



AGENDA

ORDINARY COUNCIL MEETING

TO BE HELD ON

THURSDAY, 17 August 2017

5.30^{PM}

SHIRE COUNCIL CHAMBERS



**WESTERN AUSTRALIA'S
WILDFLOWER COUNTRY**

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DISCLAIMER

INFORMATION FOR PUBLIC ATTENDING COUNCIL MEETINGS

PLEASE NOTE:

THE RECOMMENDATIONS CONTAINED IN THIS AGENDA ARE OFFICERS RECOMMENDATIONS ONLY AND SHOULD NOT BE ACTED UPON UNTIL COUNCIL HAS RESOLVED TO ADOPT THOSE RECOMMENDATIONS.

THE RESOLUTIONS OF COUNCIL SHOULD BE CONFIRMED BY PERUSING THE MINUTES OF THE COUNCIL MEETING AT WHICH THESE RECOMMENDATIONS WERE CONSIDERED.

MEMBERS OF THE PUBLIC SHOULD ALSO NOTE THAT THEY ACT AT THEIR OWN RISK IF THEY ENACT ANY RESOLUTION PRIOR TO RECEIVING AN OFFICIAL WRITTEN NOTIFICATION OF COUNCILS DECISION.

**SEAN FLETCHER
A/CHIEF EXECUTIVE OFFICER**

COUNCIL MEETING INFORMATION NOTES

1. Your Council generally handles all business at Ordinary or Special Council Meetings.
2. From time to time Council may form a Committee to examine subjects and then report to Council.
3. Generally all meetings are open to the public, however, from time to time Council will be required to deal with personal, legal and other sensitive matters. On those occasions Council will generally close that part of the meeting to the public. Every endeavour will be made to do this as the last item of business of the meeting.
4. Public Question Time. It is a requirement of the Local Government Act 1995 to allow at least fifteen (15) minutes for public question time following the opening and announcements at the beginning of the meeting. Should there be a series of questions the period can be extended at the discretion of the Chairman.

Written notice of each question should be given to the Chief Executive Officer fifteen (15) minutes prior to the commencement of the meeting. A summary of each question and response is included in the Minutes.

When a question is not able to be answered at the Council Meeting a written answer will be provided after the necessary research has been carried out. Council staff will endeavour to provide the answers prior to the next meeting of Council.

5. **Councillors** may from time to time have a financial interest in a matter before Council. Councillors must declare an interest and the extent of the interest in the matter on the Agenda. However, the Councillor can request the meeting to declare the matter **trivial, insignificant** or **in common with a significant number of electors** or **ratepayers**. The Councillor must leave the meeting whilst the matter is discussed and cannot vote unless those present agree as above.

Members of staff who have delegated authority from Council to act on certain matters, may from time to time have a financial interest in a matter on the Agenda. The member of staff must declare that interest and generally the Chairman of meeting will advise the Officer if he/she is to leave the meeting.

6. Agendas including an Information Bulletin are delivered to Councillors within the requirements of the Local Government Act 1995, ie seventy-two (72) hours prior to the advertised commencement of the meeting. Whilst late items are generally not considered there is provision on the Agenda for items of an urgent nature to be considered.

Should an elector wish to have a matter placed on the Agenda the relevant information should be forwarded to the Chief Executive Officer in time to allow the matter to be fully researched by staff. An Agenda item including a recommendation will then be submitted to Council for consideration. The Agenda closes the Monday week prior to the Council Meeting (ie ten (10) days prior to the meeting).

The Information Bulletin produced as part of the Agenda includes items of interest and information, which does not require a decision of Council.

7. Agendas for Ordinary Meetings are available in the Morawa Shire offices seventy two (72) hours prior to the meeting and the public are invited to secure a copy.
8. Agenda items submitted to Council will include a recommendation for Council consideration. Electors should not interpret and/or act on the recommendations until after they have been considered by Council. Please note the Disclaimer in the Agenda.
9. Public Question Time – Statutory Provisions – Local Government Act 1995.
 1. Time is to be allocated for questions to be raised by members of the public and responded to at:
 - (a) Every ordinary meeting of a council; and
 - (b) Such other meetings of councils or committees as may be prescribed

Procedures and the minimum time to be allocated for the asking of and responding to questions raised by members of the public at council or committee meetings are to be in accordance with regulations.

9A. Question Time for the Public at Certain Meeting - s5.24 (1) (b)

Local Government (Administration) Regulations 1996

- Reg 5 For the purpose of section 5.24(1)(b), the meetings at which time is to be allocated for questions to be raised by members of the public and responded to are:
- (a) every special meeting of a council; and
 - (b) every meeting of a committee to which the local government has delegated a power or duty.

Minimum Question Time for the Public – s5.24 (2)

- Reg 6 (1) The minimum time to be allocated for the asking of and responding to questions raised by members of the public at ordinary meetings of councils and meetings referred to in regulation 5 is fifteen (15) minutes.
- (2) Once all the questions raised by members of the public have been asked and responded to at a meeting referred to in sub regulation (1), nothing in these regulations prevents the unused part of the minimum question time period from being used for other matters.

Procedures for Question Time for the Public – s5.24 (2)

Local Government (Administration) Regulations 1996

- Reg 7 (1) Procedures for the asking of and responding to questions raised by members of the public at a meeting referred to in regulation 6 (1) are to be determined:
- (a) by the person presiding at the meeting; or
- (b) in the case where the majority of members of the council or committee present at the meeting disagree with the person presiding, by the majority of members,
- having regard to the requirements of sub regulations (2) and (3).
- (2) The time allocated to the asking and responding to questions raised by members of the public at a meeting referred to in regulation 6(1) is to precede the discussion of any matter that requires a decision to be made by the council or the committee, as the case may be.
- (3) Each member of the public who wishes to ask a question at a meeting referred to in regulation 6(1) is to be given an equal and fair opportunity to ask the question and receive a response.
- (4) Nothing in sub regulation (3) requires:
- (a) A council to answer a question that does not relate to a matter affecting the local government;
- (b) A council at a special meeting to answer a question that does not relate to the purpose of the meeting; or
- (c) A committee to answer a question that does not relate to a function of the committee.

10. Public Inspection of Unconfirmed Minutes (Reg 13)

A copy of the unconfirmed Minutes of Ordinary and Special Meetings will be available for public inspection in the Morawa Shire Offices within ten (10) working days after the Meeting.

**DECLARATION OF
FINANCIAL INTEREST FORM**

TO: THE CHIEF EXECUTIVE OFFICER

AS REQUIRED BY SECTION 5.65 OF THE LOCAL GOVERNMENT ACT 1995,

I HEREBY DISCLOSE MY INTEREST IN THE FOLLOWING MATTERS OF

THE AGENDA PAPERS FOR THE COUNCIL MEETING DATED _____

AGENDA ITEM No.	SUBJECT	NATURE OF INTEREST	MINUTE No.

DISCLOSING PERSON'S NAME: _____

SIGNATURE: _____ DATE: _____

NOTES:

1. For the purpose of the financial interest provisions you will be treated as having a financial interest in a matter if either you, or a person with whom you are closely associated, have a Direct or indirect financial interest or a proximity interest in the matter.
NB: it is important to note that under the Act you are deemed to have a financial interest in a matter if a person with you are closely associated has financial interest or proximity interest. It is not necessary that there be a financial effect on you.
2. This notice must be given to the Chief Executive Officer prior to the meeting.
3. It is the responsibility of the individual Councillor or Committee Member to disclose a Financial interest. If in doubt, seek appropriate advice.
4. A person who has disclosed an interest must not preside at the part of the meeting relating to The matter, or participate in, be present during any discussion or decision-making procedure relating to the matter unless allowed to do so under Section 5.68 or 5.69 of the Local Government Act 1995.

OFFICE USE ONLY:

1. PARTICULARS OF DECLARATION GIVEN TO MEETING
2. PARTICULARS RECORDED IN MINUTES
3. PARTICULARS RECORDED IN REGISTER.

CHIEF EXECUTIVE OFFICER _____ DATED _____

SHIRE OF MORAWA
REQUEST FOR WORKS AND SERVICES

REPORT ON REQUESTS FOR WORKS AND SERVICES REQUIRING
ATTENTION BY THE CHIEF EXECUTIVE OFFICER OR DELEGATED TO
OTHER STAFF BY THE CHIEF EXECUTIVE OFFICER FOR ACTION.

*To the Chief Executive Officer,
I submit the following for consideration at the council meeting held*

On _____
Date

Chief Executive Officer

Received Date

Filed On: _____
Date

Item No:	Subject Matter	CEO Action
1.		
2.		
3.		
4.		
5.		
6.		

Councillors Name/Signature _____

Date: _____

OFFICE USE ONLY	TICK
1. Given to Chief Executive Officer	
2. Placed on Status/Information Report	
3. Action Recorded on Report	

1 Declaration of Opening

The Shire President to declare the meeting open at 5:30pm.

1.1 Recording of Those Present

Cr K J Chappel	President
Cr D S Carslake	Deputy President
Cr D B Collins	
Cr J M Coaker	
Cr D S Agar	
Cr M J Thornton	
Cr K P Stokes	

Mr S Fletcher	Acting Chief Executive Officer
Ms S Appleton	Executive Manager Development & Administration
Mrs W Gledhill	Executive Manager Corporate & Community Services
Ms E Cuthbert	Economic Development Manager
Mr P Buist	Principal Works Manager

1.2 Apologies

1.3 Approved Leave of Absence

Cr Stokes has requested a leave of absence in respect of the September Council meeting.

1.4 Welcoming of Visitors to the Meeting

1.5 Announcements by the Presiding Member without Discussion

2 Public Question Time

2.1 Response to previous public questions taken on notice

2.2 Public question time

3 Declaration of Interest

Members are to declare financial, proximity and indirect interests.

4 Confirmation of Minutes of Previous Meetings

4.1 Special Council Meeting – 11 July 2017

4.2 Ordinary Council Meeting – 20 July 2017

5 Public Statements, Petitions, Presentations and Approved Deputations

6 Method of Dealing with Agenda Business

7 Reports

7.1 Reports from Committees

Nil

7.2 Reports from the Chief Executive Officer

7.2.2 Executive Manager Corporate & Community Services

7.2.3 Executive Manager Development & Administration

7.2.4 Economic Development Manager

Nil

7.2.5 Principal Works Manager

<i>Item No/Subject:</i>	7.2.2.1 Accounts Due For Payment – July 2017
<i>Date of Meeting:</i>	17 August 2017
<i>Date & Author:</i>	11 August 2017 – Candice Smith Senior Finance Officer
<i>Responsible Officer:</i>	Fred Gledhill - Executive Manager Corporate & Community Services
<i>Applicant/Proponent:</i>	Fred Gledhill - Executive Manager Corporate & Community Services
<i>File Number:</i>	FM.CRD.1
<i>Previous minute/s & Reference:</i>	

SUMMARY

A list of accounts is attached for all payments made for the month of July 2017

DECLARATION OF INTEREST

Nil

ATTACHMENTS

List of accounts due and submitted to Council on 17 August 2017

BACKGROUND INFORMATION

Local Government (Financial Management) Regulations 1996 – Reg 13

The local government has delegated to the CEO the exercise of power to make payments from the municipal fund or the trust fund, a list of accounts paid by the CEO is to prepare each month showing for each account paid since the last such list was prepared.

OFFICER'S COMMENT

Nil

COMMUNITY CONSULTATION

Nil

COUNCILLOR CONSULTATION

Nil

STATUTORY ENVIRONMENT

Local Government (Financial Management) Regulations 1996 – Reg 13

POLICY IMPLICATIONS

Section 3 – Finance 3.6 Use of Corporate Credit Cards Policy

FINANCIAL IMPLICATIONS

As per list of accounts

STRATEGIC IMPLICATIONS

Nil

RISK MANAGEMENT

As per Policy Section 3 – Finance 3.11 Risk Management Controls

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council endorses:

The list of accounts paid by the Chief Executive Officer under delegated authority, represented by:

- Municipal EFT Payment Numbers EFT 9865 to EFT 9947 inclusive, amounting to \$187,082.98
- Municipal Cheque Payments Numbered 11729 to 11732 amounting to \$37,259.15
- Municipal Direct Debit Payments Numbers DD5664.1 to DD5702.9 amounting to \$16,110.12
- Payroll for July 2017

05/07/2017 - \$108,846.52

12/07/2017 - \$ 43,127.96

26/07/2017 - \$ 45,774.61

EFT9865	03/07/2017	Diana Mclay	Refund Hall Hire fee and Bond Gutha Hall	1	180.00
EFT9870	07/07/2017	IT Vision Australia Pty Ltd	Renew Synergy Soft & Universal Annual License Fees	1	29,214.90
EFT9871	07/07/2017	Leading Edge Computers Dongara & Geraldton	Gigabit Poe Stackable Switches and Firewall Services	1	24,476.85
EFT9872	07/07/2017	Lind Consulting	Review of Local Laws	1	3,432.00
EFT9873	07/07/2017	Strategic Teams	Acting CEO - Week ending 7th July 2017	1	4,400.00
EFT9888	17/07/2017	Australian Services Union	Payroll deductions	1	82.35
EFT9889	17/07/2017	Department of Human Services	Payroll deductions	1	547.17
EFT9890	17/07/2017	Prestige Pty Ltd	Cleaning Services from 26/06/17 - 09/07/2017	1	5,050.00
EFT9891	17/07/2017	Bob Waddell & Associates Pty Ltd	Assistance with 17/18 budget and disposal of 16/17 assets	1	561.00
EFT9892	17/07/2017	DALLYWATER CONSULTING	Contract EHO work 03/07 - 05/07 & 12/07 - 14/07	1	9,020.00
EFT9893	17/07/2017	Strategic Teams	Acting CEO Week Ending 14/07/2017	1	4,400.00
EFT9919	19/07/2017	Australian Taxation Office	June BAS 2017	1	28,185.00
EFT9927	21/07/2017	Strategic Teams	Consultancy Services week ending 21st July, 2017	1	4,400.00
EFT9928	26/07/2017	Geraldton Toyota	Service Rav 4 OMO 40k	1	471.90
EFT9929	26/07/2017	Forpark Australia	Playground equipment and installation	1	21,684.30
EFT9930	26/07/2017	Strategic Teams	Professional Services Sean Fletcher	1	4,400.00
EFT9931	31/07/2017	BL & MJ Thornton Waste Removal Services	WASTE REMOVAL FOR JUNE 2017	1	8,546.24
EFT9932	31/07/2017	WA Local Government Association	WALGA SUBSCRIPTIONS 1JULY 2017TO 30 JUNE 2018	1	21,555.05
EFT9933	31/07/2017	Burgess Rawson (WA) Pty Ltd	RENT	1	137.50

EFT9934	31/07/2017	ML Communications	LABOUR	1	200.00
EFT9935	31/07/2017	Vidguard Security Systems	MONITORING FEES	1	102.00
EFT9936	31/07/2017	Bob Waddell & Associates Pty Ltd	CONSULTANCY	1	726.00
EFT9937	31/07/2017	Mitchell & Brown	PURCHASES – Evans Street House	1	4,635.00
EFT9938	31/07/2017	Local Government Managers Australia	17/18 SUBSCRIPTION	1	521.00
EFT9939	31/07/2017	Leading Edge Computers Dongara & Geraldton	SURFACE PRO	1	2,656.00
EFT9940	31/07/2017	Local Health Authorities Analytical Committee	ANALYTICAL SERVICES 17/18	1	388.85
EFT9941	31/07/2017	State Library of WA	Better beginnings program 17/18	1	60.50
EFT9942	31/07/2017	Alinta Sales Pty Ltd	Usage 01/06/25017 - 30/6/2017	1	332.11
EFT9943	31/07/2017	Blue Hill Couriers	FREIGHT	1	550.00
EFT9944	31/07/2017	John Humble	CLEANING OF PAVING – Town Square	1	750.00
EFT9945	31/07/2017	Staples	CLEANER WIPES	1	128.26
EFT9946	31/07/2017	Tourism Council Western Australia	VCWA NON GOLDEN MEMBERSHIP FEE 17/18	1	289.00
EFT9947	31/07/2017	Midwest Industry Road Safety Alliance	17/18 MIDWEST ROAD SAFETY ALLIANCE CONTRIBUTION	1	5,000.00
11729	26/07/2017	Synergy	Power Usage 14/7/17-17/7/17	1	32,222.65
11730	26/07/2017	Telstra Corporation Limited	Phone Charges for July 2017	1	3,062.09
11731	31/07/2017	Synergy	USAGE – June 2017	1	1,920.35
11732	31/07/2017	Telstra Corporation Limited	USAGE – June 2017	1	54.06
DD5664.1	12/07/2017	WA Local Government Superannuation Plan	Payroll deductions	1	6,416.55

DD5664.2	12/07/2017	AMP LIFE LTD - SUPERANNUATION	Superannuation contributions	1	488.32
DD5664.3	12/07/2017	BT FINANCIAL GROUP	Superannuation contributions	1	300.94
DD5664.4	12/07/2017	MLC Super Fund	Superannuation contributions	1	222.87
DD5664.5	12/07/2017	Commonwealth Bank Group Super	Superannuation contributions	1	123.87
DD5664.6	12/07/2017	Concept One	Superannuation contributions	1	211.05
DD5664.7	12/07/2017	Australian Super	Superannuation contributions	1	214.53
DD5664.8	12/07/2017	BT Super for Life	Superannuation contributions	1	152.67
DD5694.1	05/07/2017	WA Local Government Superannuation Plan	Superannuation contributions	1	-546.54
DD5702.1	26/07/2017	WA Local Government Superannuation Plan	Payroll deductions	1	6,729.52
DD5702.2	26/07/2017	AMP LIFE LTD - SUPERANNUATION	Superannuation contributions	1	488.32
DD5702.3	26/07/2017	BT FINANCIAL GROUP	Superannuation contributions	1	300.94
DD5702.4	26/07/2017	MLC Super Fund	Superannuation contributions	1	222.87
DD5702.5	26/07/2017	Commonwealth Bank Group Super	Superannuation contributions	1	102.53
DD5702.6	26/07/2017	Concept One	Superannuation contributions	1	211.05
DD5702.7	26/07/2017	Australian Super	Superannuation contributions	1	214.53
DD5702.8	26/07/2017	BT Super for Life	Superannuation contributions	1	159.64
DD5702.9	26/07/2017	LGIA Super	Superannuation contributions	1	96.46

REPORT TOTALS

EFT	\$ 187,082.98
Cheque	\$ 37,259.15
Direct Debits	\$ 16,110.12
Payroll	\$ 197,749.09
Credit Card(in credit from ALGA Conference)	\$ NIL
TOTAL	\$438,201.34

<i>Item No/Subject</i>	7.2.2.2 Reconciliations - July 2017
<i>Date of Meeting:</i>	17 August 2017
<i>Date & Author:</i>	11 August 2017 Senior Finance Officer – Candice Smith
<i>Responsible Officer:</i>	Executive Manager Corporate & Community Services Fred Gledhill
<i>Applicant/Proponent:</i>	Executive Manager Corporate & Community Services Fred Gledhill
<i>File Number:</i>	ADM0189
<i>Previous minute/s & Reference:</i>	

SUMMARY

Local Government (Financial Management) Regulation 34 (1) (a) states that a Local Government must prepare financial statements monthly.

DECLARATION OF INTEREST

Nil

ATTACHMENTS

Nil

BACKGROUND INFORMATION

The information provided is obtained from the Bank Reconciliations carried out for Municipal Bank/Reserves Bank and the Trust Bank to ensure all transactions have been accounted for.

OFFICER'S COMMENT

The Shire of Morawa's financial position is as follows:-

BANK BALANCES AS AT 31 July 2017

Account	2017
Municipal Account #	\$304,675.13
Trust Account	\$15,980.75
Business Telenet Saver (Reserve) Account	\$3,644,069.45
WA Treasury O/night Facility (Super Towns) Account	\$736,220.81
Reserve Term Deposit (Community Development)	\$500,000.00
Reserve Term Deposit (Future Funds 1)	\$800,000.00
Reserve Term Deposit (Future Funds 2)	\$800,000.00

BANK RECONCILIATION BALANCES

The Bank Reconciliation Balances for 31 July 2017 with a comparison for 31 July 2016 is as follows:

Account	2016	2017
Municipal Account #	\$249,312.22	\$270,640.38
Trust Account	\$10,910.18	\$15,980.75
Reserve Account	\$249,312.22	\$6,480,290.26

RESERVE ACCOUNT

The Reserve Funds of \$6,480,290.26 as at 31 July 2017 were invested in:-

- Bank of Western Australia \$4,161,824.47 in the Business Telenet Saver Account and
- \$736,220.81 in the WA Treasury O/Night Facility
- Term Deposit (Future Funds 1) \$800,000.00
- Term Deposit (Future Funds 2) \$800,000.00
- Term Deposit (Community Development Fund) \$500,000.00

Breakdown for July 2017 with a comparison for July 2016 is as follows:

	2016	2017
Sports Complex Upgrade Reserve	\$0.00	\$0.00
Land & Building Reserve	\$79,128.45	\$100,064.88
Plant Reserve	\$942,333.13	\$906,317.75
Leave Reserve	\$286,953.70	\$281,385.89
Economic Development Reserve	\$108,148.45	\$109,404.15
Sewerage Reserve	\$144,753.84	\$216,496.39
Unspent Grants & Contributions Reserve	\$52,334.68	\$356,734.36
Community Development Reserve	\$1,378,039.96	\$1,188,165.83
Water Waste Management Reserve	\$0.00	\$0.00
Future Funds Reserve	\$2,142,849.73	\$2,121,587.50
Morawa Future Funds Interest Reserve	\$54,762.43	\$88,113.67
Aged Care Units Reserve Units 6-9	\$9,034.28	\$9,139.21
Aged Care Units Reserve Units 1-4	0	\$68,023.61
Aged Care Units Reserve Unit 5	0	\$54,605.96
Transfer Station Reserve	\$134,656.39	\$27.18
S/Towns Revitalisation Reserve	\$173,978.79	\$176,565.40
ST Solar Thermal Power Station Reserve	\$551,456.79	\$559,655.41
Business Units Reserve	\$61,304.69	\$82,034.15
Legal Reserve	\$15,015.77	\$20,194.54
Road Reserve	\$140,147.16	\$141,774.38
TOTAL	\$6,274,898.24	\$6,480,290.26

TRANSFER OF FUNDS

- *\$521,430.00 from Unspent Grants to Municipal Fund being for General FAGS paid in advance June 2017. 17 July 2017*

- **Investment Transfers**
- *\$500,000.00 from Community Development Fund to Term Deposit Community Development for 11 months and 30 days @ 3% interest*
- *\$800,000.00 from Future Funds to Term Deposit Future Funds1 for 11 months and 30 days @ 3% interest*
- *\$800,000.00 from Future Funds to Term Deposit Future Funds2 for 11 months and 30 days @ 3% interest*
- *\$500,000.00 from Municipal Funds to Term Deposit Municipal Account for 47 days @ 1.5% interest*

COMMUNITY CONSULTATION

NIL

COUNCILLOR CONSULTATION

NIL

STATUTORY ENVIRONMENT

Local Government Act 1995 and Local Government (Financial Management) Regulations 1996

POLICY IMPLICATIONS

Section 3 – Finance 3.11 Risk Management Controls
Section 3 – Finance 3.4.3 Investment Policy – Delegated Authority

FINANCIAL IMPLICATIONS

As presented

STRATEGIC IMPLICATIONS

Nil

RISK MANAGEMENT

As per Policy Section 3 – Finance 3.11 Risk Management Controls

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION

That Council:

Receive the bank reconciliation report for 31 July 2017.

<i>Item No/Subject:</i>	7.2.2.3 Monthly Financial Statements – July 2017
<i>Date of Meeting:</i>	17 August 2017
<i>Date & Author:</i>	11 August 2017 Candice Smith - Senior Finance Officer
<i>Responsible Officer:</i>	Fred Gledhill – Executive Manager Corporate & Community Services
<i>Applicant/Proponent:</i>	Senior Finance Officer Executive Manager Corporate & Community Services
<i>File Number:</i>	
<i>Previous minute/s & Reference:</i>	

SUMMARY

Local Government (Financial Management) Regulation 34(1) (a) states that a Local Government must prepare financial statements monthly.

DECLARATION OF INTEREST

Nil

ATTACHMENTS

The July Monthly Financial Activity Report pertaining to Councils operations is provided under separate cover. As the financial statements show Council operations in actuals only there are *no variances to report this month* due to the 2017/18 Budget yet to be adopted.

A copy of the schedules is available if required.

BACKGROUND INFORMATION

Nil

OFFICER'S COMMENT

Nil

COMMUNITY CONSULTATION

Nil

COUNCILLOR CONSULTATION

Nil

STATUTORY ENVIRONMENT

Local Government Act 1995 and Local Government (Financial Management) Regulations.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

As presented

STRATEGIC IMPLICATIONS

Nil

RISK MANAGEMENT

Nil

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION

That Council:

Receive the Statement of Financial Activity and the Variance Report for the period ending the 31 July 2017.

AGENDA ITEMS:

7.2.2.1 Accounts Due for Payment (July 2017) (under separate cover)

7.2.2.2 Reconciliation (July 2017) (under separate cover)

7.2.2.3 Monthly Financial Statements (July 2017) (under separate cover)

<i>Item No/ Subject:</i>	7.2.2.4 Adoption of Community Funding Policy
<i>Date of Meeting:</i>	17 August 2017
<i>Date & Author:</i>	31 July 2017 - Sean Fletcher - Acting CEO
<i>Responsible Officer:</i>	Fred Gledhill – Executive Manager Corporate & Community Services
<i>Applicant/Proponent:</i>	Sean Fletcher - Acting CEO
<i>File Number:</i>	GS.PRG.3
<i>Previous minute/s & Reference:</i>	Nil

SUMMARY

The purpose of this report is to seek Council's adoption of a community funding policy administered by the CEO. The purpose of the policy is to allow eligible local individuals and community organisations or groups to apply for funding that will assist them to participate in, or undertake an event, activity or project.

The total funds proposed to be available each year is \$5,000, with a capped amount of \$1,000 per individual or community organisation or group.

DECLARATION OF INTEREST

Nil

ATTACHMENTS

7.2.2.4a Draft 3.9 Community Funding Policy

BACKGROUND INFORMATION

The Shire from time to time receives requests from local persons or groups for financial assistance so that they can either undertake, or participate in an event, activity or

project. This is either within the Morawa District or outside the District. Such events have included local persons participating in State or National titles.

Local governments throughout Western Australia generally have a community fund in place to assist with such requests that may include a grant, donation or some form of sponsorship.

The funding under this policy is separate to the funding that is provided through the Morawa Sinosteel Future Fund (Formerly the Community Development Fund).

OFFICER'S COMMENT

The Shire does not have a framework in place to deal with applications for funding from locals and community organisations and groups. Council recently had a request before it from a community member and was unable to assess the proposal due to a lack of criteria.

The purpose of the Community Funding Policy is to have a set of criteria in place that the CEO (Staff) can use to assess applications regarding their suitability and respond to accordingly.

Principles

It is proposed that the funding available under the community funding policy is administered (executive authority to process and approve) by the CEO according to the following principles:

- Applications are open all year round with the Fund advertised each quarter;
- Applications are to be processed and approved, or rejected according to the guidelines developed and administered by the CEO in accordance with this policy. Typically the guidelines will encapsulate:
 - The application criteria including the eligibility criteria;
 - The acquittal process;
 - A review mechanism for the guidelines.
- Once the funding pool of \$5,000 has been reached for each financial (budget) year, no other applications will be considered by the CEO;
- Applications that are in excess of the available funds may be presented to Council for consideration.

The total funds proposed to be available each year is \$5,000, with a capped amount of \$1,000 per individual or community organisation or group. Only one application per applicant will be eligible each year.

Eligibility Criteria

The guidelines will set out the following eligibility criteria:

- Increasing community engagement and participation in local events and in community life;

- Allowing participation in Regional, State and National events that also has the benefit of promoting the Morawa District;
- Improving the health and well being of the local communities;
- Encouraging the Shire's business environment including the business community, farming community and other business activities;
- Helping the Shire's communities shape, understand and celebrate their identity, history and heritage;
- The Fund is available to help meet some of the following costs associated with:
 - Travel;
 - Accommodation;
 - Programming costs;
 - Production and venue costs;
 - Minor Equipment costs;
 - Professional development fees;
 - Marketing costs and project management fees.

Pros and Cons

One of the benefits of having a community fund in place is that it is not only supporting those individuals or community groups to participate in an event, project or activity but to also promote the Morawa District. This also means that such locals are receiving recognition locally and further afield.

Another benefit is that the Community Fund will allow locals to participate in a key activity that they could not attend or undertake due to financial hardship or a downturn in economic circumstances.

With the responsibility for the fund maintained by the CEO (the Staff), it means that applications will be processed promptly.

A negative could be that the Fund is not well utilised or that the funds may not be available from time to time.

COMMUNITY CONSULTATION

Nil

COUNCILLOR CONSULTATION

June Ordinary Council Meeting.

STATUTORY ENVIRONMENT

The Local Government Act – Section 1.3 (3) ... a local government is to use its best endeavours to meet the needs of current and future generations through an integration of environmental protection, social advancement and economic prosperity.

POLICY IMPLICATIONS

The Community Funding Policy is a new policy.

FINANCIAL IMPLICATIONS

The impost to Council and the Shire is a total of \$5,000 per annum. This amount is not considered excessive for the Shire to support.

STRATEGIC IMPLICATIONS

Outcome 1.2	Maximise business, industry and investment opportunities	Key Partners
1.2.2	Support the Morawa Chamber of Commerce.	MCC
1.2.6	Support the development of agriculture and related industries.	DAFWA, MWDC
1.2.8	Continue to support MEITA and its strategic direction (Education Industry Training Alliance).	MEITA, DoE

Outcome 3.2	Respect our cultural, indigenous and heritage assets.	Key Partners
3.2.1	Maintain, enhance and promote heritage assets.	DEC, HCWA, DIA
3.2.2	Support the Billaranga Arts Studio.	DCA, DIA
3.2.4	Support the operations of the Morawa Historical Society.	HCWA
3.2.5	Support to community events.	DCA, TWA

Outcome 3.4	A wide range of regional events.	Key Partners
3.4.2	Support community events. (refer to 3.2.5)	DSR, TWA, DCA

RISK MANAGEMENT

Under the Shire's risk governance framework, the impact of the cost to the Shire to undertake such a fund is minor i.e. \$1,001 - \$10,000. Applications for funding are almost certain i.e. more than once a year. So the risk of not supporting persons or groups regarding access to such a funding program in the current economic

environment is high, which may impact on the Shire's reputation. So, the introduction of the Community Funding Policy will reduce the risk to moderate/low risk outcome.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION

That Council adopts Policy 3.9 Community Funding Policy as set out in Attachment 7.2.2.4a

Objective

To provide an equitable, transparent framework for the allocation and distribution of community grants or donations.

Scope

This policy defines the rules in regards to the use of the Community Grants Funding (The Fund).

This policy is separate to the funding that is provided through the Morawa Sinosteel Future Fund (Formerly the Community Development Fund).

Policy Statement

The Shire of Morawa aims to foster inclusive local communities in its district through providing funding that will support eligible local individuals and community organisations or groups to either: undertake or participate in an event, activity or project.

A key part of this process is to provide a funding program through the Fund that both individuals and community organisations in the Morawa District can apply for each year.

The funding can be used for:

- Supporting local events, activities and projects that occur inside the Morawa District;
- Supporting individuals and community organisations to participate in events, activities and projects that occur outside of the Morawa District.

Community Grants Funding Budget Allocation (Available Funds)

The amount that the Shire will make available each year through the Budget for the Fund is a total of \$5,000.

Amount of Grant/Donation/Sponsorship Available

The Shire will award grants or donations or sponsorship from the Fund of up to a total of \$1,000 per annum per eligible application.

Administration of the Application Process

Applications for the Fund are to be administered (executive authority to process and approve) by the CEO according to the following principles:

- Applications are open all year round with the Fund advertised each quarter;

- Applications are to be processed and approved or rejected according to the guidelines developed and administered by the CEO in accordance with this policy. Typically the guidelines will encapsulate:
 - The application criteria including the eligibility criteria;
 - The acquittal process;
 - A review mechanism for the guidelines.
- Once the funding pool of \$5,000 has been reached for each financial (budget) year, no other applications will be considered by the CEO;
- Applications that are in excess of the available funds may be presented to Council for consideration.

Definitions

Eligible Application

- Applicant must be a local resident, community organisation or group;
- Only one application can be received from an applicant each financial year.

Responsible Officer

The Economic Development Manager

Level of Review

This policy is to be reviewed every two years

Date Adopted/Amended

17 August 2017

<i>Item No/ Subject:</i>	7.2.2.5 Review of 3.7 Purchasing Policy
<i>Date of Meeting:</i>	17 August 2017
<i>Date & Author:</i>	31 July 2017 - Sean Fletcher - Acting CEO
<i>Responsible Officer:</i>	Fred Gledhill – Executive Manager Corporate & Community Services
<i>Applicant/Proponent:</i>	Sean Fletcher - Acting CEO
<i>File Number:</i>	
<i>Previous minute/s & Reference:</i>	Nil

SUMMARY

The purpose of this report is to seek Council’s adoption of a new purchasing policy. The new policy addresses in part some of the matters regarding the Shire’s purchasing practices including the difficulty to obtain quotes. The proposed policy is not only a modern approach to procurement, but one of best practice as well.

The proposed policy also fixes a number of misnomers in the current purchasing policy and conflicts with existing delegations.

DECLARATION OF INTEREST

Nil

ATTACHMENTS

7.2.2.5a Current 3.7 Purchasing Policy
7.2.2.5b Draft 3.7 Purchasing Policy

BACKGROUND INFORMATION

The Interim Audit 2017 identified that there were some issues regarding the Shire’s current purchasing policy and other matters, which were presented at the June Council Briefing Session as follows:

Issue	Other	Remedy
Tender Register	<ul style="list-style-type: none"> • Too much documentation – commercial info • Swimming Pool Tender not included • Flood Works advertisement not included 	<ul style="list-style-type: none"> • All submissions removed • Swimming Pool Tender included • Advertisement included
Using incorrect financial management policy	Using purchasing limit of \$100,000 not \$150,000	Correct policy now being used
Purchase Orders not in line with purchasing Policy	Three quotes not obtained in some instances for quotes over \$3,000	Auditors agree that the policy should be amended to allow more effective quoting i.e. limit is too low
Minutes hard to follow	<ul style="list-style-type: none"> • Concerns confidential items (note: confidential items/reports are correct) 	Auditors agree with SFs view that two sets of complete minutes are to be kept ie public copy and confidential copy
Investments 62% Liquidity not 70%	Re-inclusion of Investment Policy into the Policy Manual required	Investment Policy will be inserted as part of the policy manual review

The key issue regarding the above information was the auditors' commenting, and agreeing with the author, that the current purchasing criteria was difficult for staff to comply regarding its requirements. It was agreed that the purchasing policy should be amended to allow more effective quoting that included a review of the purchasing limits and the criteria for each one of these limits.

Further to the above, the author has identified that the current purchasing policy is lacking in the following:

- Buy Local Policy;
- Regional Price Preference Policy;
- eQuotes;
- Request for Quotation Process; and
- Corporate Social Responsibility.

There are also a number of criteria that need updating including:

- The Objectives;
- Value for Money Criteria; and
- Sustainable Procurement.

It would appear that the Shire's current policy is much out of date and outmoded and it is proposed that the current policy is replaced with the WALGA model in terms of structure and content. The content is tailored to suit the Shire of Morawa's requirements.

OFFICER'S COMMENT

The WALGA Model

The author has put forward the WALGA Model, and modified it to suit the Shire of Morawa, as it includes all of the current requirements regarding good purchasing practices. The draft policy also contains clear information regarding a buy local policy and a regional preference policy. Both of these policy statements are missing from the

Shire's current list of policies. Both are also timely regarding the current economic climate.

Purchasing Thresholds

The current policy has four purchasing limits in place. The proposed revised policy also has four purchasing limits, but adjusted to reflect the Shire's environment in terms of its location and access to suppliers. The comparison between the two policy positions is explained as follows:

Current Policy Threshold	Proposed Policy Threshold	Comments
<p>Goods/Services < \$3,000</p> <ul style="list-style-type: none"> • Single satisfactory quote; • Additional quotes may be required 	<p>Goods/Services < \$5,000</p> <ul style="list-style-type: none"> • Obtain at least 1 verbal quote; • If written quote received, must be supported by evidence 	<p>The proposed policy requires the use of a form to record the verbal quote</p> <p>The current threshold is not sufficient for much of the low end services/products the Shire requires. Quite often the level of quote received falls into the next threshold</p>
<p>Goods/Services \$3,000 - \$10,000</p> <ul style="list-style-type: none"> • Verbal quotes from 3 suppliers; • If unable to obtain 3 quotes this should be documented 	<p>Goods and Services \$5,000 - \$19,999</p> <ul style="list-style-type: none"> • 2 written quotes; or • Obtain quotes from pre-qualified panel, WALGA Preferred suppliers (Request for Quotes) 	<p>The current threshold is extremely difficult to achieve. Staff often cannot obtain a third quote locally (within the region) and need to go further afield (Perth). Also, quotes for work at this level often fall within the next threshold.</p> <p>The proposed threshold covers many services/products required within this cost range.</p>
<p>Goods/Services \$10,000 to \$50,000</p> <ul style="list-style-type: none"> • 3 Written quotes; • All suitable suppliers from the local suppliers register will be invited to submit a quotation (even if there are more than 3 suppliers); • Minimum of three days to respond; • If unable to obtain 3 written quotes this should be documented 	<p>Goods and Services \$20,000 to \$49,999</p> <ul style="list-style-type: none"> • Obtain at least 2 written quotes; • Price and specification required (The Shire's detailed description for the work required); • Value for money evaluation required; • Obtain quotes from pre-qualified panel, WALGA Preferred suppliers (Request for Quotes) 	<p>The current threshold is extremely difficult to achieve. Staff often cannot obtain a third quote locally (within the region) and need to go further afield (Perth).</p> <p>Also the Shire does not have in place a local supplier register at this point. Even if it did, the requirement for all suppliers to provide a quote is excessive and would be difficult to manage.</p> <p>The criteria for documenting not receiving the required number of quotes should be approved by the CEO.</p> <p>The proposed policy has much more rigour around regarding</p>

		<p>how quotes are evaluated (value for money) and the respondent has to provide detail or a detailed description in response to the Shire's criteria.</p>
<p>Goods/Services \$50,000 to \$150,000</p> <ul style="list-style-type: none"> • 3 Written quotes; • Written specification required; • Minimum of 5 working days to respond; • If unable to obtain 3 written quotes this should be documented; • Council is to approve purchases 	<p>Goods and Services \$50,000 to \$150,000</p> <ul style="list-style-type: none"> • Obtain at least 3 written quotes; • Price and specification required; • Value for money evaluation required; • Obtain quotes from pre-qualified panel, WALGA Preferred suppliers (Request for Quotes) 	<p>The criteria at this level for both the current policy and the proposed policy are on a par.</p> <p>However, the key matter regarding the current policy is that Council is required to approve purchases regarding this level threshold. There are a number of issues regarding this requirement:</p> <ul style="list-style-type: none"> • To the best of Mr Fletcher's knowledge the criteria for Council to approve the purchase has not occurred as it is contrary to Delegation 7.2.11 Incurring Liability and Making Payment. Under this delegation, the CEO is delegated the authority to approve requisitions and purchases orders and for the supply of goods and service and subsequent certification of services for which funds have been provided for in the Annual Budget (unlimited). • make all payments. However, a clear delegation is required in this matter re the transfer of the purchasing authority to the CEO. The CEO then on-delegates to acceptable limits; • This requirement may well be a hangover from when the tender threshold for local government was much lower; • The intent of the Local Government Act and the Financial Management Regulations let alone the expectation of the Department (as mentioned in a number of inquiry reports into Local Governments) is that operating matters such as non-tender matters are conducted by, or delegated to, the CEO.

Purchasing Thresholds are important when it comes to providing a clear guideline to the CEO (and hence through the CEO to staff) how the purchasing criteria is to be applied. The criteria should be a balance between what is achievable and managing any inherent risks, as any good governance practice would dictate. The author considers that the proposed policy does this.

The other matter to note from the above is that the current policy requires Council to approve payments between \$50,000 and \$150,000 and “delegates” the purchasing power to the CEO and other appropriate staff. This is incorrect. In the first instance, under Delegation 7.2.2, the CEO is delegated authority to make payments.

In the second instance, the delegation authority to the CEO regarding the incurring of liabilities and the making of payments (purchases) needs to be removed from this policy and observed as per Delegation 7.2.11 – Incurring Liability and Making Payments. Delegation 7.2.11 states the following:

Delegation:	The Chief Executive Officer is to ensure efficient systems and procedures are established to ensure proper authorisation for the incurring of liabilities and the making of payments	
	The authority to approve requisitions and purchases orders and for the supply of goods and service and subsequent certification of services for which funds have been provided for in the Annual Budget	
Objectives:	To provide efficient systems and procedures when approving requisitions and purchases	
Guidelines:	/policy Council policy for purchases	
Conditions:	Authority to Chief Executive Officer is unlimited subject to annual budget limitations.	

The current delegation register shows that CEO has on-delegated the purchasing limits as follows:

Delegation

By CEO:	Executive Manager Development & Administration	\$50,000
	Manager Accounting & Finance	\$50,000
	Principal Works Supervisor	\$10,000

The CEO has authority over whom he or she on-delegates. The author intends to update the above to reflect current practice. This will include the correction to titles and amounts i.e. the Principal Works Supervisor to \$50,000 and the insertion of the Shire of Mechanic with a purchasing delegation of \$10,000. The Manager Accounting and Finance is now the Executive Manager Corporate and Community Services.

The purchasing requirements will be corrected once the proposed policy is adopted.

Other Requirements

Objectives

The objectives in the proposed policy have been updated to reflect that there is openness, transparency, fairness and equity and that there is an acknowledgement regarding the keeping of financial records according to the requirements of *States Records Act 2000* (apart from the CEO's responsibilities under the Local Government Act). There is also a statement regarding ensuring efficient practices are in place.

Value for Money

The wording of the criteria has been updated to reflect current terms, methodology and practices. This process is all about compliance with the specification that the Shire has developed for a good or service rather than the lowest possible price.

Purchasing Procedures

The purchasing procedures in the proposed policy have very good and detailed list of requirements regarding:

- eQuotes. This is a secure, web based procurement tool provided by WALGA that streamlines and simplifies the process for the purchaser. It allows timely responses to all enquiries. Local Supplier can also be added to the eQuote list.
- Request for Quotations. Should the Shire elect to use a request for quotation process, then the process used is set out in the draft policy.
- Conducting a Tender. A very good and clear list on how to conduct a tender is provided in the draft policy. This includes the requirements as set out under the Tender Regulations (Part 4 of the Local Government Function and General Regulations).

Financial Requirements and Delegations

This section has been inserted to reflect the current delegation in place regarding the incurring of liabilities and purchases i.e. Delegation 7.2.11 which sets out the purchasing thresholds to the CEO. The CEO then on-delegates appropriate purchasing thresholds for other officers.

Corporate Social Responsibility

Corporate and social responsibility is the matter of demonstrating ethics and compliance with regulatory standards. Leading organisations have this criteria in place and it is very much a matter of the supplier demonstrating that they are minimising the impact on the environment e.g. best practice in water efficiency and minimising negative social impacts e.g. have regard for the local supply chain.

Buy Local Policy

The State Government has a Buy Local Policy in place that local governments are encouraged to maximise. This is about ensuring that the Shire of Morawa does not put local business at a disadvantage.

Regional Price Preference Policy

Under the legislation, the Shire of Morawa as a local government, can have in place a regional price preference policy. Such a policy means that suppliers located in the Mid West Region can have their bid reduced by 5% (building services) or 10% (goods and services) when accessing the quote or tender.

Note that under the proposed policy, the maximum amount that of the price preference that can be applied is \$50 000.

The price preference policy works as follows:

Quote Received	Price Received	Price Reduction 10%	Adjusted Price
Quote 1 – Mid West Supplier	\$100,000	\$10,000 (10% of \$100,000)	\$90,000
Quote 2 – Metropolitan Supplier	\$95,000	No preference is applicable	\$95,000
Quote 3 – Metropolitan Supplier that uses \$50,000 of local goods and services	\$97,500	\$5,000 (10% of local content i.e. \$50,000 is applied)	\$92,500

It can be seen from the above table that, in terms of price, the quote from the regional supplier is the most advantageous, once the preference has been applied.

This would apply the same to a tender, if the regional price preference is applied.

COMMUNITY CONSULTATION

Nil

COUNCILLOR CONSULTATION

June Briefing Session and August Briefing Session.

STATUTORY ENVIRONMENT

To ensure compliance with the *Local Government Act 1995* (“the Act”) and the *Local Government Act (Functions and General) Regulations 1996* (“the Regulations”):

- *Part 6 of the Local Government Act* – including general provisions on the keeping of accounts and records;
- *Part 4 of the Regulations – Provision of Goods and Services*. Includes requirements regarding that a local government is to have a purchasing policy and includes those matters regarding tender arrangements.

State Records Act 2000 and associated records management practices and procedures of the Shire. The State Records Act sets out requirements regarding how financial records are to be kept.

POLICY IMPLICATIONS

As discussed in the body of this report.

FINANCIAL IMPLICATIONS

Although there is no actual cost to the Shire with the introduction of the proposed purchasing policy, it will lead to improved practices, which in turn are expected to produce efficiencies.

STRATEGIC IMPLICATIONS

Outcome 4.5	Be compliant with relevant legislation.	Key Partners
4.5.1	Adhere to the Local Government Act 1995.	DLG, WALGA
4.5.2	Ensure compliance with local, town planning, building, health and all other legislation.	DLG, WALGA
4.5.3	Maintain, review and ensure relevance of Council policies and laws.	DLG, WALGA
Outcome 4.7	Long term financial viability.	Key Partners
4.7.1	Planning to consider whole of life costs of service provision and assets.	-
4.7.2	Seek efficiencies in planning and operations.	-

RISK MANAGEMENT

Under the Shire’s risk governance framework, the impact of the Shire not addressing its purchasing policy is a compliance consequence that is moderate/major in nature i.e. Short term non-compliance but with significant regulatory requirements imposed with the potential for non-compliance resulting in imposed penalties. The likelihood of the current non-compliance is almost certain i.e. more than once a year. So the level

of risk of not having in place a suitable purchasing policy is high/extreme. The proposed policy will ameliorate this risk through implementing good practice at a sustainable level thus reducing the impact from high/extreme risk to moderate/low risk. This approach also fits in the outcomes that the Shire is achieving with its recovery plan.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION

That Council adopts Policy 3.7 Purchasing Policy, as amended in Attachment 7.2.2.5b

3.7 PURCHASING POLICY

Objective

- To provide compliance with the *Local Government Act, 1995* and the *Local Government Act (Functions and General) Regulations, 1996*.
- To deliver a best practice approach and procedures to internal purchasing for the Shire of Morawa.
- To ensure consistency for all purchasing activities that integrates within all the Shire of Morawa operational areas.

Why do we need a purchasing policy?

The Shire is committed to setting up efficient, effective, economical and sustainable procedures in all purchasing activities. This policy:

- Provides the Shire with a more effective way of purchasing goods and services.
- Ensures that purchasing transactions are carried out in a fair and equitable manner.
- Strengthens integrity and confidence in the purchasing system.
- Ensures that the Shire receives value for money in its purchasing.
- Ensures that the Shire considers the environmental impact of the procurement process across the life cycle of goods and services.
- Ensures the Shire is compliant with all regulatory obligations.
- Promotes effective governance and definition of roles and responsibilities.
- Uphold respect from the public and industry for the Shire's purchasing practices that withstand probity.

Ethics and Integrity

All Shire staff shall observe the highest standards of ethics and integrity in undertaking purchasing activity and act in an honest and professional manner that supports the standing of the Shire.

The following principles, standards and behaviours must be observed and enforced through all stages of the purchasing process to ensure the fair and equitable treatment of all parties:

- Full accountability shall be taken for all purchasing decisions and the efficient, effective and proper expenditure of public monies based on achieving value for money.
- All purchasing practices shall comply with relevant legislation, regulations, and requirements consistent with the Shire policies and code of conduct.

- Purchasing is to be undertaken on a competitive basis in which all potential suppliers are treated impartially, honestly and consistently.
- All processes, evaluations and decisions shall be transparent, free from bias and fully documented in accordance with applicable policies and audit requirements.
- Any actual or perceived conflicts of interest are to be identified, disclosed and appropriately managed.
- Any information provided to the Shire by a supplier shall be treated as commercial-in-confidence and should not be released unless authorised by the supplier or relevant legislation.

Value for Money

Value for money is an overarching principle governing purchasing that allows the best possible outcome to be achieved for the Shire. It is important to note that compliance with the specification is more important than obtaining the lowest price, particularly taking into account user requirements, safety and quality standards, sustainability, life cycle costing, timeliness of supply and other relevant service benchmarks.

An assessment of the best value for money outcome for any purchasing should consider:

- All relevant whole-of-life costs and benefits whole-of-life cycle costs (for goods) and whole of contract life costs (for services) including transaction costs associated with acquisition, delivery, distribution, as well as other costs such as but not limited to holding costs, consumables, deployment, maintenance and disposal.
- The technical merits of the goods or services being offered in terms of compliance with specifications, contractual terms and conditions and any relevant methods of assuring quality.
- Financial viability and capacity to supply without risk of default. (Competency of the prospective suppliers in terms of managerial and technical capabilities and compliance history).

A strong element of competition in the allocation of orders or the awarding of contracts. This is achieved by obtaining a sufficient number of competitive quotations wherever practicable.

Where a higher priced conforming offer is recommended, there should be clear and demonstrable benefits over and above the lowest total priced, conforming offer.

Sustainable Procurement

Sustainable Procurement is defined as the procurement of goods and services that have less environmental and social impacts than competing products and services.

The Shire is committed to sustainable procurement and where appropriate shall endeavour to design quotations and tenders to provide an advantage to goods, services and/or processes that minimise environmental and negative social impacts. Sustainable considerations must be balanced against value for money outcomes in accordance with the Shire’s sustainability objectives.

Practically, sustainable procurement means the Shire shall endeavour at all times to identify and procure products and services that:

- Have been determined as necessary.
- Demonstrate environmental best practice in energy efficiency and/or consumption which can be demonstrated through suitable rating systems and eco-labelling.
- Demonstrate environmental best practice in water efficiency.
- Are environmentally sound in manufacture, use, and disposal with a specific preference for products made using the minimum amount of raw materials from a sustainable resource, that are free of toxic or polluting materials and that consume minimal energy during the production stage.
- Products that can be refurbished, reused, recycled or reclaimed shall be given priority, and those that are designed for ease of recycling, re-manufacture or otherwise to minimise waste.
- For motor vehicles – select vehicles featuring the highest fuel efficiency available, based on vehicle type and within the designated price range.
- For new buildings and refurbishments – where available use renewable energy and technologies.

PURCHASE ORDERING AUTHORITY & LIMITS

The following positions have delegated authority to sign purchase orders with the associated monetary limits, subject to the conditions and regulations contained in this Purchasing Policy and in accordance with annual budgetary allocations and any out of budget Council approval:

POSITION	LIMIT OF PURCHASE VALUE \$
Chief Executive Officer	Unlimited
Executive Manager Development & Administration	\$50,000
Principal Works Supervisor	\$50,000
Manager Accounting & Finance	\$10,000
Shire Mechanic	\$5,000

Purchase of Goods and Services - \$150,000 or more

All contracts for the purchase of goods and services with a value of \$150,000 or more shall be by public tender and made in accordance with the *Local Government Act 1995 s3.57* and the *Local Government (Functions and General) Regulations 1996 Part 4*.

The Shire will also enforce the following additional requirements:

- That suitable suppliers listed in the Local Suppliers Register shall be notified that the tender has been advertised. Such notice shall be given as soon as possible after the advertisement appears in the newspaper.
- Acceptance of a tender for building construction projects will be subject to the execution of a contract based on the standard contract supplied by the Master Builders Association.
- The Buy Local Policy will apply to the consideration of tender submissions.

Any decision not to call tenders for goods or services valued at more than \$150,000 because of one of the exceptions listed in Regulation 11(2) shall be by Council resolution.

Before calling for tenders, the Chief Executive Officer or his nominee shall investigate whether the goods or services requested:

- Are available under a common use contract from the State Supply Commission
- Are available via a joint purchasing arrangement through WALGA
- May be combined with the requirements of other local governments in the North Midlands Region to obtain better value for money.

Purchase of Goods and Services – Less than \$150,000

Before seeking quotes, staff shall investigate whether the goods or services requested:

- Are available under a common use contract from the State Supply Commission
- Are available under a joint purchasing arrangement through WALGA.

Goods valued at over \$50,000 but less than \$150,000

Staff will obtain a minimum of 3 written quotes from alternative suppliers. The following conditions will apply:

- Staff will prepare a written specification of the requirements for distribution to potential suppliers
- All suitable suppliers from the Local Suppliers Register will be invited to submit a quotation even if there are more than 3 suitable suppliers
- Staff will allow a minimum of 5 working days for a quote to be provided. If more than 3 days are provided, all suppliers will be allowed that same period to respond.
- If staff are unable to obtain 3 written quotes, this should be documented.
- All purchases to be approved by Council.

Goods valued at over \$10,000 and up to \$50,000

Staff will obtain 3 written quotes from alternative suppliers. The following conditions will also apply:

- All suitable suppliers from the Local Suppliers Register will be invited to submit a quotation even if there are more than 3 suitable suppliers
- Staff will allow a minimum of 3 working days for a quote to be provided.
- If more than 3 days are provided, all suppliers will be allowed that same period to respond.
- If staff are unable to obtain 3 written quotes, this should be documented and the purchase approved by the Chief Executive Officer.

Goods and services valued at over \$3,000 and less than \$10,000

Staff will obtain verbal quotes from 3 alternative suppliers.

All suitable suppliers from the Local Suppliers Register will be invited to submit a quotation even if there are more than 3 suitable suppliers.

If staff is unable to obtain 3 quotes, this should be documented.

Goods and services valued up to \$3,000

May be purchased with a single satisfactory quotation. Staff should ensure that local suppliers are considered first and that value for money is being obtained. If there is any doubt about whether value for money is being obtained, additional quotes should be sought.

RECORD KEEPING - PURCHASING

Goods valued at \$150,000 or over

Whenever goods or services are purchased by public tender, a separate file for that tender will be raised. This file will contain:

- A copy of the Tender Specification
- A copy of the notification to Local Suppliers, if any Copies of all tenders received including late tenders (date stamped accordingly) and non-compliant tenders
- A copy of the tender assessment
- A copy of the relevant sections of the Council Minutes where the decision was taken

Goods valued at over \$50,000 bet less than \$150,000

Whenever goods or services are purchased within this price range a separate file for that purchase will be raised. The file will contain:

- A copy of the Specification
- A copy of the notification to Local Suppliers, if any
- Copies of all quotations received including late quotations (date stamped accordingly) and non-compliant quotations
- A copy of the purchase assessment
- A copy of the relevant sections of the Council Minutes where the decision was taken

Goods valued at over \$10,000 and up to \$50,000

Whenever goods or services are purchased within this price range, the following documents will be appended to the office copy of the purchase order:

- A copy of the notification to Local Suppliers if any
- Copies of all quotations received including late quotations (date stamped accordingly) and non-compliant quotations
- A copy of the purchase assessment

Goods valued at over \$3000 and up to \$10,000

Whenever goods or services are purchased within this price range, the following documents will be appended to the office copy of the purchase order:

- Details of all written or verbal quotations received
- A copy of the purchase assessment

Goods and services valued at up to \$3,000

Details of the quoted price should be included on the purchase order

Adopted 15/12/2007
Amended 18/12/2015
Reviewed 19/12/2016

3.7 Purchasing Policy

1. POLICY

The Shire of Morawa is committed to delivering best practice in the purchasing of goods, services and works that align with the principles of transparency, probity and good governance. Procurement processes and practices to be complied with are defined within this Policy and the WALGA Procurement Handbook (as updated).

2. OBJECTIVES

- To ensure best practice policies and procedures are followed in relation to internal purchasing for the Shire.
- To ensure compliance with the *Local Government Act 1995* (“the Act”) and the *Local Government Act (Functions and General) Regulations 1996* (“the Regulations”).
- To ensure compliance with the *State Records Act 2000* and associated records management practices and procedures of the Shire.
- To undertake purchasing processes that ensures value for money for the Shire by delivering the most advantageous outcome possible.
- To ensure openness, transparency, fairness and equity through the purchasing process to all potential suppliers.
- To ensure efficient and consistent purchasing processes are implemented and maintained across the organisation

3. ETHICS & INTEGRITY

3.1 Code of Conduct

All officers and employees of the Shire undertaking purchasing activities must have regard for the Code of Conduct requirements and shall observe the highest standards of ethics and integrity. All officers and employees of the Shire must act in an honest and professional manner at all times which supports the standing of the Local Government.

3.2 Purchasing Principles

The following principles, standards and behaviours must be observed and enforced through all stages of the purchasing process to ensure the fair and equitable treatment of all parties:

- Full accountability shall be taken for all purchasing decisions and the efficient, effective and proper expenditure of public monies based on achieving value for money;
- All purchasing practices shall comply with relevant legislation, regulations, and requirements consistent with the Shire’s policies and Code of Conduct;
- Purchasing is to be undertaken on a competitive basis where all potential suppliers are treated impartially, honestly and consistently;

- All processes, evaluations and decisions shall be transparent, free from bias and fully documented in accordance with applicable policies, audit requirements and relevant legislation;
- Any actual or perceived conflicts of interest are to be identified, disclosed and appropriately managed; and
- Any information provided to the Shire by a supplier shall be treated as commercial-in-confidence and should not be released unless authorised by the supplier or relevant legislation.

4. VALUE FOR MONEY

4.1 Policy

Value for money is an overarching principle governing purchasing which allows the best possible outcome to be achieved for the Shire. It is important to note that compliance with the purchasing specification is more important than obtaining the lowest price, particularly taking into account user requirements, quality standards, sustainability, life cycle costing and service benchmarks.

4.2 Application

An assessment of the best value for money outcome for any purchasing process should consider:

- All relevant Total Costs of Ownership (TCO) and benefits including transaction costs associated with acquisition, delivery, distribution, as well as other costs such as but not limited to holding costs, consumables, deployment, maintenance and disposal;
- The technical merits of the goods or services being offered in terms of compliance with specifications, contractual terms and conditions and any relevant methods of assuring quality, including but not limited to an assessment of levels and currency of compliances, value adds offered, warranties, guarantees, repair and replacement policies, ease of inspection, ease of after sales service, ease of communications etc.
- Financial viability and capacity to supply without risk of default (competency of the prospective suppliers in terms of managerial and technical capabilities and compliance history); and
- A strong element of competition in the allocation of orders or the awarding of contracts. This is achieved by obtaining a sufficient number of competitive quotations wherever practicable.

5. PURCHASING THRESHOLDS AND PROCESSES

5.1 Legislative / Regulatory Requirements

The requirements that must be complied with by the Shire, including purchasing thresholds and processes, are prescribed within the *Local Government (Functions and General) Regulations 1996* and this Purchasing Policy.

5.2 Policy

Purchasing that is **below \$150,000** in total value (excluding GST) must utilise a Request for Quotation process, either direct to the market or through a panel of pre-qualified suppliers (such as a WALGA Preferred Supply Contract).

Purchasing that **exceeds \$150,000** in total value (excluding GST) must be put to public Tender **unless** a regulatory Tender exemption is utilised by the Shire. Tender exemptions apply in the following instances:

- An emergency situation as defined by the *Local Government Act 1995*;
- The purchase is from a WALGA Preferred Supply Contract or Business Service. All WALGA Preferred Supply Contracts have been established utilising a competitive public procurement process to pre-qualify suppliers that meet compliance requirements and offer optimal value for money to the Local Government sector.
- The purchase is from a Department of Finance Common Use Arrangements (where Local Government use is permitted), a Regional Local Government or another Local Government;
- The purchase is under auction that has been authorised by Council;
- The contract is for petrol, oil, or other liquid or gas used for internal combustion engines; or
- Any of the other exclusions under Regulation 11 of the *Local Government (Functions and General) Regulations 1996* apply.

Determining purchasing value is to be based on the following considerations:

1. The actual or expected value of a contract over the full contract period (including all options to extend); or
2. The extent to which it could be reasonably expected that the Shire will continue to purchase a particular category of goods, services or works and what total value is or could be reasonably expected to be purchased.

Note: *When making a decision about whether to conduct a Public Tender or utilise a Tender exempt arrangement, the Shire should compare the cost and benefits of both processes.*

The compliance requirements, time constraints, costs and risks associated with a Public Tender should be evaluated against the value delivered by such a process. This should then be compared with the costs and benefits of using a Tender exempt arrangement which include direct access to pre-qualified suppliers, full regulatory compliance, risk mitigation, administrative efficiencies and cost savings.

5.3 Purchasing Thresholds - Requirements

Below is the purchasing process that must be followed based on the actual or expected value of each purchase by the Shire of Morawa:

Purchasing Thresholds (ex GST)	Purchasing Requirements
Up to \$5,000	<p>Obtain at least one (1) verbal quotations from suppliers.</p> <p>If a written quotation is received, it must be supported by evidence of the quotation (eg email, fax or record of quotation) in each instance. All quotations from suppliers should be in writing.</p> <p>OR</p> <p>Obtain quotations directly from a pre-qualified panel of suppliers which include WALGA Preferred Supply Contracts.</p>
\$5,000 - \$19,999	<p>Obtain at least two (2) written quotations (eg email, fax or original copy).</p> <p>OR</p> <p>Obtain quotations directly from a pre-qualified panel of suppliers which include WALGA Preferred Supply Contracts. It is recommended that wherever possible, the Shire source multiple competitive quotations (at least two (2) Preferred Suppliers) using a simple quotation process either through eQuotes or directly in writing.</p>
\$20,000 - \$49,999	<p>Obtain at least two (2) written quotations (eg email, fax or original copy) from suppliers containing price and specification of goods and services. The procurement decision is to be based on all value for money considerations in accordance with the definition stated within this Policy.</p> <p>OR</p> <p>Obtain quotations directly from a pre-qualified panel of suppliers which include WALGA Preferred Supply Contracts. It is recommended that wherever possible, the Shire source multiple competitive quotations (at least two (2) Preferred Suppliers) using a formal Request for Quotation process either through eQuotes or directly in writing.</p>
\$50,000 – \$149,999	<p>Obtain at least three (3) written quotations (eg email, fax or original copy) from suppliers containing price and specification of goods and services. The procurement decision is to be based on all value for money considerations in accordance with the definition stated within this Policy.</p> <p>OR</p> <p>Obtain quotations directly from a pre-qualified panel of suppliers which include WALGA Preferred Supply Contracts. It is</p>

	recommended that wherever possible, the Shire source multiple competitive quotations (at least three Preferred Suppliers) using a formal Request for Quotation process either through eQuotes or directly in writing.
\$150,000 and above	<p>Conduct a public Tender process in accordance with this policy and the WALGA Procurement Handbook. The procurement decision is to be based on value for money considerations in accordance with the definition stated within this Policy.</p> <p>OR</p> <p>Obtain quotations directly from a Tender exempt and pre-qualified panel of suppliers which include WALGA Preferred Supply Contracts. It is recommended that wherever possible, the Shire source multiple competitive quotations (at least three Preferred Suppliers) using a formal Request for Quotation process either through eQuotes or directly in writing.</p>

Where considered necessary, the Shire may consider calling Public Tenders in lieu of undertaking a Request for Quotation for purchases under the \$150,000 threshold (excluding GST). This decision should be made after considering the benefits of this approach in comparison with the costs, risks, timeliness and compliance requirements and also whether the purchasing requirement can be met through a pre-qualified panel of suppliers such as WALGA Preferred Supply Contracts.

If a decision is made to undertake a Public Tender for contracts of less than \$150,000, a Request for Tender process entailing all the procedures for tendering outlined in this Policy and the WALGA Procurement Handbook must be followed in full.

Note: *The thresholds specified in the Purchasing Thresholds Table on pages 4 and 5 are determined purely on dollar values; however the Local Government (Functions and General) Regulations 1996 also allow quotation criteria to be set for different types of goods, services or works; suppliers; contracts; or any other item that the Shire considers appropriate.*

5.4 Purchasing Procedures

5.4.1 Tender or Request for Quotation through Tender Exempt Panels (\$150,000 or over in value)

For the procurement of goods, services or works where the value exceeds \$150,000, the Shire must either undertake a:

1. Public Tender process; or
2. Request for Quotation process from a Tender exempt panel of pre-qualified suppliers including WALGA Preferred Supply Contracts (which are specifically designed around Local Government requirements) or State Government Common Use Arrangements (where Local Government access is permitted).

Using a Tender Exempt Panel of Pre-Qualified Suppliers

When accessing a Tender exempt panel of pre-qualified suppliers, such as a WALGA Preferred Supply Contract, the Shire must utilise a Request for Quotation process through eQuotes or in writing direct with the Preferred Suppliers.

In undertaking a Request for Quotation, the Shire does not need to request that pre-qualified suppliers provide the type of information that is normally provided in a Public Tender. The fact that WALGA has already undertaken a public procurement process and has pre-qualified each Preferred Supplier means that this information has already been obtained and validated.

Additionally, the Shire does not need to use its own contractual terms and conditions given that WALGA has already developed best practice contractual terms and conditions which have been accepted by every Preferred Supplier. These contractual terms and conditions ensure that the interests of the Shire are fully protected.

Keeping the scope of the Request for Quotation focused on the Specification and the selection criteria that will be utilised by the Shire to assess different quotations will ensure that only the required information is sought from Preferred Suppliers and the response process is streamlined.

Responses from Preferred Suppliers should be in writing and contain the price and a sufficient amount of information that addresses the Specification and selection criteria provided by the Shire.

eQuotes

eQuotes is a secure, web-based procurement tool that streamlines and simplifies the Request for Quotation process with WALGA Preferred Suppliers at the same time as facilitating purchasing compliance, probity and control over all aspects of purchasing.

All WALGA Preferred Supply Contracts are available on eQuotes and all necessary contract information is preloaded to enable informed procurement choices, including contract details, insurances, pricing (where applicable) etc. The Shire can also upgrade eQuotes to include their local suppliers.

Request for Quotation Process

In the event that the Shire elects to call a Request for Quotation, the following process should be followed:

- The Request for Quotation documentation must include:
 - Written Specification that communicates the requirement(s) in a clear, concise and logical fashion;
 - Selection Criteria to be applied;
 - Price Schedule;
 - Conditions of responding; and
 - Validity period of offer.
- Invitations to quote must be issued simultaneously to ensure that all parties receive an equal opportunity to respond. This can be done through eQuotes or directly to suppliers.

- New information that is likely to change the requirements must be offered to all prospective suppliers at the same time.
- Written responses must be assessed for compliance, then against the selection criteria, and then value for money. All evaluations must be documented.
- Respondents must be advised in writing as soon as possible after the final determination is made and approved.

For this procurement range, selection **must** be based on value for money (in accordance with the definition stated within this Policy) and which quotation would be most advantageous to the Shire.

The evaluation process should include an assessment of qualitative factors such as quality, stock availability, accreditation, time for completion or delivery, warranty conditions, technology, maintenance requirements, organisation's capability, previous relevant experience, environmental and social impacts, corporate social responsibility and any other relevant factors as part of the assessment of the supplier's response.

The Shire can utilise the flexible nature of WALGA Preferred Supply Contracts to leverage optimal value for money through the competitive nature of the quotation process and based on their purchasing intent (eg volume or value of items to be purchased, period of contract etc). Additionally, when using a WALGA Preferred Supply Contract the Shire may negotiate with the highest rated Preferred Supplier from the evaluation process. This does not rule out the other Preferred Suppliers until successful conclusion of negotiations via award of contract.

The responsible officer is expected to demonstrate due diligence when conducting a Request for Quotation process and must comply with any record keeping and audit requirements. Record keeping requirements must be maintained in accordance with record keeping policies.

Note: While the pre-qualified nature of WALGA Preferred Supply Contracts provides Local Governments with the capacity to negotiate with Preferred Suppliers, this is generally **not** permitted within a Public Tender process due to legal process contract risks.

Public Tender

In the event that the Shire elects to call a Public Tender:

- Before Tenders are publicly invited, the Shire must record the decision to invite Tenders (which is to be recorded in the Tender Register) and must determine in writing the criteria for deciding which tender should be accepted.
- The Evaluation Panel must be established prior to the advertising of the Tender and include a mix of skills and experience relevant to the nature of the purchase. For Tenders, the Evaluation Panel must contain a minimum of two (2) members;
- A Tender Notice must be advertised in a State wide publication e.g. "The West Australian" newspaper (Local Government Tenders section), preferably on a Wednesday or Saturday.
- The Tender must remain open for at least 14 days after the date the Tender is advertised. Care must be taken to ensure that 14 **full** days are provided as a minimum.

- The Tender Notice must include:
 - a brief description of the goods or services required;
 - information as to where and how Tenders may be submitted;
 - the date and time after which Tenders cannot be submitted; and
 - A contact person to supply more detailed information if required. Detailed information must include:
 - Such information as the Shire decides should be disclosed to those interested in submitting a Tender response;
 - Detailed specifications of the goods or services required;
 - The criteria for deciding which Tender response should be accepted;
 - Whether or not the Shire has decided to submit a Tender response; and
 - Whether or not Tender responses can be submitted by facsimile or other electronic means, and if so, how Tenders may so be submitted.
- Tenders must not be made available (counter, mail, internet, referral, or other means) without a robust process to ensure the recording of details of all parties who acquire the documentation. If clarifications, addendums or further communication are required prior to the close of Tenders, all potential Tenderers must have equal access to this information in order for the Shire not to compromise its duty to be fair.
- If, after the Tender has been publicly advertised, any changes, variations or adjustments to the Tender document and/or the Conditions of Tender are required, the Shire may vary the initial information by taking reasonable steps to give each person who has sought copies of the Tender documents notice of the variation.
- A Tender response that is not received in full in the required format by the advertised Tender Deadline must be rejected.
- No tenders are to be removed from the Tender Box or opened (read or evaluated) prior to the Tender Deadline.
- Tenders are to be opened in the presence of the Chief Executive Officer's delegated nominee and preferably at least one other Local Government officer. The details of all Tender responses received and opened must be recorded in the Tenders Register. Tender responses are to be opened in accordance with the advertised time and place. There is no obligation to disclose or record tendered prices at the Tender opening, and price information should be regarded as *commercial-in-confidence* to the Shire. Members of the public are entitled to be present.
- The Tenderer's offer form, price schedule and other appropriate pages from each Tender shall be date stamped and initialled by at least two (2) Local Government officers or representatives present at the opening of Tender responses.
- Where the Shire has invited Tender responses and no compliant submissions have been received; direct purchases can be arranged on the basis of the following:
 - A sufficient number of quotations are obtained;
 - The process follows the guidelines for seeking quotations (see Request for Quotation process on page 6);
 - The specification for goods and/or services remains unchanged; and
 - Purchasing is arranged within six (6) months of the closing date of the lapsed Tender.
- Tender responses that have not been rejected must be assessed by the Shire by means of a written evaluation against the pre-determined criteria. The Evaluation Panel must assess each Tender response that has not been rejected to determine which response is most advantageous.

- If after the Tender has been publicly advertised and a successful Tenderer has been chosen, and before the Shire and Tenderer have entered into a contract, a minor variation may be made by the Shire. A minor variation may **not** alter the nature of the goods and/or services procured, nor may it materially alter the specification or structure provided for by the initial Tender.
- Each Tenderer shall be notified of the outcome of the Tender following Council resolution or appropriate delegated authority. Notification must include:
 - The name of the successful Tenderer.
 - The total value of consideration of the winning offer.
- The details and total value of consideration for the winning offer must be entered into the Tenders Register at the conclusion of the Tender process.

For this procurement range, selection of Tenderer **must** be based on value for money (in accordance with the definition stated within this Policy) and which Tender response would be most advantageous to the Shire.

To comply with the requirements of Regulation 18(4) of the *Local Government (Functions and General) Regulations 1996*, the Tender evaluation process must provide a written assessment of the extent that each Tender response satisfies the criteria which was set prior to advertising the Tender. This should include an assessment of qualitative factors such as quality, stock availability, accreditation, time for completion or delivery, warranty conditions, technology, maintenance requirements, organisation's capability, previous relevant experience, environmental and social impacts, corporate social responsibility and any other relevant factors as part of the assessment of the Tender response.

The responsible officer is expected to demonstrate due diligence when conducting a public Tender and must comply with any record keeping and audit requirements.

5.4.2 Request for Quotation (\$50,000 or over to \$149,999 in value)

For the procurement of goods or services where the value exceeds \$50,000 but is less than \$149,999, it is recommended that at least three (3) written quotations be obtained from the market or from a pre-qualified panel of suppliers including WALGA Preferred Supply Contracts.

In the event that a Shire elects to call a Request for Quotation, the following process should be followed:

- Provide a Request for Quotation that includes as a minimum:
 - Written Specification that communicates the requirement(s) in a clear, concise and logical fashion;
 - Selection Criteria to be applied;
 - Price Schedule;
 - Conditions of responding; and
 - Validity period of offer.
- Invitations to quote must be issued simultaneously to ensure that all parties receive an equal opportunity to respond. This can be done through eQuotes or directly to suppliers.
- New information that is likely to change the requirements must be offered to all prospective suppliers at the same time.
- Written responses must be assessed for compliance, then against the selection criteria, and then value for money. All evaluations must be documented.

- Respondents must be advised in writing as soon as possible after the final determination is made and approved.

Requests for Quotation to a panel of pre-qualified suppliers, such as a WALGA Preferred Supply Contract, should be undertaken through eQuotes or in writing directly with the Preferred Suppliers. Responses from Preferred Suppliers should be in writing and contain the price and a sufficient amount of information that addresses the Specification and selection criteria provided by the Shire.

For this procurement range, selection of supplier should be based on value for money (in accordance with the definition stated within this Policy) and the response which would be most advantageous to the Shire.

The evaluation of quotations should consider qualitative factors such as quality, stock availability, accreditation, time for completion or delivery, warranty conditions, technology, maintenance requirements, organisation's capability, previous relevant experience, environmental and social impacts, corporate social responsibility and any other relevant factors as part of the assessment of the quote).

The Shire can utilise the flexible nature of WALGA Preferred Supply Contracts to leverage optimal value for money through the competitive nature of the quotation process and based on their purchasing intent (eg volume or value of items to be purchased, period of contract etc). Additionally, when using a WALGA Preferred Supply Contract the Shire may negotiate with the highest rated supplier from the evaluation process. This does not rule out the other suppliers until successful conclusion of negotiations via award of contract.

The responsible officer is expected to demonstrate due diligence seeking quotes and to comply with any record keeping and audit requirements. Record keeping requirements must be maintained in accordance with record keeping policies.

Note: *The WALGA Procurement Handbook has a model Request for Quotation Template which provides best practice documentation and will assist with recording details.*

5.4.3 Request for Quotation (\$20,000 - \$49,999 in value)

Written Requests for Quotations

For the procurement of goods or services where the value is \$20,000 - \$49,999, it is recommended that at least two (2) written quotations be obtained from the market or from a pre-qualified panel of suppliers including WALGA Preferred Supply Contracts.

In the event that the Shire elects to call a Request for Quotation, the following process should be followed:

- Provide a simple Request for Quotation document that outlines the key elements of the process and requires written quotations.
- Provide an appropriately detailed written Specification that communicates the requirement(s) in a clear, concise and logical fashion.

- Invitations to quote must be issued simultaneously to ensure that all parties receive an equal opportunity to respond. This can be done through eQuotes or directly to suppliers.
- New information that is likely to change the requirements must be offered to all prospective suppliers at the same time.
- Written responses must be assessed for compliance, then against the selection criteria, and then value for money. All evaluations must be documented.
- Respondents must be advised in writing as soon as possible after the final determination is made and approved.

Requests for Quotation to a panel of pre-qualified suppliers, such as a WALGA Preferred Supply Contract, should be undertaken through eQuotes or in writing directly with the Preferred Suppliers. Responses from Preferred Suppliers should be in writing and contain the price and a sufficient amount of information that addresses the Specification and selection criteria provided by the Shire.

The responsible officer is expected to demonstrate due diligence seeking quotes and to comply with any record keeping and audit requirements.

Note: *The WALGA Procurement Handbook has a model Request for Quotation Template which provides best practice documentation and will assist with recording details.*

5.4.4 Request for Quotation (\$5,000 - \$19,999 in value)

Written Requests for Quotations

For the procurement of goods or services where the value is \$5,000 - \$19,999, it is recommended that at least two (2) written quotations be obtained from the market or from a pre-qualified panel of suppliers including WALGA Preferred Supply Contracts.

In the event that the Shire elects to call a Request for Quotation, the following process should be followed:

- Provide a simple Request for Quotation document that outlines the key elements of the process and requires written quotations.
- Provide an appropriately detailed written Specification that communicates the requirement(s) in a clear, concise and logical fashion.
- Invitations to quote must be issued simultaneously to ensure that all parties receive an equal opportunity to respond. This can be done through eQuotes or directly to suppliers.
- New information that is likely to change the requirements must be offered to all prospective suppliers at the same time.
- Written responses must be assessed for compliance, then against the selection criteria, and then value for money. All evaluations must be documented.
- Respondents must be advised in writing as soon as possible after the final determination is made and approved.

Requests for Quotation to a panel of pre-qualified suppliers, such as a WALGA Preferred Supply Contract, should be undertaken through eQuotes or in writing directly with the Preferred Suppliers. Responses from Preferred Suppliers should be in writing and contain the price and a sufficient amount of information that addresses the Specification and selection criteria provided by the Shire.

The responsible officer is expected to demonstrate due diligence seeking quotes and to comply with any record keeping and audit requirements.

Note: *The WALGA Procurement Handbook has a model Request for Quotation Template and a Verbal Form Template which provide best practice documentation and will assist with recording details.*

Verbal Requests for Quotations

For the procurement of goods or services where the value is under \$5,000 the Shire may undertake a verbal Request for Quotation process.

The verbal quotation must be obtained from the market or the Shire may purchase from a Tender exempt panel of pre-qualified suppliers including WALGA Preferred Supply Contracts.

The requirements relating to verbal quotations are:

- Ensure that the requirement/specification is clearly understood by the Shire employee seeking the verbal quotations.
- Ensure that the requirement is clearly, accurately and consistently communicated to each of the suppliers being invited to quote.
- Ensure that all quotations from suppliers are in writing and/or refer to a pricing list in an email, website or catalogue.

The responsible officer is expected to demonstrate due diligence seeking quotes and to comply with any record keeping and audit requirements.

Note: *The WALGA Procurement Handbook contains sample forms for recording verbal and written quotations.*

6. FINANCIAL REQUIREMENTS AND DELEGATIONS

All procurement activities shall be undertaken in accordance with the requirements of authorised purchasing limits as delegated to, and by, the Chief Executive Officer (Delegation 7.2.11 – Incurring Liability and Making Payments).

7. RECORDS MANAGEMENT

Policy

Records of all Tenders and Requests for Quotation must be retained in compliance with the *State Records Act 2000 (WA)* and the Shire's internal Records Management Policy.

Guidelines

All records associated with the Tender or Request for Quotation process must be recorded and retained.

For a Tender process, this includes:

- Tender documentation.
- Internal documentation.
- Evaluation documentation.
- Enquiry and response documentation.
- Approval documentation.
- Notification and award documentation.

For a Request for Quotation process, this includes:

- Quotation documentation
- Internal documentation.
- Approval documentation.
- Order forms and requisitions.

8. SUSTAINABLE PROCUREMENT AND CORPORATE SOCIAL RESPONSIBILITY

Sustainable Procurement is defined as the purchasing of goods and services that have less environmental and social impacts than competing products and services.

Corporate Social Responsibility (CSR) in procurement is defined as purchasing which provides preference to organisations that can demonstrate compliance with ethical and regulatory standards and can demonstrate making a positive impact on the communities and markets in which they operate. ISO 26000 provides guidance on how the Shire can procure goods and services in a socially responsible way.

Policy

The Shire is committed to providing a preference to organisations that demonstrate both sustainable business practices and high levels of corporate social responsibility. Where appropriate, the Shire shall endeavour to design Requests for Quotation and Tenders to provide an advantage to suppliers demonstrating that they minimise environmental and negative social impacts and embrace CSR. Sustainable and CSR considerations must be balanced against value for money outcomes in accordance with the Shire's sustainability objectives.

Application

In practical terms sustainability and corporate social responsibility in procurement means the Shire shall endeavour at all times to identify and purchase products and services that:

- Have been determined as necessary;
- Demonstrate environmental best practice in energy efficiency/and or consumption which can be demonstrated through suitable rating systems and eco-labelling;
- Demonstrate environmental best practice in water efficiency;
- are environmentally sound in manufacture, use, and disposal with a specific preference for products made using the minimum amount of raw materials from a sustainable resource, are free of toxic or polluting materials and consume minimal energy during the production stage;

- Can be refurbished, reused, recycled or reclaimed. Those that are designed for ease of recycling, re-manufacture or otherwise to minimise waste will be given priority;
- Demonstrate a regard for the local economy and a supply chain that supports local business development;
- Are ethically sourced from sustainable and fair trade supply chains;
- With regards to motor vehicles (where practicable) - feature the highest fuel efficiency available, based on vehicle type and within the designated price range; and
- With regards to new buildings and refurbishments (where practicable), use renewable energy and technologies where available.

9. BUY LOCAL AND REGIONAL PRICE PREFERENCE

BUY LOCAL

Policy

Under the State Government's Buy Local Policy, Government Agencies and Local Governments (including the Shire of Morawa) are encouraged to maximise participation of local and small businesses in the supply of goods, services and works purchased or contracted by government agencies.

A key goal in this policy is open and fair competition to ensure that businesses locally are provided with every opportunity to bid for work. It is recognised that not every category of goods, services or works that is purchased by the Shire will lend itself to supply by local businesses.

Application

As much as practicable, the Shire's purchasing must:

- Ensure that buying practices, procedures and specifications do not unfairly disadvantage local businesses;
- Ensure that procurement plans address local business capability and local content;
- Explore the capability of local businesses to meet requirements and ensure that Requests for Quotation and Tenders are designed to accommodate the capabilities of local businesses;
- Avoid bias in the design and specifications for Requests for Quotation and Tenders – all Requests must be structured to encourage local businesses to bid; and
- Provide adequate and consistent information to potential suppliers.

REGIONAL PRICE PREFERENCE

Policy

Non-metropolitan Local Governments (such as the Shire of Morawa) are permitted to adopt a policy which provides a regional price preference to be given to suppliers located outside the metropolitan area.

Application

1. The Shire of Morawa may give a price preference to a regional Tenderer or Supplier by reducing the bid price by:
 - (a) 10% — where the contract or quote is for goods or services, up to a maximum price reduction of \$50 000;
 - (b) 5% — where the contract or quote is for construction (building) services, up to a maximum price reduction of \$50 000; or
 - (c) 10% — where the contract is for goods or services (including construction (building) services), up to a maximum price reduction of \$500,000, if seeking Tenders for the provision of those goods or services for the first time, due to those goods or services having been, until then, undertaken by the Shire.
2. The amounts, or levels of price preference, in 1(a) and 1(b) and 1(c) are applicable to businesses/contractors located within the Mid West Region of Western Australia.
3. The requirements for adopting a Regional Price Preference Policy are set out in Regulation 24E of the *Local Government (Functions and General) Regulations 1996*.

Example

An example of how the price preference policy works is as follows:

Quote Received	Price Received	Price Reduction 10%	Adjusted Price
Quote 1 – Mid West Supplier	\$100,000	\$10,000 (10% of \$100,000)	\$90,000
Quote 2 – Metropolitan Supplier	\$95,000	No preference is applicable	\$95,000
Quote 3 – Metropolitan Supplier that uses \$50,000 of local goods and services	\$97,500	\$5,000 (10% of local content i.e. \$50,000 is applied)	\$92,500

It can be seen from the above table that, in terms of price, the quote from the regional supplier is the most advantageous, once the preference has been applied.

10. PURCHASING FROM WA DISABILITY ENTERPRISES

Policy

Pursuant to State Government policy, the Shire is encouraged to consider the option of purchasing goods and services from registered WA Disability Enterprises. This is contingent on the provision of fair value and quality.

Application

The Shire is encouraged to invite relevant WA Disability Enterprises to respond to a Request for Quotation or Tender for goods or services. Determining the purchasing process to be followed is based on the actual or expected value of each purchase by the Local Government as outlined above in Section 5 (Purchasing Thresholds and Processes) of this Policy. There are seven (7) Disability Enterprises registered in Western Australia.

A complete list of approved organisations is available from the following website:
www.wade.org.au

Note: Local Governments can also purchase from WA Disability Enterprises via WALGA Preferred Supply Contracts and State Government Common Use Arrangements (CUAs).

11. ADOPTION

Adoption of this Purchasing Policy was endorsed by the Shire on:

	Date	Signature
CEO		
President		

<i>Item No/Subject::</i>	7.2.2.6 Shire of Morawa 2017/18 Annual Budget
<i>Date of Meeting:</i>	17 August 2017
<i>Date & Author:</i>	11 August 2017 - Fred Gledhill - Executive Manager Corporate & Community Services
<i>Responsible Officer:</i>	Sean Fletcher – Acting CEO
<i>Applicant/Proponent:</i>	Executive Manager Corporate & Community Services - Fred Gledhill
<i>Voting Requirement:</i>	Absolute Majority
<i>File Number:</i>	
<i>Previous minute/s &</i>	

SUMMARY

The purpose of this report is for Council to adopt the Shire of Morawa 2017/18 Annual Budget as detail in the presented format.

ATTACHMENTS

2017/2018 Annual Budget for the Shire of Morawa and the 2017/2018 Annual Fees and Charges.

BACKGROUND

It is a requirement of the Local Government Act and the LG Financial Management Regulations that a Budget be adopted in the Australian Accounting Standards (AAS) format prior to 31 August each year. A copy must be submitted to the Executive Director of the Department of Local Government and Regional Development within 30 days of its adoption.

OFFICER'S COMMENT

The Chief Executive Officer will provide an overview of the budget highlights to be distributed with the rates notice.

The Budget proposes a 2.1% increase (prior to discount) to the GRV Residential/Commercial/UV Rural properties and a nil increase to the UV Mining Tenements.

There are several components to the Budget to be adopted by Council and these are detailed below:

a) Reporting Material Variances

In accordance with the Local Government (Financial Management) Regulations 1996, regulation 34(5), Council is required to adopt a percentage or value calculated in accordance with AAS5 to be used in statements of financial activity for reporting material variances.

The percentage or value that is adopted will require any variances over this figure to be reported in the Monthly Statement of Financial Activity.

It is proposed to once again adopt the percentage of 10% with a minimum value of \$10,000 for reporting material variances.

b) Rate Modelling

Rates in the \$ for the model supplied have been arrived at through consideration of the points below:-

▪ ***Differential Rates – Rural Rates, Mining Rates***

Council advertised the intention to impose a differential rate of 0.289681 cents in the \$ of Unimproved Value (UV) for Mining, Exploration and Drilling.

Ministerial approval is being sought for 0.023043 cents in the \$ of Unimproved Value (UV) for Rural Rates and of 0.289681cents in the \$ of Unimproved Value (UV) for Mining.

▪ ***Gross Rental Values (GRV)***

GRV Residential and Commercial

The GRV Residential and Commercial is proposed to impose a 0.075707 cents rate in the \$ of GRV.

Residential, Commercial and GRV Rural minimums are proposed to increase from \$279 to \$290.

- ***Unimproved Values (UV)***

- UV Rural

- UV Rural is proposed to increase from 0.022574 cents in the \$ to 0.023043 cents in the \$ and the Minimum UV to increase from \$279 to \$290.

- UV Mining

- With Ministerial approval it is proposed to impose 0.289681 cents in the \$ and the minimums \$656.

- **Fees and Charges**

- Due to increased operational costs Council's fees and charges for the forthcoming year have been reviewed and are proposed to increase to reflect an average 3% increase with no increase in the Hire of Plant and Equipment.

- Fees. Charges for the Transfer Station have been included in the Fees and Charges Schedule.

COMMUNITY CONSULTATION

The Local Public Notice of the Council's intention to impose Differential Rates for 2017/2018 in the Geraldton Guardian Newspaper and the Local Notice Board on Saturday 15 July, 2017. Letters were also sent to the ratepayers where there are less than 30 ratepayers in a category as per the Rating Policy pertaining to Differential Rates.

The closing of submissions was on the 7 August, 2017 with one submission received objecting to the proposed UV Mining rate in the \$. The matters raised in the submission are not considered significantly material in nature. The calculations used by the proponent are incorrect. The total amount raised from the increase in the UV mining tenement value is less the \$1,000. The submission was responded to accordingly.

COUNCILLOR CONSULTATION

Council consultation was held on 11 July 2017 where it was resolved to advertise the proposed rate increase on 15 July 2017.

STATUTORY ENVIRONMENT

Sections 6.2(1), 6.12(1), 6.16, 6.32, 6.45(3), 6.50, 6.51 of the Local Government Act 1995 Regulations 68 and 70 of the Local Government (Financial Management) Regulations 1996

POLICY IMPLICATIONS

The Federal Government introduced a maximum limit for seniors/pensioner rebates under the Rates and Charges (Rebates and Deferments) Regulations and for the budget being adopted the Department of Treasury and Finance has advised that these have been set at:

Pensioners

- Rates: \$750.00
- Sewerage: \$436.00

Seniors

- Rates \$ 72.69
- Sewerage \$100.00

FINANCIAL IMPLICATIONS

A full budget document has been provided to all Councillors under separate cover. Based on the rate increases proposed in this report the overall revenue gain on the previous year is expected to be in the vicinity of 2% allowing for acceptable early payment of the Rates levied.

STRATEGIC IMPLICATIONS

All aspects of Council's adopted Strategic Community Plan, including the Long Term Works Plan, Asset Management Plan; Long Term Financial Plan where applicable due to reviews have been taken into consideration when compiling the draft budget.

RISK MANAGEMENT

The ability for the Council to undertake the work identified in this Budget will rely on effective and successful collection of rates and revenue levied and identified, and the allocation of suitable resources with which to achieve the program outlined in both the Operational and Capital sections of the Budget document.

OFFICER'S RECOMMENDATIONS

It is recommended that:

BY ABSOLUTE MAJORITY

1. Budget Adoption

Council adopts the 2017/18 budget for the Shire of Morawa as presented in accordance with Section 6.2(1) of the Local Government Act 1995.

2. Rates and Charges

The following rates and charges be adopted for the 2017/18 year in accordance with Section 6.32 of the Local Government Act 1995:

General Rates

- GRV Residential/Commercial 0.075707
- UV Rural 0.023043
- UV Mining 0.289681

Minimum Rates

- GRV Residential Commercial Rural \$290
- UV Rural \$290
- UV Mining \$656

3. Differential Rates

In accordance with section 6.33 of the Local Government Act 1995, Council impose differential general rates according to the predominant purpose for which the land is held or used as determined:

UV Mining 0.289681 cents in the dollar

4. Discount for Payment by Due Date

In accordance with section 6.12 of the Local Government Act 1995, Council offers a 2.5% discount if rates are paid in full by 4.30pm (Western Australian time) within thirty-five (35) days from the date of issue of the 2017/18 Rate Notice.

5. Overdue Interest, Instalment and Administration Charges

The following interest rates and administration charges be adopted in accordance with Sections 6.13, 6.45(3) and 6.51 of the Local Government Act 1995 and Regulations 68 and 70 of the Financial Management Regulations 1996:

- 5.5% on all rates and charges that are late;
- 5.5% on all sundry debtors accounts that remain unpaid after 90 days;
- Instalment plans to comprise of simple interest of 5.5% pa, calculated from the date the first instalment is due, together with,
- Administration fees of \$5 for each instalment notice, (i.e. \$5 for the 2 instalment options and \$15 for the 4 instalment options).

6. Due Dates

- 1) The due date for payment of rates be set at 35 days after date of issue in accordance with Section 6.50 (2) of the Local Government Act 1995 (with the due date being 3 October 2017).

- 2) The instalments being due at intervals of 2 months with the 1st instalment falling due 35 days after date of issue (30 August 2016) of rate notice in accordance with Section 62(2) of the Financial Management Regulations 1996.

Due dates for instalment options:

- 4.30pm, 3 October 2017 - Payment in full less discount or First Instalment
- 4.30pm, 4 December 2017 - Second Instalment
- 4.30pm, 5 February 2018 - Third Instalment
- 4.30pm, 5 April 2018 - Fourth Instalment

7. List of Fees & Charges

Council adopt the proposed fees and charges for 2017/18 as reviewed and included In the 2017/18 Draft Budget documents.

BY SIMPLE MAJORITY

8. FESA Levy

Council impose the following amounts set by FESA to be billed through the rating system for 2017-2018:

1. Category 4 Properties for Residential, Farming and Vacant Land – FESA Levy is to be 0.004641c in \$ with a minimum of \$75 and a maximum of \$138 on each rate notice assessment issued to the property.
2. Category 4 Properties for Commercial, Industrial and Miscellaneous Land – FESA Levy is to be 0.004435c in \$ with a minimum of \$75 and a maximum of \$78,000 on each rate notice assessment issued to the property.
3. Category 5 Properties – FESA Levy is to be \$75 on each rate notice assessment issued to the property.
4. Mining Tenements Fixed Charge \$75
5. The interest rate to be charged for the late payment of ESL by property owners is 11% per annum.

9. Senior's Rebate

Eligible seniors or pension cardholders may receive a pensioner / seniors rebate of no more than the prescribed maximum set by State Revenue for 2017/18 of:

Pensioners

Seniors

- Rates: \$750.00
- Sewerage: \$436.00

- Rates \$ 72.69
- Sewerage \$100.00

10. Rubbish Collection Charges

In accordance with the Health Act 1911, Council impose the following charges for the 2017/2018 financial year:

Bin Charges

- \$380 per annum for each 240 litre bin provided to residential properties
- \$760 per annum for each 240 litre bin provided to commercial properties for a twice weekly pickup.

Sewerage Charges

Vacant land \$247 per assessment

Class 1 Properties:

1st major fixture \$779.80
 Each additional fixture \$485

Class 2 Properties \$1,155

GRV Residential 7.2391 cents in the dollar

GRV Commercial 7.2391 cents in the dollar

Minimum Charges – Residential \$348.60 per assessment

Minimum Charges – Commercial \$821.00 per assessment

11. Material Variances

Council in accordance with the Local Government (Financial Management) Regulations 1996 34(5) adopt a percentage of 10% with a minimum value of \$10,000 for reporting material variances for the 2017/2018 financial year.

12. Comparative Figures

Council elect to use the actual figures from the 2016/17 June Financial Statements as stated in the 2017/18 Budget documents.



Westralian Iron Pty Ltd

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2 August, 2017

Chief Executive Officer
Morawa Shire Council
PO Box 14
MORAWA WA 6623

Dear Sir,

**2017/2018 DIFFERENTIAL RATING SUBMISSION OPPOSING
THE MINING DIFFERENTIAL RATE**

I refer to your letter of 10 July 2017 advising of the intention to impose differential rates for Rural and Mining for the 2017/2018 financial year and the Statement of Objects and Reasons which provide that submissions can be made up to 12 noon 2 August 2017.

Westralian Iron holds three exploration licences, three general purpose leases and two mining leases at Koolanooka, which are not and nor have they been subject to any mining operations in the twelve years the mining leases have been held. In this period the company has been obligated by the WA Department of Mines, Industry Regulation and Safety (DMIRS) to meet high annual expenditure commitments in carrying out what have been low impact exploration activities on the ground.

For the reasons outlined below Westralian Iron submits that Differential Rating between Unimproved Value Rural and Mining should not be utilised as it is unjust and discriminatory to the Mining Tenement holder.

- i) The Statement of Objects and Reasons state:
- **UV Rural** – *The reason the rate in the dollar is set at a comparatively low amount, is to offset the relatively high property valuations in this category. The Shire has a large pastoral and agricultural sector and it is essential that it be maintained throughout difficult times.*
 - **UV Mining** – *The reason that the rate in the dollar has been set at a comparatively high amount is to offset the relatively low property valuations in this category. The maintenance of Shire assets and services for the benefit of all users, long term and short term, is a burden which to a significant extent falls upon the long term ratepayers.... it is not uncommon for operators in the mining sector to be present in*

the district for a short period with a prospect of withdrawing very substantial profits However the mining sector stands to be a beneficiary of the existence and maintenance of the Shire's assets and services to the extent that the mining operators and their connections use them.

- ii) The UV levels proposed has Mining at 28.9681c as against Rural at 2.3043c, resulting in the Mining rate being an extraordinarily and unacceptably **1,157% higher**. The minimum rate for Mining at \$656 is also **126.2% higher** than the minimum Rural rate of \$290. In the case of the Westralian Iron tenements listed below, this results in the **Shire rates collected being 42.8% higher** than the mining tenement rental collected by DMIRS.

Tenement	Area	Tenement Rental	Shire Rates
G70/230	818 HA	\$12,351.80	\$17,890.41
G70/242	102 HA	\$1,540.20	\$2,230.83
G70/246	195 HA	\$2944.50	\$4,264.83
M70/1164	690 HA	\$11,764.50	\$17,039.76
M70/1190	1,000 HA	\$17,050.00	\$24,695.31
Total		\$45,651.00	\$66,121.14

- iii) Mining Leases granted by the Minister for Mines provide the lease holder with the sole right under the *Mining Act 1978* to explore for and extract minerals subject to strict environmental obligations and controls and when mining occurs, to pay a royalty to the State.
- iv) In comparison in the Shire of Morawa with the proposed Mining UV rate, the company would be paying a **Shire rate 44.84% higher than the mining lease rent** for the 'right to use existing roads and waste management services.'
- v) There can be no justification in this day and age where the rental cost of the principle service: a State granted right to extract minerals, is exceeded by a secondary Licence fee in the form of a Shire rate.

Whilst no increase has been proposed by the Shire to the UV mining Properties rate for 2017/2018 the DMIRS 3.4% increase in tenement rents for 2016/17 flows through to the valuation base for Shire rates in 2017/2018 and will result in the rates to be collected on the tenements listed above increasing from \$62,558.50 in 2016/2017 to \$66,121.14 in 2017/2018, a 5.7% increase. The irony of a nil rate increase on the UV mining rate by the Shire of Morawa in 2017/2018 still resulting in an actual 5.7% increase to Westralian Iron is further compounded by the fact that DMIRS have increased tenement rentals by 3.2% as of 1 July 2017, which will flow onto Shire rates in 2018/2019.

At the very least the UV Mining rate of 28.9681c for 2017/2018 should be reduced by 3.6% to 27.9260c for 2017/2018, which incorporates a 2.10% increase, the same as the 2.10% increase for Rural Rate Unimproved Value.

In closing it is submitted that Westralian Iron has been involved in exploration, it has not conducted mining operations nor withdrawn 'very substantial profits' and only had the benefit of using Shire roads for limited periods. Shire rates for mining tenements produced using the Differential Rating mechanism proposed with a rate 1,157% higher and with a minimum rate 126.2% higher than rural properties, serve as a deterrent to exploration and mining within the Shire. Differential Rating should be removed and the minimum rate for Mining and Rural properties should be the same.

Yours faithfully,

A handwritten signature in blue ink, appearing to read 'Westralian Iron Pty Ltd', with a long horizontal flourish extending to the right.

WESTRALIAN IRON Pty Ltd

Executive Manager Development & Administration

<i>Item No/Subject:</i>	7.2.3.1 Review of Local Laws
<i>Date of Meeting:</i>	17 August 2017
<i>Date & Author:</i>	25 July 2017 – Sean Fletcher – Acting CEO
<i>Responsible Officer:</i>	Samantha Appleton Executive Manager Development & Administration
<i>Applicant/Proponent:</i>	Sean Fletcher, Acting CEO Leanne Lind, Consultant
<i>File Number:</i>	LE.LLW.1
<i>Previous minute/s & Reference:</i>	OCM March 2017 – Item 7.2.5.3; OCM December 2011 - Item 8.2.4; OCM June 2008 – Item 8.2.3

SUMMARY

Council commenced the eight (8) year periodic review of its eight Local Laws pursuant to Section 3.16 of the *Local Government Act 1995* in March 2017. This is often referred to as Stage 1 of the Local Law review process.

This report recommends that Council effectively concludes Stage 1 of the Local Law review process through consideration of the attached Discussion Paper and reviewed local laws (7.2.1.1A Discussion Paper and 7.2.1.1B – G Revised Local Laws) and the further comments in this report. As a result, Stage 2 of the process will also be completed today through the commencement of a number of actions in respect of repealing, amending, replacing or introducing Local Laws according to matters that the Council and Officers have been identified.

The next step in this process is to commence Stage 3 of the Local Law review process regarding the repealing, amending, replacing and introduction of such local laws.

DECLARATION OF INTEREST

Nil

ATTACHMENTS

7.2.1.1A Discussion Paper

7.2.1.1B – G Revised Local Laws

BACKGROUND INFORMATION

Council at its meeting held on 23 March 2017 resolved as follows:

- 1. Agrees to undertake a review of all of its Local Laws in accordance with the Local Government Act section 3.16; and*
- 2. That state wide and local public notice be given of the Shire's intent to under the review.*

State wide Public Notice was given on 30 March 2017 calling for submissions as part of the Local Laws Review. Copies of the advertisement were also placed on Council's official Noticeboards in Morawa as well as having all of the Local Laws available from the Shire in conjunction with the advertising.

Submissions closed on 22 May 2017 and none were received.

As well as calling for public submissions Lind Consulting was contracted to assist in the review process. Lind Consulting has recently undertaken similar Local Law reviews for the Shires of Ashburton, Chapman Valley, Harvey and Northampton.

The review is to determine whether or not Council considers that a Local Law should be repealed, amended, replaced or new laws introduced. The last overall review of Council's Local Laws was undertaken more than the legislative timeframe of 8 years and as such a review is now due.

Mr Fletcher notes that the last major review would appear to have been conducted in 2007, with new local laws introduced in 2008 (Extractive Industries – replacing the previous 1998 Local Law, Fencing, Management and Control of the Morawa Cemetery and Dogs) and five local laws repealed at the same time (Management and Use of the Town Hall, Hawkers, Control and Management of Recreation Grounds, Control and Management of Morawa Olympic Swimming Pool, and Storage and Control of Old and Disused Motor Vehicles and Machinery). In 2011, the current meeting procedures local law (standing orders) was introduced.

All of Council's current Local Laws are intended to be included in the proposed review for the purposes of consistency and expediency. A list of Council's current Local Laws is as follows:

1. Dogs Local Law 2008
2. Extractive Industries Local Law 2008
3. Firebreak By-laws 1982
4. Health Local Law 2004
5. Management and Control of Morawa Cemeteries Local Law 2008
6. Meeting Procedures Local Law 2011
7. Local Laws Relating to Fencing 2008
8. Parking and Parking Facilities Local Law 2000

The dates noted above denote the principal Local Law adoption dates, notwithstanding that some amendments have occurred to a number of the Local Laws since adoption. Any amendments have since been incorporated into the principal Local Laws as they are now written.

OFFICER'S COMMENT

The purpose of the report is to consider and adopt the Discussion Paper recommendations regarding the review of the Shire of Morawa's Local Laws as per section 3.16 of the Act. At the March 2017 Ordinary Council Meeting, Council resolved to undertake a review of its Local Laws.

As well as receiving submissions on the Local Laws from members of the community the Local Laws were reviewed internally by the Chief Executive Officer with the assistance externally by a consultant with experience and expertise in the Local Laws area. The legal nature of the subject matter dictates that any errors, omissions or conflicts with other legislation must be precise if any changes are being considered.

To assist in understanding the proposed amendments, 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, the reviewed Local Laws and proposed Local Laws is included in Attachments 7.2.1.1A Discussion Paper and 7.2.1.1B – G Revised Local Laws.

The Discussion Paper summary recommendations are:

	LOCAL LAW	GAZETTED DATE	RECOMMENDATION
1	Dogs Local Law 2008	16/07/2008	REPEAL/REPLACE
2	Extractive Industries Local Law 2008	16/07/2008	REPEAL/REPLACE
3	Firebreak By-laws 1982	31/12/1982	REVOKE

4	Health Local Law 2004	14/09/2004	REVIEWED AND UNCHANGED
5	Management and Control of Morawa Cemeteries Local Law 2008	16/07/2008	REPEAL/REPLACE
6	Meeting Procedures Local Law 2011	19/01/2012	REVIEWED AND UNCHANGED
7	Local Laws Relating to Fencing 2008	16/07/2008	REPEAL/REPLACE
8	Parking and Parking Facilities Local Law 2000	23/06/2000	REPEAL/REPLACE

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.

CEO's Comments

Confirmation of Process

Mr Fletcher has reviewed the consultant's report and matters raised in the March 2017 OCM agenda item.

The Local Law review process consists of three stages:

Stage 1

This is the 8 year review and was undertaken by Lind Consulting including the advertising of seeking public submissions. It is often referred to as the internal review. Today's report contains the outcomes of the Stage 1 process.

Stage 2

Consists of reporting on the submissions received in Stage 1 and advice to the Council on those local laws that are okay, those requiring amendment and those requiring replacement. Council then resolves an appropriate course of action regarding the internal review. Today's report to Council closes out the Stage 2 process.

Stage 3

Stage 3 commences (and may very well end) with the outcome of Council's resolution regarding Stage 2. If changes are required, then Stage 3 is conducted according to s3.12 of the Act. This will see the drafting of amendments and replacements including workshopping with Council and Staff to identify the necessary level of changes. Mr Fletcher has arranged for a suitably qualified person to assist the Shire with Stage 3.

Advice on Required Actions

The March 2017 OCM Report

In the March report it was mentioned that the Shire of Morawa has ten local laws. This is not quite correct as two of these are amendment local laws. So, the Shire has in fact eight local laws which are, in part, the subject of today's report.

The March report also highlights previous discussions regarding a verge local law. The requirements to manage the Shire's verges are best served through the introduction of a Public Places and Local Government Property Local Law. Such a local law addresses matters regarding activity conducted on any public place and local government property including thoroughfares.

A thoroughfare is typically defined in a local law (and other legislation) as:

Means any street, way or place that is designed and used for the passage of vehicles and includes the shoulders and embayment's at the side or centre of the carriageway used for the parking of vehicles.

The Public Places and Local Government Property Local Law typically handles matters through the use of signage. It also means the Shire could repeal its Parking and Parking Facilities Local Law and implement a local law that is current, wider ranging and easier to manage and regulate.

There is also the matter in more recent times where the Shire has had issues regarding the effective management of its Extractive Industries Local Law, and so this needs further consideration as well.

Local Laws that Should Be Repealed/Amended/Implemented

Mr Fletcher's comments regarding the consultant's recommendations for each existing local law reviewed are as follows:

Dogs Local Law:	Agree the current local law is repealed and a new Dogs Local Law is implemented.
Extractive Industries:	Agree that this local law should be a more contemporary local law. So, it will need to be repealed and replaced. There are a couple of further issues here: <ul style="list-style-type: none"> • In the main, such matters can be treated through a planning application as it deals with land use; • The other matter that requires consideration is the ability of the Shire to cancel a licence should there be no extractive industry works happening.
Firebreaks By-Law	Agree that this By-Law is revoked as: <ul style="list-style-type: none"> • By-laws should be in the current form as a local law; • The Shire will need a local law that covers bush fire brigades. There are certain requirements under the Bush Fires Act that are contained within a local law regarding how the bush fire brigade function is carried out e.g. appointment or election of officers
Health Local Law	Agree that no change is required due to the rolling out of the new Health Act and its Regulations over the next 3 – 5 years. However, the proposal to introduce a waste local law is more than what the Shire needs. Waste matters can be dealt with elsewhere (e.g. animals, nuisance and environment local law) and the management of the landfills can be conducted within the proposed Public Places and Local Government Property Local Law.
Morawa Cemetery Local Law	Agree that this local law should be repealed and replaced.
Meeting Procedures Local Law	Agree that no change is required
Fencing Local Law	Agree that this local law should be repealed and replaced.
Parking and Parking Facilities Local Law	Disagree that this local law should be repealed and replaced. It should be repealed (revoked) and the parking control provisions included in the proposed Public Places and Local Government Property Local Law.

There are two new local laws that the Council should consider. The first is the Public Places and Local Government Property Local Law mentioned earlier and the second is to do with amenity or what is more commonly known as the Animals, Environment and Nuisance Local Laws.

The Public Places and Local Government Property Local Law typically deals with such matters as verge treatments (those things allowed in, or on a verge and how they are managed), verge parking, hiring of Shire facilities, management of reserves, permitted activities on reserves and in thoroughfares (including parking), those other matters that require approval and so on.

In terms of the Animals, Environment and Nuisance Local Law, it will allow the Shire to regulate the keeping of animals. Typically this includes birds and farm animals. With the environment component, the Shire can introduce further regulation regarding refuse (waste), including refuse on properties and building sites, dust, liquid waste,

smoke, unsightly properties and disused materials. The nuisance category includes clear powers regarding such things as managing light emissions, livestock transport vehicles, burning of rubbish, stormwater management, water runoff by others and amusements (fairs, carnivals, shows and so on), to mention a few.

Mr Fletcher believes that no other category specific local laws are required for the Shire of Morawa at this point in time as the matters concerned are either covered in existing legislation or can be dealt with in another local law that is less onerous to administer. This includes matters regarding cats, waste and parking. At the end of the day, a local government should only introduce, or have local laws that it can effectively manage and afford.

COMMUNITY CONSULTATION

As per the background to this report.

COUNCILLOR CONSULTATION

Briefing Session 13 June 2017

STATUTORY ENVIRONMENT

Section 3.16 of the LGA specifies the procedures to be followed when making a local law.

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.*

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Adequate budget allocations have been made in the 2017/2018 Budget to accommodate the cost to undertake the review process for both advertising and using a consultancy service regarding Stage 3.

The costs are expected to be between \$13,000 to \$19,000.

STRATEGIC IMPLICATIONS

Shire of Morawa Strategic Community Plan

4.5 Be compliant with relevant legislation.

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.

RISK MANAGEMENT

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 regarding the required action for each existing local law.

All other matters are by Simple Majority

OFFICER'S RECOMMENDATION

That Council:

BY SIMPLE MAJORITY:

1. Is satisfied that the review (i.e. the 8 Year Review) of the Shire of Morawa Local Laws under s3.16 of the *Local Government Act 1995* is complete, noting that no community submissions were received in respect to the following local laws:
 - a. *Dogs Local Law 2008*
 - b. *Extractive Industries Local Law 2008*
 - c. *Firebreak By-laws 1982*
 - d. *Health Local Law 2004*
 - e. *Management and Control of Morawa Cemeteries Local Law 2008*
 - f. *Meeting Procedures Local Law 2011*
 - g. *Local Laws Relating to Fencing 2008*
 - h. *Parking and Parking Facilities Local Law 2000*

BY ABSOLUTE MAJORITY:

2. Determines that the review outcome in respect to each Local Law in Point 1 is as follows:
 - a. *Dogs Local Law 2008* to be repealed and replaced with a WALGA Template Dogs Local Law or other suitable model;
 - b. *Extractive Industries Local Law 2008* to be repealed and replaced with a WALGA Template Extractive Industries Local Law or other suitable model including consideration of matters that clarify further the Shire's ability to regulate the activity undertaken by the licence holder;
 - c. *Firebreak By-laws 1982* be revoked. It is recognised that this local law is replaced with a Bushfires Local Law or similar that deals with such activities regarding bushfire brigades and other matters;
 - d. *Health Local Law 2004* remains unchanged;
 - e. *Management and Control of Morawa Cemeteries Local Law 2008* to be repealed and replaced with a WALGA Template Cemeteries Local Law or other suitable model;
 - f. *Meeting Procedures Local Law 2011* remains unchanged;
 - g. *Local Laws Relating to Fencing 2008* to be repealed and replaced with a WALGA Template Fencing Local Law or other suitable model;

- h. *Parking and Parking Facilities Local Law 2000* to be repealed. It is recognised that the parking components may be better served for inclusion in a Public Places and Local Government Property Local Law.

BY SIMPLE MAJORITY:

- 3. Authorises the CEO to advise the Department of Local Government, Sport and Cultural Industries that the statutory review in Point 1 is completed, along with the outcomes of the review and the proposed future direction regarding local laws for the Shire of Morawa.
- 4. Has identified new additional/new local laws it believes the Morawa District requires, including, but not limited to:
 - a. Bush Fire Brigades;
 - b. Public Place and Local Government Property;
 - c. Amenity (Animals, Environment and Nuisance).
- 5. Believes it does not need local laws regarding the following:
 - a. Cats as this matter is adequately dealt with under the Cat Act;
 - b. Waste, as this matter is dealt with adequately in other proposed local laws regarding amenity;
 - c. Parking, as this matter is dealt with adequately in other proposed local laws regarding public places and local government property.

DISCUSSION PAPER

EIGHT YEAR REVIEW OF THE SHIRE OF MORAWA LOCAL LAWS

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 Morawa (the Shire) has determined to review in accordance with the Act the following local laws:

1. Dogs Local Law 2008
 2. Extractive Industries Local Law 2008
 3. Firebreak By-laws 1985
 4. Health Local Law 2004
 5. Management and Control of Morawa Cemeteries Local Law 2008
 6. Meeting Procedures Local Law 2011
 7. Local Laws Relating to Fencing 2008
 8. Parking and Parking Facilities Local Law 2000
-

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) Currency
 - b) Structure
 - c) Relationship of local laws with other legislation
 - d) Format and printing style
 - e) Dealing with definitions
 - f) Penalties
 - g) Application of fundamental legislative principles
 - h) Consolidating, if necessary, existing local laws relating to similar subjects and deleting duplication of similar clauses, if any;
 - i) Matters raised previously by the Joint Standing Committee on Delegated Legislation; and
 - j) State Government policy issues.
2. The submissions will be included as part of the draft discussion paper for consideration by the Council. This paper outlines a proposed course of action with respect to each of the Shire's Local Laws under review. The draft discussion paper will recommend which local laws should be repealed, amended or remade 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 then those details will be included in the review process. The draft discussion paper will be circulated to Council and a workshop may be held to review the draft discussion paper (if required).

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

3. An OCM Agenda Item including the draft discussion paper and local law draft amendments will be prepared for Council outlining the recommendations of the review of the Shire's local laws.

The review process works with a set of Template local laws developed by the Western Australian Local Government Association for councils across the state to tailor and adopt. These Template local laws provide for increased uniformity across the state and a simpler process for councils to adopt local laws appropriate to their needs. They are also regularly updated to reflect the Joint Standing Committee on Delegated Legislations expectations of drafting and content standards when local laws are made. The review process also provides an opportunity to reduce red tape and streamline administrative processes.

Proposed Recommendations

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

Dogs Local Law

Gazetted: 2008

Significant style and format changes throughout the document are recommended changes which align with the Joint Standing Committee on Delegated Legislation's recommended publishing practices and the WALGA Template as follows:

Acts and Regulations

Update of all Acts and Regulations within the Local Law to reflect current legislation. The reason for this is that local authorities' powers and responsibilities are defined by legislation. Acts and Regulations deal with particular issues and the local law derived from this legislation gives the Council a long-term and responsible approach to the ongoing health, vitality, prosperity, security and welfare of its residents, businesses and environment.

Interpretation

Update and add new definitions throughout the document. The reason for this is to include definitions which have been added to the Template since the local law was last adopted in 2008. These new definitions give a meaning to a word or expression; or to limit or extend the meaning of a word or expression which is recommended to be included into the remake of the local law.

Part 2 – Impounding of Dogs

2.4 – No Breaking into or destruction of pound be deleted. It is recommended to delete section 2.4 as the Dog Act no longer permits this legislation to occur in the Local Law.

Part 3 – Requirements and Limitations on the Keeping of Dogs

3.1 – Dogs to be confined be updated. The extended legislation in section 3.1 does not appear in the current SoM local law. It is recommended to include this legislation to align with the most current legislative requirements.

Part 5 – Dogs in Public Places

5.1 – Delete. From 1 November 2013 the Dog Amendment Act removed a local government's ability to make local laws in respect of establishment of dog exercise areas, or prohibit dogs absolutely from areas.

Modified Penalties

Update of new penalties to bring the prescribed offence amounts in line with current values. It is recommended that Council update the penalties to reflect today's values as prescribed under section 9.17 of the Local Government Act 1995.

Schedule 4

Delete schedule to reflect current legislation.

From 1 November 2013 the Dog Amendment Act removed a local government's ability to make local laws in respect of establishment of dog exercise areas, or prohibit dogs absolutely from areas. In order to relieve local governments from having to remove these provisions from their local laws by following the local law making process set out in section 3.12 of the Local Government Act 1995 - the Dog Regulations provide a sunset date (31 July 2014) for the operation of those clauses.

CONCLUSION

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

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

It is proposed that the Shire of Morawa Dogs Local Law be repealed and replaced with an updated Local Law to address the changes listed and that it be adopted to replace the existing Local Law.

RECOMMENDATION:

It is recommended that the Dogs Local Law be remade to a more contemporary local law given that drafting amendments will be required and the local law is over 8 years old.

Extractive Industries Local Law

Gazetted: 2008

Significant style and format changes throughout the document are recommended changes which align with the Joint Standing Committee on Delegated Legislation's recommended publishing practices and the WALGA Template as follows:

Acts and Regulations

Update of all Acts and Regulations references within the Local Law to reflect current legislation. The reason for this is that local authorities' powers and responsibilities are defined by legislation. Acts and Regulations deal with particular issues and the local law derived from this legislation gives the Council a long-term and responsible approach to the ongoing health, vitality, prosperity, security and welfare of its residents, businesses and environment.

Part 2 – Licensing Requirements for an Extractive Industry

Section updated to reflect current template provided by WALGA.

2.4 Land in Irrigation Area or Water Supply Catchment.

Consideration should be given regarding retaining this section. It may be retained, however, many State, and some Commonwealth laws apply to land uses such as an extractive industry, but they needn't be referenced exhaustively in a Local Law as they apply anyway. What is important is that the Local Government takes into account all relevant legislation that may apply to certain proposed land uses. That is why some Local Governments are dealing with extractive industries as a planning approval process, rather than compliance with a Local Law.

Part 4 – Transfer, cancellation and renewal of licence

Section updated to reflect current template provided by WALGA.

Part 5 Breach of Local Law

Deleted.

Part 6 Limitations and Guidelines

Current part 6 deleted and replaced with new Part 6 Limitations, obligations of the licensee and prohibitions which contains updated legislation.

Part 7 Miscellaneous provisions

Updated legislation references. Addition of section 7.4 Works to be Carried Out On Cessation of Operations.

Prescribed Offences

Update of new penalties to bring the prescribed offence amounts in line with current values. It is recommended that Council update the penalties to reflect today's values as prescribed under section 9.17 of the Local Government Act 1995.

CONCLUSION

Purpose: To prohibit the carrying on of an extractive industry unless by authority of a licence issued by the local government; regulate the carrying on of the extractive industry in order to minimise damage to the environment, roads and other peoples' health and property; and provide for the restoration and reinstatement of any excavation site.

Effect: Any person wanting to carry on an extractive industry will need to be licensed and will need to comply with the provisions of this local law.

It is proposed that the Extractive Industries Local Law be repealed and replaced to address the above changes.

RECOMMENDATION:

It is recommended that the Extractive Industries Local Law be remade to a more contemporary local law given that drafting amendments will be required and the local law is over 8 years old.

Firebreak By-laws

Gazetted: 1982

General Comment and Conclusion

No review was conducted on this By-Law as it is proposed that the Firebreak By-Law be repealed as the orders governing firebreaks is covered in the Local Government Act 1995 Section 33.

RECOMMENDATION:

It is recommended that the Firebreak By-laws be revoked and a Repeal Local Law be made to achieve this.

Health Local Law

Gazetted: 2004

It is usual to obtain the consent of the Executive Director of Public Health before a local government makes; amends or repeals a local law under section 342 of the Health Act 1911. However, Health Local Laws are made under section 134(20)-(24) of the Health Act and the WARR Act repealed this section of the Health Act (along with several other related provisions). A Waste Local Law is made under the Waste Avoidance and Resource Recovery Act 2007 (WARR Act) (as well as under the Local Government Act 1995) and requires consent of the CEO of the Department of Environment and Conservation (DEC) in accordance with the requirements of section 61(1) of the WARR Act.

In addition, clause 3(1) of Schedule 5 of the WARR Act states –

'Any local law made by a local government under the Health Act 1911 section 112A or 134(20), (21), (22), (23), (24), (29) (in relation to waste services) or (30) and of effect on the commencement day continues to be of effect as if it were made under this Act and may be amended or repealed accordingly'.

Therefore, waste service provisions of a local government's Health Local Laws –

- (a) is taken to have been made under the WARR Act;
- (b) may be repealed as if it were made under the WARR Act.

Additionally, liquid wastes are covered by separate heads of power under other legislation such as the *Environmental Protection (Unauthorised Discharges) and (Controlled Waste) Regulations 2004*.

CONCLUSION

It is proposed that the Shire of Morawa Health Local Law remain unchanged. After many years in development, the Public Health Bill 2014 ("the Bill") has been introduced into Parliament. The development of the Bill is a major public health initiative and regulatory reform project for Western Australia. The Bill proposes to replace much of the existing Health Act 1911 and aims to provide the community with modern legislation. New Public Health Bill has been adopted by Parliament - Royal Assent given 25 Jul 2016 as Act No. 18 of 2016. Proposed new Regulations may give rise to the Health LLs being made obsolete by Ministerial decree. Other relevant subsidiary legislation is currently being announced in a staged manner over the course of a 3 to 5 year period following this Royal Assent.

RECOMMENDATION:

It is recommended that the next review of the Health Local Law take place following the introduction of subsidiary legislation now that the new Public Health Bill has been adopted by Parliament. This is occurring in a staged manner of the course of a 3 to 5 year period. It is further recommended that the Shire of Morawa introduce a Waste Local Law at the time the Health Local Law is repealed.

Management and Control of Morawa Cemeteries Local Law

Gazetted: 2008

Significant style and format changes throughout the document are recommended changes which align with the Joint Standing Committee on Delegated Legislation's recommended publishing practices and the WALGA Template as follows:

Acts

Update all Acts within the Local Law to reflect current legislation. The reason for this is that local authorities' powers and responsibilities are defined by legislation. Acts deal with particular issues and the local law derived from this legislation gives the Council a long-term and responsible approach to the ongoing health, vitality, prosperity, security and welfare of its residents, businesses and environment.

Definitions

Update and add new definitions throughout the document. The reason for this is to include definitions which have been added since the local law was last adopted in 2008. These new definitions give a meaning to a word or expression; or to limit or extend the meaning of a word or expression which is recommended by the JSCDL to be included into the remake of the local law.

General

Updated Guide Dogs reference needs to be included into the local law to reflect changes to legislation. This is recommended due to amendments to the Disability Discrimination Act 1992 (DDA), which came into force in 2003 which make it unlawful for a person to discriminate against another person because they are accompanied by an assistance animal. Further amendments in 2008, which came into effect in August 2009, clarify many of these rights and responsibilities. In particular, the amendments confirm that it is not unlawful to require evidence from a person that their animal is an assistance animal.

Offences and Modified Penalties

Update of new penalties to bring the prescribed offence amounts in line with current values. It is recommended that Council update the penalties to reflect today's values as prescribed under section 9.17 of the Local Government Act 1995.

CONCLUSION

PURPOSE: To provide for the orderly management of the Shire of Morawa Cemeteries in accordance with established plans and to create offences for inappropriate behaviour within the cemeteries grounds.

EFFECT: All persons engaged in the administration of the cemeteries, burying deceased in the cemeteries, or otherwise providing services to or making use of the cemeteries, are to comply with the provisions of this Local Law.

It is proposed that Management and Control of Morawa Cemeteries Local Law be repealed and replaced with the contemporary WALGA Template to address these flaws and that it be adopted to replace the existing Local Law.

RECOMMENDATION:

It is recommended that the Management and Control of Morawa Cemeteries Local Law be remade to a more contemporary local law given that drafting amendments will be required and the local law is over 9 years old.

Meeting Procedures Local Law

Gazetted: 2011

General Comment and Conclusion

A review of this local law was carried out and no changes are suggested to this current local law. The next review of this local law will be in 8 years a per the legislation requirements.

RECOMMENDATION:

It is recommended that the Shire of Morawa Meeting Procedures Local Law 2011 be left unchanged following the review.

Local Laws Relating to Fencing

Gazetted: 2008

Significant style and format changes throughout the document are recommended changes which align with the Joint Standing Committee on Delegated Legislation's recommended publishing practices and the WALGA Template as follows:

Acts and Regulations

Update of all Acts and Standards within the Local Law to reflect current legislation. The reason for this is that local authorities' powers and responsibilities are defined by legislation. Acts and Standards deal with particular issues and the local law derived from this legislation gives the Council a long-term and responsible approach to the ongoing health, vitality, prosperity, security and welfare of its residents, businesses and environment.

Definitions

Update and add new definitions throughout the document. The reason for this is to include definitions which have been added since the local law was last adopted in 2008. These new definitions give a meaning to a word or expression; or to limit or extend the meaning of a word or expression which is recommended to be included into the remake of the local law.

General

It is recommended to include legislation to align with the Dividing Fences Act 1961 and Australian and New Zealand Standards requirements.

Offences and Modified Penalties

Update of new penalties to bring the prescribed offence amounts in line with current values. It is recommended that Council update the penalties to reflect today's values as prescribed under section 9.17 of the Local Government Act 1995.

CONCLUSION

Purpose: The purpose of this local law is to prescribe a sufficient fence and the standard for the construction of fences throughout the district.

Effect: The effect of this local law is to establish the minimum requirements for fencing within the district.

It is proposed that this Local Law be repealed and replaced to provide guidance on determining a sufficient fence for the purposes of the Dividing Fences Act 1961 and to state the materials to be used and safety measures to be taken for some types of fencing. The laws expand on the requirements of the Local Government (Miscellaneous Provisions) Act 1960 in the erection and maintenance of fencing.

RECOMMENDATION:

It is recommended that the Fencing Local Law be remade to a more contemporary local law given that drafting amendments will be required and the local law is over 9 years old.

Parking and Parking Facilities Local Law

Gazetted: 2000

Significant style and format changes throughout the document are recommended changes which align with the Joint Standing Committee on Delegated Legislation's recommended publishing practices and the WALGA Template as follows:

Acts and Codes

Update all Acts and Codes within the Local Law to reflect current legislation. The reason for this is that local authorities' powers and responsibilities are defined by legislation. Acts and Codes deal with particular issues and the local law derived from this legislation gives the Council a long-term and responsible approach to the ongoing health, vitality, prosperity, security and welfare of its residents, businesses and environment.

Definitions

Update and add new definitions throughout the document. The reason for this is to include definitions which have been added to the Template since the local law was last adopted in 2000. These new definitions give a meaning to a word or expression; or to limit or extend the meaning of a word or expression which is recommended to be included into the remake of the local law.

Part 2

Delete reference to parking stations legislation. It is recommended to delete the legislation referring to parking stations as the Shire of Morawa does not have these facilities.

Part 3 – Parking Generally

3.1-3.10 Delete and add legislation to match what appears in the Template local law. The extended legislation is required but does not appear in the current SoM local law. It is recommended to include this legislation to align with the most current legislative requirements.

Part 4 – Parking And Stopping Generally

Add legislation to match what appears in the Template local law. The extended legislation is required but does not appear in the current SoM local law. It is recommended to include this legislation to align with the most current legislative requirements.

Part 5 – Stopping In Zones For Particular Vehicles

Add legislation to match what appears in the Template local law. The extended legislation is required but does not appear in the current SoM local law. It is recommended to include this legislation to align with the most current legislative requirements.

Part 6 – Other Places Where Stopping is Restricted

Add legislation to match what appears in the Template local law. The extended legislation is required but does not appear in the current SoM local law. It is recommended to include this legislation to align with the most current legislative requirements.

Acts and Codes

Update all Acts and Codes within the Local Law to reflect current legislation. The reason for this is that local authorities' powers and responsibilities are defined by legislation. Acts and Codes deal with particular issues and the local law derived from this legislation gives the Council a long-term and responsible approach to the ongoing health, vitality, prosperity, security and welfare of its residents, businesses and environment.

Definitions

Update and add new definitions throughout the document. The reason for this is to include definitions which have been added to the Template since the local law was last adopted in 2000. These new definitions give a meaning to a word or expression; or to limit or extend the meaning of a word or expression which is recommended to be included into the remake of the local law.

Schedule 1 – Parking Region

Minor legislation changes required to match what appears in the Template local law. The legislation wording changes are required and it is therefore recommended to include these to align with the most current legislative standards.

Schedule 2 – Prescribed Offences

Update of new penalties to bring the prescribed offence amounts in line with current values. It is recommended that Council update the penalties to reflect today's values as prescribed under section 9.17 of the Local Government Act 1995.

CONCLUSION

Purpose: To constitute a parking region, enable the local government to regulate the parking of vehicles within the parking region and provide for the management and operation of parking facilities occupied by the local government.

Effect: A person parking a vehicle within the parking region is to comply with the provisions of this Local Law.

It is proposed that the Shire of Morawa Parking and Parking Facilities Local Law 2000 be repealed and replaced with a more contemporary local law to address these above changes. Council will have the opportunity to assess the proposed new Local Law at the commencement of the Local Law making process.

RECOMMENDATION:

It is recommended that the Parking and Parking Facilities Local Law 2000 be remade to accommodate major changes to references to Acts, Codes and Regulations which are required for this Local Law and some changes to penalties.

Summary of Recommendations

	LOCAL LAW	GAZETTED DATE	RECOMMENDATION
1	Dogs Local Law 2008	16/07/2008	REPEAL/REPLACE
2	Extractive Industries Local Law 2008	16/07/2008	REPEAL/REPLACE
3	Firebreak By-laws 1982	31/12/1982	REVOKE
4	Health Local Law 2004	14/09/2004	REVIEWED AND UNCHANGED
5	Management and Control of Morawa Cemeteries Local Law 2008	16/07/2008	REPEAL/REPLACE
6	Meeting Procedures Local Law 2011	19/01/2012	REVIEWED AND UNCHANGED
7	Local Laws Relating to Fencing 2008	16/07/2008	REPEAL/REPLACE
8	Parking and Parking Facilities Local Law 2000	23/06/2000	REPEAL/REPLACE

CEMETERIES ACT 1986

LOCAL GOVERNMENT ACT 1995

SHIRE OF MORAWA

CEMETERIES LOCAL LAW 2017

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CEMETERIES ACT 1986

LOCAL GOVERNMENT ACT 1995

Shire of Morawa
Cemeteries Local Law 2017

Under the powers conferred by the Cemeteries Act 1986 and the Local Government Act 1995 and under all other powers enabling it, the Council of the Shire of Morawa resolved on [date of adoption resolution after completion of public consultation period] to adopt the following local law.

PART 1 — PRELIMINARY

1.1 Citation

This local law may be cited as the Shire of Morawa Cemeteries Local Law 2017~~Morawa Cemetery 2007~~.

1.2 Application

This local law applies to the Morawa Public Cemetery Reserve No. 20650 located in the district.

1.3 Commencement

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

1.4 Repeal

The Management and Control of Morawa Cemeteries Local Law 2008 as published in the Government Gazette on 16 July 2008 is repealed.

1.5 Interpretation

In this local law, unless the context otherwise requires —

Act means the Cemeteries Act 1986;

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

authorised officer means an employee of the Board authorised by the Board for the purposes of performing any function or exercising any power conferred upon an authorised officer by this local law~~Local Law~~;

Board means the local government~~Shire of Morawa~~;

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

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

crypt has the same meaning as vault;

district means the district of the local government;

funeral director~~“Funeral Director”~~ means a person holding current funeral directors licence;

local government means the Shire of Morawa;

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

memorial includes headstone, plaque, tombstone, monumental work, inscription, kerbing, enclosure and any other fixture or thing commemorating a grave or placement of ashes;

monument means a sculpture, statue, headstone, plaque, grave boundary marker, fence or cover, approved by the Board, commemorating a grave or placement of ashes;

~~holding a current~~ monumental mason's licence means a licence issued under clause 7.16;

monumental work when the term is used as an abstract noun shall include the erection, alteration or removal of or other working upon a monument on a grave;

nuisance means –

- (a) an activity or condition which is harmful or annoying and which gives rise to legal liability in the tort of public or private nuisance at law;
- (b) an unreasonable interference with the use and enjoyment of a person of his or her ownership or occupation of land; or
- (c) interference which causes material damage to land or other property on the land affected by the interference;

personal representative means –

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

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

single funeral permit means a permit issued by the Board under section 20 or 21 of the Act which entitles the holder to conduct at the cemetery a funeral of a person named in the permit;

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

vehicle has the same meaning as is given to that word in the *Road Traffic (Administration) Act 2008* (as amended from time to time), and includes trail bikes, beach buggies and other recreational vehicles licenced or unlicensed, but excludes a wheelchair being used by a physically impaired person.

1.3 — Repeal

~~The principal Local Law of the Shire of Morawa relating to the Morawa Public Cemetery Reserve No. 20650 was published in the Government Gazette on 1 December 1970, including subsequent amendments published in the Government Gazette on 15 April 1976, 30 April 1976, 2 April 1993 and 3 September 1993 are repealed.~~

PART 2 — ADMINISTRATION

2.1 Powers and ~~functions~~ **Functions** of CEO

Subject to any directions given by the Board, the CEO shall exercise all the powers and functions of the Board in respect of the cemetery.

PART 3 ~~—~~ APPLICATION FOR FUNERALS

3.1 Application for ~~burial~~ **Burial**

- (1) A person may apply for approval to bury a dead body in the cemetery in the form ~~—~~ determined by the Board from time to time.
- (2) An application under subclause (1) is to be accompanied by the set fee.

3.2 Applications to be ~~accompanied~~ **Accompanied** by ~~certificates~~ **Certificates** etc

All applications referred to in ~~clauses~~ **clause** 3.1 shall be accompanied by either a medical certificate ~~of~~ death or a Coroner's order of burial, and a certificate issued under clause 3.3, in respect of the body.

3.3 Certificate of ~~identification~~ **Identification**

- (1) After a dead body is placed in a coffin and prior to a dead body being removed to the cemetery, a person who personally knew the deceased shall identify the dead body and shall complete a certificate of identification in the form determined by the Board from time to time, unless ~~—~~

~~(a) —~~ in the opinion of ~~a funeral director~~ **the Funeral Director**, the dead body is not in a fit state to be ~~—~~ viewed; or

(b) after reasonable effort the ~~funeral director~~ **Funeral Director** is unable to arrange for a person to ~~—~~ identify the dead body.

- ~~(2) A funeral director shall complete a certificate in the form determined by the Board from time to time, where —~~

- ~~(2) — Where —~~

(a) in the opinion of the ~~funeral director~~ **Funeral Director**, the dead body is not in a fit state to be ~~—~~ viewed; or

(b) after reasonable effort the ~~funeral director~~ **Funeral Director** is unable to arrange for a person to ~~—~~ identify the dead body.

~~then the Funeral Director shall complete a certificate in the form determined by the Board from time to time.~~

3.4 Minimum ~~notice required~~ **Notice Required**

All bookings to hold a funeral shall be made with the Board at least ~~48~~ **twenty four** hours prior to the time proposed for burial on the application, otherwise an extra charge may be made.

PART 4 - FUNERAL DIRECTORS

4.1 Funeral ~~director's licence expiry~~ **Director's Licence Expiry**

A funeral director's licence shall expire on ~~30 the 30th day of~~ June ~~of~~ each year.

4.2 ~~Single funeral permits~~**Funeral Permits**

Every application for a single funeral permit made under section 20 or 21 of the Act shall include coffin specifications and details of the vehicle transporting the dead body to the gravesite.

4.3 ~~Application refusal~~**Refusal**

The Board may refuse an application for a single funeral permit if, in the opinion of the Board, either the coffin specifications or the details of the vehicle transporting the dead body to the gravesite, are not structurally sound or are otherwise inadequate or inappropriate, or on any other grounds.

PART 5 ~~—~~ FUNERALS

Division 1 ~~—~~ General

5.1 ~~Requirements for funerals~~**Funerals** and ~~coffins~~**Coffins**

(1)

A person shall not bring a dead body into the cemetery unless ~~—~~

- (a) the Board has approved an application for the burial of that dead body in accordance with Part 3 of this local law;
- (b) it is enclosed in a coffin which in the opinion of the Board is structurally sound and bears the name of the deceased person indelibly inscribed in legible characters on a plate on the coffin's lid; and
- (c) under the plate referred to in paragraph (b) there is a substantive lead strip bearing the surname of the deceased person stamped in legible characters, each character being not less than 10 mm in height.

5.2 ~~Funeral processions~~**Processions**

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

5.3 ~~Vehicle entry restricted~~**Entry Restricted**

- (1) Subject to clause 5.3(2), every funeral procession shall enter by the principal entrance, ~~—~~and no vehicle except the hearse, and official mourning coaches, shall be permitted to ~~—~~enter the cemetery unless prior approval is granted by the CEO or an authorised officer.
- (2) This clause shall not apply to persons using wheelchairs or motorised wheelchairs.

5.4 ~~Vehicle access~~**Access** and ~~speed limitation~~**Speed Limitations**

(1) A person

~~Vehicles~~ shall drive a vehicle on a vehicular access way or the proceed within the cemetery by the constructed roadway or other areas designated for the use of vehicles within the cemetery, unless otherwise authorised by the CEO.

- (2) A person driving a vehicle, within a cemetery, shall ~~and shall~~ not exceed the speed limit of 25 km~~25km~~ per hour, and shall comply with the signs and directions in the cemetery.

5.5 ~~Offenders may be ordered to leave~~**Expelled**

(1) ~~_____~~

A person committing an offence under clause 5.4 may be ordered to leave~~expelled from~~ the cemetery by the CEO or an authorised officer.

(2) A person who has been ordered to leave the cemetery by the CEO or an authorised officer is to leave immediately in a peaceful manner and not cause a disruption or be a nuisance to the funeral congregation or ceremony or procession.

5.6 Conduct of funeral~~Funeral~~ by Board

When conducting a funeral under section 22 of the Act the Board may ~~—~~

- (a) require a written request for it to conduct a funeral to be lodged with it;
- (b) in its absolute discretion, charge any person requesting it to conduct a funeral the ~~—~~set fee for the conduct of that funeral by it;
- (c) where no fee or a reduced fee has been charged by it for the conduct of the ~~—~~funeral, determine the manner in which the funeral shall be conducted;
- (d) specify an area in the cemetery where the dead body is to be buried~~—or the ashes~~ ~~—~~placed;
- (e) ~~—~~conduct the funeral notwithstanding the failure of a person to make any ~~—~~application or to obtain any consent required under this local law~~Local Law~~;
- (f) ~~—~~do or require anything which it considers is necessary or convenient for the ~~—~~conduct of a funeral by it.

Division 2 ~~—~~Placement of ashes~~Ashes~~

5.7 Disposal of ashes~~Ashes~~

- (1) The personal representative of a deceased person whose body has been cremated may apply, in an application under clause 3.1 or otherwise, for permission to dispose of the ashes in the cemetery and upon payment of the set fee, the Board may grant permission ~~—~~for the ashes to be disposed of by one of the following methods ~~—~~

- ~~_____~~
- ~~_____~~ Niche wall~~Wall~~
- ~~_____~~ Memorial wall~~Wall~~
- ~~_____~~ Garden of remembrance~~Remembrance~~
- ~~_____~~ Ground niche~~Niche~~
- ~~_____~~ Memorial rose, tree~~Rose, Tree~~ or shrub~~Shrub~~
- ~~_____~~ Family shrub~~Shrub~~
- ~~_____~~ Memorial desk~~Desk~~
- ~~_____~~ Granite seat~~Seat~~
- ~~_____~~ Family grave~~Grave~~
- ~~_____~~ Book of remembrance~~Remembrance~~
- ~~_____~~ Scattering to the winds~~Winds~~
- ~~_____~~ Memorial gardens~~Gardens~~
- ~~_____~~ Other memorials approved by the Board

(2) Subject to ~~subclauses~~~~sub-clauses~~ (3) and (4), a person shall not place the ashes of a deceased ~~—~~person in the cemetery.

(3) An authorised officer may place the ashes of a deceased person in a cemetery in ~~—~~accordance with the Board approval provided ~~—~~

- (a) the person requesting the placement of the ashes has the permission of the Board; ~~—~~and
- (b) the ashes are placed within an area set aside for that purpose by the Board.

(4) An authorised officer may place the ashes of a deceased person within a grave in ~~—~~accordance with the Board approval, provided the person requesting the placement of ~~—~~the ashes has the written permission of the Board and the approval of the holder of the ~~—~~right of burial of the grave.

PART 6 ~~—~~ BURIALS

(1) A person shall bury a coffin within the cemetery so that the distance between the top of the coffin and the original surface of the ground is –

- (a) subject to paragraph (b), less than 750 mm, unless that person has the permission of an authorised officer; or
- (b) in any circumstances less than 600 mm.

(2) The permission of the authorised officer in subclause (1)(a) will only be granted where, in the opinion of the authorised officer, exceptional circumstances require granting of that permission.

6.2 Mausoleum, etc

(1) A person other than the Board shall not construct a brick grave, crypt, vault or mausoleum within the cemetery.

(2) A person may request the Board to construct a vault or mausoleum within the cemetery which vault or mausoleum shall at all times remain the property of the Board.

(3) An application under subclause (2) shall be in writing and shall be accompanied by payment of the set fee.

(4) A person shall not place a dead body in a mausoleum except –

- (a) in a closed coffin; and
- (b) in a soundly constructed chamber; and
- (c) in accordance with subclause (5).

(5) The number of burials in a chamber must not exceed the number for which the chamber was designed.

PART 7 ~~—~~ MEMORIALS AND OTHER WORK

Division 1 ~~—~~ General

7.1 Application for ~~monumental work~~Monumental Work

A Board may require the written consent of the holder of the right of burial of the grave to accompany an application under section 30 of the Act.

7.2 Placement of monumental work~~Monumental Work~~

Every memorial shall be placed on proper and substantial foundations.

7.3 Removal of rubbish~~Rubbish~~

All refuse, rubbish or surplus material remaining after memorial works are completed under a permit issued under section 30 of the Act shall be immediately removed from the cemetery by the person carrying out the same.

7.4 Operation of work~~Work~~

All material required in the erection and completion of any work shall, as far as possible, be prepared before being taken to the cemetery, and all materials required by tradesmen shall be admitted at such entrance as the CEO or an authorised officer shall direct.

7.5 Removal of sand, soil~~Sand, Soil~~ or loam~~Loam~~

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

7.6 Hours of work~~Work~~

Persons shall not be permitted to carry out memorial or other work on graves within the cemetery other than during the hours of 8.00am and 6.00pm on weekdays, and 8.00am and noon on Saturdays, without the written permission of the Board.

7.7 Unfinished work~~Work~~

Should any work by masons or others be not completed before 6 p.m.~~6pm~~ on weekdays and noon on Saturdays, they shall be required to leave the work in a neat and safe condition to the satisfaction of the CEO or an authorised officer.

7.8 Use of wood~~Wood~~

No wooden fence, railing, cross or other wooden erection shall be allowed on or around any grave, other than as a temporary marker and with the prior approval of the Board.

7.9 Plants and Trees

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

7.10 Supervision

All workers, whether employed by the Board or by any other person, shall at all times whilst within the boundaries of the cemetery be subject to the supervision of the CEO or an authorised officer and shall obey such directions as the CEO or an authorised officer may give.

7.11 Australian War Graves

Notwithstanding anything in this local law~~Local Law~~ to the contrary, the Office of Australian War Graves —

- (a) may place a memorial on a military grave; and

- (b) is not required to pay the set fee for any memorial that is placed upon a military ~~—~~grave.

7.12 Placing of ~~glass domes~~**Glass Domes** and ~~vases~~**Vases**

A person shall not place glass domes, vases or other grave ornaments ~~—~~

- (a) outside the perimeter of a grave in the cemetery as defined in the plans kept and ~~—~~maintained under section 40-(2) of the Act; or
- (b) on the lawn in an area set aside by the Board as a lawn or a memorial plaque section.

Division 2 – Lawn section

7.13 Specification of monuments

(1) All monuments in the lawn section of a cemetery shall –

- (a) be made of natural stone;
- (b) be placed upon a base of natural stone;
- (c) comply with the following specifications –
- (i) the overall height of the monument above the original surface of the grave shall not exceed 1.05 m;
- (ii) the height of the base of the monument above the original surface of the grave shall not be less than 150 mm nor more than 450 mm;—
- (iii) the width of the base of the monument shall not exceed 1.20 m;
- (iv) the depth of the base of the monument shall not exceed 300 mm; and
- (d) have foundations extending to the bottom of the grave unless concrete beam foundations are provided by the Board.
- (2) An admiralty bronze memorial plaque may be attached to a monument erected or being erected in the lawn section of the cemetery.
- (3) A person shall not display any trade names or marks upon any monument erected within the lawn section of the cemetery.

7.14 Headstones

In the lawn section of the cemetery, that part of a headstone above its base shall not extend horizontally beyond that base.

*Division 3 – Memorial plaque section***Plaque Section**

7.1513 Requirements of a memorial plaque**Memorial Plaque**

(1) ~~—~~All memorial plaques placed in a memorial plaque section of the cemetery shall ~~—~~

- (a) be made of admiralty bronze or any other material approved by the Board; and
- (b) not be less than the dimensions 143 mm~~380mm~~ x 117 mm~~280mm~~, nor more than 560 mm~~560mm~~ x 305 mm. ~~—305mm; and~~

(2) All memorial plaques made of admiralty bronze shall ~~—~~

- (a) not exceed 20 mm~~20mm~~ in thickness; and
- (b) be placed upon a base mounting approved by the Board.

(3) All memorial plaques made of stone shall ~~—~~

- (a) not exceed ~~50 mm~~~~50mm~~ in thickness placed upon a base mounting approved by the ~~Board~~;
- (b) not be less than ~~100 mm~~~~100mm~~ in thickness if it is not to be placed upon a base mounting.

~~Division 4 – Licensing of 7.14~~ **Monumental Masons** ~~Mason’s Licence~~

7.16 Monumental mason’s licence

- (1) The Board may upon receipt of an application in writing by any person and upon ~~payment~~ of the set fee issue to the applicant a monumental mason’s licence.
- (2) A licence issued under ~~subclauses~~~~sub-clause~~ (1) authorises the holder to carry out monumental ~~works~~ within the cemetery subject to the provisions of this ~~local law~~~~Local Law~~ and such ~~conditions~~ as the Board shall specify upon the issue of that licence.

7.1715 Expiry ~~date, non-transferability~~ ~~Date, Non-Transferability~~

A monumental mason’s licence ~~is~~

- (a) shall, ~~subject to clause 7.18~~, be valid from the date specified therein until ~~30~~~~the 30th day~~ of June next following; and
- (b) is not transferable.

7.1816 Carrying out ~~monumental work~~ ~~Monumental Work~~

A person shall not carry out monumental work within the cemetery unless that person ~~is~~

- (a) is the holder of a current monumental mason’s licence issued pursuant to clause ~~7.16~~~~14~~ or
- (b) ~~is an~~~~does so as the~~ employee of a person who holds such a licence; or
- (c) ~~is~~ is authorised by the Board to do so.

7.1917 Responsibilities of the ~~holder~~ ~~Holder~~ of a ~~monumental mason’s licence~~ ~~Monumental Mason’s Licence~~

The holder of a monumental mason’s licence shall be responsible for the compliance by every person purporting to be authorised to carry out monumental works within the cemetery pursuant to that licence with all the requirements and conditions of the licence, this ~~local law~~~~Local Law~~, the Act and any other written law which may affect the carrying out of monumental works.

7.20 18 Cancellation of a ~~monumental mason’s licence~~ ~~Monumental Mason’s Licence~~

- (1) The Board may by notice in writing to the holder of a monumental mason’s ~~licence~~ ~~licence~~ terminate the ~~licence~~~~licence~~ on any of the following grounds ~~is~~
 - (a) that the holder of the ~~licence~~~~licence~~ has committed a breach of the requirements and ~~conditions~~ of the ~~licence~~~~licence~~, this ~~local law~~~~Local Law~~, the Act or any other written law which ~~may~~ affect the carrying out of monumental works;
 - (b) that, in the opinion of the Board, the conduct of the holder of the ~~licence~~~~licence~~ or any person in the employ of that holder in carrying out or attempting to carry out any works within the cemetery, is inappropriate or unbecoming; or
 - (c) that the holder of the ~~licence~~~~licence~~ has purported to transfer the ~~licence~~~~licence~~ issued to that ~~holder~~.

(2) Upon the termination of a monumental mason's ~~licence~~licensee under this clause no part of any ~~—~~ fee paid for the issue of that ~~licence~~licensee is refundable by the Board.

~~(3) An aggrieved person whose licence has been terminated under subclause (1) may appeal to a Local Court against a decision of the Board under this clause in the manner stated in section 19 (3) of the Act.~~

PART 8 ~~--~~ GENERAL

8.1 Animals

A

~~Subject to clause 8.2, a~~ person shall not bring an animal into or permit an animal to enter or remain in the cemetery, other than an assistance animal as defined in section 9(2) of the Disability Discrimination Act 1992 (Cth) or with the approval of the CEO or an authorised officer.

8.2 ~~Guide Dogs~~

~~Clause 8.1 shall not apply to a hearing impaired person or a person who is blind or partially blind and is accompanied by a hearing or guide dog.~~

8.3 ~~Damaging and removing~~Removing of objects~~Objects~~

Subject to clause 8.4, a person shall not damage, remove or pick any tree, plant, shrub or flower in the cemetery or any other object or thing on any grave or memorial or which is the property of the Board without the permission of the Board.

8.34 ~~Withered flowers~~Flowers

A person may remove withered flowers from a grave or memorial and these are to be placed in a receptacle provided by the Board for that purpose.

8.45 ~~Littering and vandalism~~Vandalism

A person shall not ~~--~~

- (a) break or cause to be broken any glass, ceramic or other material in or upon the ~~—~~cemetery;
- (b) discard, deposit, leave or cause to be discarded, deposited or left any refuse or ~~—~~litter in or upon the cemetery other than in a receptacle provided for that purpose.

8.56 Advertising

(1)

A person shall not ~~carry on or advertise or carry on~~ any trade, business or profession within the cemetery without the prior written approval of the Board ~~which consent may be granted subject to such conditions as the Board thinks fit.~~

(2) The Board may consider and grant approval subject to such conditions as the Board thinks fit.

8.67 ~~Obeying signs~~Signs and ~~directions~~Directions

A person shall obey all signs displayed, marked, placed or erected by the Board within the cemetery and any other lawful direction by the CEO or an authorised officer.

8.78 ~~Removal from the cemetery~~Cemetery

Any person failing to comply with any provisions of this ~~local law~~~~Local Law~~ or behaving in a manner that in the opinion of the Board, the CEO or an authorised officer is inappropriate in the cemetery may in addition to any penalty provided by this ~~local law~~~~Local Law~~ be ordered to leave the cemetery by the Board, the CEO or an authorised officer.

PART 9 – OFFENCES AND MODIFIED PENALTIES

9.1 General

A person who commits a breach of any provisions of this ~~local law~~~~Local Law~~ commits an offence and shall on conviction be liable to a penalty not exceeding \$500.00 and if the offence is a continuing one to a further penalty not exceeding \$20.00 for every day or part of a day during which the offence has continued.

9.2 Modified ~~penalties~~~~Penalties~~

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

First Schedule 1 – Modified Penalties

[cl. 9.2]

Offences and Modified Penalties

MODIFIED PENALTIES

Item No.	Clause	Nature of <u>offence</u> Offence	Modified <u>penalty</u> Penalty
1	5.4(1)	Not driving vehicle on vehicular access way or constructed roadways or within designated areas <u>Excessive speed</u>	\$50.00
2	5.4(2)	Exceeding speed limit <u>Unauthorised use – driving of vehicles</u>	\$50.00
3	7.3	Not removing <u>Placing and removal of</u> rubbish and surplus materials	\$50.00
<u>4</u>	<u>7.5</u>	<u>Unauthorised use of sand, earth or other material taken from another part of the cemetery</u>	<u>\$50</u>
<u>54</u>	7.7	Leaving uncompleted works in an untidy or unsafe condition	\$50.00
<u>65</u>	8.1	<u>Unauthorised bringing in of animal into cemetery or permitting animal to remain in cemetery</u> Animal at large	\$50.00
<u>76</u>	<u>8.25</u>	<u>Damaging and removing</u> Dumping of objects <u>Rubbish</u>	\$50.00
<u>8</u>	<u>8.4</u>	<u>Littering and vandalism</u>	<u>\$50</u>
<u>97</u>	<u>8.56</u>	Unauthorised advertising, and/or trading	\$50.00
<u>108</u>	<u>8.67</u>	Disobeying sign or lawful direction	\$50.00

Second Schedule 2 – Infringement Notice
[cl. 9.2(3)]

Infringement Notice

To: _____
(Name)

(Address)

It is alleged that at ____:____ hours on _____ day of _____ 20____

at _____

you committed the offence indicated below by an (x) in breach of clause of the ~~Shire Management and Control~~ of Morawa Cemeteries Local Law 2017 ~~Morawa Cemetery~~.

(Authorised Person)

Offence

- Not driving vehicle on vehicular access way or designated areas
- Exceeding speed limit
- Not removing Animal at large
- Dumping rubbish and surplus materials
- Unauthorised use of materials taken from another part of the cemetery
- Excessive speed in vehicle
- Leaving uncompleted works in an untidy or unsafe condition
- Unauthorised animal in cemetery
- Damaging and removing of objects
- Littering and vandalism
- Non removal of rubbish
- Unauthorised advertising and/or trading
- Unauthorised vehicle use
- Disobeying sign or lawful direction
-
- Other Offence: _____ \$ _____

You may dispose of this matter by:

~~By~~ payment of the penalty as shown within 21 days of the date of this notice (or the date of the giving of this notice if that is a different date) to the Chief Executive Officer of the Shire of Morawa ~~Morawa~~ at Winfield Street, Morawa WA 6623 between the hours of 9 a.m., 8.30am to 4.30 p.m., 30pm Monday to Friday.

Please make cheques payable to Shire of Morawa Payments by mail should be addressed to —

The Chief Executive Officer
Shire of Morawa
PO Box 14
MORAWA WA 6623

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

~~Third~~ **Schedule 3 – Infringement Withdrawal Notice**
~~Cemeteries Act 1986~~
~~[cl. 9.2(4)]~~

Withdrawal of Infringement Notice

No. _____

Date ____/____/____

To: ^[1] _____

Infringement Notice No _____ dated ____/____/____ for the alleged offence of ^[2]

Penalty ^[3] \$ _____ is withdrawn.

(Delete whichever does not apply)

* No further action will be taken.

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

~~(1) Insert name and address of alleged offender.~~

~~(2) Insert short particulars of offence alleged.~~

~~(3) Insert amount of penalty prescribed.~~

.....
(Authorised Person)

I

Management and Control of Morawa Cemetery
Form 1
CEMETERIES ACT 1986
GRANT OF RIGHT OF BURIAL

(cl 3.1)

~~By virtue of the Cemeteries Act 1986, the Shire of Morawa, in consideration of the sum shown hereunder paid by the Payer indicated on behalf of the Grantee named in the Schedule, hereby grants to the said Grantee the **RIGHT of BURYING BODIES** in that piece of ground within the Compartment, Section and Number on the plan of the Cemetery as shown hereunder.~~

~~**TO HOLD** the same to the said Grantee for the period of twenty five (25) years from the date hereof, for purposes of burial only.~~

~~This Grant is issued subject to all Local Laws and Regulations now or hereafter in force, made, or to be made under the above Act, or any future Act or Acts.~~

SCHEDULE

GRANT NO:.....

GRANTEE:

Name.....

Address.....

.....

.....

~~PAYER~~

Name.....

Address.....

.....

.....

SUM IN CONSIDERATION..... Dollars

OFFICE RECORDS

~~GRAVE SITE~~

Compartment..... Deceased.....

Section..... Application Number.....

Number..... Register Folio.....

.....

Signature of Issuing Officer..... Designation..... Date.....

~~NB: This grant is an important document and **MUST BE PRODUCED** before the grave can be reopened and to an authorised monumental mason for the establishment of any headstone.~~

Management and Control of Morawa Cemetery

Form 2

~~CEMETERIES ACT 1986~~

¹ Insert **DECLARATION OF OWNERSHIP OF MISSING "GRANT OF RIGHT OF BURIAL"**

I, (a)

of (b)

do solemnly and sincerely declare as follows—

1. I am the person described as (c)
— in the Grant of Right of Burial numbered

— issued by the Shire of Morawa on the day

— of One thousand nine hundred

— and ninety

2. (d)

3. I have not transferred any of my rights under the said Grant to any person.
And I make this solemn declaration by virtue of Section 106 of the *Evidence Act 1906*.

Declared at in the State of Western Australia

this day of 20 before me—

Signature of Declarant.....

Witnessed by.....

(Print Name)

Signature of Witness.....

Address of Witness.....

(a) Full name and of Declarant

(b) Address and Occupation of Declarant

(c) State whether Grantee or Assignee

(d) Set out circumstances leading to loss or destruction of Grant, and if lost, action taken by
Declarant to ascertain whereabouts of Grant.

Management and Control of Morawa Cemetery
Form 3
CEMETERIES ACT 1986
ASSIGNMENT OF GRANT OF RIGHT OF BURIAL

(cl 3.4)

To the Shire of Morawa

I,

of

being the holder of a grant of right of burial numbered

and issued by the Shire of Morawa on

in respect of the Cemetery for good and
valuable consideration assign all my rights under that grant

to

(Full name)

of

(address of alleged offender.)

I Dated this day of 20

.....
Signature of person assigning grant

.....
Signature of person to whom grant is assigned

.....
Signature of witness

Registered by the Shire of Morawa on the day

of 20

.....
Authorised Officer

Management and Control of Morawa Cemetery
Form 4
CEMETERIES ACT 1986
APPLICATION FOR BURIAL AND INSTRUCTION FOR GRAVE

(cl 3.1)

APPLICATION No.

SURNAME OF DECEASED:

OTHER NAMES:

OCCUPATION:

ADDRESS:

AGE: DATE OF DEATH:/...../20.....

DATE & TIME OF BURIAL:/...../20..... RELIGIOUS AFFILIATION:

AREA: SECTION: GRAVE NO:

LENGTH & WIDTH OF COFFIN: DEPTH OF GRAVE:

SIZE OF GROUND: GRANT NO:

GRAVE TYPE:

PLACE "X" IN BOX IF:

FIRST INTERMENT

MALE: _

FEMALE: _

IS A GRANT REQUIRED: No: _

Yes: _

OTHER INTERMENT APPLICATION NUMBERS:

.....
.....
.....

NAME AND ADDRESS OF APPLICANT FOR/OR CURRENT HOLDER OF GRANT OF RIGHT OF BURIAL:

SIGNATURE: DATE:/...../20.....

NAME OF MINISTER OR PERSON OFFICIATING: NAME OF FUNERAL

DIRECTOR:

.....
SIGNATURE: SIGNATURE:

DATE:/...../20..... DATE:/...../20.....

NAME AND ADDRESS OF PERSON MAKING APPLICATION FOR BURIAL:

.....
.....

SIGNATURE: DATE:/...../20.....

DOCTOR'S CERT, REQ'D: _ CORONER'S ORDER REC'D: _

GRANT OF BURIAL SENT:/...../20... RECEIPT No. ISSUED:

MONUMENTAL MASON: DATE WORKS APPROVED:/...../20.....

Management and Control of Morawa Cemetery
Form 5

CEMETERIES ACT 1986

APPLICATION FOR CREMATION AND INSTRUCTION FOR ASHES

(cl 3-2¹ Insert short)

APPLICATION No:

SURNAME OF DECEASED:

OTHER NAMES:

OCCUPATION:

ADDRESS:

AGE: DATE OF DEATH:/...../20.....

DATE & TIME OF BURIAL:/...../20..... RELIGIOUS AFFILIATION:

AREA: SECTION: GRAVE NO:

GRANT NUMBER:

GRAVE TYPE:

PLACE "X" IN BOX IF:

MALE:

FEMALE:

OTHER INTERMENT APPLICATION NUMBERS:

.....

.....

NAME AND ADDRESS OF ADMINISTRATOR:

.....

SIGNATURE

DATE:

DISPOSAL DETAILS:

.....

NAME OF MINISTER OR PERSON NAME OF FUNERAL OFFICIATING: DIRECTOR:

.....

SIGNATURE: SIGNATURE:

DATE:/...../20..... DATE:/...../20.....

DATE CREMATION PERMIT ISSUED:/...../20.....

No. OF CREMATION PERMIT:

RECEIPT No:

TELEPHONE No:

CERT. OF CREMATION PREPARED:/...../20.....

LETTERS RE DISPOSAL OF ASHES SENT:/...../20.....

ORDERED:/...../20.....

COMPLETED:/...../20.....

Management and Control of Morawa Cemetery
Form 6
CEMETERIES ACT
CERTIFICATE OF IDENTIFICATION

(cl 3.4(1))

I, of
..... hereby
certify that on the day of 20 at

I identified the body of a deceased person as that of
The body was in a coffin bearing the name plate/inscription marked
.....

SIGNED:

WITNESS:

Management and Control of Morawa Cemetery
Form 7
CEMETERIES ACT 1986
CERTIFICATE DISPENSING WITH IDENTIFICATION

(cl 3.4(2))

I, of
..... the
funeral director engaged to arrange the funeral of the body of

..... certify
That -

- (a) ~~the body has not been identified because -~~
 - ~~* in my opinion, the body is not in a fit state to be viewed~~
 - ~~* after reasonable effort I have been unable to have an identification made;~~
- and
- (b) ~~the body is in a coffin bearing the name plate/inscription marked:~~

Dated this day of 20

Signed:

Endorsed by the applicant for the funeral:
(Full name)

Signed:
(Signature)

(* delete if inapplicable)

Management and Control of Morawa Cemetery
Form 8
CEMETERIES ACT 1986
APPLICATION FOR FUNERAL DIRECTOR'S LICENCE

(S 17 (1))

(i).....

hereby applies for the issue of a licence for the period beginning day of 20...

and ending the 30th day of June 20.... (ii) to undertake funerals within the Cemetery and in support of such application supplies the following particulars of offence alleged.-

^[3] Insert amount 1. To be completed by all Applicants —

(a) ~~Trading name of business~~

.....
(b) ~~Address from which business will be carried out~~

..... Telephone No:

(c) ~~Number of years for which Applicant has previously held a Funeral Director's Licence~~

(d) ~~Details of offences under the Cemeteries Act, Cremation Act or the Local Law of any Cemetery for which the Applicant or persons employed by the applicant have been convicted~~

.....
(e) ~~Full name, address and capacity of person completing this application~~

~~(iii) penalty~~

2. ~~To be completed if Applicant is a Company—~~

(a) ~~Full names and address of—
Director/s~~

.....
~~Manager/s~~

.....
~~Secretary~~

.....
(b) ~~Registered Office~~

3. ~~To be completed if Applicant is A Partner—~~

~~Full name and address of partner/s~~

.....
4. ~~To be completed if Applicant is neither Company nor Partnership—~~

.....
Full name (iv)

Address

Signature of person completing application

.....
DIRECTIONS FOR COMPLETION

- (i) Name of Applicant or Company or business name
- (ii) ~~The maximum period is one year~~
- (iii) ~~State whether applying in person or own behalf, or as a partner of a firm or a manager of a Company~~
- (iv) ~~If this information has already been given under item 1(e) write "as in item 1(e)"~~

OFFICE USE ONLY

Received

Referred to Council

Approved

Licence issued

Management and Control of Morawa Cemetery
Form 9
CEMETERIES ACT 1986
FUNERAL DIRECTOR'S LICENCE

(S17 (2))

..... of
..... is hereby
licensed to undertake funerals within the Cemetery from the
day of 20 until the 30th day of June 20

Place of business.....

Conditions.....

.....
.....
.....

Given this day of 20
by authority of the Shire of Morawa.

.....
CEO

Management and Control of Morawa Cemetery
Form 10
CEMETERIES ACT 1986
APPLICATION FOR SINGLE FUNERAL PERMIT

(cl 4.2)

I, (name)

of (address)

hereby make application for a SINGLE FUNERAL PERMIT for the Late

..... to take

place on (day) (month) 20 at (time)

..... and in support of this application I hereby submit -

- ~~1. Medical Certificate
Coroner's Certificate
Permit to Cremate
Application for Burial
Application for Cremation~~
- ~~2. I have permission to re-open the grave if required.~~
- ~~3. The deceased will be enclosed in a substantial casket having the following dimensions-
Length Width Depth~~
- ~~4. The casket will be obtained from~~
- ~~5. There will be legible name stamped on a lead plate under the name plate on the top of the coffin.~~
- ~~6. The vehicle used to transport the coffin within the cemetery is a suitable vehicle of the following description -
Vehicle Make Type Year~~
- ~~7. If a permit is issued I will comply with the Cemetery Local Law and conditions prescribed by the local government and pay the required fees.~~

Dated _____ 20 _____

(Signature)

Office Use Only

Application No

Approval of Vehicle and Casket

Refer to Council:

Licence issued:

Management and Control of Morawa Cemetery
Form 11
CEMETERIES ACT 1986

Application No.

AUTHORITY FOR PLACEMENT OF ASHES

(cl 5.12)

Of the Late

Died Aged

Instructions for placement of ashes:-

Total amount payable \$

If second interment state name of first interment

Location (if known)

Name of personal representative:

Address

Telephone Home Work

Signature Date

Management and Control of Morawa Cemetery
Form 12
CEMETERIES ACT 1986
APPLICATION FOR MONUMENTAL WORK

(cl 5.30)

Application No.

Grant No.

Name of Deceased

Area Section Grave No.

Name of Applicant

Address of Applicant

~~I HEREBY CERTIFY THAT I AM AUTHORISED AS/BY THE HOLDER OF THE GRANT OF RIGHT OF BURIAL FOR THE ABOVEMENTIONED GRAVE TO APPROVE ERECTION OF THE MEMORIAL DETAILED HEREIN AND I ACCEPT THAT THE APPROVAL ISSUED WILL BE SUBJECT TO CONDITIONS STIPULATED IN THE CEMETERIES ACT, THE GRANT OF RIGHT OF BURIAL AND THE LOCAL LAW AND REGULATIONS NOW OR HEREAFTER IN FORCE.~~

Signature Date

~~NOTE: THE SHIRE OF MORAWA IS INDEMNIFIED AGAINST ANY LIABILITY ATTRIBUTED TO ANY INCORRECT STATEMENTS OR INFORMATION CONTAINED IN THIS FORM.~~

~~DETAILS OF MASON~~

~~THIS SECTION TO BE COMPLETED BY THE MONUMENTAL MASON~~

Name of Firm

Quoted Cost Date

Address

Signature of Mason

Do You Wish To: (Please Tick)

Add Further Inscription Renovate Or Add Further

Install A New Memorial

~~PLAN AND SPECIFICATIONS~~

~~NOTE: ALL PLANS AND SPECIFICATIONS OF MEMORIALS SUBMITTED MUST BE CAREFULLY DRAWN AND FULLY DIMENSIONED AND ALL MATERIALS SPECIFIED. ALL DESCRIPTION TO BE IN BLOCK LETTERS, ALL ORNAMENTS ETC, TO BE SHOWN AND DIMENSIONED. SIZE OF DOWELS AND DOWEL HOLES TO BE SPECIFIED.~~

Management and Control of Morawa Cemetery
Form 13
CEMETERIES ACT 1986
APPLICATION FOR MONUMENTAL MASON'S LICENCE

(cl 7.16)

I/We the undersigned hereby apply for the issue of a licence for the period beginning the day of 20 and ending the day of 20 to undertake and complete monumental work within the cemetery and in support of this application enclose a fee of \$ and provide the following particulars –

1. ~~To be completed by all Applicants –~~

(a) ~~Address from which business will be carried on:~~

~~..... Telephone No:~~

(b) ~~Number of years for which Applicant has previously held a Monumental
Mason's Licence:~~

(c) ~~Full name, address and capacity of person completing this application:~~

~~.....~~

2. ~~To be completed if the Applicant is a Company –~~

(a) ~~Full names and addresses of –~~

~~Director/s~~

~~.....~~

~~Manager/s~~

~~Secretary~~

(b) ~~Registered Office~~

3. ~~To be completed if Applicant is a Partner –~~

(a) ~~Full name and address of partner/s~~

~~.....~~

4. ~~To be completed if Applicant is neither a Company nor Partnership –~~

~~Full name:~~

~~Address:~~

Dated at this day of 20...

Signature:

Shire of Morawa
MONUMENTAL MASON'S LICENCE

Date Received

Date Approved

Conditions:

.....

Signature of Issuing Officer: Designation:

Date:

Dated this [redacted]

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

K J CHAPPEL, SHIRE PRESIDENT

J ROBERTS, CHIEF EXECUTIVE OFFICER

DOGS LOCAL LAW 2017

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

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DOG ACT 1976

LOCAL GOVERNMENT ACT 1995

SHIRE OF MORAWA

DOGS LOCAL LAW ~~2017~~2006

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 Morawa resolved on [insert date] to make the following local law.

PART 1 -- PRELIMINARY

1.1 1.1 Citation

This local law may be cited as the *Shire of Morawa Dogs Local Law 2017*.

1.2 Commencement

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

1.2 1.3 Application

~~1.2~~ Definitions

This local law applies throughout the district.

1.4 Repeal

The *Shire of Morawa Dogs Local Law* as published in the *Government Gazette* on 16 July 2008 is repealed.

1.5 Interpretation

In this local law unless the context otherwise requires --

Act means the *Dog Act 1976*;

authorised person means a person who is appointed under section 29~~authorised by the local government to perform~~ all or any of the Act~~functions conferred on an authorised person under this local law~~;

CEO means the Chief Executive Officer of the local government;

dangerous dog has the meaning given under the Act;

district means the district of the local government;

fit and proper person means a person who has been deemed to be not fit to care for animals by a reputable body such as the RSPCA, or a person who is deemed by an authorised officer, not to have the ability or adequate support to undertake obligations of the license;

local government means the Shire of Morawa;

nuisance means –

- (a) an activity or condition which is harmful or annoying and which gives rise to legal liability in the tort of public or private nuisance at law;
- (b) an unreasonable interference with the use and enjoyment of a person of his or her ownership or occupation of land; or
- (c) interference which causes material damage to land or other property on the land affected by the interference;

owner has the meaning given to it under section 3 of the Act;

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

premises has the meaning given under the Act;

Regulations means the *Dog Regulations* ~~2013~~1976;

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*;

town planning scheme means a town planning scheme made by the local –government under the ~~Town~~ Planning and Development Act ~~2005~~1928 which applies –throughout the whole or a part of the district; ~~and-~~

1.31.1 Application

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

townsite means the townsites of **XXXXXXXXXXXXXXXXXX** , 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 *Local Government Act 1995*.

PART 2 -- IMPOUNDING OF DOGS

2.1

2.1 Charges and ~~costs~~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 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 2.3 Release of impounded dog

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

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

~~A person who—~~

- ~~(a) of her or his ownership of the dog or of her or his authority to take delivery of it; or
(b) that he or she is the person identified as the owner on a microchip implanted in the dog.~~

~~452 GOVERNMENT GAZETTE, WA 24 January 2006~~

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

~~A person who—~~

~~(a) unless he or she is the pound keeper or a person authorized to do so, releases or attempts to release a dog from a pound; or~~

~~(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

- (e) where no part of the premises consists of open space, yard or garden or there is no open space or garden or yard of which the occupier has exclusive use or occupation, ensure that other means exist on the premises (other than the tethering of the dog) for effectively confining the dog within the premises.

(2) Where an occupier fails to comply with subclause (1), he or she commits an offence.

(3) Notwithstanding subclause (1) and (2), the confinement of dangerous dogs is dealt with in the Act and the Regulations

~~Penalty: Where the dog kept is a dangerous dog, \$2,000; otherwise \$1,000.~~

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
 - (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.

PART 4 ~~—~~ APPROVED KENNEL ESTABLISHMENTS

4.1 ~~Interpretation~~

In this Part and in Schedule 2 ~~—~~

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

licensee means the holder of a licence;

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

transferee means a person who applies for the transfer of a licence to her or him under clause ~~4.13~~4.

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 -

~~the local government together with—~~

- (a) plans and specifications of the kennel establishment, including a site plan;
- (b) copies of the notices to be given under clause 4.3;
- (c) written evidence that either the applicant or another person who will have the charge of the dogs, will reside on the premises or, in the opinion of the local

- government, sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare;
- (d) a written acknowledgement that the applicant has read and agrees to comply with any code of practice relating to the keeping of dogs nominated by the local government; and
 - (e) the fee for the application for a licence referred to in clause 4.9(1).

4.3 ~~_____~~-Notice of proposed use

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

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

4.4 ~~_____~~-Exemption from notice requirements

Where an application for a licence is made in respect of premises on which an approved kennel establishment is either a ~~_____~~

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

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

4.5 ~~_____~~-When application can be determined

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

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

4.6 ~~_____~~-Determination of application

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

- (a) the matters referred to in clause 4.7;
- (b) any written submissions received within the time specified in clause 4.3(2)(a) on the proposed use of the premises;
- (c) any economic or social benefits which may be derived by any person in the district if the application for a licence is approved;
- (d) the effect which the kennel establishment may have on the environment or amenity of the neighbourhood;
- (e) whether the approved kennel establishment will create a nuisance for the owners and occupiers of adjoining premises; and
- (f) whether or not the imposition of and compliance with appropriate conditions of a licence will mitigate any adverse effects of the approved kennel establishment identified in the preceding paragraphs.

4.7 ~~—~~ Where application cannot be approved

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

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

4.8 ~~—~~ Conditions of approval

- (1) The local government may approve an application for a licence subject to the conditions contained in Schedule 2 and to such other conditions as the local government considers appropriate.
- (2) In respect of a particular application for a licence, the local government may vary any of the conditions contained in Schedule 2.

4.9 ~~— 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, \$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 from time to time under sections 6.16 ~~to~~—6.19 of the *Local Government Act 1995*.

4.10 ~~11~~ Form of licence

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

4.11 ~~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.

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

4.13 ~~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 from time to time;
 - (b) made by the transferee;
 - (c) made with the written consent of the licensee; and
 - (d) lodged with the local government together with—
 - (i) written evidence that a person will reside at or within reasonably close proximity to the premises the subject of the licence; and
 - (ii) the fee for the application for the transfer of a licence referred to in clause 4.910(3).
- (2) The local government is not to determine an application for the transfer of a valid licence until the transferee has complied with subclause (1).
- ~~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 4.1415(b), the transferee becomes the licensee of the licence for the purposes of this local law.

4.14 ~~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 4.1213(1);
- (d) a licensee when her or his licence is due for renewal and the manner in which it may be renewed;
- (e) a licensee when her or his licence is renewed;
- (f) a licensee of the cancellation of a licence under clause 4.12(2)(a); and
- (g) a licensee of the cancellation of a licence under clause 4.1213(2)(a); and
~~(g) a licensee of the cancellation of a licence under paragraphs (b) or (c) of clause 4.13(2)(b) and 4.12(2)(c),~~ which notice is to be given in accordance with section 27(6) of the Act.

4.15 ~~16~~ Inspection of kennel

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

PART 5 - ~~offences~~ ~~DOGS IN PUBLIC PLACES~~

5.1 ~~5.1 Places where dogs are prohibited absolutely~~

~~(1) Dogs are prohibited absolutely from entering or being in any of the following places—~~

- ~~(a) a public building, unless permitted by a sign;~~
- ~~(b) a theatre or picture gardens;~~
- ~~(c) all premises or vehicles classified as food premises or food vehicles under the *Health (Food Hygiene) Regulations 1993*; and~~
- ~~(d) a public swimming pool.~~

~~(2) If a dog enters or is in a place specified in subclause (1), every person liable for the control of the dog at that time commits an offence.~~

~~Penalty: Where the dog is a dangerous dog, \$2,000; otherwise \$1,000.~~

5.2 ~~Places which are dog exercise areas~~

~~(1) Subject to clause 5.1 and subclause (2) of this clause, for the purposes of sections 31 and 32 of the Act, the following are dog exercise areas—~~

~~(a) Perenjori—Recreation & Showground Reserve 17056~~

~~(b) Perenjori—Recreational lake environs~~

~~(c) Latham—Parkland Reserve 3569~~

~~(d) Latham—Recreation Reserve 30802~~

~~(2) Subclause (1) does not apply to—~~

~~(a) land which has been set apart as a children's playground;~~

~~(b) an area being used for sporting or other activities, as permitted by the local government, during the times of such use; or~~

~~(c) a car park.~~

~~PART 6—MISCELLANEOUS~~

~~6.1 Offence to excrete~~

- (1) A dog must not excrete on—
 - (a) any thoroughfare or other public place; or
 - (b) any land which is not a public place without the consent of the occupier.
- (2) Subject to subclause (3), if a dog excretes contrary to subclause (1), every person liable for the control of the dog at that time commits an offence.

Penalty: \$1000 ~~\$200.~~

- (3) The person liable for the control of the dog does not commit an offence against subclause (2) if any excreta is removed immediately by that person.

~~PART 6 - 7—ENFORCEMENT~~

~~67.1—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).

~~67.2—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 ~~fourth~~^{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; or ~~(b) the dog is a dangerous dog~~, but an amount does not appear in the ~~fifth~~^{fourth} column directly opposite that offence.
- (3) The amount appearing in the ~~fifth~~^{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.

~~67.3—Issue of infringement notice~~

Where an ~~authorised~~authorized 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 ~~determined by the local government from time to time.~~ of

~~6~~Form 7 of the First Schedule of the Regulations.

~~7.4~~ **7.4** ~~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~~

~~7.5~~ **7.5** ~~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.

~~7.6.6~~ **7.6.6** ~~Withdrawal of infringement notice~~

- (1) Whether or not the modified penalty has been paid, an ~~authorised~~authorized person may withdraw an infringement notice by sending a notice in the form ~~determined by the local government from time to time.~~ of Form 8 of the First Schedule of the Regulations.
- (2) A person ~~authorised~~authorized to issue an infringement notice under clause ~~6.7.3~~ cannot sign or send a notice of withdrawal.

~~6.7~~ **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.~~ it at or posting it to her or his address as ascertained from her or him, or as recorded by the local

Schedule 1 - Application for a licence for an approved kennel establishment

(clause 4.2)

I/we (full name)
of (postal address)
(telephone number)
(facsimile number)
(E-mail address)

Apply for a licence for an approved kennel establishment at (address of premises)

.....
For (number and breed of dogs)

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

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

.....(insert address of residence)
on and from(insert date).

Attached are -

- (a) a site plan of the premises showing the location of the kennels and yards and all other buildings and structures and fences;
- (b) plans and specifications of the kennel establishment;
- (c) copy of notice of proposed use to appear in newspaper;
- (d) copy of notice of proposed use to be given to adjoining premises;
- (e) written evidence that a person will reside -
 - (i) at the premises; or
 - (ii) sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare; and
- (f) if the person in item (e) is not the applicant, written evidence that the person is a person in charge of the dogs.

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

Signature of applicant

Date

* _____ *delete where inapplicable.

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

OFFICE USE ONLY

Application fee paid on [insert date].

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

(clause 4.8(1))

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

- (a) each kennel, unless it is fully enclosed, must have a yard attached to it;
- (b) each kennel and each yard must be at a distance of not less than -
 - (i) 25m from the front boundary of the premises and 5m from any other boundary of the premises;
 - (ii) 10m from any dwelling; and
 - (iii) 25m from any church, school room, hall, factory, dairy or premises where food is manufactured, prepared, packed or stored for human consumption;
- (c) each yard for a kennel must be kept securely fenced with a fence constructed of link mesh or netting or other materials approved by the local government;
- (d) the minimum floor area for each kennel must be calculated at 2.5 times the length of the breed of dog (when it is fully grown), squared, times the number of dogs to be housed in the kennel and the length of the dog is to be determined by measuring from the base of the tail to the front of its shoulder;
- (e) the floor area of the yard attached to any kennel or group of kennels must be at least twice the floor area of the kennel or group of kennels to which it is attached;
- (f) the upper surface of the kennel floor must be –
 - (i) at least 100mm above the surface of the surrounding ground;
 - (ii) smooth so as to facilitate cleaning;
 - (iii) rigid;
 - (iv) durable;
 - (v) slip resistant;
 - (vi) resistant to corrosion;
 - (vii) non-toxic;
 - (viii) impervious;
 - (ix) free from cracks, crevices and other defects; and
 - (x) finished to a surface having a fall of not less than 1 in 100 to a spoon drain which in turn must lead to a suitably sized diameter sewerage pipe which must be properly laid, ventilated and trapped in accordance with the health requirements of the local government;
- (g) all kennel floor washings must pass through the drain in item (f)(x) and must be piped to approved apparatus for the treatment of sewage in accordance with the health requirements of the local government;
- (h) the kennel floor must have a durable upstand rising 75mm above the floor level from the junction of the floor and external and internal walls, or internal walls must be so constructed as to have a minimum clearance of 50mm from the underside of the bottom plate to the floor;
- (i) where a yard is to be floored, the floor must be constructed in the same manner as the floor of any kennel;

- (j) from the floor, the lowest internal height of a kennel must be, whichever is the lesser of -
 - (i) 2m; or
 - (ii) 4 times the height of the breed of dog in the kennel, when it is fully grown, measured from the floor to the uppermost tip of its shoulders while in a stationary upright position;
- (k) the walls of each kennel must be constructed of concrete, brick, stone or framing sheeted internally and externally with good quality new zincalume or new pre-finished colour coated steel sheeting or new fibrous cement sheeting or other durable material approved by the local government;
- (l) all external surfaces of each kennel must be kept in good condition;
- (m) the roof of each kennel must be constructed of impervious material;
- (n) all kennels and yards and drinking vessels must be maintained in a clean condition and must be cleaned and disinfected when so ordered by an authorised person;
- (o) all refuse, faeces and food waste must be disposed of daily into the approved apparatus for the treatment of sewage;
- (p) noise, odours, fleas, flies and other vectors of disease must be effectively controlled;
- (q) suitable water must be available at the kennel via a properly supported standpipe and tap; and
- (r) the licensee or the person nominated in the application for a licence, must, in accordance with the application for the licence, continue to reside -
 - (i) at the premises; or
 - (ii) in the opinion of the local government, sufficiently close to the premises so as to control the dogs, and to ensure their health and welfare.

Schedule 4

SCHEDULE 3 - Offences

~~(clause 7.2)~~

OFFENCES IN RESPECT OF WHICH MODIFIED PENALTY APPLIES

~~Offence Nature of offence~~

~~Modified~~

~~penalty~~

~~\$~~

~~Dangerous~~

~~Dog~~

~~Modified~~

~~Penalty~~

~~\$~~

~~2.4(a) Attempting to or causing the unauthorized release of a dog from a pound~~

~~200 400~~

~~2.4(b)&(c) Interfering with any pound or vehicle used for the purpose of catching, holding or conveying dogs~~

~~200~~

~~3.1 Failing to provide means for effectively confining a dog~~

~~50 200~~

~~4.9 Failing to comply with the conditions of a licence 100 200~~

~~5.1(2) Dog in respect of place from which modified penalty applies prohibited absolutely 200 400~~

(clause 6.2)

<u>Item</u>	<u>Offence</u>	<u>Nature of offence</u>	<u>Modified penalty</u> \$
1	3.1	Failing to provide means for effectively confining a dog	50
2	<u>5.1(2)</u>	<u>Dog excreting in prohibited place</u>	<u>100</u>

Dated this

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

K J CHAPPEL, SHIRE PRESIDENT

J ROBERTS, CHIEF EXECUTIVE OFFICER

WESTERN AUSTRALIA

LOCAL GOVERNMENT ACT 1995

SHIRE OF MORAWA
EXTRACTIVE INDUSTRIES LOCAL LAW 2017

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WESTERN AUSTRALIA

LOCAL GOVERNMENT ACT 1995

SHIRE OF MORAWA
EXTRACTIVE INDUSTRIES LOCAL LAW 2017

Under the powers conferred ~~on it~~ by the *Local Government Act 1995* and by all other powers ~~enabling it~~, the ~~local~~ Local government of the Shire of Morawa resolved to make the following local laws on the ~~XXXXXX~~

Part 1 – Preliminary

1.1 Citation

This local law may be cited as the *Shire of Morawa Extractive Industries Local Law 2017*.

1.2 Commencement

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

1.3 PART 1 – PRELIMINARY

Definitions

~~1.1~~—In this local law, unless the context otherwise requires —

~~*Act* means the *Local Government Act 1995* and words and expressions have the same meanings as they have in the *Act*;~~

~~AS~~“~~AHD~~” means ~~an~~the Australian ~~Standard published by Standards~~Height Datum;

~~“arterial road” means any road under the control of Main Roads Western Australia and available for viewing free of charge at~~ the Shire of Morawa ~~Administration offices~~Morawa that provides direct access between two localities of significance;

~~carry on an extractive industry means quarrying and excavating for any stone, gravel, sand, and sands, clay, limestone, loam or other material;~~

~~“EPA” means Environmental Protection Authority of Western Australia;~~

~~CEO means the Chief Executive Officer of the local government;~~

~~district means the district of the local government;~~

~~excavation includes quarry;~~

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

licence means a licence issued under this local law;

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

local government means the Shire of Morawa;

~~“local road” means a road under the control of the Shire of Morawa that provides access from individual properties to arterial roads or localities;~~

occupier has the ~~same~~-meaning given to it as defined in the Act;

~~“overburden” means that material removed from the surface to access wanted material;~~

owner has the ~~same~~-meaning given to it as defined in the Act;

person does not include the local government;

planning approval means an approval for a development and/or a land use that is issued under a local planning scheme administered by the local government;

secured sum means ~~the sum that amount~~ required to be paid or the amount of as cash, a bond, guarantee or other security under clause 5.1;

Schedule means a schedule to this local law; and

site means the land specified by the local government in a licence.;

~~“stockpile” means a deposit of excavated material stored for whatever purpose.~~

Citation

1.4 Application

(1) The provisions of this local law –

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

(2) In subclause (1)(d), land includes adjoining lots or locations in the same occupation or ownership of the owner or occupier referred to in subclause (1)(d).

~~(3) — 1.5 Nothing in this local law shall be construed to limit, diminish or restrict any provisions of a Local Planning Scheme made under the *Planning and Development Act*~~

~~2005 as amended, and in the case of any inconsistency the provisions of such a Scheme shall prevail.~~

Repeal

~~1.4—The local laws of the Shire of Morawa relating to Extractive Industries Local Law 2007 as published in the *Government Gazette* on 9 November 2007 is ~~20 October 1998~~, are repealed.~~

Part 2 - Licensing requirements for an extractive industry

2.1 Extractive Industries Prohibited Without Licence

~~2.1—A person must not carry on an extractive industry –~~

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

~~Penalty \$5000 and a daily penalty not exceeding a fine of \$500 in respect of each day or part of —a day during which an offence has continued.~~

When a Licence is not Required

~~2.2—A licence mentioned in subclause 2.1(1) of this local law, is not required where the offence is of a continuing nature. proposed creation, or enlargement of an excavation is:~~

~~(a) For the recovery of stone, gravel, sands, clay, limestone, loam or other material for the use on the property by the owner or occupier of the property and not for disposal or sale outside the property; and not less than fifty (50) metres distant from any boundary of the property or from any public road;~~

~~(b) Except where the operation is on a commercial basis, for the recovery of any such materials for the purpose of road construction or maintenance; of a volume not greater than a total of three thousand (3000) cubic metres inclusive of all adjacent excavations which have not been rehabilitated and not less than fifty (50) metres distant from any boundary of the property or from any public road; or~~

~~(c) For agricultural purposes on agricultural land; and not less than fifty (50) metres distant from any boundary of the property or from any public road; and~~

(d) 2.2 Applicant To Advertise Proposal

~~(1) Unless Where, by subclauses 2.2(1) (a) and (b) of this local law a licence is not required, irrespective of the manner of its ceasing, on the cessation of any excavation work, the local government first approves otherwise may require the owner or occupier to ensure that:~~

- ~~(i) the excavation is filled to the satisfaction of the local government or rehabilitated to the satisfaction of local government or its representative in accordance with clause 6.5 of this local law; and~~

~~(ii) any face permitted to remain in the excavation is left safe with all loose material removed therefrom; and the floor level is graded to an even surface and the sides sloped to an even batter sufficient to prevent subsidence of the surrounding area.~~

Application shall include

~~2.3 (1) Pursuant to clause 2.1(2) of this local law, a person, seeking the issue of a licence shall, before applying to the local government for a licence –~~

~~forward by registered mail a notice in respect of any land, must apply in the form determined by the local government from time to time to __, and must forward the application duly completed and signed by both the applicant and the owner of the land to the CEO of the local government.~~

~~(2) Subject to clause 2.3 (4), the application shall:~~

~~(a) be in writing; and~~

~~(b) be accompanied by three (3) copies of a plan of the excavation site to a scale of between 1:500 and 1:2000, showing the existing and proposed land contours based on the AHD and plotted at 1m contour intervals.~~

~~(3) Subject to clause 2.3(4), the plan shall have:~~

~~(a) a description of the land shown clearly on a locality plan on which the excavation site is to be located;~~

~~(b) the location of all existing dams, watercourses, drains or sumps on or adjacent to the land;~~

~~(c) the external surface dimension of the land;~~

~~(d) the location and depth of the existing and proposed excavation of the land;~~

~~(e) the location of the areas proposed to be used for stockpiling excavated material, treated material, overburden and soil storage on the land and elsewhere;~~

~~(f) location of existing power lines, telephone cables and any associated poles or pylons, sewers, pipelines, reserves, bridges, railway lines and registered grants of easement or other encumbrances over, on, under or adjacent to or in the vicinity of the land;~~

~~(g) the level of filling for rehabilitation, upon completion of excavation operations;~~

~~(h) the location of buildings, treatment plant, tank and other improvements and developments existing on, approved for or proposed in respect of the land;~~

~~(i) state the proposals, if any, for the future development of the land upon completion of excavation operations and any proposed rehabilitation;~~

~~(j) the location of existing and proposed roads or other means of vehicle access to and egress from the land and to public roads in the vicinity of the land, including an indication of what public roads the licensee intends to use;~~

~~(k) an excavation management and closure plan in accordance with clause 6.2 of this local law;~~

~~(l) the location and description of existing and proposed fences, gates and warning signs around the land; and~~

~~(m) copies of any planning approvals required under any planning legislation.~~

~~(4) Where in relation to a proposed excavation—~~

~~(a) the surface area is not to exceed 2000m²; and~~

~~(b) the extracted material is not to exceed 2000m³;~~

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

(i)

Land in Irrigation Area or Water Supply Catchment

~~2.4 Where the land the subject of an application for a licence to excavate is situated within an irrigation area constituted under the *Rights in Water and Irrigation Act 1914* as amended, or within a drainage or catchment district constituted under the *Land Drainage Act 1925* as amended, the following provisions shall apply:~~

~~(a) The plan or any amended plan of the excavation, when submitted to the local government for approval, shall clearly and legibly disclose that the land represented therein is situated within an irrigation district or within a drainage or catchment district, as the case may be, and give the name of such district;~~

~~(b) The local government shall, on receipt of the plan or amended plan and before considering whether or not it shall be approved, refer the plan or amended plan to the Water and Rivers Commission or Water Corporation (as the case may be) in which the land represented in such plan or amended plan is situated, for examination, consideration and report to the local government;~~

~~(c) The Water and Rivers Commission or Water Corporation (as the case may be) may advise in writing to the local government, the conditions if any, that should be imposed in the granting of a licence;~~

~~(d) When the local government has received from the Water and Rivers Commission or Water Corporation concerned, the notification provided for in subclause (3), the local government may proceed to examine and consider the plan or amended plan of excavation together with other provisions of the Act and this local law and to determine whether or not the local government should approve of the issue of a licence.~~

Additional Information

~~2.5 An applicant for a licence to excavate shall give to the local government such additional information concerning the proposed excavation, as the local government may reasonably require.~~

Applicant to advertise proposal

~~2.6 An intending applicant for a licence to excavate shall~~

~~(1) Except in the case of an application in respect of an excavation in existence at the time of the coming into operation of this local law, by arrangement with the Local Government, publish in a newspaper circulating in the area, a notice of intention to submit the application, specifying that any person interested may, within fourteen (14) days after the date of publication, object to the granting of the licence, by written notice given to the local government;~~

~~(2) Supply to the local government for posting on its notice board, a copy of the notice, which the local government shall exhibit on the notice board for at least seven (7) days;~~

~~(3) The local government, at the cost to the applicant, shall forward by mail a notice, in the form determined by the local government from time to time to~~

~~(a) the owners and occupiers of all land adjoining the land upon which it is proposed to excavate, or within an area determined by the local government as likely to be affected by the granting of a licence, advising of the application and specifying that they may, within ~~twenty-one (21)~~ days ~~from the~~ date of service of the letter, object to or make representations in writing in respect of the issue of a licence by the local government;~~

~~(ii)~~

~~(b) every authority or person having control or jurisdiction over any of the things referred to in clause 2.3(1)(a)(vii)(3)(b) and (viii)(f) and within ~~five hundred (500)~~ metres from the boundaries of the land, or within an area determined by the local government as likely to be affected by the granting of a licence; and~~

~~as~~

~~and~~

~~(4) As soon as ~~practicable~~practical after complying with the requirements of paragraph (a) subclause (3), the local government on behalf~~

~~(i) forward a copy of the notice to the CEO; and applicant shall~~

~~(ii) publish the notice in a newspaper circulating in the area in which the proposed excavation is located.~~

PART 3—ASSESSMENT OF APPLICATION

Determination of Application

- (2) ~~3.1~~—The local government may, within 14 days after receiving a copy of a notice referred to in subclause (1), cause to be displayed, or require the proposed applicant to display, in a prominent position on the land one or more notices –
- (a) in the form determined by the local government from time to time;
 - (b) the content, size and construction of which have been approved by the CEO;
 - (c) specifying particulars of the proposed excavation; and
 - (d) inviting objections or comments within 21 days from the placement of the notice.

2.3 Application For Licence

- (1) Subject to subclause (3), a person seeking the issue of a licence in respect of any land shall apply in the form determined by the local government from time to time and must forward the application duly completed and signed by each of the applicant, the owner of the land and any occupier of the land to the CEO together with –for a licence—

3 copies of a plan of the excavation site to a scale of between 1:500 and 1:2000 showing –(1) refuse

- (i) the existing and proposed land contours based on the Australian Height Datum and plotted at 1 metre contour intervals;
 - (ii) the land on which the excavation site is to be located;
 - (iii) the external surface dimensions of the land;
 - (iv) the location and depth of the existing and proposed excavation of the land;
 - (v) the location of existing and proposed thoroughfares or other means of vehicle access to and egress from the land and to public thoroughfares in the vicinity of the land;
 - (vi) the location of buildings, treatment plant, tanks and other improvements and developments existing on, approved for or proposed in respect of the land;
 - (vii) the location of existing power lines, telephone cables and any associated poles or pylons, sewers, pipelines, reserves, bridges, railway lines and registered grants of easement or other encumbrances over, on, under or adjacent to or in the vicinity of the land;
 - (viii) the location of all existing dams, watercourses, drains or sumps on or adjacent to the land;
 - (ix) the location and description of existing and proposed fences, gates and warning signs around the land; and
 - (x) the location of the areas proposed to be used for stockpiling excavated material, treated material, overburden and soil storage on the land and elsewhere;
- (b) 3 copies of a works and excavation programme containing -
- (i) the nature and estimated duration of the proposed excavation for which the licence is applied;
 - (ii) the stages and the timing of the stages in which it is proposed to carry out the excavation;
 - (iii) details of the methods to be employed in the proposed excavation and a description of any on-site processing works;

- (iv) details of the depth and extent of the existing and proposed excavation of the site;
 - (v) an estimate of the depth of and description of the nature and quantity of the overburden to be removed;
 - (vi) a description of the methods by which existing vegetation is to be cleared and topsoil and overburden removed or stockpiled;
 - (vii) a description of the means of access to the excavation site and the types of thoroughfares to be constructed;
 - (viii) details of the proposed number and size of trucks entering and leaving the site each day and the route or routes to be taken by those vehicles;
 - (ix) a description of any proposed buildings, water supply, treatment plant, tanks and other improvements;
 - (x) details of drainage conditions applicable to the land and methods by which the excavation site is to be kept drained;
 - (xi) a description of the measures to be taken to minimise sand drift, dust nuisance, erosion, watercourse siltation and dangers to the general public; a description of the measures to be taken to comply with the *Environmental Protection (Noise) Regulations 1997*;
 - (xiii) a description of the existing site environment and a report on the anticipated effect that the proposed excavation will have on the environment in the vicinity of the land;
 - (xiv) details of the nature of existing vegetation, shrubs and trees and a description of measures to be taken to minimise the destruction of existing vegetation; and
 - (xv) a description of the measures to be taken in screening the excavation site, or otherwise minimising adverse visual impacts, from nearby thoroughfares or other areas;
 - (c) 3 copies of a rehabilitation and decommissioning programme indicating -
 - (i) the objectives of the programme, having due regard to the nature of the surrounding area and the proposed end-use of the excavation site;
 - (ii) whether restoration and reinstatement of the excavation site is to be undertaken progressively or upon completion of excavation operations;
 - (iii) how any face is to be made safe and batters sloped;
 - (iv) the method by which topsoil is to be replaced and revegetated;
 - (v) the numbers and types of trees and shrubs to be planted and other landscaping features to be developed;
 - (vi) how rehabilitated areas are to be maintained; and
 - (vii) the programme for the removal of buildings, plant, waste and final site clean up;
 - (d) evidence that a datum peg has been established on the land related to a point approved by the local government on the surface of a constructed public thoroughfare or such other land in the vicinity;
 - (e) a certificate from a licensed surveyor certifying the correctness of -
 - (i) the plan referred to in paragraph (a); and
 - (ii) the datum peg and related point referred to in paragraph (d);
 - (f) evidence that the requirements of clause 2.2(1) and (2) have been carried out;
 - (g) copies of all land use planning approvals required under any planning legislation;
 - (h) copies of any environmental approval required under any environmental legislation;
 - (i) copies of any geotechnical information relating to the excavation site;
- the consent in writing to the application from the owner of the excavation site; or

- (j) the licence application fee specified by the local government from time to time;
and
- (k) any other information that the local government may reasonably require.

(2) All survey data supplied by an applicant for the purpose of subclause (1) shall comply with Australian Height Datum and Australian Map Grid standards.

(3) Where in relation to a proposed excavation –

- (a) the surface area is not to exceed 5000 square metres; and
- (b) the extracted material is not to exceed 5000 cubic metres;

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

Part 3 - Determination of application

3.1 Determination Of Application

(1) The local government may refuse to consider an application for a licence that does not comply with the requirements of clause 2.3, and in any event shall refuse an application for a licence where planning approval for an extractive industry use of the land has not first been obtained.

(2) The local government may, in respect of an application for a licence –

(a) refuse the application; or

(b) ~~(2)~~ approve the application –

(i) ~~a~~ over the whole or part of the land ~~specified in~~ respect of which the application is made; and

(ii) ~~b~~ on such terms and conditions, if any, as it sees fit.

(3) Where the local government approves an application for a licence, it shall –

(a) determine the licence period, not exceeding 5 years from the date of issue; and~~(3)~~

(b) approve the issue of a licence in the form determined by the local government from time to time.

(4) Where the local government approves the issue of a licence, the CEO upon receipt by the local government of –

(a) payment of the annual licence fee, or the relevant proportion of the annual licence fee to 30-June, determined by the local government under and in accordance with sections 6.16 to 6.19 of the *Local Government Act 1995*;

(b) payment of the secured sum if any, imposed under clause 5.1;

(c) the documents, if any, executed to the satisfaction of the CEO, under clause 5.1; and

(d) a copy of the public liability insurance policy required under clause 7.1(1) shall issue the licence to the applicant.

(5) Without limiting subclause (2), the local government may impose conditions in respect of the following matters -

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

3.2 Payment Of Annual Licence Fee

On

Third Party Approval

~~3.2 Where an application is subject to the approval of another authority, a licence shall not be granted until all such approvals are granted and conditions of such approvals complied with clause 2.4 of this Local Law.~~

Annual Licence Fee

~~3.3 The maximum annual fee payable to the local government for a licence shall be determined by local government from time to time, but the local government may vary~~

~~the fee in respect of an excavation or undertaking deemed by it to be small in area or depth or excessively large in area depth or production.~~

Conditions of Approval

~~3.4 Secured sum for roadworks~~

~~(1) The local government may, before granting any licence under this local law, require the applicant:~~

~~(i) 30 June in each year, a to enter into an agreement for the payment to the local government of a secured sum of money, being the expense estimated by the local government as likely to be incurred by it, in repairing and maintaining roads under its control in the neighbourhood of the proposed excavation by reason of extraordinary damage, as a result of heavy or extraordinary traffic conducted by the licensee or any person acting on his behalf in the exercise of the licence, if granted; and any such agreement shall be deemed to have been entered into under the provisions of sections 84 and 85 of the *Road Traffic Act, 1974* as amended;~~

~~(ii) shall the due observance of any agreement entered into by the applicant; pursuant to paragraph (i) of this subclause be a condition of the granting and holding of the licence.~~

~~(2) An applicant for a licence under the provisions of this local law shall give to the local government a bond, bank guarantee or other security, of a kind and in a form acceptable to the local government, in or for a sum not exceeding twenty five thousand dollars (\$25,000), as the local government may, by resolution, determine, to be retained by the local government for the duration of the licence and until the licensee shall have complied with clause 6.5 of this local law.~~

~~(3) Where a licensee, or person whose licence has expired, is convicted of a breach of any of the provisions of clause 6.5 of this local law, the local government may cause the necessary work, or so much of that work as remains undone, to be carried out and the licensee must pay to the local government the annual licence fee determined on demand all costs incurred by the local government or which the local government may be required to pay under and in accordance with sections 6.16 to 6.19 of the Act this clause.~~

Part 4 - Transfer, cancellation and renewal of licence

~~**4.1 Transfer Of**(4) Upon the expiration of the licence and the carrying out of the prescribed works, the deposit (if any) or the balance of the deposit shall be repaid to the licensee.~~

~~(5) Any cash deposit paid to a local government under this local law shall be placed in the local government's Trust Fund, and lodged in a Savings Bank; with all interest derived therefrom shall be added to the deposit, and credited to the licensee.~~

Period of Licence

~~(1) An application for the transfer of a 3.5—A licence shall =~~

- a) ~~_____~~ be made in writing;
- b) ~~_____~~ be signed by the licensee and the proposed transferee of the licence;
- c) ~~_____~~ be accompanied by the current licence;
- d) ~~_____~~ be accompanied by the consent in writing to the transfer from the owner valid for the expected life of the excavation site;
- e) ~~_____~~ include any information that the local government may reasonably require; and be forwarded to the CEO together with the fee, as determined by the local government from time to time, subject to the payment of the prescribed annual fee.

~~Dangerous Excavations – Requirement to Fence~~

~~3.6 Where the local government considers it to be necessary as a safety precaution, a licensee may be required to fence, to the satisfaction of the local government, the area proposed to be excavated, prior to the commencement of the work.~~

~~(2) ~~Penalty \$~~ Upon receipt of any application for the transfer of a licence, the local government may –~~

- ~~(a) _____ refuse the application; or~~
- ~~approve 1,000 for each offence, and if an offence is of a continuing nature, to a daily penalty not exceeding a fine of \$500.00 in respect of each day or part of a day during which the offence has continued.~~

~~Prescribed Route~~

~~3.7 The local government may, as it so determines, specify a route for transportation of materials from the site to an arterial road or other destination through the local road system, and if required place limitations as to the tonnage to be carted along a particular route.~~

~~PART 4 – RENEWAL, CANCELLATION, CESSATION, TRANSFER OF LICENCE~~

~~Renewal of Licence~~

~~4.1 (1) A licensee who wishes to renew a licence must apply in writing to the local government at least forty-five (45) days prior to the expiry of the licence and must submit with the application for renewal –~~

- ~~(a) The fee as so determined by local government from time to time;~~
- ~~(b) A copy of the current licence;~~
- ~~(c) If so determined by local government those things referred to in clauses 2.3 and 2.4 of this local law;~~
- ~~(d) Details of works to date including excavations, rehabilitation, stages reached or other things referred to in the original application.~~

~~(2) Upon Receipt of an application for renewal the local government may –~~

- ~~(a) Refuse the application or~~
- ~~(b)(a) Approve the application on such terms and conditions, if any, as it sees fit.~~

(3) Where the local government approves an application for the transfer of a licence, the local government shall transfer the licence by an endorsement on the licence in the form determined by the local government from time to time, signed by the CEO.

(4) Where the local government approves the transfer of a licence it shall not be required to refund any part of the fees paid by the former licensee in respect of the transferred licence.

4.2 Cancellation Of Licence

~~4.2~~—(1) The local government may cancel a licence where the licensee has –

- (a) been convicted of an offence against –
 - (i) this local law; or
 - (ii) any other law relating to carrying on an extractive industry; ~~or~~
- (b) transferred or assigned or attempted to transfer or assign the licence without the consent of the local government;
- (c) permitted another person to carry on an extractive industry otherwise than in accordance with the terms and conditions of the licence and of the provisions of this local law;
- (d) failed to pay the annual licence fee under clause 3.23; or
- (e) failed to have a current public liability insurance policy under clause 7.1(1) or failed to provide a copy of the policy or evidence of its renewal as the case may be, under clause 7.1(2).

—(2) Where the local government cancels a licence under this clause –

- (a) the local government shall advise the licensee in writing of the cancellation;
- (b) the cancellation takes effect on and from the day on which the licensee is served with the cancellation advice; and
- (c) the local government shall not be required to refund any part of the fees paid by the licensee in respect of the cancelled licence.

4.3 Renewal Of Licence

(1) A licensee who wishes to renew a licence must apply in writing
Notice of cessation of operations

~~4.3—(1) Where a licensee intends to cease carrying on an extractive industry temporarily for a period in excess of twelve (12) months; or permanently, the licensee must, as well as complying with clause 6.5, give the local government written notice of the cessation not later than one (1) week after those operations have ceased.~~

~~(2) Where a licensee has given written notice to the local government at least 45 days before the date of expiry of the licence of the intention to permanently cease carrying on an extractive industry on the site to which the licence is deemed to have expired on the date such cessation is so notified.~~

~~(3) The temporary or permanent cessation of the carrying on of an extractive industry on a site or the deemed expiration or cancellation of a licence does not entitle the licensee to any refund of any licence fee.~~

Transfer of Licence

4.4 ~~(1) A licence may be transferred to another applicant and shall submit with the application for renewal must be~~

- ~~(a) in writing;~~
- ~~(b) be signed by the licensee, site owner (if different from the licensee) and the proposed transferee of the licence;~~
- ~~(c) be accompanied by a copy of the current licence;~~
- ~~(d) include any additional information that the local government may require;~~
- ~~(e)(a) be forwarded to the CEO together with the fee determined by the local government from time to time; and~~

- (a) a copy of the current licence;
- (b) a plan showing the contours of the excavation carried out to the date of that application;
- (c) details of the works, excavation and rehabilitation stages reached and of any changes or proposed changes with respect to any of the things referred to in clauses 2.3(1)(b) and (c); and
- (d) any other things referred to in clauses 2.3 and 3.1.

(2) The local government may waive any of the requirements specified in clause 4.3 (1)(d) or (e).

(3) If

- (a) an application to renew a licence is in relation to land in respect of which the current licence was issued less than 12 months if granted prior to the date from which the new licence if granted would apply; and
- (b) the methods to coming into existence of this local law may be employed in the proposed land excavation are identical to those being employed at the date of the application,

~~(f)(b) then the applicant shall not be obliged, unless otherwise required by the to comply with the conditions of clause 2.3 of this local government to submit details of any of the things referred to in clauses 2.3 and 3.1 law.~~

(4) Upon receipt of an application for the renewal of to transfer a licence, the local government may

~~(a) refuse the application; or~~

(a) refuse the application; or

(b) approve the application on such subject to any terms and conditions, if any, as it sees fit.

Part(3) Where the local government approves the transfer of a licence it shall not be required to refund any part of the fees paid by the former licensee in respect of the transferred licence.

PART 5—BREACH OF LOCAL LAW

Penalties

5.1 ~~Any person who, either by act or omission, contravenes this local law or being the owner or occupier of property within the district, knowingly permits any act or omission on any property owned or occupied by them in contravention of this local law is guilty of an offence and is liable to a penalty of a maximum of five thousand dollars (\$5,000) and in addition to a daily penalty of a maximum of five hundred dollars (\$500) for each day during which the offence continues after his conviction. This clause applies unless the penalty is otherwise stipulated in this local law.~~

~~PART 6 – LIMITATIONS AND GUIDELINES~~

Excavation Setbacks

6.1 ~~(1) Subject to the provisions of clause 2.2 of this local law, a person shall not excavate within—~~

~~(a) Twenty (20) metres of the boundary of any land subject to an extractive industry licence, except by agreement of the owner of the adjoining land, verified to the satisfaction of the local government;~~

~~(b) A distance of forty (40) metres of any road, unless the local government approves of excavation within a lesser distance;~~

~~(c) Twenty (20) metres of any land affected by an easement or other encumbrance; and~~

~~(d) Forty (40) metres of any watercourse, dam or soak not wholly contained within the property.~~

~~Penalty \$2,000.~~

~~**- Secured sum**(2) Where a proposed excavation is not to be lower than the level of the nearest road and reinstatement of the area excavated for its existing use is possible, the local government may permit a licensee to excavate to a specified distance within forty (40) metres of that road.~~

~~(3) The local government may, in any particular case, having regard to any Local Planning Scheme or any land usage local law implemented by the local government and to any regulation or order issued under the provisions of the *Planning and Development Act 2005* as amended, limit any excavation to such greater distance as is so specified.~~

~~(4) Any person shall not, within forty (40) metres of the boundary of any road or of any land owned by the local government or such lesser distance as may be permitted, remove natural trees or scrub on land in respect of which a licence to excavate has been granted, except for the purpose of constructing access roads or erecting buildings for use in connection with the excavation.~~

~~Penalty \$3000~~

Excavation Operation and Management

6.2 ~~Excavation Management and application thereofClosure Plan—~~

~~(1) The applicant shall, when requested to do so by the local government, supply three (3) copies of an excavation management plan for all proposals where the estimated total volume of the excavation or material removed from the site will exceed ten thousand (10,000m³) cubic metres and will as a minimum include:~~

~~(i) the nature and estimated duration of the proposed excavation for which the licence is applied;~~

~~(ii) the estimated quantities to be extracted from the site, in total, monthly and weekly quantities;~~

~~(iii) the distance from adjacent dwellings, reserves, settlements, environmentally sensitive areas, recreational facilities and if there is line of sight connection between the sites;~~

~~(iv) prevailing wind speed and direction;~~

~~(v) proposed volumes and areas to be mined at any one time;~~

~~(vi) proposed stockpile sites and volumes to be stored and methods for preventing the escape of material into any stream, watercourse or drain, that is not wholly situated within land owned or occupied by the applicant;~~

~~(vii) the method of cartage of excavated materials and the proposed route for access to an arterial road or other destination;~~

~~(viii) staging and timing of excavation works including hours and days of operation, proposed staged development of site including rehabilitation of exhausted areas;~~

~~(ix) method of excavation and on-site processing works and related compliance with EPA regulations as imposed in accordance with clause 7.3 of this local law but as a minimum shall address noise, visual, air and water pollution;~~

~~(x) method of removal and re-establishment of vegetation, topsoil and overburden and rehabilitation works in accordance with clause 6.5 of this local law;~~

~~(xi) a description of site drainage and erosion control measures to be implemented to restrict water and contaminants entering watercourses or streams not wholly contained on the site;~~

~~(xii) an assessment of the existing flora and fauna and methods of conserving these resources and rehabilitating upon cessation of works;~~

~~(xiii) where required, the method of screening the site from surrounding areas or otherwise minimizing adverse visual impact on surrounding areas; and~~

~~(xiv) develop a safety plan for operations in accordance with clause 7.2 of this local law and other relevant legislation and regulations.~~

Prohibitions and Limitations

~~6.3 Having regard to the nature of the material being excavated, the method of working and the equipment used, the height of the face of an excavation shall be determined by a qualified geotechnical engineer as one that can be safely worked, and should there be any dispute between the local government and the licensee as to the height of any such face, then the matter shall resolved in accordance with clause 8.1.~~

Blasting

5.1 Security For Restoration And Reinstatement

~~6.4 A person must not carry out or permit to be carried out any blasting in the course of excavating unless—~~

~~(1) For the purpose of ensuring that an excavation site is properly restored or reinstated, the local government may require that —~~

~~(a) as a condition of a licence; or~~

~~(b) before the issue of a licence, the licensee shall give to the local government a bond, bank guarantee or other security, of a kind and in a form acceptable to the local government, in or for a sum determined by the local government from time to time.~~

~~(2) A bond required under subclause (1) is to be paid into a fund established by the local government for the purposes of this clause.~~

~~(3) Subject to clause 5.2, any interest accrued in respect of the bond paid into the fund under subclause (2) is to be returned to the licensee at the completion of the restoration and reinstatement works required by the licence conditions or otherwise under this local law.~~

5.2 Use By The Local Government Of Secured Sum

~~(1) If a licensee fails to carry out or complete the restoration and reinstatement works required by the licence conditions either —~~

~~(a) within the time specified in those conditions; or~~

~~(b) where no such time has been specified, within 60 days of the completion of the excavation or portion of the excavation specified in the licence conditions,~~

~~then, subject to the local government giving the licensee 14 days notice of its intention to do so —~~

~~(c) the local government may carry out or cause to be carried out the required restoration and reinstatement work or so much of that work as remains undone; and~~

~~(d) the licensee shall pay to the local government on demand all costs incurred by the local government or which the local government may be required to pay under this clause. ~~has otherwise given approval in respect of blasting generally or in the case of each blast;~~~~

(2) The local government may apply the proceeds of any bond, bank guarantee or other security provided by the licensee under clause ~~Penalty \$5000~~

~~(2) the blasting is carried out in strict accordance with AS2187 SAA Explosives Code, the Mines Safety and Inspection Act 1994, the Environmental Protection Act 1986 and all relevant local laws of the local government and any statute of the State of Western Australia or the Commonwealth of Australia;~~

~~(3) subject to subclause (1), the blasting takes place only between the hours of 8 a.m. and 5.1 towards its costs under this clause.~~

(4) The liability of a licensee to pay the local government's costs under this clause is not limited to the amount, if any, secured under clause 5.1.

Part 6 – Limitations, obligations of the licensee and prohibitions

6.1 Limits On Excavation Near Boundary

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

(a) 20 metres of the boundary of any land on which the excavation site is located;

(b) 20 metres of any land affected by a registered grant of easement;

(c) 40 metres of any thoroughfare; or

40 metres of any watercourse ~~p.m. or as.~~

Penalty \$2,000

6.2 Obligations Of The Licensee

A licensee shall –

(a) where the local government so requires, securely fence the excavation to a standard determined by the local government, ~~on Mondays to Fridays inclusive;~~ and keep the gateways locked when not actually in use in order to prevent unauthorised entry;

(b) erect and maintain warning signs along each of the boundaries of the area excavated under the licence so that each sign -

(i) is not more than 200 metres apart;

(ii) is not less than 1.8 metres high and not less than 1 metre wide; and

(iii) bears the words “DANGER EXCAVATIONS KEEP OUT”;

(c) except where the local government approves otherwise, drain and keep drained to the local government's satisfaction any excavation to which the licence applies so as to prevent the accumulation of water;

(d) restore and reinstate the excavation site in accordance ~~compliance~~ with the terms and conditions of the licence, the site plans and the works and excavation programme approved by the local government;

(e) take all reasonable steps to prevent the emission of dust, noise, vibration and ~~any~~ other forms of nuisance from the excavation site; and otherwise comply with the

conditions imposed by the local government in accordance with clause 3.1 concerning—

- ~~_____ (i) the time and duration of blasting;~~
- ~~(ii) the purposes for which the blasting may be used;~~
- ~~(iii) the methods of detonation and blasting;~~
- ~~(iv) the types of explosives to be used; and~~
- ~~(v) such other matters as the local government may reasonably require in the interests of the safety and protection of members of the public and of property within the district.~~

Penalty \$5,000.00 for each offence, and if ~~an~~the offence is of a continuing nature, to a daily penalty ___ not exceeding a fine of \$500.00 in respect of each day or part of a day whereduring which the offence is of a continuing nature~~has continued~~.

6.3 Prohibitions

A licensee shall not –

- (a) _____ remove any trees or shrubs within 40 metres (or such lesser distance as may be allowed, in writing, by the local government) of the boundary of any thoroughfare on land in respect of which a licence has been granted, except for the purpose of constructing access thoroughfares, erecting buildings or installing plant for use in connection with the excavation and then only with the express approval of the local government and subject to any conditions which the local government may impose in accordance with clause 3.1;

~~_____ (4) A person must not carry out or permit to be carried out any blasting on a Saturday, Sunday or Public Holiday except with the prior approval of the local government.~~

~~Penalty \$2,000.~~

~~(5) — A licensee shall not store, or permit to be stored, any explosives or explosive devices on the site to which the licence applies other than with the approval of the local government and the Department of Mines Minerals and Petroleum; or Energy.~~

~~_____ fill~~

Rehabilitation

~~6.5 — Irrespective of the manner of its ceasing, on the cessation of any excavation work, the licensee shall ensure that—~~

- (b) _____ (1) The excavation is filled or excavate, other than rehabilitated in accordance with the terms and conditions of the licence, the site plans and the works and excavation programme approved by the local government.

Penalty \$5,000 for each offence, and if an offence is of a continuing nature, plan referred to a daily penalty not exceeding a fine of \$500 in respect clause 6.2 of each day or part of a day where the offence is of a continuing nature.~~this local law;~~

6.4 _____ (2) Any face permitted to remain in the excavation is left safe with all loose material removed there from;

~~(3) Retaining walls, where considered necessary by Blasting~~

~~(1) A person shall not carry out or permit to be carried out any blasting in the course of
excavating unless –~~

~~(a) the local government has otherwise given approval to prevent subsidence of the
surrounding area, are constructed in respect of blasting generally or in the case of
each blast;~~

~~subject to subclause (2), the blasting takes place only such manner as may be agreed
upon between the hours of 8.00am local government and 5.00pm, or as the licensee;~~

~~(4) The agreed floor level of the excavated area, where retaining walls are not required
under the provisions of this clause, is graded to an even surface and the sides sloped to a
batter sufficient to prevent subsidence of the surrounding area;~~

~~(5) All dumps of stone, sand or other material are so left that no portion of that material
can escape into any stream, watercourse or drain, that is not wholly situated within land
owned or occupied by the licensee;~~

~~(6) All topsoil previously removed from the site, is to be spread over the site;~~

~~(b) (7) The area to be seeded with a mixture of seeds from species typical of the area
as specified by the local government, or alternatively that area shall be planted
with seedlings of a similar variety, the number or amount to be determined by the
local government, on Mondays or returned to Fridays inclusive;~~

~~(c) the blasting is carried out in strict accordance with the AS2187 SAA Explosives
Code pasture or cropping as amended from time to time, the *Mines Safety and
Inspection Act 1994*, the *Environmental Protection Act 1986*, and all relevant
local laws of the local government; and~~

~~in compliance with any other conditions imposed approved by the local government
concerning; and~~

~~(i) the time and duration of blasting;~~

~~(ii) the purposes for which the blasting may be used; and~~

~~such other matters as~~

~~(8) Where deemed necessary by the local government an area may reasonably require in
the interests of the safety and protection of members of the public and need artificial
rejuvenation by means of property within the district irrigating and fertilisation to ensure
satisfactory rehabilitation.~~

~~Penalty \$5,000 for each offence, and if the offence is of a continuing nature, to a daily penalty
not exceeding a fine of \$500 in respect of each day or part of a day where the offence is of a
continuing nature.~~

~~(2) A person shall not carry out or permit to be carried out any blasting on a Saturday,
Sunday or public holiday except with the prior approval of the local government.~~

~~PART 7—GENERAL PROVISIONS~~

~~Penalty \$2,000.~~

Part 7 - Miscellaneous provisions

7.1 Public Liability

~~7.1~~—(1) ~~—~~A licensee shall have at all times a current public liability insurance policy taken out in the joint names of the licensee and the local government indemnifying the licensee and the local government for a sum of not less than ~~\$20~~~~ten million dollars~~ ~~(\$10,000,000)~~ in respect of any one claim relating to any of the excavation operations.

(2) ~~—~~The licensee shall provide to the local government a copy of the policy taken out under subclause (1), within ~~fourteen~~ ~~(14)~~ days after the issue of that policy and shall provide to the local government evidence of renewal within ~~fourteen~~ ~~(14)~~ days of each renewal date.

7.2 MinesOccupational Safety and InspectionHealth Act and 1984

~~7.2~~ ~~All works shall be in accordance with the provisions of the Occupational Safety and Health Act 1984 and regulations, as amended.~~

Environmental Protection Act 1986

~~7.3~~—(1) ~~—~~In any case where the Mines Safety and Inspection Act 1994 or the Environmental Protection Act 1986 applies to any excavation carried on or proposed to be carried on at a site, the licensee in respect of that site shall provide to the local government within 14 days full particulars of any inspection or report made under that Act or those Acts.~~must—~~

~~In this clause, the (a) comply with all applicable provisions of the Environmental Protection Act 1986; and~~

~~(b) provide to the local government within fourteen (14) days full particulars of any inspection or report made under Mines Safety and Inspection Act 1994 and the Environmental Protection Act 1986 includein accordance with clause 6.2(1)(x) of this local law.~~

~~(2) In this clause, the Environmental Protection Act 1986 includes all subsidiary legislation made under those Actsthe Environmental Protection Act 1986.~~

~~Mines Safety and Inspection Act 1994~~ 7.3 Notice Of Cessation Of Operations

(1) Where a licensee intends to cease carrying on an extractive industry –

(a) temporarily for a period in excess of 12 months; or

(b) permanently,

the licensee shall, as well as complying with clause 7.4, give the local government written notice of the cessation not later than 1 week after those operations have ceased.

Where a licensee has given written notice

~~7.4~~—(1) ~~In any case where the Mines Safety and Inspection Act 1994 applies to any excavation carried on or proposed to be carried on at a site, the licensee in respect of that site must—~~

- ~~(a) comply with all applicable provisions of the *Mines Safety and Inspection Act 1994*; and~~
- ~~(2) (b) provide to the local government within fourteen (14) days full particulars of the intention to permanently cease carrying on an extractive industry on the site to which the licence applies the licence is deemed to have expired on the date such cessation is so notified.~~
- ~~(3) The temporaryany inspection or permanent cessation of the carrying on of an extractive industry on a site or the deemed expiration or cancellation of a licence does not entitle the licensee to any refund of any licence fee.~~

7.4 Works To Be Carried Out On Cessation Of Operations

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

- ~~(a) restore and reinstate the excavated sitereport made under the *Mines Safety and Inspection Act 1994*; in accordance with the proposals approved by the local government or in such other manner as the local government may subsequently agree in writing with the licensee;~~
- ~~(b) ensure that any face permitted to remain upon the excavation site is left safe with all loose materials removed and where the excavation site is -~~
- ~~(i) sand, the sides are sloped to a batter of not more than 1:3 (vertical:horizontal); and~~
- ~~(ii) limestone or material other than sand, the sides are sloped to a batter which, in the opinion of the local government, would enable the site to be left in a stable condition;~~
- ~~(c) ensure that the agreed floor level of the excavation is graded to an even surface or is otherwise in accordance with the rehabilitation and decommissioning programme approved by the local government;~~
- ~~(d) ensure that all stockpiles or dumps of stone, sand or other materials are left so that no portion of that material can escape onto land not owned or occupied by the licensee nor into any stream, watercourse or drain that is not wholly situated within the land owned or occupied by the licensee;~~
- ~~(e) erect retaining walls where necessary to prevent subsidence of land in the vicinity of any excavation;~~
- ~~(f) remove from the site all buildings, plant and equipment erected, installed or used for or in relation to the carrying on of an extractive industry on the site and fill all holes remaining after such removal to the level of the surrounding ground and compact such filled holes sufficiently to prevent settling; and~~
- ~~break up, scarify, cover with topsoil and plant with grass, trees and shrubs all parts of the site where buildings, plant and equipment were erected or installed and all areas which were used for stockpiling unless otherwise specified under clause 6.2(1)(x) of this local law.~~

Penalty \$5,000 for each offence, and if the offence is of a continuing nature, to a daily penalty not exceeding a fine of \$500 in respect of each day or part of a day where the offence is of a continuing nature.

Part 8 - Objections & appeals

8.1 When the local government makes a decision as to whether it will ~~—~~

- a) grant a person a licence under this local law; or
- b) renew, vary, or cancel a licence that a person has under this local law,

the provisions of Division 1 of Part 9 of the Act and regulation 33 of the Local Government (Functions and General) Regulations 1996 shall apply to that decision.

Part 9 – Modified penalties

9.1 An offence against a clause specified in the Schedule is a prescribed offence for the purposes of section 9.16(1) of the Act.

9.2 The amount of the modified penalty for a prescribed offence is that specified adjacent to the clause in the Schedule.

Forms

9.3 For the purposes of this local law –

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

Schedule

PRESCRIBED OFFENCES

<u>Clause</u>	<u>Description</u>	<u>Modified Penalty</u> \$
2.1	Carry on Extractive Industry without licence or in breach of terms and conditions	300
3.6	Fencing not erected before commencement of excavation	300
6.1(1)	Excavate near boundary	200

Prescribed Offences
(clause 9.1)

<u>ITEM</u>	<u>CLAUSE</u>	<u>DESCRIPTION</u>	<u>MODIFIED PENALTY</u> \$
<u>1</u>	<u>2.1</u>	<u>Carry on extractive industry without licence or in breach of terms and conditions</u>	<u>350</u>
<u>2</u>	<u>6.1</u>	<u>Excavate near boundary</u>	<u>250</u>
<u>3</u>	<u>6.2(a)</u>	<u>Gateways not kept locked where required</u>	<u>350</u>
<u>4</u>	<u>6.2(b)</u>	<u>Warning signs not erected or maintained as required</u>	<u>350</u>
<u>5</u>	<u>6.2(c)</u>	<u>Excavation not drained as required</u>	<u>350</u>
<u>6</u>	<u>6.3(a)</u>	<u>Remove trees or shrubs near boundary without approval</u>	<u>300</u>
<u>7</u>	<u>6.3(b)</u>	<u>Store without required approval explosives or explosive devices</u>	<u>350</u>
<u>8</u>	<u>6.3(c)</u>	<u>Fill or excavate in breach of licence</u>	<u>350</u>
<u>9</u>	<u>6.4(1)(a)</u>	<u>Blasting without approval of the local government</u>	<u>250</u>
<u>10</u>	<u>6.4(1)(b)</u>	<u>Blasting outside times authorised</u>	<u>350</u>
<u>11</u>	<u>6.4(1)(d)</u>	<u>Blasting in breach of conditions imposed by the local government</u>	<u>350</u>
<u>12</u>	<u>6.4(2)</u>	<u>Blasting without approval on Saturday, Sunday or public holiday</u>	<u>250</u>

6.1(3)	Remove tree or shrubs near boundary without approval	250
6.4(1)	Blasting without approval of local government	500
6.4(3)	Blasting outside times authorised or in breach of conditions imposed	500
6.4(4)	Blasting without approval on Saturday, Sunday or public holiday	200

Dated this

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

K J CHAPPEL, SHIRE PRESIDENT

J ROBERTS, CHIEF EXECUTIVE OFFICER

WESTERN AUSTRALIA

LOCAL GOVERNMENT ACT 1995
SHIRE OF MORAWA
FENCING LOCAL LAW 2017

ARRANGEMENTS

PART 1—PRELIMINARY

~~1.21.1~~ Citation

~~1.31.1~~ Repeal

~~1.1~~ 1.1 Citation

1.2 Commencement

~~1.41.2~~ 1.3 Application of Local Laws

~~1.3~~ 1.4 Repeal

1.5 Definitions

1.6 Relationship with other laws

1.7 Approval Fees and Charges

~~2.1~~ Interpretation

PART 2—SUFFICIENT FENCES

~~2.52.1~~ Sufficient Fences

~~PART 3~~ 2.1 Sufficient fences

~~2.2~~ —GENERAL

~~3.33.1~~ Fences Within Front Setback Areas

2.3 Gates in fences

2.4 Depositing fencing material on public place

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~~3.53.3~~ 2.6 Maintenance of Fences

2.7 Fences across rights-of-way, public access ways or thoroughfares

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~~PART~~ 2.9 Pre-used fencing materials

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6.1 **5.1** Notices of Breach

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Schedule 2 - Specifications for a sufficient fence on a residential lot

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Schedule 4 - Specifications for a sufficient fence on a rural lot or special rural lot

Schedule 5 - Licence for approved electrified fence

Schedule 6 - Licence for approved electrified fence

WESTERN AUSTRALIA

LOCAL GOVERNMENT ACT 1995

SHIRE OF MORAWA

FENCING LOCAL LAW 2017

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

PART 1 ~~PRELIMINARY~~

1.1 Citation

This local law is the *Shire of Morawa Fencing Local Law 2017*.

1.2 Commencement

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

1.3 Application

This local law applies throughout the district.

1.4 Repeal

The *Shire of Morawa Local Laws Relating to Fencing* published in the Government Gazette on 16 July 2008 is repealed.

1.5 Definitions

In this local law —

~~1.3 Application of Local Laws~~

~~These Local Laws apply throughout the district.~~

~~1.4 Interpretation~~

~~In these Local Laws, unless the context requires otherwise—~~

“Act” means the *Dividing Fences Act 1961*;

applicant means a person who makes an application for approval under this local law;

“AS or AS/NZS” means an Australian Standard or an Australian/New Zealand Standard published by Standards Australia and available for viewing free of charge at the Shire of Morawa Administration offices;

AS/NZS 1170 means *Australian/New Zealand Standard 1170:2011 Structural design actions - General principles*, published by the Standards Association of Australia as amended from time to time;

AS 2870 means the *Australian/New Zealand Standard 2870:2011 Residential slabs and footing*, published by Standards Australia as amended from time to time;

AS/NZS 3016 means *Australian/New Zealand Standard 3016:2002—Electrical Installations—Electricity security fences*, published by Standards Australia as amended from time to time;

authorised officer means a person appointed by the local government under section 9.10 of the Local Government Act 1995 to perform any of the functions of an authorised person under this local law;

barbed wire fence means a wire or strand of wires having small pieces of sharply pointed wire twisted around it at short intervals;

boundary fence has the meaning given to it ~~by for the purposes of~~ the Act;

building surveyor

Building Surveyor means a Building Surveyor of the local government;

CEO means the Chief Executive Officer of the local government;

commercial lot

Commercial Lot means a lot where a commercial use ~~—~~

(a) is or may be permitted under the ~~district town~~ planning scheme; and

(b) is or will be the predominant use of the lot;

composite fence means a fence constructed of brick piers and with infill panels between the piers of materials other than brick or a fence where the supporting posts and infill panels are of different materials.

(b) ~~is or will be the predominant use of the lot;~~

dangerous in relation to any fence means ~~—~~

(a) an electrified fence other than a fence approved by the local government under this local law in respect of which a licence under Part 6 of ———— these Local Laws has been issued and is current;

(b) a fence containing barbed wire other than a fence erected and maintained in accordance with ~~this local law these Local Laws;~~

(c) a fence containing exposed broken glass, asbestos fibre, razor wire or any other potentially harmful projection or material; or

(d) a fence which is likely to collapse or fall, or part of which is likely to collapse or fall, from any cause;

district means the district of the local government;

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

dividing fence has the meaning given to it ~~by in and for the purposes of~~ the Act;

electrified fence means a fence carrying or designed to carry an electric charge;

fence means any structure, not including a retaining wall, used or functioning as a barrier, irrespective of where it is located and includes any gate;

frontage means the boundary line between a lot and the thoroughfare which that lot adjoins;

front boundary means the boundary line between a lot and the thoroughfare upon which that lot abuts, or in the case of a lot abutting on more than one thoroughfare, the boundary line between the lot and the primary thoroughfare;

front setback area means the area between the building line of a lot and the front boundary of that lot;

“height” in relation to a fence means the vertical distance between—

- (a) the top of the fence at any point; and
- (b) the ground level or, where the ground levels on each side of the fence are not the same, the higher ground level, immediately below that point;

hours of business operations means the hours of the day during which business is usually conducted;

industrial lot means a lot where an industrial use—

- (a) is or may be permitted under the ~~district town~~ planning scheme; and
- ~~(b) is or will be the predominant use of the lot;~~
- (b) is or will be the predominant use of the lot;

licence means an electrified fence licence or a razor wire fence licence;

“local government” means the Shire of Morawa ~~Morawa~~;

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 under section 3.53 of the Local Government Act 1995;

“lot” has the meaning given to it in ~~the and for the purposes of the Town Planning and Development Act 2005-1928~~;

“notice of breach” means a notice referred to in clause ~~5.16(1);~~

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

open construction means a visually permeable fence comprising of—

- (a) continuous gaps at least 50 millimetres wide which in aggregate occupy at least one third of the length of the fence; or
- (b) continuous gaps less than 50 millimetres wide which in aggregate occupy at least half of the length of the fence;

provided that the gaps are evenly distributed along the length of the fence.

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

public access way means a portion of public land used as a means of pedestrian access between thoroughfares or other public places and for providing a corridor for public utility services;

public place means any place to which the public has access whether or not that place is on private property;

razor wire means a coiled strong wire with pieces of sharp cutting edges set across it at close intervals;

residential lot means a lot where a residential use—

- (a) is or may be permitted under the ~~district town~~ planning scheme; and
- (b) is or will be the predominant use of the lot;

“retaining wall” means any structure which prevents the movement of soil or retains soil or structures in order to allow ground levels of different elevations to exist adjacent to one another;

right of way means a strip of land available either for use by the general public, or a restricted section of the community, and may be created by subdivision, specific transfer, or continued use over a period of years;

rural lot means a lot where a rural use—

- (a) is or may be permitted under the ~~district town~~ planning scheme; and
- (b) is or will be the predominant use of the lot;

“Schedule” means a Schedule to ~~this local law~~ ~~these Local Laws~~;

special residential lot

“setback area” ~~has the meaning given to it for the purposes of the town planning scheme;~~

“Special Rural Lot” means a lot where a special ~~residential rural~~ use—

- (a) —is or may be permitted under the ~~district~~ ~~town~~ planning scheme; and
- (b) is or will be the predominant use of the lot;

special rural lot means a lot where a special rural use—

- (a) is or may be permitted under the ~~district town~~ planning scheme; and
- (b) is or will be the predominant use of the lot;

structural engineer means a qualified engineer trained to understand and calculate the stability, strength and rigidity of built structures for buildings and non-building structures;

“sufficient fence” means a fence described in clause 2.1; and

thoroughfare ~~has the meaning given to it by the Local Government Act 1995, but does not include a private thoroughfare which is not under the management or control of the local government.~~

1.6 Relationship with other laws; and

(1) ~~Anything allowed under any Act, Regulation or district~~

~~town~~ ~~planning scheme, is not affected by any prohibition, requirement or restriction under this local law.~~

(2) ~~In the event of any inconsistency with any Act, Regulation or district” means a town~~ ~~planning scheme, the provisions of those Acts, Regulations or district planning scheme are to prevail of the~~ ~~local government made under the Town Planning and Development Act 1928.~~

1.7 Approval fees and charges

~~All approval fees and charges applicable under this local law shall be determined by the local government from time to time in accordance with section 6.16 and 6.19 of the Local Government Act 1995.~~

PART 2—SUFFICIENT FENCES

Division 2.1—Sufficient Fences

2.1 Sufficient fences

(1) ~~—Unless by agreement between the owners of adjoining properties, a person shall not~~ ~~—erect a dividing fence or a boundary fence that is not a sufficient fence.~~

(2) Subject to ~~subclauses~~ ~~sub-clauses~~ (3) and (4), a sufficient fence—

- (a) on a Residential Lot is a dividing fence or a boundary fence constructed and -maintained in accordance with the specifications and requirements of ~~the First~~ Schedule 2;
- (b) on a Commercial Lot ~~or~~ an Industrial Lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of ~~the Second~~ Schedule 3; and;
- (c) on a Rural Lot ~~or~~ a Special Rural Lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of ~~the Third~~ Schedule 4; and;
- (d) on a special residential lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of Schedule 5.

(3) Where a fence is erected on or near the boundary between—

- (a) a Residential Lot and an Industrial Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of ~~the First~~ Schedule 2;
- (b) a Residential Lot and a Commercial Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of ~~the Second~~ Schedule 3;
- (c) a Residential Lot and a Rural Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of ~~the Third~~ Schedule 4;
- (d) a Residential Lot and a Special Rural Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and ~~requirements~~ of ~~the First~~ Schedule; and
- ~~(e) a Special Rural Lot and a Rural Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of the Third Schedule 4; and;~~
- (e) a special rural lot; rural lot and special residential lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of Schedule 4.

(4) An application must be made to the local government for grant of consent to any variation to the specifications in Schedules 2, 3, 4 and 5.

(5) Unless an authorised officer determines

~~(4) Unless the Building Surveyor specifies~~ otherwise, a sufficient fence on a boundary between lots other than those specified in subclause (3) is a dividing fence constructed in accordance with the specifications and requirements of ~~the Second~~ Schedule 2.

~~(65)~~ Notwithstanding any other ~~provision~~provisions in ~~this local law~~these Local Laws, a dividing fence or boundary fence constructed of masonry, stone or concrete shall be a sufficient fence only if it is designed by a suitably qualified structural engineer and constructed in accordance with that design where—where—

- (a) it is greater than 1 800 millimetres~~1800mm~~ in height; or
- (b) the Building Surveyor ~~so~~ requires.

(7) Notwithstanding any other provision in this local law, a dividing fence or boundary fence shall not exceed **PART 3 – GENERAL**

3.1 800 millimetres in height unless the approval of the local government has been obtained for such a fence.

Division 2—General

2.2 Fences Within Front Setback Areas

- (1) A person shall not, without the written consent of the Building Surveyor, erect a free-standing fence greater than 1 200 millimetres~~1200mm~~ in height, ~~within the front set back area of a Residential Lot~~ within the front setback area of a residential lot within the district.
- (2) The Building Surveyor may approve the erection of a fence of a height greater than 1 200 millimetres~~1200mm~~ in the front setback area of a Residential Lot only if the fence on each side of ~~the driveway into the Lot across the front boundary is to be angled into the Lot for a distance of not less than~~ 1 500 millimetres~~1500mm~~ along the frontage to a distance of not less than 1 500 millimetres~~1500mm~~ from the frontage in order to provide appropriate splayed lines of vision for a motorist using the driveway for access to a thoroughfare.
- (3) The provision of ~~subclauses~~sub-clause (2) shall not apply to a fence—
- (a) of open construction that does not obscure the lines of vision of a motorist using ~~the driveway for access to a thoroughfare; or~~
 - (b) that does not adjoin a footpath.

2.3 Gates in fences

3.2— Fences on a Rural Lot

A person shall not ~~erect a gate in a fence which does not—~~

- ~~(a) open into the lot, if the gate is providing access to a thoroughfare; or~~
- ~~(b) open by sliding parallel and on the inside of the fence, which it forms part of, when closed.~~

2.4 Depositing fencing material on public place

~~A person shall not deposit or permit the deposit of any materials whatsoever used in the construction or maintenance of any fence, on any thoroughfare, public place or local government property without the approval of the local government.~~

2.5 Fences on a rural lot

~~A person shall not, without the written consent of the Building Surveyor, erect a fence on a Rural Lot, within 7.5m of a thoroughfare of a height exceeding~~ 1 500 millimetres ~~1500mm.~~

2.6 3.3 Maintenance of Fences

~~An owner and occupier of a lot on which a fence is erected shall maintain the fence in good condition as determined by the CEO so as to prevent it from becoming dangerous, dilapidated, or unsightly to the amenity of the locality.~~

2.7 Fences across rights-of-way, public access ways or thoroughfares

~~A person must not, without the approval of the local government, erect or maintain a fence or obstruction of a temporary or permanent nature across any right-of-way, public access way or thoroughfare so as to impede or prevent use of those facilities in the manner for which they are intended and constructed.~~

2.8 3.4 General Discretion of the Local Government

(1) Notwithstanding ~~the provisions of clause 2.16~~, the local government may ~~approve~~consent to the erection or repair of ~~a dividing fence which is not a sufficient fence where all of the owners of the lots to be separated by the dividing fence make an application for approval for that purpose—a fence which does not comply with the requirements of these Local Laws.~~

(2) In determining whether to grant its ~~approval under subclause (1), the consent to the erection or repair of any fence, the~~ local government may consider, ~~in addition to any other matter that it is authorized to consider~~, whether the erection or retention of the fence would have an adverse effect on—

- (a) the safe or convenient use of any land;~~or~~
- (b) the safety or convenience of any person;~~or~~
- (c) the visual amenity of the locality.

Division 3—

PART 4— FENCING MATERIALS

4.1— Fencing Materials

Where required by the Building Surveyor, fencing designs are to be certified by a suitably qualified structural engineer as being suitable for wind loadings found in Region D Category 2 areas in accordance with the current edition of AS/NZS 1170:2011 as amended from time to time.

2.9 Pre-used fencing materials

(1) ~~Notwithstanding clause 2.1,~~—A person shall not construct a fence on a Residential Lot, a Commercial Lot or an Industrial ~~lot from pre-used materials without the approval of the local government~~ Lot from ~~only brick, stone, concrete, wrought iron, tubular steel framed, link mesh, timber, plastic coated or galvanised link mesh, corrugated fibre reinforced cement sheeting, colour bonded metal or a material approved by the Building Surveyor.~~

(2) Where the ~~local government~~Building Surveyor approves the use of pre-used materials in the construction ~~of a fence under subclause (1), that approval shall be conditional on the applicant for approval~~ painting or treating the pre-used material as directed by the Building Surveyor.

4.2.10 Barbed Wire fences and spiked or jagged materialsand ~~Broken Glass Fences~~

~~(1)~~—This clause does not apply to a fence constructed wholly or partly of razor wire.

~~(2)~~—An owner or occupier of a Residential Lot or a Commercial Lot shall not erect,~~or~~ affix or allow to remain on~~to~~ any fence on such a lot any barbed wire or other material with spiked or jagged ~~projections, unless the prior written approval of the local government~~Building Surveyor has been ~~obtained.~~

~~(3)~~—An owner or occupier of an Industrial Lot shall not erect,~~or~~ affix or allow to remain on any fence bounding ~~that Lot any barbed wire or other materials with spiked or jagged projections unless the~~ wire or other materials are carried on posts at an angle of 45 degrees, and unless the bottom ~~row of wire or other materials is~~ setback 150 millimetres~~set back 150mm~~ from the face of the fence and is not ~~nearer than~~ 2 000 millimetres~~2000mm~~ from the ground level.

~~(4)~~—If the posts which carry the barbed wire or other materials referred to in subclause (3) ~~are~~ angled towards the outside of the lot bounded by the fence, ~~the face of the fence must~~ be ~~setback~~set back from the lot boundary a sufficient distance to ensure that the angled posts, ~~barbed wire or other materials do not encroach on adjoining land.~~

(5) — An owner or occupier of a lot shall not erect, affix or allow to remain as part of any fence or ~~—~~ wall, whether internal or external, on that lot, any broken glass.

(6) — An owner or occupier of a Rural Lot, a special rural lot or a special residential lot, shall not ~~erect, place or~~ affix or allow to remain any barbed wire upon a fence — on that Lot, where the fence is adjacent to a thoroughfare or other public place, unless the ~~—~~ barbed wire is fixed to the side of the fence posts furthest from the thoroughfare or other public place.

~~PART 5 — ELECTRIFIED AND RAZOR WIRE FENCES~~

~~5.12.11~~ Electrified and razor wire fences

~~(1) — Requirements for a Licence~~

~~(1)~~ An owner or occupier of a lot, ~~other than a Rural Lot~~, shall not ~~—~~

(a) ~~construct or have and~~ use an electrified fence on that lot, without ~~first~~ obtaining the approval of the local government, in the form prescribed in Schedule 6; a licence under ~~—~~ subclause (2); or

(b) ~~construct~~ a fence wholly or partly of razor wire on that lot, without ~~first~~ obtaining the approval of the local government. — a licence under subclause (3).

~~(2) The local government — A licence to have and use an electrified fence~~ shall not approve an application for the purpose of subclause (1) ~~(be issued —~~

~~(a) —~~

~~(a)~~ in respect of a lot which is or which abuts a Residential Lot;

(b) unless the proposed fence will comply with AS/NZS 3016:2002 as amended from time to time 1994; and

(c) unless provision is made so as to enable the fence to be rendered inoperable — during the hours of business operations, if any, on the lot where it is erected.

~~(3) The local government — A licence to have a fence constructed wholly or partly of razor wire~~ shall not approve an application for the purpose of subclause (1)(b) ~~— be — issued —~~

(a) if the fence is within 3 000 millimetres 3m of the boundary of the lot; or

(b) where any razor wire used in the construction of the fence is less than 2 000 millimetres 2000mm or ~~—~~ more than 2 400 millimetres 2400mm above the ground level.

~~(4) An application for approval for the purpose of a licence referred to in~~ subclauses (1)(a2) or (1)(b3) shall be made by the ~~—~~ owner of the lot on which the fence is or is to be erected, or by the occupier of the lot ~~with the written consent of the owner.~~

2.12 Prohibited fencing materials

A person shall not affix or use broken glass in the construction of any fence.

~~(5)~~

PART 3 — APPROVALS

3.1 Application for approval

(1) Where a person is required to obtain the approval of the local government under this local law, that person shall apply for approval in accordance with subclause (2).

~~(2) An application for approval under this local law shall—~~

~~(a) a licence referred to in subclauses (2) or (3) may be in the form determined—~~

~~(a) approved by the local government;~~

~~(b) be signed by the applicant and the owner of the lot;~~

~~(c) provide the information required by the form; and~~

~~(d) be forwarded to the CEO together with any fee imposed and determined—approved by the local government under and in accordance with sections 6.16 and 6.19 of the *Local Government Act 1995*.~~

~~(3) The local government may require an applicant to provide additional information reasonably related to an application before determining an application for approval.~~

~~(4) The local government may refuse to consider an application for approval which is not in accordance with subclauses (2) and (3).~~

3.2 Decision on application for approval

~~(1) The local government may—~~

~~(a) approve an application for approval unconditionally or subject to any such conditions as it thinks fit; or~~

~~(b) refuse to approve an application for approval.~~

~~(2) If the local government approves an application for approval, it is to issue to the applicant an approval in the form determined—refused by the local government.~~

~~(3) If the local government refuses~~**5.2 — Transfer of a Licence**

~~A licence referred to approve an application for approval, it is in clause 13 shall transfer with the land 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 an approval or which are to be taken to be imposed on an approval, the clause does not limit the power of the local government to impose other conditions on the approval under subclause (1)(a).~~

3.3 Compliance with approval

~~Where an application for approval has been approved, the applicant and the owner or any new occupier or owner of the lot to which the approval relates, shall comply with the terms and any conditions of that approval.~~

3.4 Duration of approval

~~Unless otherwise stated in the form of approval, an approval granted under this local law runs with the lot to which it relates and for the avoidance of doubt, it may be relied upon by any subsequent occupier or owner of the lot, and may be enforced against them by the local government.~~

3.5 5.3 Cancellation of an approval Licence

Subject to Division 1 Part 9 of the *Local Government Act 1995*, the local government may cancel an approval ~~licence~~ issued under this Part if—

~~(a) the fence no longer satisfies the required specifications ~~requirements specified in clause 13(2) or 13(3) as the case may be~~; or~~

(b) the ~~owner or occupier~~~~license holder~~ breaches any condition upon which the ~~approval~~~~license~~ has been issued.

PART 4—MISCELLANEOUS

4.1 False or misleading statement

~~A person shall not make a false or misleading statement in connection with any application, requirement or request under this local law.~~

~~6—~~

PART 5—NOTICES OF BREACH

56.1 Notices of Breach

(1) Where a breach of any provision of ~~this local law~~~~these Local Laws~~ has occurred in relation to a fence on a lot, the local government may give a notice in writing to the owner ~~or occupier~~ of ~~that~~ lot. ~~(“notice of breach”).~~

(2) A notice of breach shall ~~—~~

- (a) specify the provision of ~~this local law~~~~these Local Laws~~ which has been breached;
- (b) specify the particulars of the breach; and
- (c) state that the owner ~~or occupier of the lot~~ is required to remedy the breach within ~~—28~~ days ~~from the time specified in~~ giving of the notice.

(3) Should an owner ~~or occupier~~ fail to comply with a notice of breach, the local ~~—~~government may, by its employees, agents or contractors enter upon the lot to which the ~~—~~notice relates and remedy the breach, and may recover the expenses of so doing from ~~—~~the owner ~~or occupier~~ of the lot, ~~as the case may be,~~ in a court of competent jurisdiction.

~~(4) The provisions of this clause are subject to section 3.25 and item 12 of Division 1 of Schedule 3.1 of the Act and any power of entry exercised by the local government under this local law is subject to Part 3, Division 3 of the Act.~~

PART 6—7—OFFENCES

67.1 Offences and Penalties

(1) ~~A person—An owner or occupier~~ who fails to comply with a notice of breach commits an offence ~~—~~and is liable upon conviction to a ~~maximum~~ penalty of ~~not less than \$250 and not exceeding \$5 000~~~~\$5000~~ and, if the offence is a ~~—~~continuing offence, ~~to~~ a maximum daily penalty of \$500.

(2) A person who fails to comply with or who contravenes any provision of ~~this local law~~~~these Local Laws~~ commits an offence and is liable ~~on conviction~~ to a ~~maximum~~ penalty of ~~not less than \$250 and not exceeding \$5 000~~~~\$5000~~ and, if the ~~—~~offence is a continuing offence, ~~to~~ a maximum daily penalty of \$500.

67.2 Modified Penalties

(1) An offence against any provision of ~~this local law~~~~these Local Laws~~ is a prescribed offence for the ~~—~~purposes of section 9.16-(1) of the *Local Government Act 1995*.

(2) ~~The amount appearing in the final column of Schedule 1, directly opposite a prescribed offence in that Schedule, is —Unless otherwise specified, the amount of—the modified penalty for that prescribed offence.~~

~~6.3 Forms against—any provision of notices—these Local Laws is \$125.~~

~~7.3 Form of Notices~~

For the purposes of ~~this local law—these Local Laws—~~

(a) ~~the form of the infringement notice referred to in sections 9.16 and section 9.17 of the Local Government Act 1995 is to be in or substantially in—the form of Form 2 of —Schedule 1 of the Local Government (Functions and General) Regulations 1996; and~~

(b) ~~the form of the withdrawal of infringement notice referred to in section 9.20 of the Local Government Act —1995 is to be in or substantially in—the form of Form 3 in Schedule 1 of the Local Government (Functions and General) Regulations 1996.~~

Clause 6(2)(a)

First

PART 7—OBJECTIONS AND REVIEW

7.1 Objections and review

When the local government makes a decision under clause 3.2, the provisions of Part 9 Division 1 of the Local Government Act 1995, and regulation 33 of the Local Government (Functions and General) Regulations 1996, apply to that decision.

Schedule 1 - Offences and modified penalties

[clause 6.2(2)]

<u>Item No</u>	<u>Clause No.</u>	<u>Nature of offence</u>	<u>Modified penalties</u> <u>\$</u>
<u>1</u>	<u>2.1(1)</u>	<u>Erect a fence which is not a sufficient fence</u>	<u>250</u>
<u>2</u>	<u>2.2</u>	<u>Erect a fence greater than 1 200 millimetres in height within a front setback area of a residential lot without the written consent of the local government</u>	<u>250</u>
<u>3</u>	<u>2.3(a)</u>	<u>Erect a gate in a fence not opening into the lot, if the gate is providing access to a thoroughfare</u>	<u>200</u>
<u>4</u>	<u>2.3(b)</u>	<u>Erect a gate in a fence not sliding parallel and inside a fence</u>	<u>200</u>
<u>5</u>	<u>2.5</u>	<u>Erect a fence on a rural lot of a height exceeding 1 500 millimetres without the written consent of the local government</u>	<u>200</u>
<u>6</u>	<u>2.6</u>	<u>Failure to maintain a fence in good condition to prevent the fence becoming dangerous, dilapidated or unsightly</u>	<u>250</u>

<u>7</u>	<u>2.7</u>	<u>Erect or maintain a fence or obstruction of temporary or permanent nature across a right-of way, public access way or thoroughfare without approval</u>	<u>250</u>
<u>8</u>	<u>2.9(1)</u>	<u>Construct a fence on a residential, commercial or industrial lot from pre-used materials without written approval</u>	<u>250</u>
<u>9</u>	<u>2.10(2)</u>	<u>Erect a fence using barbed wire or material with spiked or jagged projections in the fence construction without written approval</u>	<u>250</u>
<u>10</u>	<u>2.11(1)</u>	<u>Construct, erect or use razor wire in a fence or electrify a fence without approval</u>	<u>250</u>
<u>11</u>	<u>2.12</u>	<u>Affix, or use, any broken glass in a fence</u>	<u>250</u>
<u>12</u>	<u>3.3</u>	<u>Failure to comply with terms or conditions of approval</u>	<u>250</u>
<u>13</u>	<u>6.1</u>	<u>Failure to comply with notice of breach</u>	<u>250</u>

Schedule 2 - Specifications for a sufficient fence on a residential lot
[clause 2.1(2)(a)]

Each of the identified categories in this Schedule is a sufficient fence on a residential lot –

1. Timber fence

(a) SPECIFICATIONS FOR A SUFFICIENT FENCE ON A RESIDENTIAL LOT

Each of the following is a “sufficient fence” on a Residential Lot–

A.— A picket timber fence which satisfies the following specifications—

- (a) corner posts to be 125 millimetres125mm x 125 millimetres125mm x 2 400 millimetres2400mm and intermediate posts to be 125 millimetres125mm x 75 millimetres75mm x 2 400 millimetres2400mm spaced at 2 400 millimetres2400mm centres;
- (b) corner posts to be struted two ways with 100 millimetres100mm x 50 millimetres50mm x 450 millimetres450mm sole plates —and 75 millimetres75mm x 50 millimetres50mm struts;
- (c) intermediate posts to be doubled yankee struted with 150 millimetres150mm x 25 millimetres25mm x 450 millimetres 450mm struts;
- (d) all posts to have tops with a 60 millimetres60mm weather cut and to be sunk at least 600 millimetres600mm into —the ground;
- (e) rails to be 75 millimetres75mm x 50 millimetres50mm with each rail spanning two bays of fencing double —railed or bolted to each post with joints staggered;
- (f) the fence to be covered with 75 millimetres75mm x 20 millimetres20mm sawn pickets, 1 800 millimetres1800mm in height —placed 75 millimetres75mm apart and affixed securely to each rail; and
- (g) the height of the fence to be 1 800 millimetres1800mm except with respect to the front setbackset back area —for which there is no minimum height but which is subject to clause 7.

2. Corrugated fence

B.— A fence constructed of corrugated fibre reinforced pressed cement or steel sheeting constructed to manufacturer’s specifications or —which satisfies the following specifications—

- (a) a minimum in-ground length of 25 per cent of the total length of the sheet, but in any case shall have a minimum in-ground depth of 600 millimetres~~600mm~~;
- (b) the total height and depth of the fence to consist of a single continuous fibre-reinforced cement or steel sheet;
- (c) the sheets to be lapped and capped with extruded “snap-fit” type capping in accordance with the manufacturer’s specifications~~manufacturers written instructions~~; and
- (d) the height of the fence to be 1 800 millimetres~~1800mm~~ except with respect to the front setback~~set-back~~ area — for which there is no minimum height but which is subject to clause 7.

3. Brick, stone or concrete fence

C. A fence constructed of brick, stone or concrete, which satisfies the following requirements and specifications—

(a) a site classification is to be provided by a suitably qualified engineer in accordance with AS 2870:2011 Residential slabs and

(a) ~~—~~footings as amended from time to time;

(b) ~~the footing is to be designed in accordance with AS 2870:2011 Residential slabs and~~ footings as amended from time to time;

(c) ~~footings having a of~~ minimum of 225 millimetres~~225mm~~ x 150 millimetres~~150mm~~ concrete 15MPa or 300 millimetres~~300mm~~ x 175 millimetres~~175mm~~ — brick laid in cement mortar;

(d) ~~b~~ fences to be offset a minimum of 200 millimetres~~200mm~~ at maximum 3 000 millimetres~~3000mm~~ centres or 225 millimetres~~225mm~~ x 100 millimetres~~100mm~~ engaged piers to be provided at maximum 3 000 millimetres~~3000mm~~ centres;

(e) ~~e~~ expansion joints in accordance with the manufacturer’s specifications~~written instructions~~; and

(f) ~~d~~ the height of the fence to be 1 800 millimetres~~1800mm~~ except with respect to the front setback~~set-back~~ area — for which there is no minimum height but which is subject to clause 7.

D. ~~A composite fence having a minimum overall height of 1800mm except with respect to the front set-back area for which there is no minimum height but which is subject to~~ — clause 2.2.

4. Composite fence

A composite fence~~7~~, which satisfies the following specifications for the brick construction—

(1) (a) brick piers shall have a of minimum of 345 millimetres~~345mm~~ x 345 millimetres~~345mm~~ at 1 800 millimetres~~1800mm~~ centres bonded to a minimum height base wall of 514 millimetres~~514mm~~;

(b) each brick pier shall be reinforced with one R10 galvanised starting rod 1 500 millimetres~~1500mm~~ high — with a 250 millimetres~~250mm~~ horizontal leg bedded into a 500 millimetres~~500mm~~ x 200 millimetres~~200mm~~ concrete footing and — set 65 millimetres~~65mm~~ above the base of the footing. The top of the footing shall be 1 course (85 millimetres~~85mm~~) below ground level;

(c) the minimum ultimate strength of brickwork shall be 20MPa. Mortar shall be a — mix of 1 part cement, 1 part lime and 6 parts sand;

(d) the ground under the footings is to be compacted to 6 blows per 300 millimetres~~300mm~~ and — checked with a standard falling weight penetrometer; and

(e) control joints in brickwork shall be provided with double piers at a maximum of 6 — metre centres; ~~or~~

_____ or _____

- (2) (a) brick piers of a minimum ~~345 millimetres~~~~345mm~~ x ~~345 millimetres~~~~345mm~~ x ~~2 700 millimetres~~~~2700mm~~ centres bonded to the base wall ~~—~~ ~~at~~; and
- (b) each pier shall be reinforced with ~~two~~ R10 galvanised starting rods as previously specified.;

Clause 6(2)(b)

Second Schedule

SPECIFICATIONS FOR A SUFFICIENT FENCE ON A COMMERCIAL LOT AND AN INDUSTRIAL LOT

~~Each of the~~ **3 - Specifications for a** following is a “sufficient fence” on a Commercial Lot ~~and~~ an Industrial Lot—

[clause 2.1(2)(b)]

~~A.~~

~~Each of the~~ identified categories in this Schedule, with minimum and maximum specifications where stated, is a sufficient fence on a commercial lot or an industrial lot and the fence design being certified by a suitably qualified structural engineer as being suitable for wind loadings found in Region D Category 2 areas in accordance with the current edition of AS/NZS 1170:2011 as amended from time to time.

1. Galvanised or PVC fence and gate

A fence constructed of galvanised or PVC coated ~~non-rail-less~~ link mesh, chain mesh or ~~—~~ steel mesh which satisfies the following specifications—

- (a) corner posts to be a minimum of ~~50 millimetres nominal~~~~50mm normal~~ bore x ~~3.5 millimetres~~~~5mm~~ and with footings of a ~~225 millimetres~~~~225mm~~ diameter x ~~900 millimetres~~~~900mm~~;
- (b) intermediate posts to be minimum ~~37 millimetres~~~~37mm~~ nominal bore x ~~3.15 millimetres~~~~15mm~~ at maximum ~~3.5 metre~~~~5m~~ centres and with footings of a ~~225 millimetres~~~~225mm~~ diameter x ~~600 millimetres~~~~600mm~~;
- (c) struts to be minimum ~~30 millimetres~~~~30mm~~ nominal bore x ~~3.15 millimetres~~~~15mm~~ fitted at each gate and ~~two~~ at each corner post and with footings ~~225 millimetres x 600 millimetres~~~~225mm x 600mm~~;
- (d) cables to be affixed to the top, centre and bottom of all posts and to consist of ~~two~~ ~~—~~ or more ~~3.15 millimetres~~~~15mm~~ wires twisted together or single ~~4 millimetres~~~~4mm~~ wire;
- (e) ~~non-rail-less~~ link, chain or steel mesh is to be to a height of ~~2 000 millimetres~~~~2000mm~~ on top of which ~~—~~ are to be ~~three~~ strands of barbed wire carrying the fence to a height of ~~2 400 millimetres~~~~2400mm~~ in accordance with ~~the requirements and standard~~~~clause 12(3) of the district planning schemes~~~~these Local Laws~~; and
- (f) galvanised link mesh wire to be ~~2 000 millimetres~~~~2000mm~~ in height and constructed of ~~50 millimetres~~~~50mm~~ mesh ~~2.5 millimetres~~~~5mm~~ galvanised iron wire and to be strained, neatly secured and laced to ~~—~~ the posts and affixed to cables. Vehicle entry gates shall provide an opening of not ~~less than 3.6 metres~~~~6m~~ and shall be constructed of ~~25 millimetres~~~~25mm~~ tubular framework with ~~one~~ horizontal and ~~one~~ vertical stay constructed of ~~20 millimetres~~~~20mm~~ piping and shall be covered ~~—~~ with ~~50 millimetres~~~~50mm~~ x ~~2.5 millimetres~~~~5mm~~ galvanised link mesh strained to framework. Gates shall be ~~fixed~~ with a drop bolt and locking attachment.

2. Other fences

~~(a) B.~~ A fence of ~~fibre reinforced~~ cement sheet or steel sheeting constructed to the minimum ~~—~~ specifications referred to in ~~Item B of the First Schedule~~ ~~2~~:-

(b)

~~C.~~ A fence constructed of aluminium sheeting when supported on posts and rails provided that it is used behind a building line and is of a minimum height of 1 800 millimetres~~1800mm~~ but no greater than 2 400 millimetres~~; or 2400mm~~.

(c) a fence

~~D.~~ Fences of timber, brick, stone or concrete constructed to the minimum specifications referred to in ~~the First Schedule~~.

Clause 6(2)(e)

Third Schedule 4 - Specifications for SPECIFICATIONS FOR A SUFFICIENT FENCE ON A RURAL LOT

~~(1) In the case of a non-electrified fence, a sufficient fence on a Rural Lot~~ Or special rural lot is a fence of posts and wire construction, the minimum specifications for which are -
[clause 2.1(2)(c)]

Each of the identified categories in this Schedule, with minimum and maximum specifications where stated is a sufficient fence on a rural lot or a special rural lot and the fence design being certified by a suitably qualified structural engineer as being suitable for wind loadings found in Region D Category 2 areas in accordance with the current edition of AS/NZS 1170:2011 as amended from time to time.

1. Non-electrified fence

(a)

~~(a)~~ wire shall be high tensile wire and not less than 2.5 millimetres~~5mm~~. A minimum of 5~~five~~ wires shall be used, generally with the lower wires spaced closer together than the higher wires so as to prevent smaller stock passing through, and connected to posts in all cases.

(b) posts shall be of indigenous timber or other suitable material including

- (i) timber impregnated with a termite and fungicidal preservative;
- (ii) standard iron star pickets; or
- (iii) concrete;

~~(c)~~ cut not less than 1 800 millimetres~~1800mm~~ long x 50 millimetres~~50mm~~ diameter at small end if round or 125 millimetres x 60 millimetres~~125mm x 60mm~~ if split or sawn; ~~Posts to be set minimum 600mm in the ground and 1200mm above the ground; and~~

~~(d)~~ posts to be set minimum 600 millimetres in the ground and 1 200 millimetres above the ground; and

~~(e)~~ strainer posts shall be not less than 2 250 millimetres~~2250mm~~ long and 150 millimetres~~50mm~~ diameter at the small end (tubular steel to be 50 millimetres~~50mm~~ in diameter) and shall be cut from indigenous timber or other suitable material. These shall be placed a minimum of 1 000 millimetres~~1000mm~~ in the ground.

2. Electrified fence

~~(2) An electrified fence having 4~~four wires ~~only~~ is a sufficient fence if constructed generally in accordance with a non-electrified fence~~(1)~~.

Schedule 5 - Specifications for a sufficient fence on a special residential lot

[clause 2.1(2)(d)]

A sufficient fence on a special residential lot is a fence of posts and wire construction, shall satisfy the following minimum specifications -

(a) wire shall be high tensile wire and not less than 2.5 millimetres. A minimum of 5

- wires shall be used, these to be spaced equally and threaded through 6 millimetres holes in posts to all fences;
- (b) posts shall be of indigenous timber or other suitable material including timber impregnated with a termite and fungicidal preservative cut not less than 1800 millimetres long x 100 millimetres diameter at small end if round or 125 millimetres x 60 millimetres if split or sawn. Posts to be set minimum 600 millimetres in the ground and 1200 millimetres above the ground spaced at 4000 millimetres maximum centres; and
- (c) strainer posts shall be not less than 2250 millimetres long and 150 millimetres diameter at the small end and shall be cut from indigenous timber or other suitable material. These shall be placed a minimum of 1000 millimetres in the ground and set at all corners, gateways and fence line angles but not exceeding 200 metres apart.
- (d) No boundary fence shall be constructed of the following materials—
- (i) fibro cement;
 - (ii) metal sheeting; or
 - (iii) wooden pickets.

Schedule 6 - Licence for approved electrified fence
[clause 2.11(1)(a)]

Form 1

Shire of Morawa

LICENCE TO HAVE AND USE AN ELECTRIFIED FENCE IN ACCORDANCE WITH AS/NZS 3016:1994

This is to certify that

(1) _____

of (2) _____

is licensed, subject to the conditions set out below, to have and use an electrified fence on

(address)

from _____ 20 _____ 2007 and until this licence is transferred or cancelled.

Dated this _____ day of _____ 20 _____ 2007

Chief Executive Officer
Shire of Morawa

Conditions of Licence—

~~This licence is issued upon and subject to the following conditions, namely that~~ the holder of the licence ~~must—shall:~~

(a) Display the licence in a prominent position on the land or premises on which the electrified fence has been erected;:-

(b) Upon the request of a Building Surveyor produce to him or her the licence;:-

(c) Within 14 days of a change in the ownership or occupation of the land or premises in respect of which the licence has been granted, notify the ~~CEO Chief Executive Officer~~ in writing of the details of that change or those changes;:-

(d) Obtain the written consent of the ~~authorised person Local Government~~ prior to the commencement of any alteration, addition or other work relating to or affecting the electrified fence; ~~and -~~

(e) Comply with ~~AS/NZS 3016:2002 as amended 1994.~~

~~Following erection of the fence, lodge with Western Power a certificate of installation from time to time a qualified electrician and comply with any requirements of Western Power regarding the erection of the fence.~~

Transfer by Endorsement

This licence is transferred to (3)

of (4)

of

from and including the date of this endorsement.

Dated this _____ day of _____

20 2007

Chief Executive Officer
Shire of Morawa

- (1) Name
- (2) Address
- (3) Name
- (4) Address

Dated this

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

K J CHAPPEL, SHIRE PRESIDENT

J ROBERTS, CHIEF EXECUTIVE OFFICER

WESTERN AUSTRALIA

LOCAL GOVERNMENT ACT 1995

SHIRE OF MORAWA
PARKING AND PARKING FACILITIES LOCAL LAW 2017

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WESTERN AUSTRALIA

LOCAL GOVERNMENT ACT 1995

SHIRE OF MORAWA
PARKING AND PARKING FACILITIES LOCAL LAW 2017

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Morawa resolved on insert date ~~the 15th day of March 2007~~ to make the following Local Law.

PART 1 - PRELIMINARY DEFINITION AND OPERATION

1.1 Citation and Commencement

~~1.1.1~~ This Local Law may be cited as the *Shire of Morawa ~~Morawa~~ Parking and Parking Facilities Local Law 2017*.

1.1.2 Commencement

This Local Law ~~comes~~will come into operation ~~14 days on the fourteenth day~~ after the date of publication in the Government Gazette.

~~1.3~~ Repeal day on which it is

The *Shire of Morawa Parking and Parking Facilities Local Law* as published in the *Government Gazette* on 23 June 2000 is repealed.

1.4 Interpretation

~~(1)~~—In this Local Law unless the context otherwise requires —
Act means the *Local Government Act 1995*;

authorised person

~~“Authorised Person”~~ means a person ~~appointed~~authorized by the local government under section 9.10 of the Act, to perform any of the functions of an ~~authorised~~Authorized Person under this Local Law;

authorised

~~“authorized vehicle”~~ means a vehicle authorised by the local government, ~~CEO~~Chief Executive Officer, Authorised Person or by any written law to park on a thoroughfare or parking facility;

~~*bicycle* has the meaning given”~~ means any wheeled vehicle that is designed to ~~it~~be propelled solely by ~~the Code~~human power;

built-up area

~~“bus”~~ means an omnibus as defined by the *Road Traffic Act*;

~~“bus embayment”~~ has the meaning given to it in the *Road Traffic Code 2000*;

bus has the meaning given to it by the Code;

bus embayment has the meaning given to it by the Code;

bus stop has the meaning given to it by the Code;

bus zone has the meaning given to it by the Code;

caravan means a vehicle that is fitted or designed to allow human habitation and which is drawn by another vehicle, or which is capable of self-propulsion;

carriageway has the meaning given to it by the Code;

centre

~~“carriageway” means a portion of thoroughfare that is improved, designed or ordinarily used for vehicles and includes the shoulders and areas including embayments at the side or centre of the carriageway, used for the parking of vehicles; and where a thoroughfare has two or more of those portions divided by a median strip, the expression means each of those portions, separately;~~

~~“centre” in relation to a carriageway, means a line or a series of lines, marks or other indications –~~

~~(a) _____ for a two-way carriageway – placed so as to delineate vehicular traffic travelling in different directions; or~~

~~placed at, or near, the middle of the carriageway or, in the absence of any such lines, marks or other indications –, the middle of the main, travelled portion of the carriageway;~~

children’s crossing has the meaning given to it ~~by~~ the Code;

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

~~“Code”~~ means the *Road Traffic Code 2000*;

~~“commercial vehicle”~~ means a motor vehicle constructed for the conveyance of goods or merchandise, or for the conveyance of materials used in any trade, business, industry or work whatsoever, other than a motor vehicle for the conveyance of passengers, and includes any motor vehicle that is designed primarily for the carriage of persons, but which has been fitted or adapted for the conveyance of the goods, merchandise or materials referred to, and is in fact used for that purpose;

disability parking permit means a current document issued by the National Disability Service (ACN 008 445 485), consisting of —

(a) an Australian Disability Parking Permit; and

(b) an ACROD Parking Program Card;

~~“district”~~ means the district of the local government;

~~“driver”~~ means any person driving or in control of a vehicle;

~~edge line for a carriageway means a line marked along the carriageway at or near the far left or the far right of the carriageway;~~

~~“emergency vehicle”~~ has the meaning given to it ~~by~~ the Code;

~~“footpath has”~~ includes every footpath, pedestrian access way or other place—

~~(a) —intended for the meaning given to it by use of pedestrians only, or in the Code; ease of a dual use path, for the — use of pedestrians and bicyclists only; or~~

GVM (which stands for gross vehicle mass) has the meaning given to it by the Code;

kerb means any structure, mark, marking or device to delineate or indicate the edge of a carriageway;

loading zone has the meaning given to it by the Code;

(b) ~~habitually used by pedestrians and not by vehicles or, in the case of a dual use — path, by pedestrians and bicyclists and not by vehicles other than bicycles;~~

~~“Loading Zone” means a parking stall which is set aside for use by commercial vehicles if there is a sign referable to that stall marked “Loading Zone”;~~

~~“local government” means the Shire of Morawa~~Morawa;

mail zone has the meaning given to it by the Code;

~~“median strip”~~ has the meaning given to it ~~by~~in the Code;

~~“motorcycle” means a motor vehicle that has~~ the meaning given to it by the Code~~two wheels or, where a sidecar is attached, three wheels;~~

~~“motor vehicle”~~ means a self-propelled vehicle that is not operated on rails; and the expression includes a trailer, semi-trailer or caravan while attached to a motor vehicle, but does not include a power assisted pedal cycle;

~~“no parking area~~ has the meaning given to it by the Code;

no parking sign ~~” means a sign~~portion of a carriageway that lie

~~(a) between two consecutive signs inscribed with the words “No Parking” in red letters on a white background, or the letter “P” within a red annulus and a red diagonal line across it on a white background;~~

no stopping area has the meaning given to it by the Code;

no stopping sign means a sign with the words “no stopping” or “no standing” in red letters on a white background or the letter “S” within a red annulus and a red diagonal line across it on a white background;~~an equivalent symbol depicting this purpose and each with an arrow pointing generally towards the other of them; or~~

(b) ~~between a sign inscribed with the words “No Parking” or with an equivalent symbol depicting this purpose, and the end of the carriageway or an area in which parking is prohibited and that lies in the general direction indicated by an arrow inscribed on the sign;~~

~~“occupier”~~ has the meaning given to it ~~by~~in the Act;

~~“owner~~ -

(a) ~~_____” where used in relation to a vehicle licensed under, means a person who is the registered holder of the requisite vehicle licence under the Road Traffic Act, means the person in whose name in respect of that vehicle, or if the vehicle has been registered is not licensed under that Road Traffic Act;~~

(b) ~~_____ where used in relation to any other vehicle, means, the person who owns, the vehicle or is entitled to its possession of, that vehicle; and~~

~~-~~where used in relation to land, has the meaning given to it by the Act;

~~“park,”~~ in relation to a vehicle, means to permit a vehicle, whether ~~attended~~occupied or not by any person, to remain stationary ~~for any period of time~~ except for the purpose of ~~--~~

- (a) ~~—avoiding conflict with other traffic; or~~
- (b) ~~—complying with the provisions of any law; or when the vehicle is being driven;~~
- (c) ~~_____ taking up or setting down persons or goods for a period not exceeding 2 minutes;~~

~~“**parking area** has the meaning given to it by the Code;” means a portion of a carriageway—~~

- (a) ~~—between two consecutive signs inscribed with the word “Parking” or with an equivalent symbol depicting this purpose and each with an arrow pointing generally towards the other of them; or~~
- (b) ~~—extending from a sign inscribed with the word “Parking” or with an equivalent symbol depicting this purpose in the general direction indicated by the arrow inscribed on the sign, to any other sign inscribed with the words “No Parking” or with an equivalent symbol depicting this purpose, or to the end of the carriageway or an area in which the parking of vehicles is prohibited, and is on that side of the carriageway of the thoroughfare nearest the sign;~~

~~“**parking facilities**” includes land, buildings, shelters, parking stalls and other facilities open to the public generally for the parking of vehicles; and signs, notices and facilities used in connection with the parking of vehicles;~~

~~“**parking region**” means the area described in ~~the First~~ Schedule 1;~~

~~“**parking stall**” means a section or part of a thoroughfare or of a parking station which is marked or defined by painted lines, metallic studs, coloured bricks or pavers or similar devices for the purpose of indicating where a vehicle may be parked;~~

~~“**parking station**” means any land; or structure provided for the purpose of accommodating vehicles;~~

~~“**pedestrian crossing**” has the meaning given to it ~~by~~ the Code;~~

~~“**public place**” means any place to which the public has access, whether or not that place is on private property;~~

~~“**reserve**” means any land -~~

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

~~“**Road Traffic Act**” means the *Road Traffic Act 1974*;~~

~~“**Schedule**” means a Schedule to this Local Law;~~

~~shared zone has the meaning given to it by the Code;~~

~~“**sign**” includes a traffic sign, inscription, road marking, mark, structure or device approved by the local government on which may be shown words, numbers, expressions or symbols, and which is placed on or near a thoroughfare or within a parking station or reserve for the purpose of prohibiting, regulating, guiding, directing or restricting the parking of vehicles;~~

~~special purpose vehicle has the meaning given to it by the Code;~~

stop in relation to a vehicle means to stop a vehicle and permit it to remain stationary, except for the purposes of avoiding conflict with other traffic or of complying with the provisions of any law;

~~“special purpose vehicle” means a public utility service truck, a tow truck, a vehicle being used for official duties by a member of the Police Service, a motor breakdown service vehicle or a vehicle being used by a government authority or a local government in connection with its functions, but does not include an emergency vehicle;~~

~~“symbol” includes any symbol specified by Australian Standard 1742.11 1989 and any symbol specified from time to time by the Code Standards Australia for use in the regulation of parking and any reference to the wording of any sign in this Local Law shall be also deemed to include a reference to the corresponding symbol;~~

~~“taxi means a taxi within” has the same meaning of the Taxi Act 1994 or a as “taxi-car” in section 47Z of the Transport Co-ordination Act 1966;~~

taxi zone has the meaning given to it by the Code;

~~“thoroughfare” has the meaning given to it by in the Act;~~

traffic island has the meaning given to it by the Code;

~~“trailer” means any vehicle without motive power of its own, designed for attachment to a motor vehicle for the purpose of being towed, but does not include the rear portion of an articulated vehicle, or a side car;~~

vehicle has the meaning given to it by the Code; and

~~“vehicle” includes every conveyance not being a train, vessel or aircraft, and every object capable of being propelled or drawn on wheels by any means; and~~

~~“verge” means the portion of a thoroughfare which lies between the boundary of a carriageway and the adjacent property line but does not include a footpath.~~

1.5 Application of particular definitions

~~(2)~~—For the purposes of the application of the definitions “no parking area” and “parking area” an arrow inscribed on a traffic sign erected at an angle to the boundary of the carriageway is deemed to be pointing in the direction in which it would point, if the signs were turned at an angle of less than 90 degrees until parallel with the boundary.

~~(3)~~—Unless the context otherwise requires, where a term is used, but not defined, in this Local Law, and that term is defined in the Road Traffic Act or in the Code, then the term shall have the meaning given to it in that Act or the Code.

1.63 Application and pre-existing signs

~~(1)~~—Subject to subclause ~~(2),(2)~~, this Local Law applies to the parking region.

~~(2)~~—This Local Law does not apply to a parking facility or a parking station that is not occupied by the local government, unless the local government and the owner or occupier of that facility or station have agreed in writing that this Local Law will apply to that facility or station.

~~(3)~~—The agreement referred to in subclause ~~(2)(2)~~ may be made on such terms and conditions as the parties may agree.

~~(4) Where a parking facility or a parking station is identified in the Fourth Schedule, then the facility or station shall be deemed to be a parking station to which this Local law applies and it shall not be necessary to prove that it is the subject of an agreement referred to in subclause (2).~~

~~(5) A sign that --~~

- ~~(a) was erected by the local government or the Commissioner of Main Roads prior to the coming into operation of this Local Law; and~~
- ~~(b) relates to the parking of vehicles within the parking region, shall be deemed for the purposes of this Local Law to have been erected by the local government under the authority of this Local Law.~~

~~(6) An inscription or symbol on a sign referred to in subclause (5)(5) operates and has effect according to its tenor, and where the inscription or symbol relates to the stoppingstanding of vehicles, it shall be deemed for the purposes of this Local Law to operate and have effect as if it related to the parking of vehicles.~~

~~(1) The provisions of Parts 2, 3, and 4 do not apply to a bicycle parked at a bicycle rail or bicycle rack.~~

1.74 Classes of vehicles

For the purpose of this Local Law, vehicles are divided into classes as follows --

- ~~(a) buses;~~
- ~~(b) commercial vehicles;~~
- ~~(c) motorcycles and bicycles;~~
- ~~(d) taxis; and~~
- ~~(e) all other vehicles.~~

1.85 Part of thoroughfare to which sign applies

Where under this Local Law the parking of vehicles in a thoroughfare is controlled by a sign, the sign shall be read as applying to that part of the thoroughfare which --

- ~~(a) lies beyond the sign;~~
- ~~(b) lies between the sign and the next sign beyond that sign; and~~
- ~~(c) is on that side of the thoroughfare nearest to the sign.~~

1.9 Powers of the local government

~~The local government may, by resolution, prohibit or regulate by signs or otherwise, the stopping or parking of any vehicle or any class of vehicles in any part of the parking region but must do so consistently with the provisions of this local law.~~

PART 2 -- PARKING STALLS AND PARKING STATIONS

2.1 Determination of parking stalls and parking stations

~~(1)~~

~~The local government may by resolution constitute, determine and vary -- and also indicate by signs --~~

- ~~(a) parking stalls;~~
- ~~(b) parking stations;~~
- ~~(c) permitted time and conditions of parking in parking stalls and parking stations which may vary with the locality;~~

- (d) ~~permitted classes of vehicles which may park in parking stalls and parking stations;~~
 - (e) ~~permitted classes of persons who may park in specified parking stalls or parking stations;~~
and
 - (f) ~~the manner of parking in parking stalls and parking stations.~~
- (2) Where the local government makes a determination under subclause (1) it shall erect signs to give effect to the determination.

2.2 Vehicles to be within parking stall on thoroughfare

- (1) Subject to subclause (2), ~~(3) and (4),~~ a person shall not park a vehicle in a parking stall in a ~~thoroughfare otherwise than --~~
- (a) parallel to and as close to the kerb as is practicable;
 - ~~(b) wholly within the stall; and~~
 - ~~(c) headed in the direction of the movement of traffic on the side of the thoroughfare in which the stall is situated.~~

- (2) Subject to subclause (3), Where a parking stall in a thoroughfare is set out otherwise than parallel to the kerb, then a person must park a vehicle in that stall wholly within it.

If a vehicle is too long or too wide

~~2.3 Vehicles to fit completely be within a single parking stall then the person in parking the vehicle station~~

~~Unless otherwise directed by an Authorised Person, a person shall do so within the minimum number of not park a vehicle in a parking stalls needed to park that vehicle station otherwise than wholly within a parking stall.~~

A person shall not park a vehicle partly within and partly outside a parking area.

2.34 Parking prohibitions and restrictions

- (1) A person shall not ~~--~~
- ~~(a) park a vehicle so as to obstruct an entrance to, or an exit from a parking station, or an access way within a parking station;~~
 - ~~(b) except with the permission of the local government or an Authorised Person park a vehicle on any part of a parking station contrary to a sign referable to that part;~~
 - ~~(c) permit a vehicle to park on any part of a parking station, if an ~~authorised~~ Authorized Person directs the driver of such vehicle to move the vehicle; or~~
 - ~~(d) park or attempt to park a vehicle in a parking stall in which another vehicle is parked, but this paragraph does not prevent the parking of a motorcycle and a bicycle together in a stall marked "M/C", if the bicycle is parked in accordance with subclause (2).~~
- (2) No person shall park any bicycle ~~--~~
- (a) in a parking stall other than in a stall marked "M/C"; and
 - ~~(b) in such stall other than against the kerb.~~

~~PART 3 PARKING GENERALLY~~

- (3) Notwithstanding the provisions of subclause (1)(b) a driver may park a vehicle in a permissive parking stall or station (except in a permit parking area) for twice the length of time allowed, provided that --

(a) the driver's vehicle displays a disability parking permit; and

(b) a person with a disability to which that disability parking permit relates is either the driver of or a passenger in the vehicle.

PART 3 - PARKING GENERALLY

3.1 — Prohibition and regulation of parking by signs

~~The local government may by resolution prohibit or regulate by signs or otherwise the parking of any vehicle or class of vehicles in any part of the parking region but must do so consistently with the provisions of this Local Law.~~

3.12 Restrictions on parking in particular areas

(1) Subject to subclause (2), A person shall not park a vehicle in a thoroughfare or part of a thoroughfare, or part of a parking station —

- (a) if by a sign it is set apart for the parking of vehicles of a different class;
- (b) if by a sign it is set apart for the parking of vehicles by persons of a different class; or
- _____ (c) during any period when the parking of vehicles is prohibited by a sign.

(2) (a) This subclause applies to a driver if —

(i) the driver's vehicle displays a disability parking permit; and

(ii) a person with a disability to which the disability parking permit relates is either the driver of the vehicle or a passenger in the vehicle.

(b) The driver may park a vehicle in a thoroughfare or a part of a thoroughfare or part of a parking station, except in a thoroughfare or a part of a thoroughfare or part of a parking station to which a disabled parking sign relates for twice the period indicated on the sign.

_____ (3) A person shall not park a vehicle -

- (a) in a no parking area;
- _____ (b) in a parking area, except in accordance with both the signs associated with the parking area and with this Local Law; or
- _____ (c) in a stall marked “M/C” unless it is a motorcycle without a sidecar or a trailer, or it is a bicycle.

~~(4)~~

~~(3) A person shall not park a motorcycle without a sidecar or a trailer, or a bicycle in a parking stall unless the stall is marked “M/C”.~~

~~(4) A person shall not, without the prior permission of the local government, the CEO, or an Authorised Person, park a vehicle in an area designated by a sign stating “Authorised Vehicles Only”.~~

~~(5) In a Loading Zone, a person shall not —~~

- ~~(a) park a vehicle other than a commercial vehicle which is being loaded or unloaded with goods; or~~
- ~~(b) park a commercial vehicle which is being loaded or unloaded with goods for more than 30 minutes.~~

~~(6) In paragraph (b) of subelause (5) “goods” means an article or collection of articles weighing at least 13.6kg and of which the cubic measurement is not less than 0.17m³.~~

3.23 Parking vehicle on a carriageway

A person parking a vehicle on a carriageway other than in a parking stall shall park it --

- (a) in the case of a two-way carriageway, so that it is as near as practicable to and parallel with, the left boundary of the carriageway and headed in the direction of the movement of traffic on the side of the thoroughfare on which the vehicle is parked;
- (b) in the case of a one-way carriageway, so that it is as near as practicable to and parallel with either boundary of the carriageway and headed in the direction of the movement of traffic on the side of the thoroughfare on which the vehicle is parked;
- (c) so that at least 3 metres of the width of the carriageway lies between the vehicle and the farther boundary of the carriageway, or any continuous line or median strip, or between the vehicle and a vehicle parked on the farther side of the carriageway;
- (d) so that the front and the rear of the vehicle respectively is not less than 1 metre-2 metres from any other vehicle, except a motorcycle without a trailer, or a bicycle parked in accordance with this Local Law; and
- (e) so that it does not obstruct any vehicle on the carriageway; and
- ~~(f) so that it is entirely within the confines of any parking stall marked on the carriageway.~~

3.4 — Vehicle to be wholly within parking area

~~A person shall not park a vehicle partly within and partly outside a parking area~~

unless otherwise indicated on a parking regulation sign or markings on the roadway.

(2) In this clause, *continuous dividing line* means –

- (a) a single continuous dividing line only;
- (b) a single continuous dividing line to the left or right of a broken dividing line; or
- (c) 2 parallel continuous dividing lines.

3.

3.5 When parallel and right-angled parking apply

Where a traffic sign associated with a parking area is not inscribed with the words “angle parking” ” (or with an equivalent symbol depicting this purpose); then unless a sign associated with the parking area indicates, or marks on the carriageway indicate, that vehicles have to park in a different position, where the parking area is -

- ~~(a)~~ adjacent to the boundary of a carriageway, a person parking a vehicle in the parking area shall park it as near as practicable to and parallel with that boundary; and
- ~~(b)~~ at or near the centre of the carriageway, a person parking a vehicle in that parking area shall park it at approximately right angles to the centre of the carriageway.

3.46 When angle parking applies

~~(1)~~ This clause does not apply to -

- (a) a passenger vehicle or a commercial vehicle with a mass including any load, of over 3 tonnes; or
- (b) a person parking either a motorcycle ~~motor cycle~~ without a trailer or a bicycle.

~~(2)~~ Where a sign associated with a parking area is inscribed with the words “angle parking” (or with an equivalent symbol depicting this purpose), a person parking a vehicle in the area shall park

the vehicle at an angle of approximately 45 degrees to the centre of the carriageway unless otherwise indicated by the inscription on the parking sign or by marks on the carriageway.

3.57 General prohibitions on parking

(1) ~~(a)~~ This clause does not apply to a vehicle parked in a ~~metered space or a parking~~ ~~stall~~ nor to a bicycle in a bicycle rack; ~~or~~
(2) ~~Subclauses (2)(Paragraphs~~ (c), (e) and (g) ~~of subclause (2)~~ do not apply to a vehicle which parks ~~in a bus embayment.~~

(3) Subject to any law relating to intersections with traffic control signals

~~(2)~~ A person shall not park a vehicle so that any portion of the vehicle is ~~in~~ -

(a) between any other stationary vehicles and the centre of the carriageway;

~~(b)~~ on or adjacent to a median strip;

~~(c)~~ obstructing a right of way, private drive or carriageway or so close as to deny a vehicle reasonable access to or egress from the right of way, private drive or carriageway;

~~(d)~~ alongside or opposite any excavation, works, hoarding, scaffolding or obstruction on the carriageway, if the vehicle would obstruct traffic;

~~(e)~~ on or within ~~109~~ metres of any portion of a carriageway bounded by a traffic island;

~~(f)~~ on any footpath or pedestrian crossing;

~~(g)~~ ~~on a bridge or other elevated structure or within a tunnel or underpass;~~

~~(h)~~ between the boundaries of a carriageway and any double longitudinal line consisting of ~~two~~ continuous lines or between a double longitudinal line consisting of a continuous line and a broken or dotted line and the boundary of a carriageway nearer to the continuous line, unless there is a distance of at least 3 metres clear between the vehicle and the double longitudinal line;

~~(i)~~ on an intersection, except adjacent to a carriageway boundary that is not broken by an intersecting carriageway;

~~(j)~~ within 1 metre of a fire hydrant or fire plug, or of any sign or mark indicating the existence of a fire hydrant or fire plug;

~~(k)~~ within 3 metres of a public letter ~~pillar~~ box, unless the vehicle is being used for the purposes of collecting postal articles from the ~~letterpillar~~ box; or

~~(l)~~ within ~~106~~ metres of the nearer property line of any thoroughfare intersecting the thoroughfare on the side on which the vehicle is parked;:-

~~(3)~~ A person shall not park a vehicle so that any portion of the vehicle is within ~~9~~ metres of the ~~departure side of~~ -

~~(a)~~ ~~a sign inscribed with the words "Bus Stop" or "Hail Bus Here" (or with equivalent symbols depicting these purposes) unless the vehicle is a bus stopped to take up or set down passengers;~~ unless a sign or markings on the carriageway indicate otherwise.

~~(b)~~ ~~a children's crossing established on a two-way carriageway; or~~

~~(c)~~ ~~the nearest rail of a railway level crossing.~~

(4) A person shall not park a vehicle so that any portion of the vehicle is within ~~1048~~ metres of the ~~departure~~ approach side of ~~in~~ -

(a) a sign inscribed with the words "Bus Stop" or "Hail Bus Here" (or with equivalent symbols depicting these purposes) unless the vehicle is a bus stopped to take up or set down passengers; or

(b) a children's crossing or pedestrian crossing ~~or children's crossing; or~~

~~(5)~~ A person shall ~~(e)~~ ~~the nearest rail of a railway level crossing.~~

3.8 — Parking on verges

~~(1) This clause does not apply to a commercial vehicle so that any when it is being loaded or unloaded with reasonable expedition with goods, merchandise or materials, collected from or delivered to the premises adjacent to the portion of the vehicle is within 20 metres of the approach side of – verge on which the commercial vehicle is parked, but the commercial vehicle, by parking on the verge must not obstruct the passage of any vehicle or person.~~

~~(2)(a) a sign inscribed with the words “Bus Stop” or “Hail Bus Here” (or with equivalent symbols depicting these purposes) unless the vehicle is a bus stopped to take up or set down passengers; or~~

~~(b) a children’s crossing or pedestrian crossing.~~

~~(6) A person shall not park a -~~

~~(a) commercial vehicle or bus so that any portion of it is on the verge; or~~

~~(b) vehicle so that any portion of the vehicle is within 20 metres of either the approach side or the departure side of the nearest rail of a railway level crossing that vehicle is on a verge during any period when the parking of vehicles on that verge is prohibited by a sign adjacent and referable to that verge.~~

~~(3) Subject to subclause (2), a person shall not park a vehicle if any portion of the vehicle is on the verge unless he or she is the owner or occupier of the premises adjacent to that verge, or is a person authorised by the occupier of those premises to do so.~~

3.9 — Limitation on parking of vehicles with tare in excess of 2,000 kgs on carriageway

~~park a vehicle having a tare in excess of 2,000 kgs on a carriageway for more than two hours consecutively.~~

3.10 — Limitation on parking of over length vehicles on carriageway

~~3.6 park a vehicle or any combination of vehicles that together with anything in or on that vehicle is more than 8 metres in length, on a carriageway for more than two hours consecutively.~~

3.11 Authorised person may order vehicle on thoroughfare to be moved

The driver of a vehicle shall not park that vehicle on any part of a thoroughfare in contravention of this Local Law after an Authorised Person has directed the driver to move it.

3.12 Authorised person may mark tyres

~~(1) An Authorised Person may mark the tyres of a vehicle parked in a parking facility with chalk or any other non-indelible substance for a purpose connected with or arising out of his or her duties or powers.~~

~~(2) A person shall not remove a mark made by an Authorised Person so that the purpose of the affixing of such a mark is defeated or likely to be defeated.~~

3.13 No movement of vehicles to avoid time limitation

~~(1) Where the parking of vehicles in a parking facility is permitted for a limited time, a person shall not move a vehicle within the parking facility so that the total time of parking exceeds the maximum time allowed for parking in the parking facility.~~

~~(2)~~—Where the parking of vehicles in a thoroughfare is permitted for a limited time, a person shall not move a vehicle along that thoroughfare so that the total time of parking exceeds the maximum time permitted, unless the vehicle has first been removed from the thoroughfare for at least ~~2two~~ hours.

3.914 No parking of vehicles exposed for sale and in other circumstances

A person shall not park a vehicle on any portion of a thoroughfare ~~--~~

- ~~(a)~~—for the purpose of exposing it for sale;
- ~~(b)~~—if that vehicle is not licensed under the Road Traffic Act;
- ~~(c)~~—if that vehicle is a trailer or a caravan unattached to a motor vehicle; ~~or~~
- ~~(d)~~—for the purpose of effecting repairs to it, other than the minimum repairs necessary to enable the vehicle to be moved to a place other than a thoroughfare.

3.1015 Parking on private land

~~(1)~~—In this clause a reference to “land” does not include land ~~--~~

- (a) which belongs to the local government;
- ~~_____~~ (b) of which the local government is the management body under the *Land Administration Act 1997*;
- ~~(c)~~ which is an “otherwise unvested facility” within section 3.53 of the Act;
- ~~(d)~~ which is the subject of an agreement referred to in clause 1.54(2); or
- ~~(e)~~ which is identified in ~~the Fourth~~ Schedule 4.

~~_____~~ (2) A person shall not park a vehicle on land without the consent of the owner or occupier of the land on which the vehicle is parked.

~~_____~~ (3) Where the owner or occupier of the land, by a sign referable to that land or otherwise, consents to the parking of vehicles of a specified class or classes on the land for a limited period, a person shall not park a vehicle on the land otherwise than in accordance with the consent.

3.1116 Parking on reserves

No person other than an employee of the local government in the course of his or her duties or a person authorised by the local government shall drive or park a vehicle upon or over any portion of a reserve other than upon an area specifically set aside for that purpose.

3.1217 Suspension of parking limitations for urgent, essential or official duties

~~(1)~~—Where by a sign the parking of vehicles is permitted for a limited time on a portion of a thoroughfare or parking facility, the local government, the CEO or an Authorised Person may, subject to the Code, permit a person to park a vehicle in that portion of the thoroughfare or parking facility for longer than the permitted time in order that the person may carry out urgent, essential or official duties.

~~(2)~~—Where permission is granted under subclause ~~(1),(1)~~, the local government, the CEO or an ~~_____~~ Authorised Person may prohibit the use by any other vehicle of that portion of the ~~_____~~ thoroughfare or parking facility to which the permission relates, for the duration of that ~~_____~~ permission.

PART 4 – PARKING AND STOPPING GENERALLY

4.1 No stopping and no parking signs, and yellow edge lines

- (1) A driver shall not stop on a length of carriageway, or in an area, to which a “no stopping” sign applies.
- (2) A driver shall not stop on a length of carriageway or in an area to which a “no parking” sign applies, unless the driver is –
 - (a) dropping off, or picking up, passengers or goods;
 - (b) does not leave the vehicle unattended; and
 - (c) completes the dropping off, or picking up, of the passengers or goods within 2 minutes of stopping and drives on.

unattended, in relation to a vehicle, means that the driver has left the vehicle so that the driver is more than 3 metres from the closest point of the vehicle.

- (1) A driver shall not stop at the side of a carriageway marked with a continuous yellow edge line.

PART 5 – STOPPING IN ZONES FOR PARTICULAR VEHICLES

5.1 Stopping in a loading zone

A person shall not stop a vehicle in a loading zone unless it is -

- (a) a motor vehicle used for commercial or trade purposes engaged in the picking up or setting down of goods; or
- (b) a motor vehicle taking up or setting down passengers,
but, in any event, shall not remain in that loading zone -
- (c) for longer than a time indicated on the “loading zone” sign; or
- (d) longer than 30 minutes, if no time is indicated on the sign.

5.2 Stopping in a taxi zone or a bus zone

- (1) A driver shall not stop in a taxi zone, unless the driver is driving a taxi.
- (2) A driver shall not stop in a bus zone unless the driver is driving a public bus, or a bus of a type that is permitted to stop at the bus zone by information on or with the “bus zone” sign applying to the bus zone.

5.3 Stopping in a mail zone

A person shall not stop a vehicle in a mail zone.

5.4 Other limitations in zones

A person shall not stop a vehicle in a zone to which a traffic sign applies if stopping the vehicle would be contrary to any limitation in respect to classes of persons or vehicles, or specific activities allowed, as indicated by additional words on a traffic sign that applies to the zone.

PART 6 – OTHER PLACES WHERE STOPPING IS RESTRICTED

6.1 Stopping in a shared zone

A driver shall not stop in a shared zone unless –

- (a) the driver stops at a place on a length of carriageway, or in an area, to which a parking control sign applies and the driver is permitted to stop at that place under this local law;
- (b) the driver stops in a parking bay and the driver is permitted to stop in the parking bay under this local law;
- (c) the driver is dropping off, or picking up, passengers or goods; or
- (d) the driver is engaged in door-to-door delivery or collection of goods, or in the collection of waste or garbage.

6.2 Double parking

- (1) A driver shall not stop a vehicle so that any portion of the vehicle is between any other stopped vehicle and the centre of the carriageway.
- (2) This clause does not apply to –
 - (a) a driver stopped in traffic; or
 - (b) a driver angle parking on the side of the carriageway or in a median strip parking area, in accordance with this local law.

6.3 Stopping near an obstruction

A driver shall not stop on a carriageway near an obstruction on the carriageway in a position that further obstructs traffic on the carriageway.

6.4 Stopping on a bridge or in a tunnel, etc.

- (1) A driver shall not stop a vehicle on a bridge, causeway, ramp or similar structure unless –
 - (a) the carriageway is at least as wide on the structure as it is on each of the approaches and a traffic sign does not prohibit stopping or parking; or
 - (b) the driver stops at a place on a length of carriageway, or in an area, to which a parking control sign applies and the driver is permitted to stop at that place under this local law.
- (2) A driver shall not stop a vehicle in a tunnel or underpass unless –
 - (a) the carriageway is at least as wide in the tunnel or underpass as it is on each of the approaches and a traffic sign does not prohibit stopping or parking; or
 - (b) the driver of a motor vehicle stops at a bus stop, or in a bus zone or parking area marked on the carriageway, for the purpose of setting down or taking up passengers.

6.5 Stopping on crests, curves, etc.

- (1) Subject to subclause (2), a driver shall not stop a vehicle on, or partly on, a carriageway, in any position where it is not visible to the driver of an overtaking vehicle, from a distance of 50 metres within a built-up area, and from a distance of 150 metres outside a built-up area.
- (2) A driver may stop on a crest or curve on a carriageway that is not in a built-up area if the driver stops at a place on the carriageway, or in an area, to which a parking control sign applies and the driver is permitted to stop at that place under this local law.

6.6 Stopping near a fire hydrant etc.

- (1) A driver shall not stop a vehicle so that any portion of the vehicle is within 1 metre of a fire hydrant or fire plug, or of any sign or mark indicating the existence of a fire hydrant or fire plug, unless –
 - (a) the driver is driving a public bus, and the driver stops in a bus zone or at a bus stop and does not leave the bus unattended; or
 - (b) the driver is driving a taxi, and the driver stops in a taxi zone and does not leave the taxi unattended.

unattended, in relation to a vehicle, means that the driver has left the vehicle so that the driver is over 3 metres from the closest point of the vehicle.

6.7 Stopping at or near a bus stop

- (1) A driver shall not stop a vehicle so that any portion of the vehicle is within 20 metres of the approach side of a bus stop, or within 10 metres of the departure side of a bus stop, unless –
 - (a) the vehicle is a public bus stopped to take up or set down passengers; or
 - (b) the driver stops at a place on a length of carriageway, or in an area, to which a parking control sign applies and the driver is permitted to stop at that place under this local law.
- (2) In this clause –
 - (a) distances are measured in the direction in which the driver is driving; and
 - (b) a trailer attached to a public bus is deemed to be a part of the public bus.

6.8 Stopping on a path, median strip, or traffic island

The driver of a vehicle (other than a bicycle or an animal) shall not stop so that any portion of the vehicle is on a path, traffic island or median strip, unless the driver stops in an area, to which a parking control sign applies and the driver is permitted to stop at that place under this local law.

6.9 Stopping on verge

- (1) A person shall not –
 - (a) stop a vehicle, other than a bicycle;

- (b) stop a commercial vehicle or bus, or a trailer or caravan unattached to a motor vehicle; or
- (c) stop a vehicle during any period when the stopping of vehicles on that verge is prohibited by a sign adjacent and referable to that verge,

so that any portion of it is on a verge.

- (2) Subclause (1)(a) does not apply to the person if he or she is the owner or occupier of the premises adjacent to that verge, or is a person authorised by the occupier of those premises to stop the vehicle so that any portion of it is on the verge.
- (3) Subclause (1)(b) does not apply to a commercial vehicle when it is being loaded or unloaded with reasonable expedition with goods, merchandise or materials collected from or delivered to the premises adjacent to the portion of the verge on which the commercial vehicle is parked, provided no obstruction is caused to the passage of any vehicle or person using a carriageway or a path.

6.10 Obstructing access to and from a path, driveway, etc.

- (1) A driver shall not stop a vehicle so that any portion of the vehicle is in front of a path, in a position that obstructs access by vehicles or pedestrians to or from that path, unless –
 - (a) the driver is dropping off, or picking up, passengers; or
 - (b) the driver stops in a parking stall and the driver is permitted to stop in the parking stall under this local law.
- (2) A driver shall not stop a vehicle on or across a driveway or other way of access for vehicles travelling to or from adjacent land, unless –
 - (a) the driver is dropping off, or picking up, passengers; or
 - (b) the driver stops in a parking stall and the driver is permitted to stop in the parking stall under this local law.

6.11 Stopping near a letter box

A driver shall not stop a vehicle so that any portion of the vehicle is within 3 metres of a public letter box, unless the driver –

- (a) is dropping off, or picking up, passengers or mail; or
- (b) stops at a place on a length of carriageway, or in an area, to which a parking control sign applies and the driver is permitted to stop at that place under this local law.

6.12 Stopping on a carriageway – heavy and long vehicles

- (1) A person shall not park a vehicle or any combination of vehicles that, together with any projection on, or load carried by, the vehicle or combination of vehicles, is 7.5 metres or more in length or exceeds a GVM of 4.5 tonnes –
 - (a) on a carriageway in a built-up area, for any period exceeding 1 hour, unless engaged in the picking up or setting down of goods; or
 - (b) on a carriageway outside a built-up area, except on the shoulder of the carriageway, or in a truck bay or other area set aside for the parking of goods vehicles.

(2) Nothing in this clause mitigates the limitations or condition imposed by any other clause or by any local law or traffic sign relating to the parking or stopping of vehicles.

6.13 Stopping on a carriageway with a bicycle parking sign

The driver of a vehicle, other than a bicycle, shall not stop on a length of carriageway to which a “bicycle parking” sign applies, unless the driver is dropping off, or picking up, passengers.

6.14 Stopping on a carriageway with motorcycle parking sign

The driver of a vehicle shall not stop on a length of carriageway, or in an area, to which a “motorcycle parking” sign applies, or an area marked “M/C” unless –

- (a) the vehicle is a motorcycle; or
- (b) the driver is dropping off, or picking up, passengers.

PART 7 - MISCELLANEOUS

7

4.1 Removal of notices on vehicle

A person, other than the driver of the vehicle or a person acting under the direction of the driver of the vehicle, shall not remove from the vehicle any notice put on the vehicle by an Authorised Person.

7

4.2 Unauthorised signs and defacing of signs

A person shall not without the authority of the local government –

- ~~(a)~~—mark, set up or exhibit a sign purporting to be or resembling a sign marked, set up or exhibited by the local government under this Local Law;
- ~~(b)~~—remove, deface or misuse a sign or property, set up or exhibited by the local government under this Local Law or attempt to do any such act; or
- ~~(c)~~—affix a board, sign, placard, notice or other thing to or paint or write upon any part of a sign set up or exhibited by the local government under this Local Law.

7

4.3 Signs must be complied with

An inscription or symbol on a sign operates and has effect according to its tenor and a person contravening the direction on a sign commits an offence under this Local Law.

7

4.4 General provisions about signs

~~(1)~~—A sign marked, erected, set up, established or displayed on or near a thoroughfare is, in the absence of evidence to the contrary, presumed to be a sign marked, erected, set up, established or displayed under the authority of this Local Law.

~~(2)~~—The first ~~3~~ letters of any day of the week when used on a sign indicate that day of the week.

7

4.5 Special purpose and emergency vehicles

Notwithstanding anything to the contrary in this Local Law, the driver of –

- ~~(a)~~—a special purpose vehicle may, only in the course of his or her duties and when it is expedient and safe to do so, stop, or park the vehicle in any place, at any time; and

- (b) — an emergency vehicle may, in the course of his or her duties and when it is expedient and safe to do so or where he or she honestly and reasonably believes that it is expedient and safe to do so, stop, or park the vehicle at any place, at any time.

7

4.6 Vehicles not to obstruct a public place

- (1) — A person shall not leave a vehicle, or any part of a vehicle, in a public place so that it obstructs the use of any part of that public place without the permission of the local government or unless authorised under any written law.
- (2) A person will not contravene subclause (1) where the vehicle is left for a period not exceeding 24 hours.

PART 8 - PENALTIES

8

5.1 Offences and penalties

- (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) — An offence against any provision of this Local Law is a prescribed offence for the purposes of section 9.16(1) of the Act.
- (3) Any person who commits an offence under this Local Law shall be liable, upon conviction, to a penalty not exceeding \$1,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$100 for each day or part of a day during which the offence has continued.
- (4) — The amount appearing in the final column of ~~the Second~~ Schedule 2 directly opposite a clause specified in that Schedule is the modified penalty for an offence against that clause.

8

5.2 ~~Averment on complaint as to clause 1.4 (2) agreement~~

~~An averment on a complaint that this Local Law applies to a parking facility or a parking station under an agreement referred to in clause 1.4 (2), shall be sufficient proof that this Local Law applies to that facility or station, unless there is proof to the contrary that such an agreement does not exist.~~

5.3 — Form of notices

For the purposes of this Local Law -

- (a) — the form of the notice referred to in section 9.13 of the Act is that of Form 1 in ~~the Third~~ Schedule 1 of the Local Government (Functions and General) Regulations 1996;
- (b) the form of the infringement notice referred to in section 9.17 of the Act is that of Form 2 in Schedule 1 of the Local Government (Functions and General) Regulations 1996; ~~and the Third Schedule~~;
- (c) the form of the infringement ~~withdrawal~~ notice referred to in section 9.17 of the Act which incorporates the notice referred to in section 9.13 of the Act, is that of Form 3 in ~~the Third~~ Schedule; ~~and~~
- (d) ~~the form of the~~ notice referred to in section 9.20 of the Act is that of Form 34 in ~~the Third~~ Schedule 1 of the Local Government (Functions and General) Regulations 1996.

First Schedule 1 - Parking region

[CI 1.6]

PARKING REGION

The parking region is the whole of the district, but excludes the following portions of the district -

- (a) the approach and departure prohibition areas of all existing and future traffic control signal installations as determined by the Commissioner of Main Roads;
- (b) prohibition areas applicable to all existing and future bridges and subways as determined by the Commissioner of Main Roads; and
- (c) any ~~road~~thoroughfare which comes under the control of the Commissioner of Main Roads unless the control of parking and parking facilities on that road is carried out subject to the control and direction of the Commissioner of Main Roads ~~or thoroughfare~~ has been delegated by the Commissioner ~~of Main Roads~~ to the local government.

Second Schedule 2 – Prescribed offences

PARKING-[CI 8.1]

AND PARKING FACILITIES LOCAL LAW

PRESCRIBED OFFENCES

Item No.	Clause No.	Nature of Offence	Modified Penalty \$
<u>1</u>	<u>2.2</u>	<u>Failure to park wholly within parking stall</u>	<u>40</u>
<u>2</u>	<u>2.2(4)</u>	<u>Failure to park wholly within parking area</u>	<u>40</u>
<u>34</u>	<u>2.34(1)(a)</u>	Causing obstruction in parking station	<u>5045</u>
<u>42</u>	<u>2.34(1)(b)</u>	Parking contrary to sign in parking station	<u>5045</u>
<u>53</u>	<u>2.34(1)(c)</u>	Parking contrary to directions of Authorised Person	<u>5045</u>
<u>6</u>	<u>2.3(1)(d)</u>	<u>Parking or attempting to park a vehicle in a parking stall occupied by another vehicle</u>	<u>40</u>
<u>74</u>	<u>3.2—(1)(a)</u>	Parking wrong class of vehicle	<u>4035</u>
<u>85</u>	<u>3.2—(1)(b)</u>	Parking by persons of a different class	<u>4540</u>
<u>96</u>	<u>3.2—(1)(c)</u>	Parking during prohibited period	<u>4540</u>
<u>107</u>	<u>3.1(3)(2—(2)(a))</u>	Parking in no parking area	<u>5045</u>
<u>118</u>	<u>3.1(3)(2—(2)(b))</u>	Parking contrary to signs or limitations	<u>4035</u>
<u>129</u>	<u>3.1(3)(2—(2)(c))</u>	Parking vehicle in <u>motorcycle</u> motor cycle only area	<u>4035</u>
<u>1340</u>	<u>3.1(42(3))</u>	Parking <u>motorcycle</u> motor cycle in stall not marked “M/C”	<u>4035</u>
<u>1411</u>	<u>3.12(5)(a)</u>	Parking <u>without permission in an area designated for “Authorised Vehicles Only”</u> Loading Zone	<u>4540</u>
<u>1512</u>	<u>3.2(1)(3(a))</u>	<u>Failure</u> Fail to park on the left of two-way carriageway	<u>4035</u>
<u>1613</u>	<u>3.2(1)(3(b))</u>	<u>Failure</u> Fail to park on boundary of one-way carriageway	<u>4035</u>
<u>1714</u>	<u>3.2(1)(3—(a))</u>	Parking against the flow of traffic	<u>4540</u>

	<u>or</u> <u>3.2(1)(a)+(b)</u>		
<u>1815</u>	<u>3.2(1)(3)(c)</u>	Parking when distance from farther boundary less than 3 metres	<u>4540</u>
<u>19</u>	<u>3.2(1)(d)</u>	<u>Parking closer than 1 metre from another vehicle</u>	<u>40</u>
<u>2016</u>	<u>3.2(1)(3)(e)</u>	Causing obstruction <u>on a carriageway</u>	<u>5045</u>
<u>21</u>	<u>3.3(b)</u>	<u>Failure to park at approximate right angle</u>	<u>40</u>
<u>22</u>	<u>3.4(2)</u>	<u>Failure to park at an appropriate angle</u>	<u>40</u>
<u>2317</u>	<u>3.5(3)(7—(2)</u> <u>(a) and 6.2</u>	Double parking	<u>4540</u>
<u>24</u>	<u>3.5(3)(b)</u>	<u>Parking on or adjacent to a median strip</u>	<u>40</u>
<u>2518</u>	<u>3.5(3)(7—(2)</u> <u>(c)</u>	Denying access to private drive or right of way	<u>4540</u>
<u>2619</u>	<u>3.5(3)(7—(2)</u> <u>(d)</u>	Parking beside excavation or obstruction so as to obstruct traffic	<u>5045</u>
<u>2720</u>	<u>3.5(3)(7—(2)</u> <u>(e)</u>	Parking within <u>109</u> metres of traffic island	<u>4540</u>
<u>2821</u>	<u>3.5(3)(7—(2)</u> <u>(f)</u>	Parking on footpath <u>or</u> /pedestrian crossing	<u>5045</u>
<u>2922</u>	<u>3.5(3)(7—(2)</u> <u>(g)</u>	Parking <u>contrary to continuous line markings on bridge or in tunnel</u>	<u>4540</u>
<u>3023</u>	<u>3.5(3)(h7—(2)</u> <u>(i)</u>	Parking on intersection	<u>4540</u>
<u>31</u>	<u>3.5(3)(i)</u>	<u>Parking within 1 metre of fire hydrant or fire plug</u>	<u>50</u>
<u>32</u>	<u>3.5(3)(j)</u>	<u>Parking within 3 metres of public letter box</u>	<u>45</u>
<u>3324</u>	<u>3.57—(2)(k)</u> <u>(t)</u>	Parking within <u>106</u> metres of intersection	<u>4540</u>
<u>3425</u>	<u>3.5(4)(7—(3)</u> <u>(a) or (b)</u>	Parking vehicle within <u>109</u> metres of departure side of bus stop, <u>children's crossing or pedestrian crossing</u>	<u>5045</u>
<u>3526</u>	<u>3.5(5)(7—(4)</u> <u>(a) or (b)</u>	Parking vehicle within <u>2018</u> metres of approach side of bus stop, <u>children's crossing or pedestrian crossing</u>	<u>5045</u>
<u>3627</u>	<u>3.5(64.7—(4)</u> <u>(b)</u>	Parking vehicle within <u>2018</u> metres of approach side <u>or</u> <u>departure side of railway level</u> <u>pedestrian / children's crossing</u>	<u>5045</u>
<u>28</u>	<u>3.8 (2) (a)</u>	<u>Parking commercial vehicle, bus or caravan on verge</u>	<u>35</u>
<u>3729</u>	<u>3.68 (2) (b)</u>	Parking <u>on verge</u> contrary to <u>direction of authorised persons sign</u>	<u>5035</u>
<u>38</u>	<u>3.7(2)</u>	<u>Removing mark of authorised person</u>	<u>55</u>
<u>39</u>	<u>3.8</u>	<u>Moving vehicle to avoid time limitation</u>	<u>40</u>
<u>4030</u>	<u>3.9(a)</u>	Parking <u>in thoroughfare</u> <u>vehicle with tare of over 2000kgs</u> for <u>purpose of sale</u> <u>over 2 hours</u>	<u>4050</u>
<u>4131</u>	<u>3.9(b)10</u>	Parking <u>unlicensed</u> <u>over length</u> vehicle in <u>thoroughfare</u> <u>excess of 2 hours</u>	<u>4050</u>
<u>32</u>	<u>3.11</u>	<u>Parking contrary to direction of Authorised Person</u>	<u>50</u>
<u>4233</u>	<u>3.914 (c)</u>	Parking a trailer <u>or a</u> /caravan on a thoroughfare	<u>4035</u>
<u>43</u>	<u>3.9(d)</u>	<u>Parking in thoroughfare for purpose of repairs</u>	<u>40</u>
<u>4434</u>	<u>3.1015 (2)</u>	Parking on land that is not a parking facility without consent	<u>5550</u>
<u>4535</u>	<u>35—3.1015</u> <u>(3)</u>	Parking on land not in accordance with consent	<u>4035</u>
<u>4636</u>	<u>36.3.1116</u>	Driving or parking on reserve	<u>4035</u>
<u>47</u>	<u>4.1(1)</u>	<u>Stopping contrary to a “no stopping” sign</u>	<u>40</u>
<u>48</u>	<u>4.1(2)</u>	<u>Parking contrary to a “no parking” sign</u>	<u>40</u>
<u>49</u>	<u>4.1(3)</u>	<u>Stopping within continuous yellow lines</u>	<u>40</u>
<u>50</u>	<u>5.1</u>	<u>Stopping unlawfully in a loading zone</u>	<u>40</u>
<u>51</u>	<u>5.2</u>	<u>Stopping unlawfully in a taxi zone or bus zone</u>	<u>40</u>
<u>52</u>	<u>5.3</u>	<u>Stopping unlawfully in a mail zone</u>	<u>40</u>

<u>53</u>	<u>5.4</u>	<u>Stopping in a zone contrary to a sign</u>	<u>40</u>
<u>54</u>	<u>6.1</u>	<u>Stopping in a shared zone</u>	<u>40</u>
<u>55</u>	<u>6.3</u>	<u>Stopping near an obstruction</u>	<u>45</u>
<u>56</u>	<u>6.4</u>	<u>Stopping on a bridge or tunnel</u>	<u>40</u>
<u>57</u>	<u>6.5</u>	<u>Stopping on crests, curves etc.</u>	<u>55</u>
<u>58</u>	<u>6.6</u>	<u>Stopping near fire hydrant or fire plug</u>	<u>55</u>
<u>59</u>	<u>6.7</u>	<u>Stopping near bus stop</u>	<u>45</u>
<u>60</u>	<u>6.8</u>	<u>Stopping on path, median strip or traffic island</u>	<u>40</u>
<u>61</u>	<u>6.9</u>	<u>Stopping on verge</u>	<u>40</u>
<u>62</u>	<u>6.10</u>	<u>Obstructing path, driveway etc.</u>	<u>40</u>
<u>63</u>	<u>6.11</u>	<u>Stopping near letter box</u>	<u>40</u>
<u>64</u>	<u>6.12</u>	<u>Stopping heavy or long vehicles on carriageway</u>	<u>45</u>
<u>65</u>	<u>6.13</u>	<u>Stopping in bicycle parking area</u>	<u>40</u>
<u>66</u>	<u>6.14</u>	<u>Stopping in motorcycle parking area</u>	<u>40</u>
<u>6737</u>	<u>74.6(1)</u>	Leaving vehicle so as to obstruct a public place	<u>5045</u>
<u>6838</u>	<u>8.1(1)</u>	All other offences not specified	<u>3530</u>

Third Schedule
Local Government Act 1995
Form 1

~~PARKING AND PARKING FACILITIES LOCAL LAW~~
~~NOTICE TO OWNER OF VEHICLE INVOLVED IN OFFENCE~~

Date / /

To: (1)

of: (2)

It is alleged that on / / at (3)

at (4) your vehicle:

make:

model:

registration:

was involved in the commission of the following offence

.....

.....

.....

contrary to clause of the **Parking and Parking Facilities Local Law**.

You are required under section 9.13 of the *Local Government Act 1995* to identify the person who was the driver or person in charge of the vehicle at the time when the offence is alleged to have been committed.

If you do not prove otherwise, you will be deemed to have committed the offence unless—

(a) within 28 days after being served with this notice;

- (i) you inform the Chief Executive Officer or another authorised officer of the local government as to the identity and address of the person who was the driver or person in charge of the vehicle at the time the offence is alleged to have been committed; and
- (ii) you satisfy the Chief Executive Officer that the vehicle had been stolen, or was being unlawfully used, at the time the offence is alleged to have been committed; or

(b) you were given an infringement notice for the alleged offence and the modified penalty specified in it is paid within 28 days after the notice was given or such further time as is allowed.

(5)

(6)

Insert—

- (1) Name of owner or “the owner”
- (2) Address of owner (not required if owner not named)
- (3) Time of alleged offence
- (4) Location of alleged offence
- (5) Signature of authorized person
- (6) Name and title of authorized person giving notice

Third Schedule
Local Government Act 1995
Form 2
PARKING AND PARKING FACILITIES LOCAL LAW
INFRINGEMENT NOTICE

Serial No

Date / /

To: (1)

of: (2)

It is alleged that on / / at (3)

at (4)
in respect of vehicle—

make:

model:

registration:

you committed the following offence—

.....
.....
.....

contrary to clause of the Parking and Parking Facilities Local Law.

~~The~~

Dated 20

modified penalty for the offence is \$

If you do not wish to have a complaint of the alleged offence heard and determined by a court, the amount of the modified penalty may be paid to an authorized person at (5) within a period of 28 days after the giving of this notice.

If you take no action this infringement notice may be registered with the Fines Enforcement Registry after which your driver's licence or any vehicle licence held by you may be suspended. If the matter is registered with the Registry additional costs will also be payable.

If the above address is not your current address, or if you change your address, it is important that you advise us immediately. Failure to do so may result in your driver's licence or any vehicle licence you hold being suspended without your knowledge.

(6)

(7)

Insert—

- (1) Name of alleged offender or “the owner”
- (2) Address of alleged offender
- (3) Time of alleged offence
- (4) Location of alleged offence
- (5) Place where modified penalty may be paid
- (6) Signature of authorized person
- (7) Name and title of authorized person giving notice

Third Schedule
Local Government Act 1995
 Form 3

**PARKING AND PARKING FACILITIES LOCAL LAW
 INFRINGEMENT NOTICE**

Serial No

Date / /

To:

of: (2)

It is alleged that on / / at (3)

at (4)

in respect of vehicle—

make:

model:

registration:

you committed the following offence—

.....

.....

.....

contrary to clause of the Parking and Parking Facilities Local Law.

The modified penalty for the offence is \$

If you do not wish to have a complaint of the alleged offence heard and determined by a court, the amount of the modified penalty may be paid to an authorized person at (5) within a period of 28 days after the giving of this notice.

Unless within 28 days after being served with this notice—

(a) you pay the modified penalty; or

(b) you—

(i) inform the Chief Executive Officer or another authorized officer of the local— government as to the identity and address of the person who was— the driver or— person in charge of the above vehicle at the time the offence is alleged to have been committed; or

(ii) satisfy the Chief Executive Officer that the above vehicle had been stolen or was— being unlawfully used at the time the offence is alleged to have been committed;

you will, in the absence of proof to the contrary, be deemed to have committed the above offence and court proceedings may be instituted against you.

If you take no action this infringement notice may be registered with the Fines Enforcement Registry after which your driver’s licence or any vehicle licence held by you may be suspended. If the matter is registered with the Registry additional costs will also be payable.

If the above address is not your current address, or if you change your address, it is important that you advise us immediately. Failure to do so may result in your driver's licence or any vehicle licence you hold being suspended without your knowledge.

(6)

(7)

Insert —

- (1) Name of owner or "the owner"
- (2) Address of owner (not required if owner not named)
- (3) Time of alleged offence
- (4) Location of alleged offence
- (5) Place where modified penalty may be paid
- (6) Signature of authorized person
- (7) Name and title of authorized person giving notice

Third Schedule
Local Government Act 1995
Form 4
PARKING AND PARKING FACILITIES LOCAL LAW
WITHDRAWAL OF INFRINGEMENT NOTICE

Serial No

Date / /

To: (1)

of: (2)

Infringement Notice No. dated / /
in respect of vehicle—

make:

model:

registration:

for the alleged offence of

.....

.....

has been withdrawn.

The modified penalty of \$

* has been paid and a refund is enclosed.

* has not been paid and should not be paid.

* *delete as appropriate.*

(3)

(4)

Insert—

(1) Name of alleged offender to whom infringement notice was given or “the owner”.

(2) Address of alleged offender.

(3) Signature of authorized person

(4) Name and title of authorized person giving notice

Fourth Schedule

~~PARKING AND PARKING FACILITIES LOCAL LAW~~

~~DEEMED PARKING STATIONS~~

Dated this

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

K J CHAPPEL, SHIRE PRESIDENT

J ROBERTS, CHIEF EXECUTIVE OFFICER

WESTERN AUSTRALIA

LOCAL GOVERNMENT ACT 1995

SHIRE OF MORAWA

REPEAL LOCAL LAW 2016

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Morawa resolved on **XXXXXXXX** 2017 to make the following local law.

1. Citation

This local law is cited as the *Shire of Morawa Repeal Local Law 2017*.

2. Operation

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

3. Repeal

The Municipality of the Shire of Morawa Firebreak By-laws as published in the *Government Gazette* on 31 December 1982 is hereby repealed.

Dated this

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

K J CHAPPEL, SHIRE PRESIDENT J ROBERTS, CHIEF EXECUTIVE OFFICER

<i>Item No/ Subject:</i>	7.2.5.1 Request to go to Tender WANDRRA Flood Works 2017
<i>Date of Meeting:</i>	17 August 2017
<i>Date & Author:</i>	26 July 2017 - Sean Fletcher - Acting CEO
<i>Responsible Officer:</i>	Paul Buist - Principal Works Supervisor
<i>Applicant/Proponent:</i>	Sean Fletcher - Acting CEO
<i>File Number:</i>	GS.PRG.9
<i>Previous minute/s & Reference:</i>	Nil

SUMMARY

The purpose of this report is to seek Council's approval to go to tender for the WANDRRA works and to go tender for the overseeing of these works.

DECLARATION OF INTEREST

Nil

ATTACHMENTS

Nil

BACKGROUND INFORMATION

The author and Principal Works Supervisor met with Josh Kirk and Nigel Goode from Greenfield Technical Services on Wednesday 12 July 2017 at the Shire of Morawa to discuss the Shire's success in obtaining WANDRRA AGRN 743 funding to the value of \$4,177,346.93 for repairs to roads that were damaged during January/February 2017.

Due to the value of these works there is a requirement that a tender be prepared for the hiring of contractors to complete the repairs. These works are expected to take 208 working days to complete which works out to be approximately 11 actual months in total.

The areas affected were roads in the north east of the Shire and some parts of Mungada Road.

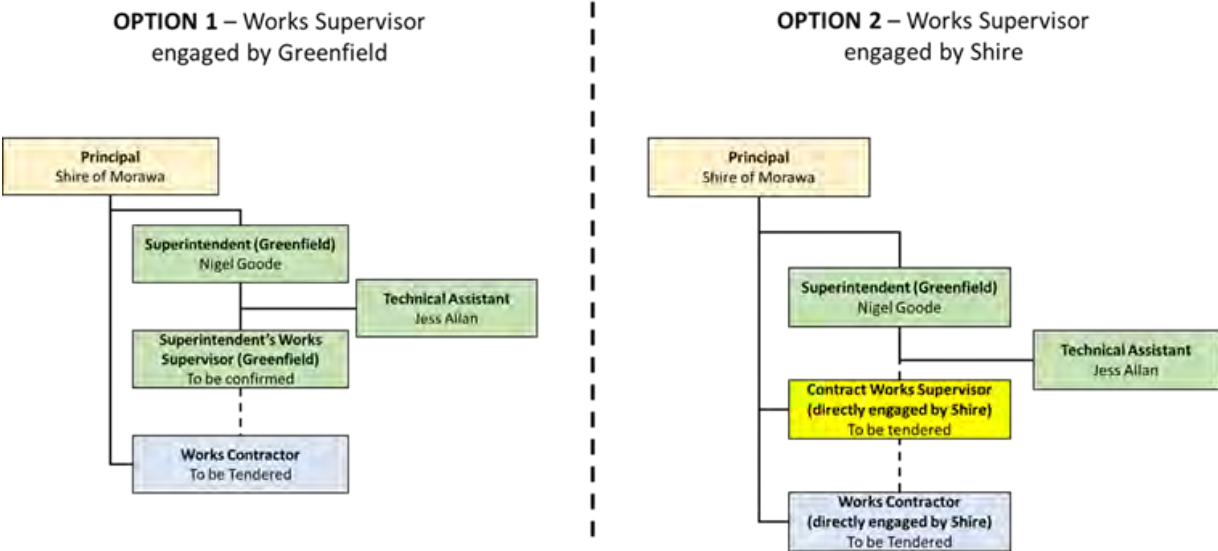
Such a process requires two tenders: one tender for the performance of the works and a second tender to manage (supervise) the works.

Under the Shire’s purchasing policy and relevant purchasing regulations there is a requirement to publicly invite tenders if the value of the works is over \$150,000.

OFFICER’S COMMENT

The Shire of Morawa suffered similar damage during 2015 and the shire contracted Greenfield Technical Services (GTS) in 2016 to provide Project Management Services works including managing the tender process and fulfilling the role of Superintendent for the construction process. The Shire of Morawa has again contacted GTS in relation to the possibility of carrying out the same role for the current WANDRRA AGRN 743 project.

There are 2 options available as to how these projects are managed (as per below):



Option 1

The Shire engages GTS to provide full project management and site supervision for the complete WANDRRA project.

The advantages of this option are:

- Single point of contact with clear and efficient communication between the Principal, Superintendent, Supervisor, and Contractor;
- Holistic approach by the project management team and associated WANDDDRA administration;
- Increased accountability and control of overall project;
- Reduces Shire’s administration and procurement costs and time;

- Less administration support required by the Shire; and
- Potentially less outside influences from stakeholders.

Option 2

The Shire engages GTS to provide project management services and engages a Site Supervisor separately via a second tender process. This was the traditional model employed by Greenfield. However, GTS recently developed Option 1 to address a number of inefficiencies identified over recent years.

From past experience, the total project management cost (Superintendent / Superintendent Site Supervisor / Financial management) is typically 7% to 10% of the total value of the WANDRRA claim. All costs are reimbursable to the Shire under the WANDRRA guidelines subject to the mandatory financial trigger point.

Due to the limiting nature of the Shire’s purchasing policy, Option 2 is the one that the Shire is required to follow in this instance. However, the alternative is the Shire can publicly tender for the works and seek quotes from the WALGA preferred supplier list for the supervision works. This combination will save the Shire time.

Tender Assessment Criteria – WANDRRA Works

A tender needs to be prepared and a contract awarded for the Supply of Hired Road Construction Plant with Operators. For this tender to be prepared, Council is required to decide upon the Selection Criteria and the % of weighting value out of a total of 100%.

Based on discussions with the Author and Mr Buist, GTS has developed the Selection Criteria for the tender based on value for money criteria as follows:

ASSESSMENT OF TENDERS SELECTION CRITERIA

Tender Price:	30%
Quality and Completeness of plant / equipment:	15%
Demonstrated Remote Area Construction Experience:	15%
Demonstrated ability to source suitable local materials:	10%
Local Content of Plant/Equipment Physical Resources:	10%
Capacity to complete contract works:	10%
<u>Provisions for mechanical support:</u>	<u>10%</u>

Total: 100%

Tender Assessment Criteria – Superintendent of WANDRRA Works

A tender is also required for the Superintendent to project manage and oversee the Supply of Hired Road Construction Plant with Operators. As per the previous tender, Council is required to decide upon the Selection Criteria and the % of weighting value out of a total of 100%.

The Selection Criteria for the tender based on value for money criteria as follows:

Experience:	30%
Resources:	20%
Local knowledge and proximity to the Shire:	20%
Methodology/Quality:	20%
Price:	10%

Total: **100%**

It is the author's considered opinion that the Shire also appoints Greenfields to assist it with the tender process for both tenders and to assist with some project management aspects of the WANDRRA works, if required.

COMMUNITY CONSULTATION

Nil

COUNCILLOR CONSULTATION

Briefing Sessions 11 July and 8 August 2017

STATUTORY ENVIRONMENT

Nil

POLICY IMPLICATIONS

The Shire's current purchasing policy 3.7 requires, in part, the following:

- Purchases are made using the value for money approach i.e. that compliance with the purchasing specification (or selection criteria) is more important than obtaining the lowest price, particularly taking into account user requirements, quality standards, sustainability, life cycle costing and service benchmarks;
- All contracts for the purchase of goods and services with a value of \$150,000 or more shall be by public tender and made in accordance with the *Local Government Act 1995* s3.57 and the *Local Government (Functions and General) Regulations 1996* Part 4;
- Any decision not to call tenders for goods or services valued at more than \$150,000 because of one of the exceptions listed in the Functions and General Regulation 11(2) shall be by Council resolution (This includes using Regulation 11(2)(b) the WALGA Preferred Supplier Program. This is a preferred supplier list that local governments can access without going to tender through using either a request for quotes methodology that includes the eQuotes system. A specification is still required plus the seeking of a number of quotes to satisfy testing of the market);
- Before calling for tenders, the Chief Executive Officer or his nominee shall investigate whether the goods or services requested:
 - Are available under a common use contract from the State Supply Commission;
 - Are available via a joint purchasing arrangement through WALGA;
 - May be combined with the requirements of other local governments in the North Midlands Region to obtain better value for money.

Note

Council should note that there are some parts of its purchasing policy that are at odds with itself. For example, the policy states that a public tender is required for goods and services with a value of \$150,000 or more (i.e. shall be by public tender), but a further provision states a decision not to call for tenders shall be by Council resolution. The policy is also out of step with many current procurement practices e.g. eQuotes.

The current WALGA policy model has the option to “elect” to go to tender instead of the local government shall go to tender, as stated in the Shire’s current policy.

FINANCIAL IMPLICATIONS

The works are valued at \$4,177,346.93 and are met through the WANDRRA claim process. In otherwords, there is no cost to the Shire of Morawa.

The timing of when the works are conducted and when the claim is processed has the greatest impact on the Shire’s cashflow. Due to the recent changes regarding flood funding criteria for Western Australia, the monies should be paid up front instead of the Shire claiming for costs already incurred. The payment up front criteria is yet to be released.

Due to the length of time the works will take and given when the tender is awarded, it is expected that there would be funds carried forward for 18/19 to complete these works.

STRATEGIC IMPLICATIONS

Outcome 1.8	Well maintained local roads and ancillary infrastructure	Key Partners
1.8.1	Establish a prioritisation schedule for the upgrade of roads infrastructure.	MRWA
1.8.2	Maintenance and renewal of roads, and ancillary infrastructure is undertaken in accordance to Shire Asset Management Plan.	MRWA
1.8.3	Lobby government and private sector for increased road maintenance funding.	MRWA
1.8.4	Control roadside vegetation.	MRWA

RISK MANAGEMENT

Under the Shire’s risk governance framework, the impact of a rain event such as the one that occurred in February 2017 is possible i.e. once every three years and the consequence of such an activity is moderate i.e. localised damage. The risk outcome is therefore moderate with the remedial works mitigating the risk to a low or nil risk outcome.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION

That Council authorises the CEO to:

Tender 1 – WANDRRA AGRN 743

1. Go to tender under Policy 3.7 for the WANDRRA AGRN 743 works for the repairs to roads that were damaged during January/February 2017.
2. Use the following weighted criteria to assist in the selection of the best value for money candidate to undertake the works in Point 1:

ASSESSMENT OF TENDER SELECTION CRITERIA

Tender Price:	30%
Quality and Completeness of plant / equipment:	15%
Demonstrated Remote Area Construction Experience:	15%
Demonstrated ability to source suitable local materials:	10%
Local Content of Plant/Equipment Physical Resources:	10%
Capacity to complete contract works:	10%
Provisions for mechanical support:	10%

Total: 100%

3. Appoint Greenfields Technical Services to:
 - a. Assist with the tender process in Point 1. This is to include the range of tender services including, but not limited to, the development of the works specification, advertising and assisting with the selection of the best candidate to undertake the works based on the weighted criteria in Point 2;
 - b. Provide project management services regarding the works in Point 1, if required.

Tender 2 – Superintendent WANDRRA Works

4. Go to tender under Policy 3.7 for the provision of Superintendent Services regarding WANDRRA AGRN 743 works for the repairs to roads that were damaged during January/February 2017.
5. Use the following weighted criteria to assist in the selection of the best value for money candidate to undertake the works in Point 1:

ASSESSMENT OF TENDER SELECTION CRITERIA

Experience:	30%
Resources:	20%
Local knowledge and proximity to the Shire:	20%
Methodology/Quality:	20%
Price:	10%

Total: 100%

6. Appoint Greenfields Technical Services to assist with the tender process in Point 4. This is to include the range of tender services including, but not limited to, the development of the works specification, advertising and assisting with the selection of the best candidate to undertake the works based on the weighted criteria in Point 5.

8. **New Business of an Urgent Nature**
9. **Applications for Leave of Absence**
10. **Motions of Which Previous Notice Has Been Given**
11. **Questions from Members without Notice**
12. **Meeting Closed**
 - 12.1 Matters for which the meeting may be closed
 - 12.2 Public reading of resolutions that may be made public
13. **Closure**

Next Meeting - Ordinary Meeting 21 September 2017