	200 250
5.9	Planting in thoroughfare without a permit	200 250
5.11	Failure to obtain permit to clear a thoroughfare	500 600
5.13	Burning of thoroughfare without a permit	500 600
5.17	Construction of firebreak on thoroughfare without a permit	500 600
5.19	Commercial harvesting of native flora on thoroughfare	500 600
5.20(1)	Collecting seed from native flora on thoroughfare without a permit	200 350
6.2(1)	Conducting of stall in public place without a permit	200 350
6.3(1)	Trading without a permit	200 350
6.8(1)(a)	Failure of stallholder or trader to display or carry permit	100 125
6.8(1)(b)	Stallholder or trader not displaying valid permit	100 125
6.8(1)(c)	Stallholder or trader not carrying certified scales when selling goods by weight	100 125
6.8(2)	Stallholder or trader engaged in prohibited conduct	100 125
6.10	Performing in a public place without a permit	100 125
6.11(2)	Failure of performer to move onto another area when directed	100 125

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SHIRE OF CHAPMAN VALLEY

DOGS LOCAL LAW [YEAR]

DOG ACT 1976

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~~Shire of Chapman Valley – Dog Local Law~~

DOG ACT 1976

~~(1) SHIRE OF CHAPMAN VALLEY~~

LOCAL GOVERNMENT ACT 1995

SHIRE OF CHAPMAN VALLEY

DOGS LOCAL LAW

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 ~~18th July 2000~~ *[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* ~~–~~ *[insert year]*.

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

~~Not applicable~~

~~The *Dogs Local Law* published in the *Government Gazette* on 8 August 2000 is repealed.~~

~~1.3~~ **Definitions** ~~5~~ **Interpretation**

In this local law unless the context otherwise requires -

~~—~~ **“Act”** means the *Dog Act 1976*;

~~—~~ **“authorized ~~authorised~~ person”** means a person ~~authorized~~ *appointed* by the local government to perform all or any of the functions conferred on an ~~authorized~~ *authorised* person under this local law;

~~—~~ **“CEO”** means the Chief Executive Officer of the local government;

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~~“dangerous dog means a dog which is the subject of a declaration under section 33E of the Act declaring it to be a dangerous dog;~~

~~“district means the district of the~~ local government” means the *Shire of Chapman Valley*;

~~“local government means the~~ *Shire of Chapman Valley*;

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

~~“Regulations”~~ means the *Dog Regulations 1976/2013*;

~~“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 *Town Planning and Development Act 1928/2005* which applies throughout the whole or a part of the district.

1.4 – Application

~~This local law applies throughout the district.~~

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

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- (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 ~~of her or his ownership of the dog or of her or his authority to take delivery of it.~~

~~2.4 – No breaking into or destruction of pound~~

~~A person who –~~

- (a) ~~unless 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 pound keeper or person identified as the owner on a person authorized to do so, releases or attempts to release a dog from a pound;**
~~or microchip implanted in the dog;~~
- ~~(b) destroys, breaks into, damages or in any way interferes with or renders not dog-proof –~~
 - ~~(i) any pound; or~~
 - ~~(ii) any vehicle or container used for the purpose of catching, holding or conveying a seized dog;~~
- ~~commits an offence.~~
- Penalty:** Where the dog is a dangerous dog, \$2,000; otherwise \$1,000.

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~~

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(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.

Penalty: Where the dog is a dangerous dog, \$4,000; otherwise \$2,000.

-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 townships 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 40ha².~~

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 4.14.

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 4.10(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 Compliance with conditions of approval

A licensee who does not comply with the conditions of a licence commits an offence.

Penalty: Where a dog involved in the contravention is a dangerous dog, \$4,000 and a daily penalty of \$400; otherwise \$2,000 and a daily penalty of \$200; otherwise \$1,000 and a daily penalty of \$100.

4.10 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 under sections 6.16 ~~to~~ 6.19 of the *Local Government Act 1995*.

4.11 Form of licence

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

4.12 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 4.10(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.

4.13 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.

4.14 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;
 - (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 4.10(3).

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- (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 4.15(b), the transferee becomes the licensee of the licence for the purposes of this local law.

4.15 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 4.13(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 4.13(2)(a); and
- (g) a licensee of the cancellation of a licence under paragraphs (b) or (c) of clause 4.13(2), which notice is to be given in accordance with section 27(6) of the Act.

4.16 Inspection of kennel

With the consent of the occupier, an ~~authorized~~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: ~~\$200-1000~~

- (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.

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~~PART 6~~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 ~~authorized~~authorised person has reason to believe that a person has committed an offence in respect of which a modified penalty may be imposed, he or she may issue to that person a notice in the form of Form 78 of the First Schedule of the Regulations.

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.

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~~6.6- Withdrawal of infringement notice~~

- ~~(1)~~ Whether or not the modified penalty has been paid, an ~~authorized~~authorised person may withdraw an infringement notice by sending a notice in the form of Form ~~82~~ of the First Schedule of the Regulations.
- ~~(2)~~ A person ~~authorized~~authorised to issue an infringement notice under clause ~~76~~.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~~

~~Shire of Chapman Valley Dog Local Law~~

Schedule 1 -

~~(clause 4.2)~~

~~Local laws relating to dogs~~

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 ~~SCHEDULE 2~~ 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.

OFFICE USE ONLY

Application fee paid on [insert date].

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

(clause 4.8(1))

Conditions of a licence for an approved kennel establishment

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;

Dogs Local Law Recommendation of Review Changes – Lind Consulting

- (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 ~~authorized~~ 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.

Shire of Chapman Valley – Dog Local Law

SCHEDULE ~~Schedule~~ 3 -

~~(clause 7.2)~~

Offences in respect of which modified penalty applies

~~(clause 6.2)~~

Offence	Nature of offence	Modified penalty \$	Dangerous Dog Modified Penalty \$
2.4(a)3.1	Attempting Failing to or causing the unauthorized release of provide means for effectively confining a dog from a pound	200 50	400 200
2.4(b)&(c)	Interfering with any pound or vehicle used for the purpose of catching, holding or conveying dogs	200	
4.9	Failing to comply with the conditions of a licence	100 200	200
5.1(2)	Dog excreting in prohibited place	40 100	

Dated this day of 1999

Dated 20

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

MAYOR/PRESIDENT

CHIEF EXECUTIVE OFFICER

Dogs Local Law Recommendation of Review Changes – Lind Consulting

AGENDA ITEM:	9.3.2
SUBJECT:	MANAGEMENT LICENCE – YUNA MULTIPURPOSE COMMUNITY CENTRE
PROPONENT:	CREATING A BETTER YUNA (CABY)
SITE:	LOT 10404 CHAPMAN VALLEY RD, YUNA
FILE REFERENCE:	801.00
PREVIOUS REFERENCE:	MINUTE REFERENCE: 08/15-9 & 09/15-23
DATE:	14th OCTOBER 2015
AUTHOR:	MAURICE BATTILANA, CHIEF EXECUTIVE OFFICER

DISCLOSURE OF INTEREST

Nil

BACKGROUND

The new Yuna Multipurpose Community Centre (YMCC) has been completed and was officially opened on the 11th September 2015.

At the August 2015 OCM the following was resolved:

MOVED: CR HUMPHREY

SECONDED: CR FARRELL

1. Council adopt and advertise the following fees and charges for one-off the hire of the Yuna Multipurpose Community Centre:

Whole Facility	\$ 105.00	per use	Ex GST
Main Meeting Room only	\$ 75.00	per use	Ex GST
Crèche/Small Room only	\$ 25.00	per use	Ex GST
Kitchen only	\$ 35.00	per use	Ex GST
Yuna Primary School	No Charge	Exemption - Policy	

2. The following bodies be exempt from one-off hire fees as listed in item 1 above as this will be reviewed as part of the Yuna Multipurpose Community Centre Management Licence:

- CABY
- Yuna CWA
- YFIG
- Chapman Valley Playgroup
- Yuna Tennis Club
- Yuna Bushfire Brigade

3. Council reserves the right to review these fees and charges at the time the Management Licences for the Yuna Multipurpose Community Centre is being considered.

Voting 8/0

CARRIED

Minute Reference: 08/15-9

This matter was presented to the September 2015 OCM with the following being resolved:

MOVED: CR FORRESTER

SECONDED: CR FARRELL

That this item lay on the table till October for further investigation

Voting 8/0

CARRIED

Minute Reference: 09/15-23

COMMENT

I have been in further discussions with members of CABY since the September 2015 OCM to develop the revised attached **Draft** Management Licence for presentation and further consideration by Council. This is not to be considered a finalised document and is subject to continued negotiation and amendment until all parties are comfortable with the Licence content before final endorsement and signing.

The Draft includes amendment, which I believe addresses the issues raised by Council and is based upon the standard template developed in consultation with Council's legal advisors, which has been used for both the Chapman Agricultural Society and the Men's Shed. This template will continue to be used for future Licence arrangements for Clubs, Associations, Groups and Incorporated Bodies/Organisations who use Council owned/controlled facilities.

Each Management Licence will have specific intricacies within the documents to reflect the unique circumstances of each use and organisation, yet the basic structure of the Licences will remain in the same format.

STATUTORY ENVIRONMENT

The Management Licence will be a legally binding document, which both parties will be required to adhere to.

The Management Licence will also cover the Shire's legal obligation under the Local Government Act for the disposition of property, which includes lease, licence and sale of property under the control/ownership of the local government authority.

POLICY/PROCEDURE IMPLICATIONS

Council has a number of Policies/Procedures, which deal with specific conditions associated with the use of properties under the control/ownership of the Shire. It is anticipated the development of Management Licences will incorporate some of these Policies/Procedures and remove these from existing Policies/Procedures. In this instance there are no specific Policies or Management Procedures affected.

FINANCIAL IMPLICATIONS

Council questioned the amount budgeted for in 2015/2016 for utilities costs at the YMCC. The operating costs budgeted for under Job No 1006 where our best estimates as the facility is new and there is no history to base these figure on are as follows:

Expenditure Code	Budget	Actual (as @ 23/9/15)	Comments
Employee Costs	\$0	\$51.68	Staff wages. No affect on overall budget costs.
Materials& Contracts	\$22,000	\$314.03	Includes \$20,000 Fit Out Costs. Since changed to cover Power Upgrades.
Utility Charges	\$11,800	\$256.36	\$9,700 Electricity & \$2,100 Water. Estimates only as no history available to base costs on.
Insurance	\$2,160	\$716.06	Part payment only.
Labour Overheads	\$0	\$36.18	Staff overheads. No affect on overall budget costs
Totals	\$35,960	\$1,374.31	

I do not see the recommended Draft Management Licence being a significant financial burden on Council.

The intention is all the affiliated organisations will not be charged the on-off hire fee and will be covered under the Management Licence annual fee, which is currently listed as \$1,500 under Item 5 of the Schedule. This amount can obviously be adjusted as Council see fit as part of establishing the Licence. There is also a mechanism within the draft to review this annual payment (see Clause 4.1(2) and Item 7 of the Schedule).

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

The LTFP will not be affected by the Draft Management Licence.

The Draft Management Licence is also explicit on how capital upgrades and/or replacements are to be dealt with i.e.

4.6 No alterations Capital Upgrades and/or Replacement

- (1) *The Shire is not obliged to make any alterations to the Licensed Area or Other Amenities or install any fixtures or fittings that are additional to those installed at the Commencement Date.*
- (2) *Any alteration, capital upgrades/replacements or installation effected by the Licensee will be at the sole cost of the Licensee (see Clause 5.3 for financial assistance). All alterations must fully comply with all building codes, planning and other relevant legislation (e.g. building permits, planning approvals, demolition licences).*
- (3) *The Licensee agrees that if it effects any alteration or installation in a manner that does not meet the Shire's standards, the Shire may, at the Licensee cost, take any action the Shire considers necessary to remove or rectify the alteration or installation, and the cost of doing so will be a liquidated debt payable by the Licensee on demand and recoverable in a Court of competent jurisdiction.*

STRATEGIC IMPLICATIONS

It is important Council has set Management Licences/Agreements established for the use of facilities controlled/owned by the Shire.

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

Objective	Strategy	Actions
We need good services to support our development as a Shire	Maintain existing services and facilities	Provide and maintain community buildings and facilities, including roads

CONSULTATION

The establishment of a Management Licence for the YMCC has been through a lengthy consultation period over a number of months with members of CABY, Council and Shire Staff.

In addition there has been prior consultation with Council's legal advisors (McLeod's Barristers & Solicitors) to develop a Management Licence Template to use as a basis for establishing Licences such as this with users of other Shire controlled/owned facilities.

RISK ASSESSMENT

Ineffective Management of facilities/Venues

Failure to effectively manage the day to day operations of facilities and / or venues - This includes:

- Inadequate procedures in place to manage the quality or availability.
- Ineffective signage
- Booking issues
- Financial interactions with hirers / users
- Oversight/provision of peripheral services (e.g. cleaning / maintenance)

VOTING REQUIREMENTS

Simple Majority

STAFF RECOMMENDATION

Council endorses the amended "*Management Licence for the use of the Yuna Multipurpose Community Centre*" at Lot 10404 Chapman Valley Road, Yuna as presented and authorise the Chief Executive Officer to finalise the Licence and implement the conditions to be effective immediately.

Draft September 2015

Management Licence for use
of Yuna Multipurpose
Community Centre

Lot 10404 Chapman Valley
Road, Yuna

Shire of Chapman Valley

and

Creating A Better Yuna Incorporated



McLEODS

Barristers & Solicitors

Stirling Law Chambers | 220-222 Stirling Highway | XXXXX WA 6010

Tel: (08) 9383 3133 | Fax: (08) 9383 4935

Email: mcleods@mcleods.com.au

Ref: TF:CHAP 33687.1

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Schedule

Signing page

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Details

Parties

Shire of Chapman Valley

of PO Box 1, Nabawa, Western Australia, 6535
(**Shire**)

Creating A Better Yuna Incorporated

of PO Box 1045 Geraldton WA 6531
(Registration Number A1008137M)
(**Licensee**)

Background

- A The Shire is the owner and management body of the Lot 10404 Chapman Valley Road, Yuna, known as the land (**Land**).
- B The Shire has agreed to grant to the Licensee a licence to use that part of the Land, described in **Item 1** of the schedule (**Licensed Area**), together with any additional rights that are specified in this Licence.
- C The Shire and the Licensee enter into this agreement to set out the terms and conditions of their agreement.

Agreed terms

1. Definitions

In this Licence, unless otherwise required by the context or subject matter:

Agreed Hours means the hours agreed in advance with the Shire from time to time and specified in **Item 8** of the Schedule;

Licensee means the Creating A Better Yuna Incorporated to which this licence is granted.
(See Annexure 2 for list of affiliated organisations forming part of this Agreement);

CEO means the Chief Executive Officer of the Shire;

Commencement Date means the date that the Licence commences;

CPI means the Consumer Price Index (All Groups) Perth number published from time to time by the Australian Bureau of Statistics;

Good Repair means good and substantial tenantable repair and in clean, good working order and condition;

Licence means this deed as supplemented, amended or varied from time to time;

Licensed Area means those parts of the Land that the Licensee is permitted to use in accordance with the terms of this Licence, as specified in **Item 1** of the Schedule;

Licence Fee means the fee stipulated in **Item 5** of the Schedule;

Other Amenities means any part of the Land or its surrounds that the Licensee is permitted to use in conjunction with the other users of the Land, as specified in **Item 14** of the Schedule;

Outgoings means

- (a) local government rubbish collection charges for the Land (only if applicable);
- (b) water, drainage and sewerage rates, charges for disposal of stormwater, meter rent and excess water charges (only if applicable);
- (c) telephone, electricity, gas and other power and light charges including but not limited to meter rents and the cost of installation of any meter, wiring or telephone connection;
- (d) premiums and other costs arising from the insurance obtained by the Lessor pursuant to **clause 5.1** (only if applicable). For the avoidance of doubt, the parties agree such insurance will include insurance for the full replacement value of the buildings constructed on the Land; and
- (e) any other consumption charge or cost, statutory impost or other obligation incurred or payable by the Shire in respect of the Land.

Land means, the Yuna Community Centre and Tennis courts on Lot 10404 Chapman Valley Road, Yuna;

Schedule means the schedule to this Licence;

Shire means the Shire of Chapman Valley and its employees and agents; and

Term means the period of time for which the Licence is granted.

2. Licence condition upon 'Shire of Chapman Valley' consent

This Licence is subject to and conditional on the approval of the Shire of Chapman Valley Council

3. Grant of Licence

3.1 Licence of Licensed Areas

The Shire grants a licence to the Licensee to use, under the terms and conditions provided for in this agreement, the Licensed Area for the Term.

The permitted use of the Licensed Areas will only be for the normal activities as indicated within the affiliated groups constitution or rules.

The Shire will determine if any activity is not within the normal activities of the affiliated groups.

Any activities that are considered outside an affiliated group's normal activity will be required to pay the fees and charges to the Licensor as set by the Shire.

All use by individual members of the affiliated groups requested use of the licensed areas for their own purpose will be required to pay the required fees and charges to the Licensor as set by the Shire.

3.2 Use of Other Amenities

The Licence includes the right to use the Other Amenities for the Agreed Hours (only if applicable).

3.3 Agreed Hours

~~(1)~~ The Licensee is to use the Licensed Area and the Other Amenities (if applicable) only on days and during the Agreed Hours.

~~(2)~~ All affiliated groups must book all activities and events within the Licensed area direct with the Shire booking system. Failure to do so may result in a double booked licensed area, with the first registered booking taking precedence of any others.

4. Licensee's Obligations

4.1 Licence Fee for Licensed Areas

(1) The Licensee must pay annually in advance the Licence Fee for the Licensed Area.

(2) Unless otherwise agreed by the Shire, the Licence Fee will be reviewed on the dates specified in **Item 7** of the Schedule by CPI. A rent review based on CPI may (at the Shire's discretion) increase the amount of Rent payable during the immediately preceding period by the percentage of any increase in CPI having regard to the quarterly CPI published immediately prior to the later of the Commencement Date or the last Rent Review Date as the case may be and the quarterly CPI published immediately prior to the relevant Rent Review Date. If there is a decrease in CPI having regard to the relevant CPI publications the Rent payable from the relevant Rent Review Date will be the same as the Rent payable during the immediately preceding period.

~~(3)~~ If any GST is payable on the Licence Fee or any other supply made as a result of this Licence, the Licensee must pay that GST.

~~(4)~~ The Licensee must pay the specified bond as indicated in Item 5 of the Schedule. This Bond will be held in Trust and is to be reinstated by the Licensee in the event the Shire is required to use the Bond for non-compliance with the any aspects of this Agreement and/or hire conditions of the licensed area.

4.2 Fees for Other Amenities

The parties acknowledge that additional fees may be charged, in accordance with the Shire's standard fees and charges, for use of the Other Amenities.

4.3 Permitted Purpose of Licensed Area

(1) The Licensee agrees to ensure that the use of the Licensed Area and the Land is at all times consistent with the Permitted Purpose.

(2) The Licensee agrees that it must not permit the Licensed Area or Land to be used as a residence or sleeping place unless otherwise approved by the Shire. Lot 10404 has 24hr camping alongside the Yuna Hall which incorporates Lot 10404.

4.4 Condition of Land and Licensed Area

The Licensed Area and the Other Amenities are made available to the Licensee in the condition that they are in at the Commencement Date.

4.5 Compliance with Legislation

The Licensee agrees to comply with all laws, local laws and regulations including (but not limited to) restrictions and obligations imposed by the *Liquor Licensing Act 1988*, the *Food Act 2008* and *Health Act 1911* in respect of the Licensee's use of any part of the Land.

4.6 No Alterations, Capital Upgrades and/or Replacement

- (1) The Shire is not obliged to make any alterations to the Licensed Area or Other Amenities or install any fixtures or fittings that are additional to those installed at the Commencement Date.
- (2) Any alteration, capital upgrades/replacements or installation effected by the Licensee will be at the sole cost of the Licensee. (see Clause 5.3 for financial assistance). All alterations must fully comply with all building codes, planning and other relevant legislation (e.g. building permits, planning approvals, demolition licences).
- (3) The Licensee agrees that if it effects any alteration or installation in a manner that does not meet the Shire's standards, the Shire may, at the Licensee cost, take any action the Shire considers necessary to remove or rectify the alteration or installation, and the cost of doing so will be a liquidated debt payable by the Licensee on demand and recoverable in a Court of competent jurisdiction.

4.7 Security of Licensed Area and its contents

The Licensee agrees to ensure at all times that the Licensed Area is kept secure and that proper care is taken for the security of fixtures, fittings, plant and equipment owned by the Shire within the Licensed Area.

4.8 Indemnity

- (1) The Licensee agrees to indemnify the Shire from and against all claims, demands, writs, actions and suits of any kind which may be brought or made against the Shire as a result of the Licensee's use of the Licensed Area, Other Amenities or its access to the Land.
- (2) The Licensee agrees that the Shire will not be responsible for, or liable in any way in regard to, any property of the Licensee, or its members, that might be brought onto the Land as a result of the Licensee's use of the Licensed Area and Other Amenities.

4.9 Insurance

- (1) The Licensee must take out and maintain for the Term, a public liability insurance policy.
- (2) All user groups must provide the Licensee with a Certificate of Currency for public liability insurance with their annual membership.
- (3) The insurance policy identified in paragraph (1) above must cover both the Shire and the Licensee for any public liability claim that arises out of, or is connected in any way with, the Licensee's use of the Licensed Area, Other Amenities or the Land generally.
- (4) The amount of the cover given by the insurance policy identified in paragraph (1) above must be a minimum of \$10,000,000 for any one claim.

- (5) The Licensee must not do anything in the Licensed Area, Other Amenities or the Land generally that may affect any insurance taken out by the Shire, or render any such insurance void.

(Note: See Clause 5.1 regarding Building Insurance)

4.10 Entry and Inspection

The Licensee must permit the Shire to enter the Licensed Area at any reasonable time to inspect and view the area, to carry out any maintenance work (if applicable) or to rectify any breach of the conditions of this Licence.

4.11 Outgoings

- (1) The Shire will be responsible to pay all Outgoings for the Land
- (2) In the event any ~~additional~~ Outgoings are incurred ~~which are considered excessive~~ by the Shire, the Shire will be entitled to invoice and recover any shortfall amount from users of the Land, including the Licensee.
- (3) In respect of the recovery of any costs pursuant to paragraph (2) above, the parties agree as follows:
 - (a) the Shire will seek to recover such costs from user groups of the Land (including the Licensee) on the basis of an appropriate apportionment determined by the Shire acting reasonably;
 - (b) where an outgoing is incurred due to a user group's specific use of the Land, the Shire will seek (where appropriate) for that user group to pay that outgoing; and
 - (c) the Licensee must pay any invoice issued by the Shire pursuant to paragraph (2) within 28 days of receipt.

Comment [MB1]: Wording amended

4.12 Maintenance and Cleaning

- (1) Refer to Item 9 Yuna Community Centre Building and Environmental Maintenance Checklist

4.13 Subletting, Assignment or Hire

- (1) The Licensee will not sublet, assign or hire the facility and may only assign or sublet the Licensed Area, with the prior consent of the Shire.

4.14 Licensee's equipment and possessions

The Licensee acknowledges that it is responsible to obtain all relevant insurances to cover any damage and/or theft to its property. The Shire does not take any responsibility for the loss or damage of the Licensee's property.

5. Shire's Obligations

5.1 Building Insurance to be Effected by Shire

The Shire shall effect and keep effected policies of insurance in relation to any risk relating to the Shire's ownership or interest in the Land and buildings located on the Land including, without limitation, insurance for buildings comprising the Licensed Area.

5.2 Shire responsible for Other Amenities

- (1) The Shire will maintain the Land (excluding the Licensed Area) and the Other Amenities (if applicable) in accordance with the Shire's maintenance standards.
- (2) The standard of the maintenance and the frequency of the repairs and replacements identified in paragraph (1) above will be dependent on the Shire's general maintenance program and budgetary considerations and may vary from time to time.

5.3 Consider request for financial assistance

The Shire agrees to consider requests from the Licensee for financial assistance to assist the Licensee in the upgrade, repair, structural maintenance and replacement of the Licensed Area.

6. Default

- (1) This Licence is granted subject to the terms and conditions in this agreement and any failure by the Licensee to comply with any of those terms or conditions may result in the termination of the Licence by the Shire.
- (2) To terminate the Licence the Shire must give the Licensee a written notice stipulating the default and requiring the Licensee to remedy the default within two months of the service of the notice.
- (3) If the default is not remedied to the satisfaction of the Shire within two months of the service of a notice under paragraph (2) above the Licence will be terminated on the date of the expiration of the notice without prejudice to any rights the Shire may have under this agreement.
- (4) A notice under paragraph (2) above is to be sent by prepaid post to the Licensee at the address given in this agreement and will be deemed to have been served on the date it would have been delivered in the ordinary course of the post.

7. Dispute Resolution

- (1) Any dispute between the Licensee and the Shire in regard to anything arising from the Licence or this agreement is to be addressed in the first instance by a meeting between representatives of the Licensee, appointed for that purpose, and the officer of the Shire responsible for administering the Land.
- (2) If the dispute cannot be resolved, in a manner that is satisfactory to both parties through such a meeting, the Licensee agrees that the CEO of the Shire and a Councillor from the Building Committee will have the power to make a final determination in resolution of the dispute, but only after giving due consideration to all of the matters discussed at the meeting referred to in paragraph (1) above and setting out in writing the reasons for his or her decision.

8. Acknowledgements

The Licensee acknowledges and agrees that:

- (a) it only has use of the Land, the Licensed Area and Other Amenities (if applicable) during the Agreed Uses and that other users of the Land may be permitted to use the Land (at other times);
- (b) the Agreed Uses may be modified from time to time provided any proposed modification is agreed in advance with the Shire and recorded in the Shire's booking system;

- (c) this Licence will automatically terminate if the ownership the Shire holds the Land under is changed or sold;
- (d) if the Licence is terminated in accordance pursuant to paragraph (c) above the Licensee will not be entitled to any form of compensation or damages as a result of the termination; and
- (e) the Licensee must not obstruct any person or other organisation from using the Land.

9. General Provisions

9.1 Acts by Agents

All acts and things which the Shire is required to do under this Licence may be done by the Shire, the CEO, an officer or the agent, solicitor, contractor or employee of the Shire.

9.2 Governing Law

This Licence is governed by and is to be interpreted in accordance with the laws of Western Australia and, where applicable, the laws of the Commonwealth of Australia.

9.3 Severance

If any part of this Licence is or becomes void or unenforceable, that part is or will be severed from this Licence to the intent that all parts that are not or do not become void or unenforceable remain in full force and effect and are unaffected by that severance.

9.4 Variation

This Licence may be varied only by deed executed by the parties subject to such consents as are required by this Licence or at law.

9.5 Moratorium

The provisions of a statute which would but for this clause extend or postpone the date of payment of money, reduce the rate of interest or abrogate, nullify, postpone or otherwise affect the terms of this Licence do not, to the fullest extent permitted by law, apply to limit the terms of this Licence.

9.6 Further Assurance

The Parties must execute and do all acts and things necessary or desirable to implement and give full effect to the terms of this Licence.

9.7 Interpretation

- (1) In this Licence, unless expressed to the contrary -
 - (a) words importing -
 - (i) the singular includes the plural and vice versa; and
 - (ii) a gender or genders include each other gender;
 - (b) if a word or phrase is assigned a particular meaning, other grammatical forms of that word or phrase have a corresponding meaning;
 - (c) a reference to -
 - (i) a natural person includes a body corporate or local government;

- (ii) a body corporate or local government includes a natural person;
- (iii) a professional body includes a successor to or substitute for that body;
- (iv) a Party includes its legal personal representatives, successors and assigns and if a Party comprises two or more persons, the legal personal representatives, successors and assigns of each of those persons;
- (v) a statute, includes an ordinance, code, regulation, award, town planning scheme, regulation, local law, by-law, requisition, order or other statutory instruments made under any of them and a reference to any of them, whether or not by name, includes any amendments to, re-enactments of or replacements of any of them from time to time in force;
- (vi) a right includes a benefit, remedy, discretion, authority or power;
- (vii) an obligation includes a warranty or representation and a reference to a failure to observe or perform an obligation includes a breach of warranty or representation;
- (viii) this Licence or provisions of this Licence or any other deed, agreement, instrument or contract includes a reference to -
 - (A) both express and implied provisions; and
 - (B) that other deed, agreement, instrument or contract as varied, supplemented, replaced or amended;
- (ix) writing includes any mode of representing or reproducing words in tangible and permanently visible form and includes facsimile transmissions;
- (x) any thing (including, without limitation, any amount) is a reference to the whole or any part of it and a reference to a Licensee of things or persons is a reference to any one or more of them; and
- (xi) a subparagraph, paragraph, subclause, clause, Item, Schedule or Annexure is a reference to, respectively, a subparagraph, paragraph, subclause, clause, Item, Schedule or Annexure of this Licence;
- (d) the covenants and obligations on the part of the Licensee not to do or omit to do any act or thing include -
 - (i) covenants not to permit that act or thing to be done or omitted to be done by a person authorised by the Licensee; and
 - (ii) a covenant to take all reasonable steps to ensure that that act or thing is not done or omitted to be done;
- (e) the meaning of general words or phrases is not limited by specific examples introduced by 'including', 'for example' or similar expressions; and
- (f) if a Party comprises two or more persons, the covenants and agreements on their part bind them and must be observed and performed by them jointly and each of them severally, and may be enforced against any one or more of them.
- (2) Except in the Schedule, headings do not affect the interpretation of this Licence.

Schedule

Item 1 Licensed Area

- (i) Yuna Community Centre and Tennis Courts located on the Land and generally labelled on the sketch annexed hereto as **Annexure 1**.

Item 2 Commencement Date

Item 3 Term

20 years commencing on 2015 and expiring on 2035.

Item 4 Other Amenities

Nil

Item 5 Licence Fee

- 5.1 Annual fee of \$1500 reviewed annually.
This amount is to be paid in full by the Licensee who will be responsible for recouping cost from affiliated groups and organisations listed in this License.
5.2 Bond fee of \$700 paid by the Licensee and held in Trust by the Shire on behalf of all Affiliated Groups listed in this License

Item 6 Permitted purpose

Yuna community activities and uses reasonably ancillary thereto.

Item 7 Licence Fee Review Dates

As determined by Concil.

Item 8 Agreed Uses

Unrestricted, unless otherwise determined by Council

Item 9 Building & Environmental Maintenance Responsibilities

ITEM	TASK	FREQUENCY	RESPONSIBILITY
<u>Hire Conditions</u>	<u>Comply with all the Hire Conditions of Licensed Area as determined and stipulated by the Shire</u>	<u>Each time facility is used</u>	<u>All Affiliated Groups & Organisations as listed in Annexure 2</u>
Exterior walls	Check for damage/fretting & reseal weathered areas <u>and report all issues to the Shire</u>	Annually	CABY – Facility Management Group
Interior walls	Check for corrosion/defects <u>and report all issues to the Shire</u>	Annually	CABY – Facility Management Group
Roof – external	Check for corrosion/rust <u>and report all issues to the Shire</u>	Annually	CABY – Facility Management Group
	Clean Guttering	Annually	CABY – Facility Management Group
Windows and doors – external and internal	Check for corrosion & lock maintenance <u>and report all issues to the Shire</u>	Annually	CABY – Facility Management Group
Electrical	Emergency Lighting & RCD Check <u>and report all issues to the Shire</u>	Annually	Shire of Chapman Valley
	Check external lighting <u>and report all issues to the Shire</u>	Annually	CABY – Facility Management Group
	Check Internal lighting <u>and report all issues to the Shire</u>	Annually	CABY – Facility Management Group
	<u>Inspect all Portable appliances</u>	Annually	<u>CABY – Facility Management Group</u> <u>Shire of Chapman Valley</u>
	Extraction fans <u>and report all issues to the Shire</u>	as required	<u>CABY – Facility Management Group</u> <u>Shire of Chapman Valley</u>
	Main earth electrode	as required	Shire of Chapman Valley
Plumbing/gas	Check all taps/fixtures etc. for leaks <u>and report all issues to the Shire</u>	6 monthly	CABY – Facility Management Group
Air-conditioning	Service all hardware and appliances	as required	Shire of Chapman Valley
Public Health check	Shire –building risk assessment	as required	Shire of Chapman Valley
Fire Protection	Fire hydrant	Annually	Shire of Chapman Valley
	Dry chemical extinguishers	Annually	Shire of Chapman Valley
	Fire detection system	Annually	Shire of Chapman Valley
Pest & Weed control	Check all outside; paved/concrete areas, pathways, car parks etc. <u>and report all issues to the Shire</u> <u>Report issues to Shire</u>	as required	CABY – Facility Management Group
Storm drainage	Clean and maintain	Annually	Shire of Chapman Valley
<u>Tennis Courts & Lights</u>	<u>Maintain</u>	<u>As required</u>	<u>Yuna Tennis Club</u>
<u>Tennis Court Fence and Shelter</u>	<u>Maintain and replace</u>	<u>As required</u>	<u>Yuna Tennis Club</u>

Comment [MB2]: Council sets Hire Conditions for all its facilities. This now covers all usage of the buildings & Licenced area.

Signing page

EXECUTED

2015

THE COMMON SEAL of the **Shire of Chapman Valley** was affixed by authority of a resolution of the Council in the presence of -

President

Chief Executive Officer

THE COMMON SEAL of **Creating A Better Yuna Incorporated**

was hereunto affixed pursuant to the constitution of the Creating A Better Yuna Incorporated in the presence of each of the undersigned each of whom hereby declares by the execution of this document that he or she holds the office in the Creating A Better Yuna Incorporated indicated under his or her name-

Office Holder Sign

Office Holder Sign

Name:

Name:

Address:

Address:

Office Held:

Office Held:

Annexure 1 – Sketch of Licensed Area & Other Amenities



Annexure 2 – Licensee Affiliated Groups & Organisations

- I a) Creating A Better Yuna Incorporated [\(Licensee\)](#);
- b) Yuna Tennis Club Incorporated;
- c) Chapman Valley Playgroup;
- d) Yuna Farm Improvement Group Incorporated
- e) Yuna CWA
- f) Yuna Bush Fire Brigade

AGENDA ITEM:	9.3.3
SUBJECT:	ANNUAL OFFICE CLOSURE
PROPONENT:	SHIRE OF CHAPMAN VALLEY
SITE:	WHOLE SHIRE
FILE REFERENCE:	411.01
PREVIOUS REFERENCE:	MINUTE REFERENCE: 09/15-21
DATE:	14th OCTOBER 2015
AUTHOR:	MAURICE BATTILANA

DISCLOSURE OF INTEREST

Nil

BACKGROUND

Council has in the past dealt with an annual agenda item to close the Administration Building during the Christmas and New Year period. The question was asked at the September 2015 OCM when this was last dealt with whether this was an issue which should be handled by the CEO and Council simply be informed of the close-down period.

The following was resolved at the September 2015 OCM, along with a request for the CEO to investigate the need for this to come before Council at all:

MOVED: CR FARRELL

SECONDED: CR WARR

Council approves the closure of the Administration Building during the Christmas/New Year for the period from 4.30pm Friday 24th December 2015 to 8.30am on Monday 4th January 2016.

Voting 8/0

CARRIED

Minute Reference: 09/15-21

COMMENT

Council does have an existing Management Procedure, which deals with *Hours of Work* (See Policy Implications section of this report for full Procedure details) and states the following for Office Staff:

OFFICE STAFF

Council shall adopt the working hours 8.00am to 5.00pm with a half of an hour for lunch with the 19 day every 4 weeks period for Local Government Industry Award 2010 staff, Managers and Chief Executive Officer. The Chief Executive Officer may amend these arrangements at his/her discretion under the condition core office opened hours are retained.

I am recommending some minor variations/amendments to this Management procedure to reflect current operations and to remove the need for an annual Agenda Item needing to be brought to Council to deal with the Christmas/New Year close down procedure. The recommended amendments to the Management Procedure are highlighted in **RED** in the Staff Recommendation below. It will noted I have amended the working hours from 8:00am – 5:00pm to 8:00am – 4:30pm as this reflects the Award working hours and accrual hours to allow for the 19 day/4 weekly RDO cycle.

STATUTORY ENVIRONMENT

Nil

POLICY IMPLICATIONS

Below is the existing Management Procedure:

MANAGEMENT PROCEDURE No.	CMP-043
MANAGEMENT PROCEDURE	HOURS OF WORK
RESPONSIBLE DIRECTORATE	ADMINISTRATION
RESPONSIBLE OFFICER	CHIEF EXECUTIVE OFFICER
PREVIOUS POLICY No.	14.40
RELEVANT DELEGATIONS	

OBJECTIVES:

To determine hours of work for Council staff

MANAGEMENT PROCEDURE STATEMENT/S:

OFFICE STAFF

Council shall adopt the working hours 8.00am to 5.00pm with a half of an hour for lunch with the 19 day every 4 weeks period for Local Government Industry Award 2010 staff, Managers and Chief Executive Officer. The Chief Executive Officer may amend these arrangements at his/her discretion under the condition core office opened hours are retained.

ROADWORKS STAFF

Council adopt the working hours of 7.00am to 4.30pm with half an hour for lunch and half an hour overtime per day on days worked. This is an 18-work day/4 week period subject to the RDO's being flexible if and when the occasion arises. The Chief Executive Officer may amend these arrangements at his/her discretion.

ADDITIONAL EXPLANATORY NOTES:

ADOPTED/REVIEWED/AMENDED (OTHER THAN ANNUAL REVIEW OF ALL PROCEDURES):

Adopted – Council Resolution:	10/01-9
Reviewed/Amended – Council Resolution:	05/15-23 06/15-18

FINANCIAL IMPLICATIONS

No affect.

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

No affect. Assists with staff leave clearances.

STRATEGIC IMPLICATIONS

Not applicable

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

We need good services to support our development as a Shire	Maintain existing services and facilities	Essential services help us to grow and prosper as a community
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CONSULTATION

Not applicable.

RISK ASSESSMENT

No significant risk; however, staff time away to clear leave and be with family is important to their wellbeing.

VOTING REQUIREMENTS

Simple Majority

STAFF RECOMMENDATION

Council amends Management Procedure CMP-043 as follows:

MANAGEMENT PROCEDURE No.	CMP-043
MANAGEMENT PROCEDURE	HOURS OF WORK
RESPONSIBLE DIRECTORATE	ADMINISTRATION
RESPONSIBLE OFFICER	CHIEF EXECUTIVE OFFICER
PREVIOUS POLICY No.	14.40
RELEVANT DELEGATIONS	

OBJECTIVES:

To determine hours of work for Council staff

MANAGEMENT PROCEDURE STATEMENT/S:

OFFICE STAFF

Council shall adopt the working hours 8.00am to **4.30pm** with a half of an hour for lunch with the 19 day every **four (4)** weeks period for Local Government Industry Award 2010 staff, Managers and Chief Executive Officer. The Chief Executive Officer may amend these arrangements at his/her discretion under the condition core office opened hours are retained.

The Chief Executive Office is to determine the Annual Christmas/New Year close down period of the administration office with staff clearing accrued leave on days of absence which are considered normal work days and not Public Holidays

ROADWORKS STAFF

Council adopt the working hours of 7.00am to 4.30pm with half an hour for lunch and half an hour overtime per day on days worked. This is an 18-work day/4 week period subject to the RDO's being flexible if and when the occasion arises. The Chief Executive Officer may amend these arrangements at his/her discretion.

ADDITIONAL EXPLANATORY NOTES:

The Annual Christmas/New Year close down period of the administration office should include the Christmas and New Year Public Holidays and the normal working days between these two periods.

The Chief Executive Officer is to determine what level of emergency staff and contact details are required during this close down period.

AGENDA ITEM:	9.3.4
SUBJECT:	PROPOSED SHOP FRONT FACILITY
PROPONENT:	CHIEF EXECUTIVE OFFICER
SITE:	MID WEST FINANCIAL
FILE REFERENCE:	206.00
PREVIOUS REFERENCE:	NIL
DATE:	14th OCTOBER 2015
AUTHOR:	MAURICE BATTILANA, CHIEF EXECUTIVE OFFICER

DISCLOSURE OF INTEREST

Nil

BACKGROUND

Council has discussed the proposal of possibly establishing a Shop-Front within (or close to) the Geraldton CBD area for Shire staff to periodically attend as an alternative services delivery point for the Shire constituents.

The CEO was requested to investigate the options available, which were brought to the September 2015 Forum Session for further discussion and consideration.

COMMENT

I investigated various options for the establishment of a suitable and affordable Shop-Front facility at various locations and it appears the best location is with Mid West Financial (MWF) on Foreshore Drive, which is basically in the Geraldton CBD area. This option offers far more benefits than others investigated and includes the following:

- Full time parking;
- Electronic access to the building at all times;
- Access to toilets & showers;
- Fully furnished office;
- Own designated printer/photocopier;
- Two desktop computers;
- Access the MWF Server and internet;
- Receptionist service;
- Access to Board Room (Seating 8);
- Access to Colour photocopier & Fax Machine;
- Access to staff kitchen;
- Within Geraldton CBD;
- Within close proximity to the MWDC (basically same precinct);

The cost quoted for use of the MWF office space for 5 (five) days per week is \$10,000pa. This amount is set irrespective of how many days a week the Shire uses the location.

Staff have discussed the Shop-Front concept and the consensus is some would see this as a benefit where other wouldn't. It was also the consensus the MWF option was the best option.

The success of a Shop-Front facility in the Geraldton CBD precinct would be reliant on how well this service was advertised and promoted to the Shire constituents. An extensive advertising program along with a structured roster of relevant staff manning the Shop-Front facility will be required to ensure the message is put out to the community of the availability of this service. Without such prior arrangements the Shop-Front will be unsuccessful.

STATUTORY ENVIRONMENT

Not applicable.

POLICY/MANAGEMENT PROCEDURE IMPLICATIONS

No existing Policy or Management Procedure affected.

FINANCIAL IMPLICATIONS

As there has not been an allocation made in the 2015/2016 Budget for the cost to lease a Shop-Front location any decision to implement this service this financial year will require a Budget Variation, which requires an Absolute Majority Vote of Council.

The intention of the Staff Recommendation below is to request a 15/16 Budget Variation of \$5,000 to be used to:

- i. \$4,200 – Five Months cost to lease MWF location as a Shop-Front, commencing February 2016;
- ii. \$ 800 – Advertising and setup cost

This total amount of \$5,000 can be derived from Administration COA 106820 (*Consultancy Services*) which has a contingency amount of \$15,000 allocated here. This could be reduced to \$10,000 with the amount of \$5,000 being reallocated to Administration COA 104720 (*Office Expenses – General*) to be used to trial the Shop-Front at MWF from February to June 2016. This variation does not affect the Administration Allocation aspects of the Shire's budgeted finance because the variation stays within the same Sub-Program area of *Administration*.

If additional funds are required to for an extensive advertising period to promote the Shop-Front and the contingent amount of \$800 is not adequate I am comfortable there are enough funds in the 2105/2016 *Advertising Expenses* (COA 0492) budget allocation to accommodate this expenditure.

The reason for deferring the commencement of the Shop-Front service until February 2016 is to both allow enough time to advertise/promote this service and the fact January is the month of the year when most staff (and constituents) clear leave and go away on holiday's, therefore making it more appropriate to start in February 2016.

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

No affect envisaged on the LTFP.

STRATEGIC IMPLICATIONS

It is important for Council to include and engage all sectors of our community and the concept of trialing a Shop-Front service within (or within proximity to) the Geraldton CBD area is one way of improving this engagement and service delivery to Shire constituents.

If it is proven the Shop-Front service is not patronized by Shire constituents then Council can simply revert back to the current administrative service delivery processes being based out of Nabawa.

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

Leadership

Objective	Strategy	Outcome
Transparent decision-making is important to us	Active engagement with the community to inform decision-making	Contribution to how local issues are managed
	Maintain a strong customer focus	Effective communication on key decisions

CONSULTATION

The matter of possible establishing a strategically located Shop-Front has been part of discussions over many years between Councillors and Staff. The most recent discussion was at the September 2015 Forum Session

Staff have also discussed the Shop-Front concept and the consensus is some would see this as a benefit where other wouldn't. It was also the consensus the MWF option was the best option.

RISK ASSESSMENT

There is a risk of Council being perceived as not reaching out to its community by retaining services such as planning, building, community development, at Nabawa. The Shire's population growth is predominantly in the western region and this very thing should be considered as an option to ensure we embrace these growth areas as much as possible.

VOTING REQUIREMENTS

Absolute Majority

STAFF RECOMMENDATION

Council endorses the following:

- 1) Establishment of a Shop-Front Service at the Mid West Financial office located on Foreshore Drive, Geraldton, on an initial trial period from February to June 2016;
- 2) Relocate funds in the 2015/2016 Budget as follows accommodate costs to establish the Shop-Front service:

COA	Description	Total COA Adopted Budget	Total COA Amended Budget
106820	Consultancy Services – Reduce Contingency Amount from \$15,000 to \$10,000	\$113,786	\$108,786
104720	Office Expenses General – New Contingency to establish Shop-Front service of \$5,000	\$15,500	\$20,500
Balance		\$129,286	\$129,286

- 3) The Chief Executive Officer implement an advertising program to promote the establishment of the Shop-Front service to the Shire constituents;
- 4) The Chief Executive Officer to review the effectiveness of the initial Shop-Front trial period and determine if there should be a budget amount allocated in the 2016/2017 Budget for Council consideration to continue this service.

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

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

13.1 Gravel Pushing & Pit Rehabilitation Tender

14.0 CLOSURE