



Shire of  
**Narrogin**

**MINUTES  
ORDINARY COUNCIL MEETING**

**12 JULY 2016**

**COUNCIL CHAMBERS  
THE SHIRE OF NARROGIN  
89 EARL STREET  
NARROGIN WA 6312**

Meaning of and CAUTION concerning Council's "In Principle" support:

When Council uses this expression it means that: (a) Council is generally in favour of the proposal BUT is not yet willing to give its consent; and (b) Importantly, Council reserves the right to (and may well) either decide against the proposal or to formally support it but with restrictive conditions or modifications.

Therefore, whilst you can take some comfort from Council's "support" you are clearly at risk if you act upon it before Council makes its actual (and binding) decision and communicates that to you in writing.

Disclaimer:

"Warning - Verbal Information & Advice: Given the inherent unreliability and uncertainty that surrounds verbal communication, the Shire strongly recommends that, if a matter is of importance to you, then you should NOT act upon or otherwise rely upon any VERBAL information or advice you receive from the Shire unless it is first confirmed in writing."

These minutes were confirmed at the Ordinary Council Meeting held on 26 July 2016

Signed:  Date 26/7/16  
(Presiding Member at the meeting at which minutes were confirmed)

Council Minutes are 'Unconfirmed' until they have been adopted at the following meeting of Council.

# ORDINARY COUNCIL MEETING MINUTES

## 12 JULY 2016

### 1. OFFICIAL OPENING/ANNOUNCEMENT OF VISITORS

7:30 pm – Commissioner Ron Yuryevich welcomed commissioners, staff and visitors and declared the meeting open.

Commissioner Yuryevich referenced the Government Gazette of 30 October 2015 – The local government Narrogin merger order of 2015 - Part 3 – the directions of the 2015 order is that the Shire of Narrogin will have three commissioners appointed until the appointment of a new Council. The appointed Commissioners are Mr Ronald Stanley Yuryevich (Chairperson), Mr Leigh Norman Ballard, and Mr Geoffrey Douglas Ballard. The Commissioners will act until 15th October 2016 when normal elections will be held and the new elected members will be elected.

### 2. RECORD OF ATTENDANCE/APOLOGIES/APPROVED LEAVE OF ABSENCE

#### Commissioners

Commissioner R Yuryevich (Chairperson)  
Commissioner G Ballard  
Commissioner L Ballard

#### Staff

Mr A Cook – Chief Executive Officer  
Mr A Awang – Executive Manager Development & Regulator Services  
Mr C Bastow – Director Corporate and Community Services  
Mr T Evans – Executive Manager Technical Services  
Ms C Thompson – Executive Assistant

#### Visitors

Miss P Young	Mr L Stevens
Mr A Paternoster	Mr R Whyte
Mr M Fisher	Mrs K Johnston
Mr G Mundy	Mr B Seale
Mr M Lloyd	Mr A Jones
Mrs P Mundy	Mr D Charlesworth
Mr F Stevens	

### 3. DECLARATION OF INTEREST BY ELECTED MEMBERS AND COUNCIL EMPLOYEES IN MATTERS INCLUDED IN THE MEETING AGENDA

Commissioner G Ballard declared an interest in item 10.2.084. The nature of his interest was Financial.

Commissioner L Ballard declared an interest in item 10.2.084. The nature of his interest was Financial.



#### **4. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

Nil

#### **5. PUBLIC QUESTION TIME**

7.32 pm – Public Question time commenced

##### **Mr A Paternoster – Narrogin**

###### **1. Summary of Question**

With regard to the kerbing on the north-east corner of the Narrakine Road and Fleay Road – truck damage. Will the council carry out necessary repairs and maintenance and consider steps that might be taken to prevent this from re-occurring.

###### **Summary of Response**

The CEO responded it is a part of the Shire's roadworks programme and when the budget is adopted those works can be facilitated. To prevent it from re-occurring we will carry out works similar to what has been done on Forrest Street.

##### **Mr R Whyte – Narrogin**

###### **1. Summary of Question**

Is there any fact to the information I have heard that the heli-pad at the hospital is going to be closed?

###### **Summary of Response**

The CEO responded that the heli-pad is going to be re-located to the Narrogin Airport. This has been requested by the Narrogin Hospital as they have to have a CASA-approved landing point for the helicopter, but in case of emergencies the helicopter can land wherever the emergency is, be it Clayton oval or roadside. Patient transfers will occur from the Narrogin airport.

##### **Mr B Seale – Narrogin**

###### **1. Summary of Question**

In relation to agenda item 10.1.079 (Jessie House Relocation), will Council consider editing the recommendation to read - That Council: "Does not proceed with the relocation of Jessie Homes on Lot 1721 (Reserve 49048) Hale Street Narrogin by deleting the last three words of the recommendation "at this time."?"

###### **Summary of Response**

Commissioner Yuryevich responded the matter will be considered when the item is discussed by the commissioners.

###### **2. Summary of Question**

Is it pre-emptive that there are items in this agenda referring to local laws that have not yet been adopted?

**Summary of Response**

Commissioner Yuryevich responded that this matter has already come to his attention and the matters contained within this item will be deferred to a subsequent meeting – for the relevant yet-to-be adopted laws.

**3. Summary of Question**

Will Council consider editing the proposed delegated policy to increase the CEO's purchasing delegation to \$250,000?

**Summary of Response**

Commissioner Yuryevich responded the matter will be considered when the item is discussed by the commissioners.

7.37 pm – Commissioner Yuryevich declared Public Question Time closed and noted that no questions have been taken on notice.

**6. APPLICATIONS FOR LEAVE OF ABSENCE**

Nil

**7. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS**

**COUNCIL RESOLUTION 0714.100 AND OFFICER'S RECOMMENDATION**

**Moved: Commissioner G Ballard**

**Seconded: Commissioner L Ballard**

That Council:

Accept the minutes of the Ordinary Council Meeting of the Shire of Narrogin held on 16 June 2016 and be confirmed as an accurate record of proceedings.

**CARRIED 3/0**

**COUNCIL RESOLUTION 0714.101 AND OFFICER'S RECOMMENDATION**

**Moved: Commissioner L Ballard**

**Seconded: Commissioner G Ballard**

That Council:

Accept the minutes of the Ordinary Council Meeting of the Town of Narrogin held on 28 June 2016 and be confirmed as an accurate record of proceedings.

**CARRIED 3/0**

**8. ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION**

Nil

**9. PETITIONS/DEPUTATIONS/PRESENTATIONS/SUBMISSIONS**

Nil

**10. MATTERS WHICH REQUIRE DECISIONS**

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## 10.1 DEVELOPMENT AND TECHNICAL SERVICES

### 10.1.079 PROPOSED SITE FOR RELOCATION OF JESSIE HOUSE – LOT 1721 (RESERVE 49048) HALE STREET, NARROGIN

**File Reference:** A226650  
**Disclosure of Interest:** Nil  
**Applicant:** Not Applicable  
**Previous Item Nos:** Item 10.1.054 held on 24 May 2016 (Resolution 0516.169)  
**Date:** 17 May 2016  
**Author:** Azhar Awang, Executive Manager Development & Regulatory Services

#### Attachments

- Proposed Site.
- Map of properties referred for comments.
- Schedule of submissions.

#### Summary

Council is requested to consider the submissions received from the affected landowners regarding the proposed site for the relocation of Jessie House at Lot 1721 (reserve 49048) Hale Street, Narrogin, in order to gauge the community response for this site.

#### Background

The matter was previously considered by Council at its meeting held on 24 May 2016. Council at that meeting resolved as follows:

*That Council:*

- 1. Endorse the relocation of Jessie House on Lot 1721 (Reserve 49048) Hale Road Narrogin.*
- 2. Undertake public advertising to surrounding properties of the proposed relocation of Jessie House on Lot 1721 (Reserve 49048) for the purpose of Home and Community Care for a period of fourteen (14) days. Any submission received will be provided to Council for further considerations.*
- 3. In the event that no objections are received regarding the proposed relocation of Jessie House, undertake the following:*
  - a. Write to the Department of Lands requesting for a change of purpose of Reserve 49048 (Lot 1721) Hale Road, Narrogin from "Recreation" to "Community Purpose" to allow for the development of Jessie House for the purpose of Home and Community Care to service the aged population of the Town Community and to include power to lease.*

- b. *Obtained the service of a qualified licensed Land Surveyor to prepare a survey diagram for the creation of the new reserve for "Community Purpose – Home and Community Care".*

CARRIED 7/0

Advertising to surrounding properties was undertaken to properties directly affected by the proposal along Hale Street. A submission period of 14 days commenced on 1 June 2016 and closed on 17 June 2016.

At the closing date of the submission period, a total of six (6) submissions and one (1) petition were received. A copy of the schedule of submissions is attached (attachment 3) in this report.

Jessie House is currently located at Lot 1561 (No 20) Clayton Road, Narrogin which is between the Hockey pitch and the Narrogin Leisure Centre. Jessie House is used for the purpose of Narrogin Homecare which provides services such as Home and Community Care for the Narrogin community and a dementia secure centre-based day care facility.

Given its current location within the precinct of the Narrogin Regional Leisure Centre and the inability to expand, it is recommended that Jessie House be relocated to another site.

A working group of Administration staff was formed comprising of the Chief Executive Officer, Director Corporate and Community Services, Manager of Home and Community Care, Building Surveyor and the Executive Manager Development & Regulatory Services for the purpose of identifying a suitable site for the relocation of Jessie House.

Three (3) sites were nominated which included:

- Lot 264 Park Street (behind the Council Administration Building);
- Lot 123 Earl Street; and
- Site next to the Community Garden at the corner of Herald and Hale Streets, Reserve 49048 (Lot 1721).

The working group through the selection process nominated the area next to the Community Garden as the preferred site based on the site requirements and the needs of the community care residents/clients wanting to be close to nature and the environment.

## **Comment**

### Zoning

The preferred site for the Jessie House site is currently zoned "Recreation" under the Town of Narrogin Town Planning Scheme No 2. A scheme amendment will be required to rezone the area required by the Centre, being 4000 square meters, to "Community Purpose – Home and Community Care" with the remaining reserve staying under its current zoning of recreation. It is also noted that the land is vested to the Shire of Narrogin for the purpose of Recreation and this will need to be amended to change the purpose to "Community Purpose – Home and Community Care".

Prior to considering the rezoning or changing the purpose of the land, Condition 2 of Council's approval dated 24 May 2016 required the proposed site be advertised for a period of 14 days in order to gauge the community response for the relocation of Jessie House.



## Area

It is estimated a minimum site of 4000m<sup>2</sup> is required to adequately develop the site for the purpose of Home and Community Care to accommodate possible expansions in the future to the current infrastructure.

## Submissions

The submissions received objected to the proposed location and a detailed schedule of submissions is attached (Attachment 3) in this report, which can be summarised as follows:

- The area is flood zone;
- The current Reserve is for Recreation only;
- The relocation of HACC could require the removal of large well established trees;
- The infrastructure support service of this type is not present in the Reserve;
- Objection to the manner in which residents have supposedly been informed;
- Concerned of other Community uses being allowed on site such as Juvenile Justice Centre, Department of Justice, Centre link, a drop in centre, hardship counselling etc.;
- Not enough information provided to make informed decisions;
- Volume of traffic generated from the proposed development and the safety concerns to children in the area when crossing the road to get to the park;
- Concerned regarding the rezoning and repurposing from 'Parks & Recreation' to 'Community purposes';
- Insufficient time to make submissions;
- Historic family home;
- Inappropriate site for HACC and Dementia Centre due to the close proximity of the Southern heavy haulage bypass.

Council also received a petition dated 16 June 2016 objecting to the proposed location of the Jessie House signed by eleven (11) land owners along Hale Road. Five (5) of the landowners that signed the petition also made submissions objecting to the proposed site for the location of Jessie House.

It should be mentioned that this stage of the proposal is to gauge the views of the affected landowners on the proposed site for the relocation of the Jessie House and for the comments to be tabled to Council for its consideration.

The issues raised in the objections, in particular the site being susceptible to flooding needs to be considered ; however, this can be mitigated through design and if not possible the site would then not be suitable for such purposes given the potential risk of such events recurring.

The requirement of rezoning the land may be an issue from the start if Council wishes to pursue this site as its preferred location of the relocation of Jessie House due to the concerns expressed from the surrounding property owners.

Although the proposed site meets with the requirements and the needs of the HACC site selection in terms of its setting from an environmental aspects and within close proximity to the Community Gardens and cost, the issues raised during the submissions period raised some concerns in respect to the site being susceptible to flooding given its close proximity to the existing creek and strong objections from the affected land owners. On this basis it is



recommended that Council does not proceed with Lot 1721 (Reserve 49048) Hale Street Narrogin as the site for the relocation of Jessie House at this time and investigate other potential locations.

**Consultation**

- A working group was formed to investigate a new site for the relocation of Jessie House which included the Chief Executive Officer, Director Corporate and Community Services, Executive Manager Development & Regulatory Services, Manager Home and Community Care and the Building Surveyor.
- Public advertising was undertaken commencing on 1 June 2016 and closed on 17 June 2016 in order to gauge the affected land owners' response regarding the proposed site for the relocation of Jessie House. A total of nineteen (19) affected land owners along Hale Road, were sent a written notifications regarding the proposed location for the relocation of Jessie House. Six (6) submissions were received and a petition consisting of eleven (11) signatures of land owners along Hale Road objecting to the proposed site for the relocation of Jessie House. A copy of the schedule of submissions is included in Attachment 3 of this report.

**Statutory Environment**

Local – *Town of Narrogin Town Planning Scheme No 2*

*6.1 Application for Planning Consent*

*6.1.1 – A person shall not commence or continue development or change the use of any land zoned or reserved under the Scheme without first having applied for and obtained the planning consent of the Council under the Scheme.*

**Policy Implications**

Nil

**Financial Implications**

A budget allocation of \$30,000 is proposed to be allocated for the 2016/2017 year for design and construction drawings including specifications for works. The additional funding for the relocation will be sourced from other available grants from the various funding bodies. The securing of the site for the relocation of Jessie House will assist in grants application when it becomes available.

**Strategic Implications**

The Corporate Business Plan 2012-2022

	Strategy	Task Allocation	Timeline
2.2	Continue to support the development of the Aged Care industry, services and support in Narrogin to assist in retaining aged residents within the community.	DCCS	Ongoing

### **Voting Requirements**

Simple Majority.

<b>COUNCIL RESOLUTION 0714.102 AND OFFICER'S RECOMMENDATION</b>
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**Moved: Commissioner L Ballard**

**Seconded: Commissioner G Ballard**

That Council:

1. Does not proceed with the relocation of Jessie House on Lot 1721 (Reserve 49048) Hale Street Narrogin at this time.
2. Advises the working group to look for an alternative site for the relocation of Jessie House for Council's further consideration.

**CARRIED 3/0**

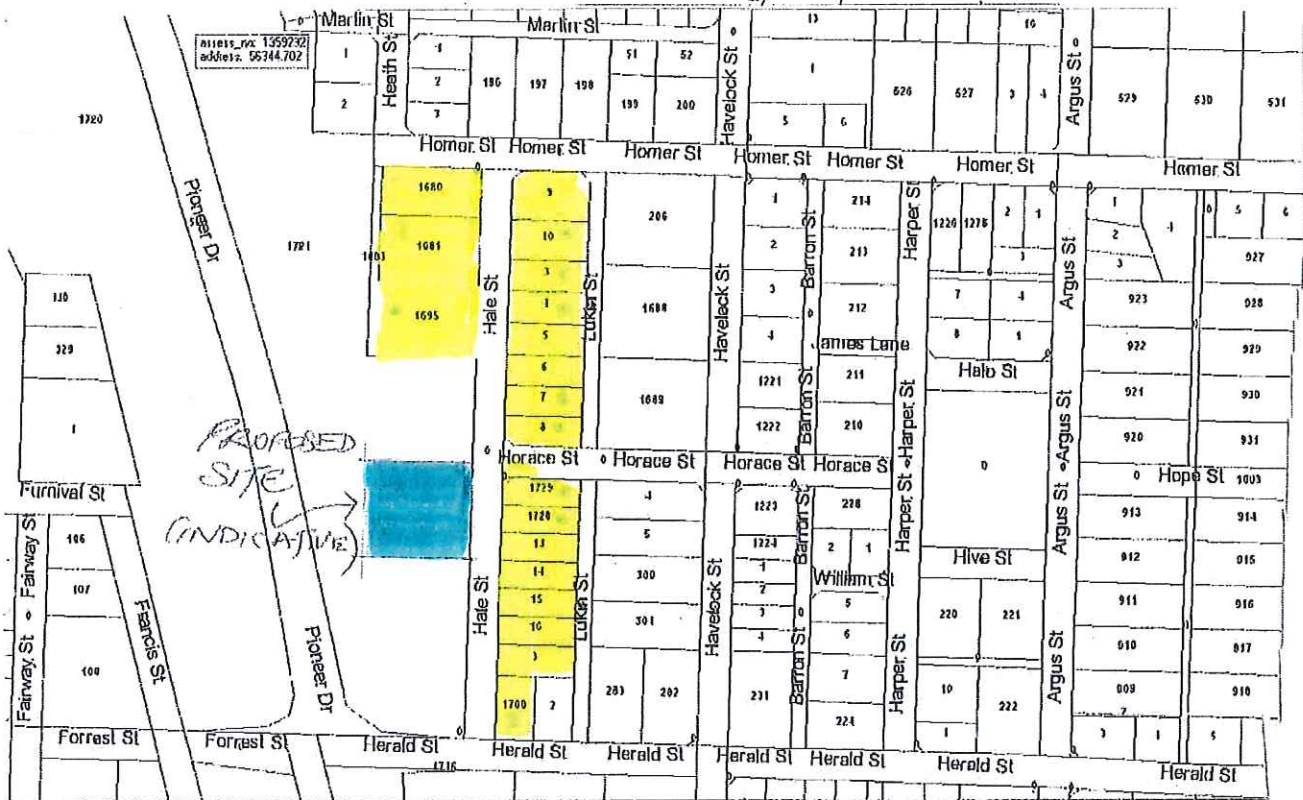


Proposed site for relocation of Jessie Home

Attachment 1 - Proposed site



Attachment 2 - Map of Properties Referred for Comments



Schedule of Submissions – Jessie House Relocation, Lot 1721 (Reserve 49048) Hale Road, Narrogin

Submissions	Comments	Officer's Comments
Submission 1	<p>I am writing to express my objection, disapproval and disgust at the Town of Narrogin's proposal to relocate the Home and Community Care demountable, also known as "Jessie House" to the Nature Reserve Number 49048, Hale Street, Narrogin for the following reasons:</p> <p>1 – The area is a flood zone, as evidenced by the floods that devastated the town in the 1950's.</p> <p>2 – Reserve number 49048 is zoned Recreation only.</p> <p>3 – Bringing a service like this to the reserve spoils the amenity of the area. The area is surrounded by residential housing, it is quiet and peaceful. Residents use the Reserve to walk their dogs, exercise and relax.</p> <p>4 – I am unsure of the exact proposal location for this structure, but the Town of Narrogin has already spent a considerable sum of monies on the newly erected exercise equipment. This equipment enhances and compliments the amenity of the area and attracts residents who wish to enjoy the quiet location and enjoy some recreation exercise.</p> <p>5 – The relocation of HACC could (more than likely) require the removal of large, well established trees. These mature trees are crucial to the natural environment, especially along the creek and the nature reserve. The removal of these trees would affect the whole ecosystems of the area that has already been severely disrupted.</p> <p>6 – The nature reserve acts as home and habitat to many species of fauna. Most importantly it is habitat to the endangered bird species regent Parrot and Carnaby's Black Cockatoo. The probable ruination of habitat would desperately negatively affect the lives of many species of wildlife. Considering that the area is zoned Reserve, I am concerned that an environmental impact study has not been performed.</p> <p>7 – The infrastructure to support a service of this type is not present in the Reserve. There is no designated parking. There is no lighting for security at night. This area is prone</p>	<p>Noted.</p> <p>1. It is acknowledged that the area is close to the existing creek and may be inundated in the extreme 1 in 100 years flood level.</p> <p>2. Under Recreation zoning, it also permits other uses such as Buildings used in conjunction with and for the purpose of playing fields, recreation grounds and sporting clubs.</p> <p>3. Noted.</p> <p>4. The proposed location is conceptual and there is no intention of removing or building over the existing outdoor exercise gym.</p> <p>5. The proposed location is conceptual and it is not intended to remove existing matured trees as the trees provide the stability of the foundation of the ground as well as providing shade during the summer period.</p> <p>6. As per comment 5 above. The proposal in the initial stage is to gauge the adjoining community response to the proposed location. The environmental impact study will be undertaken as a referral to the relevant agencies as part of the next stage of development. This cannot be undertaken until the relevant approval has been granted by the Department of Lands and the Department of Planning for the proposal.</p> <p>The provision of parking, lighting and security will be provided at a detail drawing. This is only the first step of many for Council to go through once a</p>



Schedule of Submissions – Jessie House Relocation, Lot 1721 (Reserve 49048) Hale Road, Narrogin

	<p>to attracting theft and vandalism. This ground is grass and uneven for seniors and the infirm, providing an unsafe area for them to be walking on.</p> <p>8 – There would need to be ablutions for the comfort of the patrons. This would mean pollution and waste products being disposed of in the area. I am concerned there has not been any provisions for this. Will this be disposed of into the creek?</p> <p>9 – The east side of Narrogin does not host any of the services that HACC frequents, for example the Hospital, the Doctors surgeries, the Senior Citizens Centre etc.</p>	<p>suitable site is located and approved by the relevant stage government agencies.</p> <p>8 - Refer to comments in point 7 above. In reference to the disposal of waste products into the creek, there have been changes to legislation of such practices and any disposal into the environment requires the approval from relevant agencies and that the disposal of waste into the creek is no longer and acceptable practice.</p> <p>9 – That is correct however, the HACC has its own transport services that commutes its residents to the specific as part of its service provisions.</p>
<p>Submission 2</p>	<p>I am writing to voice my objection to the proposed development of the site in Hale St to accommodate Jessie House. I am also voicing my objection to the manner in which residents have supposedly been informed.</p> <p>I own 29 Hale St, and originally bought my house due to the location and quiet surroundings. Once the tennis courts were demolished I was happy to see some vegetation planted, and looked forward to having a view of green from my property. My house is currently on the market and I now have grave fears that this proposed development will impact not just the value of my house, but the possibility of selling it.</p> <p>Last year I voiced my concerns regarding the zoning of the area concerned and was assured that the zoning would remain as public open space. I have included a copy of this correspondence at the end of this email.</p> <p>The letter that was sent to supposedly inform residents of this proposal, that only some residents of the street received, is very deceptive. It gives scant information about the proposed development, and particularly doesn't mention a change of zoning. When I looked up the public notices on the Town of Narrogin website there was no mention of the Hale St proposal. It was only after searching the minutes</p>	<p>As the proposal is a concept, it is intended to notify those land owners directly affected by the proposal in order for Council to determine if the site is suitable for the proposal.</p> <p>Noted.</p> <p>The rezoning is a very complex and lengthy process and it is not something that can be done overnight. This is the first step of many for Council to go through to determine if the site is suitable for the proposal.</p> <p>The proposal is to get a general feeling from the directly affected land owners of the proposal. In the event that there is Community support, the next step would be to undertake the formal advertising process and advertised this to the wider community including relevant state agencies and the different means of media publication. The reserve is currently vested in the Town of Narrogin for the purpose of "Recreation". The proposal is to write to the Department of</p>



	<p>of a council meetings that I discovered that there is a proposal to change the zoning from 'recreation' to 'community'.</p> <p>The letter I received had no mention of this. What would such a change of zoning mean? How would it impact residents? Would it mean that council could approve putting a Centrelink Office there? Or an office for the Department of Justice? I find that the manner in which you 'informed' the residents of this proposal to be unfair and lacking in transparency. It appears that by only giving some of the information, you were hoping residents would not object.</p> <p>In conclusion, due to the lack of information and underhanded manner in which this proposal appears to have been handled, I strongly object to any development or change in zoning of the Hale St land. We cannot make an informed decision with only some of the facts made available to us.</p>	<p>Lands for the change of the purpose to "Community for the purpose of Home and Community Care".</p> <p>As pointed out in the comment above the The change of purpose to Community purpose is to designate it specifically for Home and Community Care and not for any other types of development. At this point in time the proposal is for the location of the site and whether the site is favourable by the affected land owners based on the submissions received. This is one of many processes that will need to be undertaken before a formal development can be considered.</p> <p>See comments above.</p>
<p>Submission 3</p>	<p>As the residents of 6 Hale Street Narrogin, I am not in a position to make a full comment of approval or disapproval of this proposal, as we don't yet have all the facts of what is proposed.</p> <p>In order for us to do this, and to understand the greater implications of this proposal, we would like to know what rezoning is going to have to take place, and then, what that rezoning means going forward as to what else could be developed and/or moved over to this area of Hale Street in the future.</p> <p>At one stage a few years back, there was talk of the Juvenile Justice Centre being located right next door to us in what is now the Community Gardens. We were strongly averse to this proposal and should departments like this etc., be planned to be relocated in the future due to the rezoning, then we again would object.</p>	<p>The proposal at this stage is to gauge the affected land owners' view of the proposal to relocate Jessie House in this location. At this stage there is no design plan for the building and this will be undertaken as part of the overall development process.</p> <p>The current zoning is "Recreation" and the proposal is to seek the Department of Lands approval to change the vesting purpose to "Community for the purpose of Home and Community Care". The Council will also be seeking the advice from the Department of Planning as to whether a rezoning will be required to change the zoning of the land. This will be the next step in progressing the proposal forward if Council agrees with the proposed site.</p> <p>Noted.</p>

Schedule of Submissions – Jessie House Relocation, Lot 1721 (Reserve 49048) Hale Road, Narrogin

	<p>If the parkland status of this area can be retained and Jessie House be relocated with NO other commercial development in the form of Govt agencies or PCYC type activities, then we would have no objection.</p> <p>We look forward to detailed clarification as to the future plans for this proposed area.</p>	<p>If supported, the proposal is to only permit Home and Community Care.</p> <p>In the event that the proposed site is supported by Council a detailed plan will be provide and a formal public consultation will be undertaken including referral to relevant state agencies.</p>
Submission 4	<p>I live at 5 Hale St and have received a letter about the proposal to relocate Jessie House used for the purpose of Home and Community Care and a Dementia Day Care Facility. I bought my place just over two years ago as it was such a lovely quiet area with the three railway workers houses giving it charm and the community garden an asset.</p> <p>I have concerns about the amount of traffic this relocation will generate and there will be a need to remove some of the trees at the site. I understand that this area is under the auspices of the Parks and Wildlife Department which I think it should stay.</p> <p>If it where to be zoned commercial or community this leaves the future too uncertain for us living here in this lovely area of town. I think this area should be developed more for families and recreation along the creek line and not be open to further developments of a disturbing nature, eg drop in houses or refuge centres or relocating government agencies like Centrelink. It is foremost a residential street.</p> <p>I have nothing against the great work Home and Community Care do for the town. By the way the local paper mentioned three sites were being considered, where are the other two?</p>	<p>Noted.</p> <p>At this stage the proposal is gauged the response for the directly affected land owners of the proposed site for the relocation of Jessie House. At the development application stage a detail design will be required and detail information of the activities proposed including the traffic movements. The proposal is a concept and it is not intended to remove the existing trees. Any removal of the existing trees will require the approval from the Department of Parks and Wildlife.</p> <p>The proposal is to change the vesting purpose of the reserve to "Community" for the Purpose of Home and Community Care.</p> <p>The two other sites were: Lot 264 Park Street (Behind the Town of Narrogin Office next to the Senior Citizen Homes) and Lot 123 Earl Street (the Old golf Course site).</p>
Submission 5	Object to the proposal.	Noted.



Schedule of Submissions – Jessie House Relocation, Lot 1721 (Reserve 49048) Hale Road, Narrogin

	<p>It is not so much the Jessie House we are objecting too, it's the rezoning or repurposing of Lot 1721 from Parks &amp; Recreation to Community Purposes.</p> <p>We would be disappointed if this Lot 1721 was changed from its current zoning.</p> <p>WE bought our block specifically because of the Park Lands &amp; Reserves around it. We have concerns of Lot 1721 is rezoned that it could have a significant impact on the value of our property.</p>	<p>Noted.</p> <p>Noted.</p> <p>The issue of Value of the property is not a valid planning reason for refusal of a development.</p>
<p>Submission 6</p>	<p>We would like to state, that in the minutes of the Narrogin Council Meeting dated 17 May 2016, it states that 14 days' notice must be given to the surrounding properties of the proposed location. The letter that we received from your self is dated the 1 June 2016. It has been hand delivered to our mail box (not via the postal services) and we did not receive this letter until Friday the 10 June 2016 (our mail box is cleared on a daily basis). We have clearly not been afforded the correct notice period. Why has it taken 10 days for our letter to be hand delivered? We believe this is to be unfair and un reasonable length of time to consider the major proposed changes to our street.</p> <p>We would like to state that we are not impressed by the absolute bare minimum of information given in this letter regarding this proposed development of the park land, considering what a major change and impact this will have to our street and surrounding parkland. After receiving the letter on 10 June, we could not get an appointment with you to get further information until Monday 13 June at 4pm to make an informed decision regarding this matter. Taking into consideration these three facts, the amount of time we have had left to source information and make an informed decision has been nothing short of unreasonable.</p> <p>We totally object and are opposed to the relocation of Jessie House to the location of Lot 1721 Reserve 49048 Hale Street, Narrogin for the following reasons:</p> <p>1 – One of the main reasons for the significant investment in our beautiful</p>	<p>The purpose of the notification to the affected land owners is to gauge their response regarding the proposal to relocate the Jessie House on Lot 1721 (Reserve 4908) Hale Road Narrogin. A minimum 4 days public notification is considered reasonable which commenced on 1 June 2016 and closed on 17 June 2016. This is the initial stage of the process to get an indication of the response for the residence most directly affected by the proposal. This is not the statutory public advertising process as this will be undertaken as part of the formal development application. Our record shows that the letters to the affected landowners as listed in our rates system were receipted by Australia post on 1 June 2016 who delivers the letters to the respective properties. We have allowed 3 additional days to accommodate possible delay through the postal process which is considered reasonable. We have been advised by the Australian Post that there cannot guarantee that the local mail will be distributed on the same day and that it will take up between 3 to 4 days to deliver local mail.</p> <p>Three of the houses along Hale Street (No. 2,4 &amp; 6) are listed in the Shire's</p>



	<p>historic family home in this street was due to the location of our home to the beautiful open parkland and tranquil nature strip along the creek line. We did not ever envisage this beautiful community parkland being redeveloped. It is a unique location with three heritage homes only, on that side of the street.</p> <p>2 – We adamantly believe that this parkland should be left for all community to have access too. The nature strip parkland is frequented every day by many members of the community engaging in all sorts of outdoor physical activities and there for should not be reduced in size. We would prefer to see this parkland developed further as a community park for all ages and families eg with barbeques, duck ponds and children’s cycle tracks and nature play scapes, etc. After the sale of the beautiful public open parkland, which was the old golf course, this is the only other parkland left in Narrogin for the entire community to utilize and is located very close to the centre of town making it accessible to all.</p> <p>3 – We strongly believe this to be an inappropriate location for a Home and Community Care and Dementia Centre and Aged Care Facility due to the fact that it is a flood risk area. Having only been living in our home for six years, we have seen many flooding events that have caused the creek to flood within 10m of our back fence often within 15 minutes, due to large rainfall events and much of the storm water coming from the east side of the town being deposited in to the creek via drains. The area is then boggy and marshy for many days after and would create and unsafe and inappropriate environment for aged care services and dementia clients.</p> <p>4 – We believe the location to be inappropriate for a dementia day care facility due to the close proximity of the soon to be opened southern heavy haulage bypass which would cause a risk to dementia clients if they were to wander, not to mention the slippery and steep creek embankment, the</p>	<p>Municipal Heritage Inventory in both Category A( No 6) &amp; B (No. 2 &amp; 4), where the category A listed building is listed in the Heritage Council of WA. These properties backed on to the parkland and not directly overlooking the proposed site. No 6 Hale Road adjoins the Community Garden to the south, which abuts the outdoor gym, the proposed location of the Jessie house is to the south of the outdoor gym.</p> <p>2 – The parkland is for community use and there is no intention of restricting the current activities. The Shire is currently seeking funding to undertake a master plan for this whole reserve which will require public input and workshop as to how best to develop the overall plan for the reserve.</p> <p>The proposed location of the Jessie House is within close proximity to the existing creek and may be susceptible to flooding. This needs to be taken into consideration as part of the overall consideration. HACC as part of its management plan would have an evacuation plan in emergency situations.</p> <p>Noted.</p>
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	<p>rickety bridge in bad need of upgrading and at times deep water.</p> <p>5 – Due to the number of small children residing in Hale Street and surrounding streets, we are greatly concerned with the increase of traffic that this new facility (plus the mentioned expanding services to be provided by this facility) will greatly increase the risk to children crossing the road to access the park and around the driveway to this government facility. Hale street is a quiet street traffic wise and considered a safe place of children. This is no place for a Government enterprise with increasing services to be provided; it is a residential and recreational area.</p> <p>6 – There is no footpath on either side of the full length of Hale Street, and surely this would also have to be taken into consideration in terms of elderly safety and children moving around the facility.</p> <p>7 – We see many families and children (toddlers) frequenting the recently installed gymnasium equipment, which is currently a safe place for families and young children to be. We cannot see how this demographic could continue to utilize the equipment when there is so much traffic moving around the carpark to this facility, including busses, without putting the equipment within ugly fencing. This would detract from the lovely feel of exercising in the park.</p> <p>8 – We do not see the gymnasium equipment as being suitable for many of these clients from the aged care facility, as without proper training on the equipment and supervision they could very easily be injured or fall.</p> <p>9 – We not only totally object to the relocation of Jessie House to Hale Street, we also totally object to the rezoning of the proposed location from "recreation and parkland" to "Community Purpose". This is due to possible future implications for further redevelopment of this parkland and the possible community services that could also end up utilizing this location. Such as: PCYC, Dept. of Justice, Centrelink, a drop in centre, hardship counselling, just to name a few of the</p>	<p>There will be a requirement for a traffic management plan to be provided as part of the formal development application. This stage of the proposal is to gauge the views of the affected landowners.</p> <p>Noted.</p> <p>Noted.</p> <p>Noted.</p> <p>The initial stage of the proposal is to gauge the views of the affected landowners. It is not the intended to allow other types of Community purposes on this site other than for the specific use of Home and Community Care. Any changes to the purpose will require the approval of Department of Lands and the Department of Planning. If the site is supported by Council and the relevant State Department a rezoning will be undertaken and there are statutory processes outlined in undertaking public notice such as public notice in local</p>
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	<p>less desirable community services that you would not like in your home street. Don't say it wouldn't happen, as we have already had a proposed drop in centre planned for the location were the Community Garden now resides. We would like to question why there has been no mention of the rezoning of the parkland in the Newspaper article and the letter we received. We find this to be quite deceiving and if Matthew had not directly asked this question in the meeting he arranged with you, we feel we might have been none the wiser like the other residence in the street who have not been informed properly. Rezoning of land use can have a huge impact on a property, especially price wise.</p> <p>10 - Why has there been no mention in the Newspaper article, (of which we only saw today), the letter we received or the minutes of the meeting regarding the prominent reason Jessie House is being relocated. Due to the proposed plans being drawn up for major extensions to the Leisure Centre in Clayton Road, and Jessie House not fitting in with that plan as told by yourself to both of us individually. It would seem only certain people in the town know about this proposal and not necessarily those in Council. Why has this proposed new extension to the Leisure Centre not been made public so that the community understand why Jessie House is to be relocated?</p> <p>We would also like to state that if the town can afford a major extension to the Leisure Centre, then perhaps it can afford to redevelop a new site one of the other locations considered, like the one close to the Senior Citizen and Doctors surgery, or over by the old golf course where there is ample room for expansion, no children, no residence and heaps of natural open space. Surely there will be enough in the budget for a bit of water and services. A fresh place for the poor elderly soles that are given no other option than to traipse up and down the creek and go to the Community Gardens every Friday without fail. I have been told that they have had enough of going to the</p>	<p>paper, notice on site as well as letters to surrounding properties including relevant state agencies as specified in the <i>Town of Narrogin Town Planning Scheme No2</i> and <i>Planning And Development Act 2005</i></p> <p>See comments above. The current location of the Jessie House is not suitable on a number of facets from traffic movement in and around the HACC building the sporting oval and does not provide the ability for further expansion.</p> <p>In reference to the extension or the overall development of the sporting oval and surrounding Leisure Centre, this proposal is still conceptual and the location of the HACC building does not provide the opportunity for the overall development to expand.</p> <p>With any projects undertaken by the Council, funding need to be sourced in order to secure the project and needs to be demonstrated that a site has been allocated and plans drawn up ready to progress to construction.</p> <p>In the event that the preferred site is not supported by the Council based on the submissions received, the alternative sites will need to be revisited or to look for an alternative sites.</p> <p>HACC management has been convey of the concerns expressed by some of the clientele regarding the regular visit to the Community Gardens.</p>
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	<p>same place, month after month, and you want to cement then to that spot. Maybe you could consider putting off the extension to the Leisure Centre while you pay for a more suitable location for a Government Agency than in the middle of residential and recreational area.</p> <p>We are aware there are several owners in Hale Street do not live in Narrogin, one being in Albany and in Perth. We do wonder when or if they have received their letters in time to source information and make comment, especially given the absolute bare minimum of information. It will be interesting when we all make contact with these owners in the next few days to find out whether they too received an unreasonable amount of time to comment, if any. We have spoken to five other owners in Hale Street in passing that had disregarded the letter until they were informed about the rezoning. It makes one question whether this was the intension???</p> <p>We are not impressed by the way this proposal and notification has been handled and would like an explanation as to why so little time has been allocated for comment, delay in delivery of our letter by 10 days and for the lack of transparency regarding information and the rezoning of land use.</p> <p>Thank you for allowing us to comment on this most important issue which will have a very large impact on our street and lifestyle.</p>	<p>Letters were sent to the landowners affected by the proposal as listed in our rates systems.</p> <p>As mentioned previously, the proposal at this stage is to gauge the views of the landowners directly affected by the proposal for the location of the development. The details of the development will be design once a site is secured including traffic movement, the overall management of the building and its operations, types of building materials, car parking, landscaping etc.</p>
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## 10.1.080 PROPOSED LANEWAY CLOSURE – LOT 28 (No.11) SYDNEY HALL WAY AND LOT 6 (No.34) DAGLISH STREET, NARROGIN

**File Reference:** 28.7.2  
**Disclosure of Interest:** Nil  
**Applicant:** Shire of Narrogin  
**Previous Item Nos:** Council Resolution 0213.010 and 0216.015  
**Date:** 17 June 2016  
**Author:** Azhar Awang, Executive Manager Development & Regulatory Services

### Attachments

- Attachment 1 - Plan of subject Laneway located between Lot 28 (No. 11) Sydney Hall Way and Lot 6 (No 34) Dalglish Street, Narrogin.
- Attachment 2 – Plan of land owners notified of proposed laneway closure.
- Attachment 3 – Schedule of Submissions.
- Attachment 4 – Laneway newspaper article (Thursday June 23, 2106).

### Summary

Council is requested to consider the proposed closure of a laneway located between Lot 29 (No. 11) Sydney Hall Way and Lot 6 (No 34) Dalglish Street, Narrogin.

### Background

The matter was previously considered by Council at its meeting held 23 February 2016. Council at that meeting resolved as follows:

*Council Resolution: 0216.015*

*A. That Council:*

*1) Pursuant to the requirements of the Transfer of Land Act and Land Administration Act, advertise its intent to close that portion of public access way located at the western end of the access way between Lot 6 (No 34) Dalglish Street and Lot 28 (No.11) Sydney Hall Way, Narrogin.*

*2) Advertise the fact that the eastern portion of the public access way between Lot 2 (No.40), Lot 1 (No.38) Williams Road and Lot 6 (No.34) Dalglish Street is privately owned land.*

*3. Upon the closing date of submission, the matter is to be reported to Council including all submissions received during the submission period for Council's further consideration.*

The proposed closure has been advertised in the local paper and written notifications to all affected and adjoining landowners as well as the relevant state agencies.

After the closing date of submissions 3 June 2016, twelve (12) submissions were received. A copy of the schedule of submission is attached in this report (Attachment 3)

The laneway between Lot 6 (No.34), Lot 2 (No. 40) and Lot 1 (No 38) Williams Road is privately owned by the respective properties. However this laneway was kept open to allow the continued use of the pedestrian access way connecting Sydney Hall Way to Darglish Street. The portion of laneway which currently retains its current status as a laneway is the portion of land between Lot 28 (No. 11) Sydney Hall Way and Lot 6 (No 34) Darglish Street.

The request was presented by affected landowners for the proposed closure was due to the adjoining owners having rocks thrown at their window on numerous occasions and the overall unsatisfactory upkeep of the laneway such as the accumulation of rubbish, broken glass and graffiti to the colorbond fencing to reinforce the need to close the laneway.

### **Comment**

The Town of Narrogin considered the closure application in accordance with the provisions of section 52 of the *Land Administration Act 1997*, which involved the written notification to all adjoining and affected land owners and the relevant service agencies for a minimum period of 30 days inviting written submissions. The Town also received a written response from the Department of Planning stating that it had no objection to the proposed laneway closure given the private ownership of the existing laneway.

In general, all the submissions received are in favour of the closure of the laneway.

A number of the submissions received raised the possibility of the closure of the laneway to the west of Sydney Hall Way to Narrakine Road which does not form part of this proposal and will require a separate application.

The Department of Water, in its submission, indicated that the main sewer pipe runs within the laneway and this would not impact on the tenure of the land as the Department would have an automatic right of access in terms of servicing the sewer pipe.

The main concerns raised by the landowners whose land is being used as a laneway, and for the laneway to be formally closed, the boundary fence needs to be relocated and replaced with new fencing and the old asbestos fencing removed. There is also a requirement by the landowners for the site to be reasonably level.

It is noted that there are street lights in this laneway and this will be required to be disconnected and removed from site.

There is also the question as to what do we do with the remainder of the laneway once the laneway is closed? The process for the laneway closure is to offer the adjoining landowners the opportunity to purchase the laneway from the Crown and once agreed between the adjoining properties the laneway will be transferred to the respective land owners at their cost.

The private land owners of the laneway have requested that all costs associated with the closure (site works, removing old boundary fence and replacing with new fencing) should be at the cost of Council as it was the Council who undertook the laneway works during the earlier



years and no administration work was undertaken to formalise the tenure of the land. It is considered reasonable that Council bears the cost associated with the laneway closure.

As there is no objection to the closure of the proposed laneway, it is recommended that Council supports the laneway closure between Sydney Hall Way and Darglish Street.

### **Consultation**

- Mr Aaron Cook – Chief Executive Officer
- Mr Torre Evans – Executive Manager Technical and Rural Services
- The Town has advertised the proposed closure of the laneway to the affected adjoining landowners and relevant service authorities. A total of twelve (12) submissions were received and these are included in the Schedule of Submissions under attachment 3 of this report.

### **Statutory Environment**

Section 52 of the *Land Administration Act 1997* provides that a local government may request the Minister for Lands to acquire a laneway, subject to compliance with the requirements in Regulation 6 of the *Land Administration Regulations 1998*.

Section 56 of the *Land Administration Act 1997* provides that a local government must indemnify the Minister for Lands against any claim for compensation in connection with the proposed laneway dedication.

### **Policy Implications**

Western Australian Planning Commission – *Procedure for the Closure of Pedestrian Access Ways Planning Guidelines October 2009*.

### **Financial Implications**

Costs associated with the laneway closure includes application fees, advertising costs, costs of meeting requirements of relevant service agencies, survey costs and conveyancing costs.

The costs also include the removal and reinstating new boundary fence and site works. It is also noted there is a street light which will have to be disconnected and removed from site. It is estimated it will cost up to \$15,000.

### **Strategic Implications**

The retention of the laneway is recommended in most circumstances to ensure efficient movement of pedestrian traffic through the town, however in this case, Council does not legally have care and control of the land which is under private ownership.

### **Voting Requirements**

Simple Majority.

**COUNCIL RESOLUTION 0714.1023 AND OFFICER'S RECOMMENDATION**

**Moved: Commissioner L Ballard**

**Seconded: Commissioner G Ballard**

That Council:

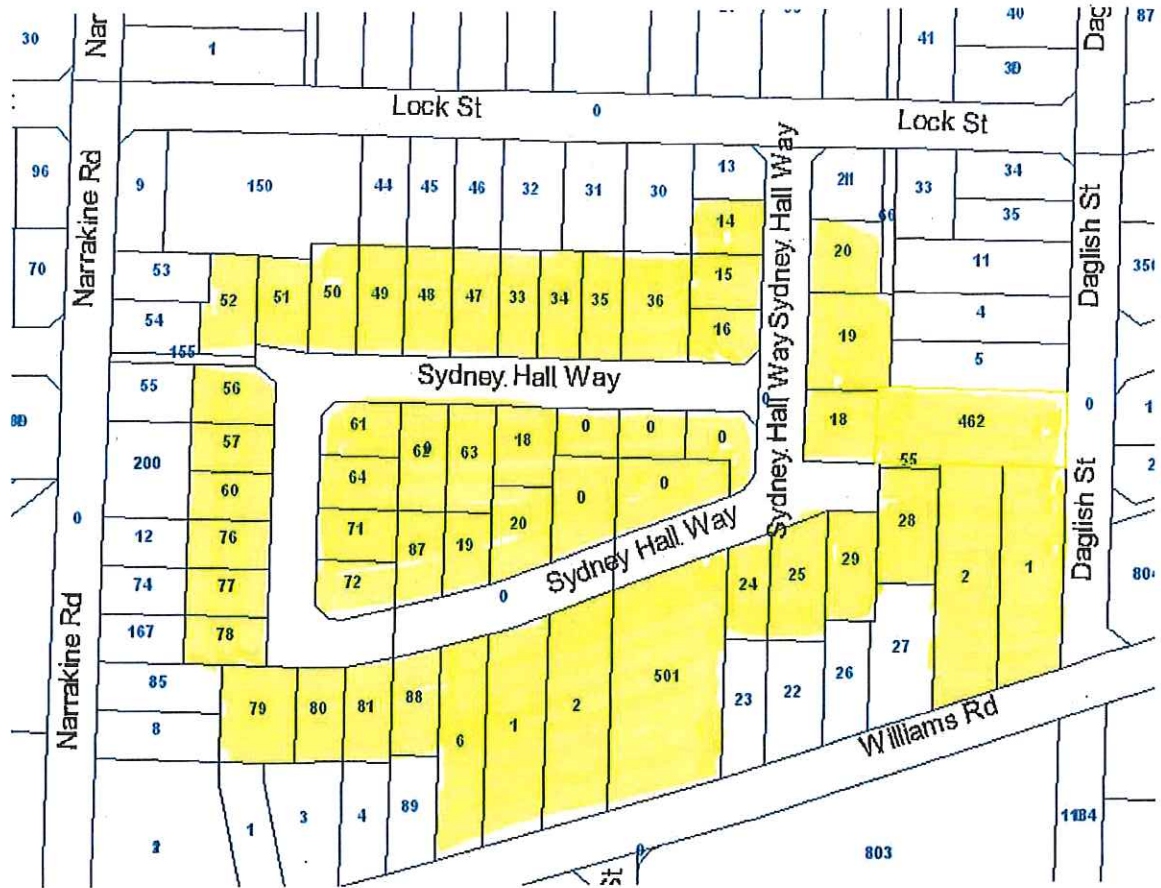
1. Approve the closure of public access way located at the western end of the access way between Lot 6 (No 34) DGLISH Street and Lot 28 (No.9) Sydney Hall Way, Narrogin.
2. Notify the adjoining landowners of Lot 6 (No 34) DGLISH Street and Lot 28 (No.9) Sydney Hall Way of Council's intention to close this laneway and the interest to the landowners to purchase the laneway to be amalgamated into their property and that all costs associated with the purchase of the laneway will be borne by the individual landowners.
3. Apply to the Minister for Local Government and Communities for approval to undertake works and expend municipal funds on private land.
4. Undertake the site works to remove existing boundary fences and replace with new fencing including the removal of street light upon the formal closure of the laneway issued by the Department of Lands.
5. Forward all the documentation relating to the proposed laneway closure to the State Land Services for processing under section 87 of the *Land Administration Act 1987*.
6. Write to all the affected land owners of the Council's outcome.

**CARRIED 3/0**



Attachment 1 - Plan of subject Laneway located between Lot 28 Sydney Hall Way and Lot 6 Daglish Street, Narrogin





Plan of Land Owners Notified of Proposed Laneway Closure

Schedule of Submissions – Laneway Closure Between Sydney Hall Way and Dalglish Street

Submissions	Comments	Officer's Comments
Submission 1	<p>Support the Council's proposal to close this laneway between Sydney Hall Way and Dalglish Street on the basis that the whole distance between the two gazetted roadways is closed and not just the section at the rear of lot 28 (street number 9), otherwise this proposal will result in an open ended R.O.W. from Dalglish Street and closed before Sydney Hall Way and this will potentially lead to attracting undesirable behaviour in this secluded cul-de-sac type walkway. Thus given the requests from the privately owned land-owners for the closure, this proposal is indeed a sensible direction for council to take.</p>	Noted.
Submission 2	<p>Having lived in Sydney Hall Way for some twelve years, I was pleased to see of the closure of the laneway at Dalglish Street leading through to Sydney Hall Way.</p> <p>I believe that the closure needs to be at the entrance to the laneway on Dalglish Street and not outside No. 9 Sydney Hall Way.</p> <p>I also believe that the laneway needs to be closed off at the entrance to Sydney Hall Way from the Narrakine Road end.</p> <p>These laneways over the past five to six years have turned this cul-de-sac into an area of anti social behaviour, particularly the park area and up the right side hand of Sydney Hall Way. With many elderly retired people living in Sydney Hall Way on the right hand, I have often been asked if those lane ways could closed.</p> <p>Having consulted a previous councillor on this subject, I was informed that it had gone through council prior to your tenure, and was informed it had passed all stages of council and was proposed it be closed, but never enacted.</p> <p>Most of the disturbances occur after 10pm at night and come up from the entrance to Sydney Hall Way and through to the right hand side access to Narrakine Road. I live at No.3 Sydney Hall Way and the route</p>	<p>Noted.</p> <p>Noted.</p> <p>The current proposal is for the closure of the portion of laneway between Sydney Hall way and Dalglish Street.</p> <p>The issue of antisocial behaviour in Park area need to be address as a separate matter, as the park is a community reserve for the benefit of the surrounding residents. The issue of the laneway on the eastern side of the Sydney Hall Way and Narrakine Street is not part of this application process.</p> <p>Noted.</p> <p>The issue of anti social behaviour is under the jurisdiction of the local Police.</p>



## Schedule of Submissions – Laneway Closure Between Sydney Hall Way and Dalglish Street

	<p>is past our house. With my wife in the early stages of dementia, this distraction has been highlighted.</p> <p>I have spoken to several residents who would like to see both entrances closed.</p>	Noted.
Submission 3 (Water Corporation)	No objection to the proposed closure as water services will not be affected.	Noted.
Submission 4 (Western Power)	<p>As your proposed work is near energised electrical installations and powerlines, the person in control of the work site must ensure that no person, plant or material enters the "Danger Zone" of an overhead powerline or other electrical network assets.</p> <p>The "Danger Zone" is set out in Western Australian Occupational Safety and Health Regulation 1996 – Specifically Reg 3.64. <a href="#">(Link)</a></p> <p>Any information provided to you by Western Power should not be used in isolation and we recommend that you refer to the Occupational Safety and Health Act 1984 and Occupational Safety and Health Regulations 1996. These documents outline WorkSafe WA requirements for working near electricity.</p>	<p>Noted.</p> <p>Noted.</p>
Submission 5	<p>We have no objection to the closure of this laneway.</p> <p>If this laneway is closed, we would like suggest that the second laneway in Sydney Hall Way, which goes thru to Narrakine Road, also be closed. There would be no point in keeping this laneway open once the laneway thru to Dalglish Street is closed, in our opinion. Access to Sydney Hall Way via Lock Street would be more than adequate.</p>	<p>Noted.</p> <p>The application is for the closure of the laneway between Sydney Hall Way and Dalglish Street as the portion of land in the laneway is privately owned. The proposed closure of the laneway between Sydney Hall Way and Narrakine Road is a separate matter and does form part of this application process.</p>
Submission 6	<p>I wish to submit the following concerns I have, concerning the council's obligations in making the closure go smoothly, with no parties effected by this closure, unduly financially effected.</p> <p>Let it be noted that the manner in which the council took possession of</p>	<p>Noted.</p> <p>It is understood at the time of creating this laneway, the process was to</p>

Schedule of Submissions – Laneway Closure Between Sydney Hall Way and Dalglish Street

	<p>the land, now used as the lane, was wrong and illegally done.</p> <p>I have spoken to the people that then owned the land and they have told me that no written notice or exclamation as to what was to happen or the process in which was to make it happen, was ever received by the then owners.</p> <p>Having done some research on the acquisition of the land to be used for the purpose of a public easement, it is evident that the Narrogin Town Council in no way went about this process with any regards to proper procedures. This I fee, leaves the Council in an unenviable position.</p> <p>From the people I have spoken to, council erected the fences on both sides of the laneway, as the original fence between 6 Dalglish Street and 38 and 40 William Road was a picket fence.</p> <p>Having spoken to the current owners of these properties, I can tell you that we all would like the council to pay for the removal of the fences both sides of the land and have the ground levels evened out, as the council has built the ground level up to make the lane level, to lay slabs that the council has now removed. Once levelled , and the tree that grew on the fence line, during the time the council had control of this land and trimmed the tree in an unprofessional manner, thus making regrowth fall during winds, often damaging the fence and out buildings in 6 Dalglish Street.</p> <p>Being asbestos and now in a bad state of repair, the boundary fence needs removing. We feel that a new 1.8m colourbond fence should be erected at council expense, on the boundaries, as council has had approximately thirty five years of this land and seeing that both 38 and 40 Williams Road have being paying rates on this land and being subject to the risk of liability claims, should there be any type of incidents take place in the laneway, without us knowing that the council has put us in that position. It has been noted</p>	<p>formally excise the laneway from the private ownership and was never enacted.</p> <p>The process would have required a public notice to the affected landowners and service authorities and once completed and endorsed by Council a new title is created to excise the laneway from private ownership and transfer to the care and control of the Council.</p> <p>Noted.</p> <p>Noted.</p> <p>Noted. The issue of payment for the removal of the fences on both sides of the lane and site works is for Council's consideration.</p> <p>Although the process for the formal excision of the laneway from private ownership had not been enacted, the use of the laneway is for the benefit of the community. A cost assessment will need to be undertaken in regards to the removal and replacement of the fence, if Council considers this to be a reasonable request.</p> <p>In the event that there is an incident over this laneway which is currently under private land, it would be fair to say that the liability would fall under the</p>
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Schedule of Submissions – Laneway Closure Between Sydney Hall Way and Dalglish Street

	<p>that recent correspondence from council, shows that council is at this stage, only taking responsibility for closing the small section between 6 Dalglish street and Lot 28 Sydney Hall Way, and that, Lot 1 and Lot2 is privately owned land. While this is true, that letter fails to explain to everyone that it is council that has had 100% control of this situation, but is now passing it to us land owners to face the consequences of any disgruntled people, upset at the closure of the lane.</p> <p>I do feel that council should erect signage at each end of the laneway, informing laneway users of the fact that it is the council's decision to close the laneway and when that will take place.</p> <p>At this stage, we the land owners re awaiting reply to the recent meeting we have had in the laneway to clarify Council's intentions.</p> <p>Should council not handle the closure in a manner that is agreeable with all of the land owners concerned, we the landowners, have agreed to jointly take legal action against Narrogin Town Council.</p> <p>Involving Landgate, the Courts and the Media is not what any of us want, as this action would cost Narrogin rate payers considerably more, the it will cost to make good, the process in the first place.</p> <p>Lastly, we would appreciate it, if council would notify us, in writing, of all decisions council makes concerning this matter.</p>	<p>responsibility of the land holder, which in this case would be the landowner.</p> <p>The closure of the laneway is undertaken by Council and any public submissions are presented to Council for its consideration. It is acknowledged that there may be some back lash from the public regarding the closure, however, this is to be expected with any development which has community benefits.</p> <p>The proposal has been advertised in the Local paper, council's web page as well written notifications to all property owners in the surrounding area as per Attachment 2 of the report – Plan of land Owners Notified of Proposed Laneway Closure as well as relevant state agencies. This was considered to be sufficient for this proposal as it meets the minimum requirement on public submissions.</p> <p>A number of site meetings had been conducted on site with the affected land owners. The outcome of the meeting was for the submissions to be assessed and presented to Council for its consideration. On the outcome of the Council's decision the affected adjoining land owners will be advised of the Council's decision.</p> <p>This proposal is presented to Council for its consideration. It is the right of the landowners to pursue further action if it's not satisfied with Council's decision.</p> <p>At the time of writing this report the individual has written to the local paper regarding the issue of the laneway which was published by The Observer on 23 June 2016.</p> <p>All those providing comments on the proposal will be advised of Council's decision.</p>
Submission 7 (Department of Planning)	The subject PAW currently services three lots, being Lot 462 on Deposited Plan 222894, Lot 28 Deposited Plan 45990 and Lot 2 o	Agreed.

Schedule of Submissions – Laneway Closure Between Sydney Hall Way and Dalglish Street

	<p>Deposited Plan 5278. As the land to the east is privately owned, the PAW does not provide a means of legal pedestrian access between Sydney Hall Way and Dalglish Street. The proposed closure will therefore have minimal impact on impact on connectivity in the area.</p> <p>The Western Australian Planning Commission's guideline <i>Procedure for the Closure of Pedestrian Access Ways (October 2009)</i> outlines the process for the closure of PAWs. This includes referral to infrastructure providers with an interest in the PAW.</p> <p>Based on the above, the Department has no objection to the proposed closure subject to the steps outlined in the WAPC's guideline being appropriately followed.</p>	<p>Relevant Infrastructure providers have been sent a referral of the proposal (Western Power, Department of Planning, Water Corporation, and Department of Water).</p> <p>Noted.</p>
Submission 8	<p>In response to your recent letter we would like to advise that we have no objection to the proposed closure.</p> <p>However the closure of the laneway at the opposite end of Sydney Hall Way to Narrakine Road needs to be closed also.</p> <p>If this does not occur adults and children who currently use both laneways will be disadvantaged upon reaching the proposed laneway closed.</p>	<p>Noted.</p> <p>This application for the laneway closure is only for the Sydney Hall Way to Dalglish Street.</p> <p>Refer to the above comment.</p>
Submission 9	<p>We have no objection to the closure of the above mentioned laneway and in fact would like to see the other laneway leading from Narrakine Road through to Sydney Hall Way.</p> <p>Our reason for this is that there are a number of people who use Sydney Hall Way as a short cut and until recently were taking a short cut through the motel and apparently that is not the only thing many were taking as they continued on their journey. The motel to their credit has now erected a fence at considerable expense, no doubt to deter these people from taking the short cut and on some occasions taking property belong to the motel or on other occasions their guests. We thought that this would end the lines of often</p>	<p>Noted. This application for the laneway closure is only for the Sydney Hall Way to Dalglish Street.</p> <p>Noted.</p>



Schedule of Submissions – Laneway Closure Between Sydney Hall Way and Dalglish Street

	<p>drunken people using this “track” but no, some are now taking to climbing the fence to continue their journey. We don’t know what else the motel operators can do other than possible erecting a sign stating “Motel Guests only, No thoroughfare. Trespassers will be prosecuted”. These people have not only climbed the fence of the motel but have been seen on motel CCTV footage climbing the fence adjoining the motel and 29 Sydney Hall Way to use that as another opportunity to continue their journey.</p>	
<p>Submission 10</p>	<p>The laneway in question borders the length of our property at 34 Dalglish Street and over the last years we have requested to have the laneway closed and the council has always resolved to keep it open. Lighting has been erected by the council, council barriers have been installed to slow traffic down at the Dalglish Street entrance and prior to it being thrown into our property on a number of occasions a council rubbish bin was located at the Dalglish Street end.</p> <p>We fully support the proposal to close the laneway as my family has been subjected to years of anti-social behaviour, vandalism and break ins. This was consistent as far back as January 2000 with the findings of the Security Audit commissioned by the Council which raised community safety issues and suggested these types of access ways favour anti-social behaviour. We have in the past attended Council meetings related to the laneway closure and corresponded with the council on many occasions (some of which I have enclosed) however at no time did the council ever inform us the laneway was not Council property.</p> <p>The Council has maintained the laneway be it poorly over the years and I find it now difficult to comprehend that the Council wants to absolve itself of all responsibility for the laneway. The Council needs to take responsibility for ensuring the properties that have had their land requisitioned through no proper process are not financially</p>	<p>Noted.</p> <p>Noted.</p> <p>Noted. This matter will be presented to Council for its consideration.</p>

Schedule of Submissions – Laneway Closure Between Sydney Hall Way and Dalgligh Street

	disadvantaged by having to level the land, remove trees and relocate their boundary fences.	
Submission 11 (Department of Water)	<p>The laneway in question does not fall within an area proclaimed under the <i>'Rights in Water and Irrigation Act 1914'</i>, nor is it near any sensitive water resource.</p> <p>It is noted that the Shire of Narrogin may need to consider the location of existing sewer pipes beneath or in the vicinity of the laneway.</p> <p>Otherwise, DoW has no objection to the sale.</p>	<p>Noted.</p> <p>The sewer pipe runs along the laneway.</p> <p>Noted.</p>
Submission 12	<p>When our properties were purchased approximately 30 years ago, we assumed that as this walkway was being used for public access that it was owned by the Town of Narrogin. On several occasions over the years we have had occasion to notify the Council regarding a problem or issue with the walkway and the council up until a recent issue have subsequently rectified the problem and maintained the walkway.</p> <p>Earlier this year during stormy weather a tree fell over the walkway and broke a section of the boundary fence of 40 William Road. This was reported to council and the next day workmen arrived and cut the fallen tree and we were told that they would be back the next day to replace the fence panel. When they didn't come back to repair fence we again went to the Council office and saw a Mr Brian Robinson who said that Council didn't own the land so not their responsibility and that we could block it off or do what we liked with it. He implied that the Council had been aware it was not their land for some time. It would we believe have been courteous for the Council to have informed us the rightful landowners of that.</p> <p>As neither of us lived at these addresses when the walkway was established we approached the people that owned 38 at the time they said they remember quite</p>	<p>It was the intent of the council of the day to provide a public access way on this parcel of land, however the formality of excising the portion of land from private ownership was not followed through, hence the confusion as to the status of the parcel of lane way as it is still under private ownership.</p> <p>The proposal to Council is to formally close the laneway subject to public notifications prior to Council's final determination on the submissions received.</p> <p>Noted.</p>



Schedule of Submissions – Laneway Closure Between Sydney Hall Way and Dalglish Street

	<p>clearly that they were approached by the then council and told that they intended putting the walkway there and that they (the council) paid for and erected the boundary fence. This I believe took place around 35 years ago.</p> <p>Apparently the council has no records regarding the walkway or agreement with the then Landowners, when the walkway was established a public easement should also have been put in place and documented as we are fairly confident that a conversation between all parties is not sufficient. This would then have been recorded on the Title deeds of both parties.</p> <p>We have no objection to the walkway being closed if the Council is prepared to block it off however, we do have some concerns as to the financial implications this may have on us.</p> <p>As it has been established the Council do not own the land and therefore don't own the walkway and it seems that they the council no longer want/require it as public walkway. We feel that as the Town of Narrogin have had use of our land for the last 30 + years and we have paid the Annual Rates and have never been compensated for allowing the council to use our land as a public walkway that it is fair and reasonable to expect that the council return that land to us in a satisfactory condition.</p> <p>We have concerns over the removal of the asbestos fence which the council erected and paid for and therefore we believe owns, we should not have to endure the cost of removal and disposal of the asbestos fencing. We ask that Council remove the old boundary fence and replace it at their cost with something more suitable. We will be pleased to have this matter resolved once and for all but feel very strongly that any cost involved should be meet by the Council.</p>	<p>The process would have been to formally excise the portion of the laneway from the private property which never eventuate.</p> <p>The issue on financial implication will be presented to a council for its consideration.</p> <p>Noted.</p> <p>This matter will be further investigated and quotes obtained for the required work.</p>
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## Laneway is now a liability

### LETTER

I am writing this to let everyone know about the laneway between Sydney Hall Way and Daghish Street.

This lane was created about 35 years ago by Narrogin Council by taking part of the back of the properties of 38 and 40 Williams Road.

Council erected two fences because the old boundary fence was in a state of disrepair. This was all done without any form of written notice to the property owners involved.

A few years ago a light was erected halfway down the lane by the council after concerns were raised about unsavoury behaviour of some persons. This light is always smashed within days of being repaired.

Since being established as a laneway, a tree grew in one of the fence lines, breaking the asbestos fence. Once it reached maturity, council cut the top off it to stop the limbs falling in the laneway.

The top has since regrown but this regrowth keeps breaking off into the laneway, breaking the fences.

Recently my neighbour reported damage to the fence and blocking of the laneway by a large fallen limb. Council workers removed the tree limb soon after but failed to return the next day as promised.

So my neighbour returned to council to ask when the fence was to be repaired, only to be told it is now private property and thus cannot be worked on by council workers.

Council informed him that both my neighbour and myself

should block off our respective ends of the laneway. We have since asked for meetings with the council to clarify to us council's intentions.

To date we have had only one letter from council that was a generic letter. It was explaining council's intentions to close about one third of the laneway and that the rest of the laneway was privately owned land.

We have asked that after 35 years of paying rates on this land that council took and controlled, could we please have the asbestos fences removed at council's expense and new boundary fences erected, also at council expense, and after the built-up gravel in the laneway is removed.

Council removed the slabs last year and now water floods through the laneway from Sydney Hall Way when it rains.

This makes it hazardous for pedestrians and exposes us to public liability should there be injuries in the laneway.

The lack of consultation by the council right from the start to me is unbelievable. The process to develop a public easement is a lot more complex than putting up fences.

To try to pass the clean-up back to landowners is not how council should handle the fixing of hastily made decisions, followed by shortcutting proper procedure and paperwork.

We, the landowners, do not want the ratepayers to have their rates money wasted on unnecessary legal fights to get a "fair for everyone" outcome to this issue, but the council's lack of communication is worrying.

Graham Mundy, Narrogin

OBSERVER NEWS - THURSDAY JUNE 23, 2016



## 10.1.081 PROPOSED SUBDIVISION (HOMESTEAD LOT) – LOT 7 WILLIAMS KONDININ ROAD, NARROGIN VALLEY

**File Reference:** (WAPC:153767 & 103000)  
**Disclosure of Interest:** Nil  
**Applicant:** CLE Town Planning & Design  
**Previous Item Nos:** Nil  
**Date:** 7 July 2016  
**Author:** Azhar Awang, Executive Manager Development & Regulatory Services

### Attachments

- Referral letter from WAPC
- Application justification from CLE Town Planning & Design

### Summary

Council's consideration is requested in regard to the proposed subdivision at Lot 7 Williams Kondinin Road, Narrogin Valley for the creation of a homestead lot.

### Background

The Shire has received a subdivision application from CLE Town Planning as a referral from the Western Australian Planning Commission in regards to the proposed homestead lot. The proposal is to create a Homestead Lot around one of the two existing dwellings on the site in order to accommodate the extended family and still allows the continual operation of the farm through the next generation.

Lot 7 Williams Kondinin Road has a total area of 188 hectares.

The site contains two houses, which have been used as the residence by the owner of the farm, whilst the other house is used to accommodate the farm manager and staff. The landowner's daughter wishes to relocate to the Shire and will reside in the existing Managers' house so that she can be closer to her parents and assist in the ongoing management of the farm operation.

The proposal is to create a homestead lot around the existing house that abuts the primary farm house with an area of 6.27 hectares (including 1862m<sup>2</sup> road closure area and an access leg). This would result in the parent lot being reduced to 181.7 hectares.

Access to the parent Lot will be retained and the proposal is to have a shared crossover and create a 20 m wide access leg into the homestead lot.

### Comment

Lot 7 Williams Kondinin Road under the Shire of Narrogin Town Planning Scheme No 2 is zoned 'Farming'. The objectives of this zone is:

*The Council intends the predominant form of farming activity in the Farming Zone will continue to be based on large farming units. It will generally be opposed to the fragmentation of farming properties through the process of subdivision.*

*The Council may recommend approval for subdivision in the Farming zone for use of the land for more intensive forms of rural production but only where the application, as submitted to the Commission, is accompanied by the following:*

- a) Identification of soil types, availability and adequacy of water supply, and any areas of salt affected land;*
- b) Evidence of consultations by the proponent with Agriculture WA on the suitability of the proposed lot(s) and lot size for the intended land use;*
- c) The proponent entering into an Agreement with the Council to proceed with the intended land use;*
- d) Details of stream protection where appropriate; and*
- e) Such other matters as may be requested by the Council.*

*The Council shall not recognised precedent resulting from subdivision created in the early days of settlement of the District as a reason for it to support further subdivision in the Farming one.*

*The Council will favourably consider application for adjustment of lot boundaries where the application if approved will not result in the creation of one or more additional lots.*

*Clause 4.12.1 of the Shire of Narrogin Town Planning Scheme No 2, further states:*

*Subdivision: There shall be a general presumption against subdivision in the Farming zone unless:*

- a) The lots have already been physically divided by significant natural or man-made features which preclude the continued operation of a rural property as a single unit (unless adjoining land could be similarly subdivided and thereby, by the process of precedent, lead to an undesirable pattern of land use in the area or in lots too small for use compatible with the prevailing use in the area or in ribbon development alongside roads);*
- b) The lots are for farm adjustment and the erection of dwelling houses is restricted;*
- c) The lots are for specific uses such as recreation facilities and public utilities; or*
- d) The lots are required for the establishment of uses ancillary to the rural use of the land.*

*The application stated that the proposal is consistent with the provisions of the Shire's Town Planning Scheme No 2 as it does not prejudice the continued operation of the site for traditional farming purposes and that the proposal is to create a homestead lot in order to formalise the existing second house on the site to accommodate the extended family supporting the ongoing operation of the farm business.*

*Under the WAPC Policy No 3.4 – Subdivision of Rural land, clause 6.6, the creation of Homestead lot is intended to allow primary producers to continue to occupy their dwelling when they cease to farm, and to provide settlement opportunities in areas where land fragmentation is limited and unlikely to increase. Homestead lots may therefore be created to*



enable an approved existing house on a rural lot to continue to be occupied provided that it meets with the following criteria as set out in the table below.

<b>WAPC Policy 3.4</b>	<b>Officer's Comments</b>
The land is in the DC 3.4 Homestead lot policy area	Shire of Narrogin is identified as no 47 in Homestead lot policy area.
The Homestead lot has an area between one and four hectares, or up to 20 hectares to respond to the landform and include features such as existing outbuildings, services or water sources.	The proposed Homestead lot has an area of 6.27 hectares. Although the lot is greater than 4 hectares but less than 20 hectares, it responds to existing features in regards to the location of the existing houses and outbuildings on site. This variation is considered minor and satisfies the objectives of this criteria.
There is an adequate water supply for domestic, land management and fire management purposes;	The proposed homestead lot has sub metre to the reticulated water supplying the parent lot. The subject houses are some distance away from bushland (in excess of 100m).
The dwelling is connected to a reticulated electricity supply or an acceptable alternative is demonstrated;	Separate electricity connections already exists to both houses.
The homestead lot has access to a constructed public road;	Access to the homestead lot is through a constructed Williams Kondinin Road.
The homestead lot contains an existing residence that can achieve an appropriate buffer from adjoining rural land uses;	The existing house is located approximately 75m from the boundary and satisfies the buffer requirement from adjoining land uses. The minimum setback on Framing zone land is 20m from any lot boundaries.
A homestead lot has not been excised from the farm in the past;	No previous excision had taken place on this property.
The balance lot is suitable for the continuation of the rural land use, and generally consistent with prevailing lot sizes, where it can be shown that this is consistent with the current farming practices at the property;	The parent lot will still be used for the continual rural land uses (grazing and pasture) and the excision of the homestead lot (6.27 hectares) will not impact on the current farming practices.
The dwelling on a homestead lot must be of a habitable standard and may be required to be certified as habitable by the local government.	The existing houses are habitable.

Based on the above assessment, it is considered that the proposed Homestead lot is consistent with the *Shire of Narrogin Town Planning Scheme No.2* and the *Western Australian Planning Commission - Policy DC 3.4* and would not be detrimental to the ongoing operation of the existing farm. It is therefore recommended that Council support the proposed Homestead lot Subdivision.

#### **Consultation**

- Nil

**Statutory Environment**

*Shire of Narrogin Town Planning Scheme No.2* - clause 4.12.1 subdivision requirements in Farming zone land.

*Western Australian Planning Commission Development Control Policy 3.4 – Subdivision of Rural Land* – clause 6.6 Homestead lot.

**Policy Implications**

Nil

**Financial Implications**

Nil

**Strategic Implications**

Nil

**Voting Requirements**

Simple Majority.

<b>COUNCIL RESOLUTION 0714.104 AND OFFICER'S RECOMMENDATION</b>
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**Moved: Commissioner G Ballard**

**Seconded: Commissioner L Ballard**

That Council:

Advise the Western Australian Planning Commission that the Shire of Narrogin supports the proposed subdivision of Lot 7 Williams Kondinin Road, Narrogin Valley for the creation of a homestead lot and that no further subdivision of the parent lot will be supported on this property.

**CARRIED 3/0**





Our Ref : 153767  
 Previous Ref : 103000  
 Your Ref :  
 Enquiries : Ryan Shaw (6551 9769)

14 June 2016

Chief Executive Officer  
 Shire Of Narrogin  
 43 Federal Street  
 NARROGIN WA 6312

**Application No: 153767 - Lot No 7 Williams-Kondinin Road Narrogin Valley**

The Western Australian Planning Commission has received an application for planning approval as detailed below. Plans and documentation relating to the proposal are attached. The Commission intends to determine this application within 90 days from the date of lodgement.

Please provide any information, comment or recommended conditions pertinent to this application by the 26th July 2016 being 42 days from the date of this letter. The Commission will not determine the application until the expiry of this time unless all responses have been received from referral agencies. If your response cannot be provided within that period, please provide an interim reply advising of the reasons for the delay and the date by which a completed response will be made or if you have no comments to offer.

Referral agencies are to use the Model Subdivision Conditions Schedule (December 2015) in providing a recommendation to the Commission. Non-standard conditions are discouraged, however, if a non-standard condition is recommended additional information will need to be provided to justify the condition. The condition will need to be assessed for consistency against the validity test for conditions. A copy of the Model Subdivision Conditions Schedule can be accessed: [www.planning.wa.gov.au](http://www.planning.wa.gov.au)

Send responses via email to [referrals@planning.wa.gov.au](mailto:referrals@planning.wa.gov.au). **Always quote reference number "153767" when responding.**

This proposal has also been referred to the following organisations for their comments: *Department Of Mines And Petroleum, Department Of Parks And Wildlife, Main Roads W A, Water Corporation, Western Power and LG As Above.*

Yours faithfully

Kerrine Blenkinsop  
 Secretary  
 Western Australian Planning Commission

**APPLICATION DETAILS**

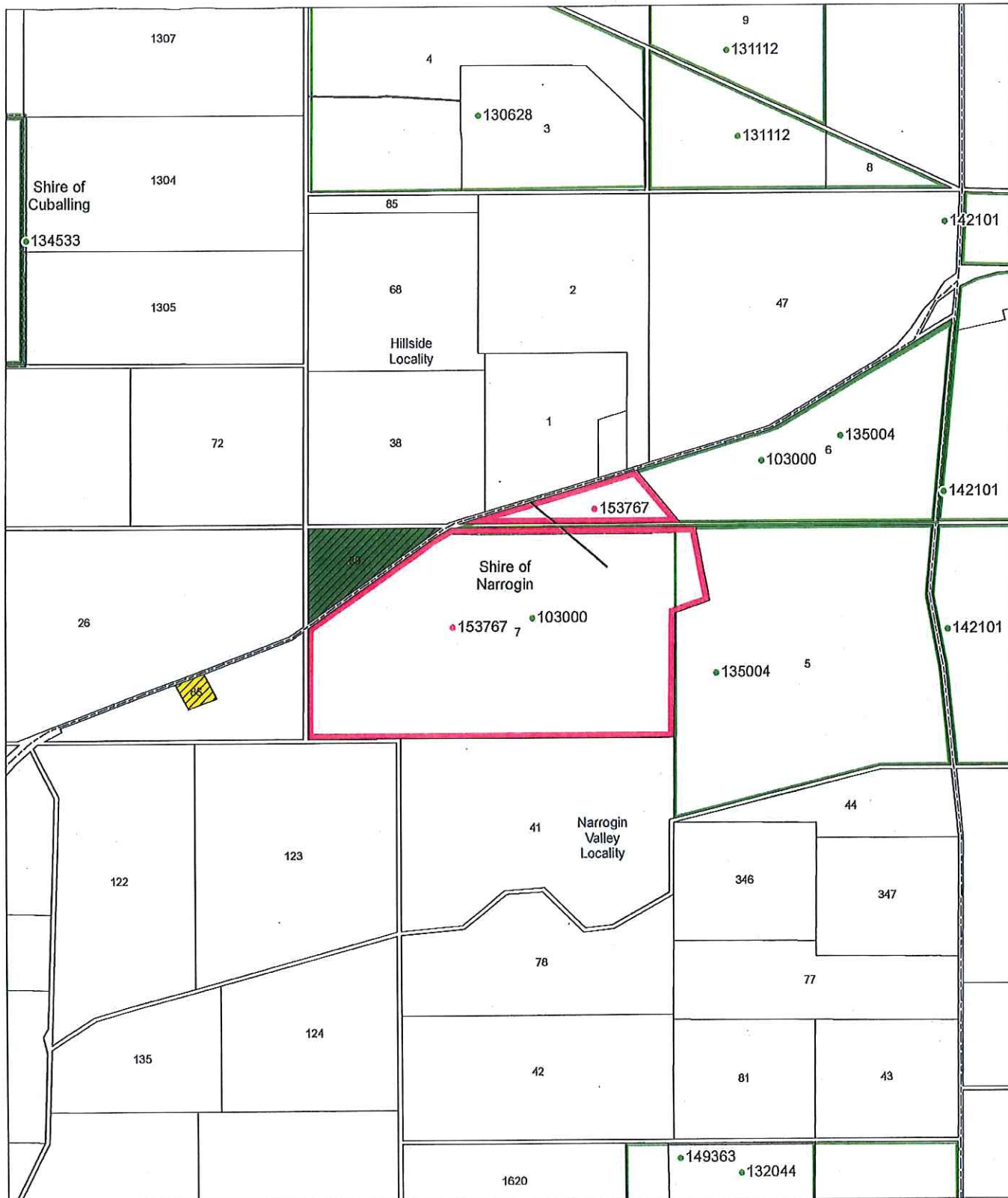
<b>Application Type</b>	Subdivision	<b>Application No</b>	153767
<b>Applicant(s)</b>	Cle Town Planning + Design		
<b>Owner(s)</b>	Sims Holdings Pty Ltd		

e-mail: [referrals@planning.wa.gov.au](mailto:referrals@planning.wa.gov.au); web address: <http://www.planning.wa.gov.au>



<b>Locality</b>	Lot No 7 Williams-Kondinin Road Narrogin Valley		
<b>Lot No(s)</b>	7	<b>Purpose</b>	Other
<b>Location</b>		<b>Local Gov. Zoning</b>	Road, Farming
<b>Volume/Folio No.</b>	2707/90	<b>Local Government</b>	As Above
<b>Plan/Diagram No.</b>	P061309	<b>Tax Sheet</b>	
<b>Centroid Coordinates</b>	mE mN		
<b>Other Factors</b>	BUSHFIRE PRONE AREA, DMP, REMNANT VEGETATION (NLWRA), MRWA - STATE ROAD EXTERNAL REFERRAL		





**Location Plan for:  
Subdivision Application**

*This data is to be used only for the processing of a  
Subdivision Application*

Application Number: **153767**

Decision: **Outstanding**

Printed: **7/06/2016**



Department of  
Planning



Western  
Australian  
Planning  
Commission

**Application Status**

- Approved
- Outstanding

**Existing LPS Zones and Reserves**

- Farming
- General agriculture
- Public purpose
- Recreation and open space
- Road

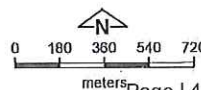
**Easements and Referrals**

- Easements

**Region Scheme Reserves**

**Localities & Local Government Boundaries**

- Local government boundary
- Locality





## Application for Approval of Freehold or Survey Strata Subdivisions

Lodgement ID: 2016-204718

Submission Date: 07/06/2016 12:32 PM

**Your Reference**

Location of Subject Property

No. of applicants

Are you applying on your own behalf?

Are you the primary applicant?

Do you have consent to apply from all landowners?

Lodgement Type

Submitted by

Email

Lot 7 Williams-Kondinin Rd, Narrogin Valley

Lot 7 Williams-Kondinin Rd, Narrogin Valley

1

No

No

Yes

Subdivision

Vilma Gombos

vilma.gombos@planning.wa.gov.au

**About the land**

Number of current lots on the land 1

Drainage Reserves 0

Recreation Reserves 0

Road Reserves 0

Number of fee paying lots 2

Total number of proposed lots on the land including balance lots 2

Public Access Ways 0

Right of Ways 0

Road Widening 0

Number of fee exempt lots 0

**What is the proposed use/development?**

Proposed Use Lot size

Other 5 HA - 10 HA

Other Over 25 HA

Local Government Shire Of Narrogin

Is common property proposed No

Number of Lots

1

1

Existing dwellings

Yes

**Applicants**

**Primary applicant (1)**

Is the applicant a company/organisation? Yes

Name/Company CLE Town Planning + Design

Email phillida@cleplan.com.au

**Address**

Street address PO Box 796

State WA

Country AUSTRALIA

Is the applicant a landowner? No

ABN / ACN na

Phone number 93821233

Town / Suburb or City Subiaco

Post Code 6904

OR Non-Australian Address, P.O. Box, & etc N/A

**Certificate of Title Details**

**Lots with certificate (1)**

Volume 2707

Lot Number 7

Total land area 188.215

Reserve number (if applicable) N/A

Is the Landowners name different to that shown on the Certificate of Title? No

Folio 90

Plan Number 61309

Land Area Units Hectares

No. of landowners 1

**Landowners**

**Landowner (1)**

Full name N/A

ACN / ABN 36349780122

**Address**

Street address PO Box 399

State WA

Country AUSTRALIA

Company / Agency Sims Holdings Pty Ltd

Landowner type Company

Town / Suburb or City Narrogin

Post code 6312

OR Non-Australian Address, P.O. Box, & etc N/A

DEPARTMENT OF PLANNING	
DATE	FILE
03/06/2016	153767



**Company signatory 1**

<b>First name</b>	<b>Last name</b>	<b>Position</b>
Lyndsay	Sims	Director

**Company signatory 2**

<b>First name</b>	<b>Last name</b>	<b>Position</b>
Susan	Sims	Director

**Subdivision detail**

Number of dwellings	2	Dwelling retained	Yes
Dwelling description	N/A		
Number of outbuildings/structures	6	Structure/s retained	Yes
Other description	N/A		
Structure description	N/A		
Is a battleaxe lot/s proposed?			No
Does plan show the width and length of the access leg, the area of the access leg and total area of the rear lot			Not applicable
Has the land ever been used for potentially contaminating activity			No
Does the land contain any sites that have been classified under the Contaminated Sites Act 2003			No
Does the land contain any sites that have been reported or required to be reported under the Contaminated Sites Act 2003			No
Is the land located in an area where site characteristics or local knowledge lead you to form the view that there is a significant risk of acid sulfate soils in this location			No
Is this application to be assessed under the Liveable Neighbourhoods policy and is supporting documentation attached?			No
Is the development within a Bushfire Prone Area?			No
Are there any dewatering or drainage works proposed to be undertaken			No
Is excavation of 100 cubic metres or more of soil proposed			No
If yes did the Acid Sulfate Soils investigation indicate acid sulfate soils were present			No

**Fee & Payment**

Fee amount	\$3,044.94	Payment Type	By Cheque
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**Attachments**

<b>Attachment name</b>	<b>Attachment type</b>
------------------------	------------------------

Perth 140 William Street Perth Western Australia, 6000 Locked Bag 2506 Perth, 6001 Tel: (08) 6551 9000 Fax: (08) 6551 9001	Albany PO Box 1108 Albany Western Australia, 6330 Tel: (08) 9892 7333 Fax: (08) 9841 8304	Bunbury Sixth Floor Bunbury Tower 61 Victoria Street Bunbury Western Australia, 6230 Tel: (08) 9791 0577 Fax: (08) 9791 0576	Geraldton Regional Planning and Strategy Office 10 209 Foreshore Drive Geraldton Western Australia, 6530 Tel: (08) 9960 6999 Fax: (08) 9964 2912	Mandurah Unit 2B 11-13 Pinjarra Road Mandurah Western Australia, 6210 Tel: (08) 9586 4680 Fax: (08) 9581 5491
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WESTERN



AUSTRALIA

REGISTER NUMBER <b>7/DP61309</b>	
DUPLICATE EDITION <b>N/A</b>	DATE DUPLICATE ISSUED <b>N/A</b>

**RECORD OF CERTIFICATE OF TITLE**  
UNDER THE TRANSFER OF LAND ACT 1893

VOLUME **2707** FOLIO **90**

The person described in the first schedule is the registered proprietor of an estate in fee simple in the land described below subject to the reservations, conditions and depth limit contained in the original grant (if a grant issued) and to the limitations, interests, encumbrances and notifications shown in the second schedule.



REGISTRAR OF TITLES

**LAND DESCRIPTION:**

LOT 7 ON DEPOSITED PLAN 61309

**REGISTERED PROPRIETOR:**  
(FIRST SCHEDULE)

SIMS HOLDINGS PTY LTD OF POST OFFICE BOX 399, NARROGIN  
(AF K790711 ) REGISTERED 4 DECEMBER 2008

**LIMITATIONS, INTERESTS, ENCUMBRANCES AND NOTIFICATIONS:**  
(SECOND SCHEDULE)

- \*EASEMENT BURDEN CREATED UNDER SECTION 27A T.P. & D. ACT FOR ABOVE GROUND ELECTRICITY PURPOSES TO WESTERN POWER CORPORATION - SEE DEPOSITED PLAN 61309 AS CREATED ON DIAGRAM 94383.
- \*K790712 MORTGAGE TO BANK OF WESTERN AUSTRALIA LTD REGISTERED 4.12.2008.

Warning: A current search of the sketch of the land should be obtained where detail of position, dimensions or area of the lot is required.  
\* Any entries preceded by an asterisk may not appear on the current edition of the duplicate certificate of title.  
Lot as described in the land description may be a lot or location.

-----END OF CERTIFICATE OF TITLE-----

**STATEMENTS:**

The statements set out below are not intended to be nor should they be relied on as substitutes for inspection of the land and the relevant documents or for local government, legal, surveying or other professional advice.

SKETCH OF LAND: DP61309.  
PREVIOUS TITLE: 2202-768, 2202-767.  
PROPERTY STREET ADDRESS: 3656 WILLIAMS-KONDININ RD, NARROGIN VALLEY.  
LOCAL GOVERNMENT AREA: SHIRE OF NARROGIN.

NOTE 1: DUPLICATE CERTIFICATE OF TITLE NOT ISSUED AS REQUESTED BY DEALING K790712



TYPE ..... FRESHMOLD, SUBMISSION  
 PURPOSE .....  
 PLAN OF LOTS 5, 6 AND 7

DISTRICT NARROGIN A.A. (WILLIAMS) S.S.A. NO  
 TOWNSITE .....  
 LOCAL AUTHORITY SHIRE OF NARROGIN  
 LOCALITY, NARROGIN VALLEY ON

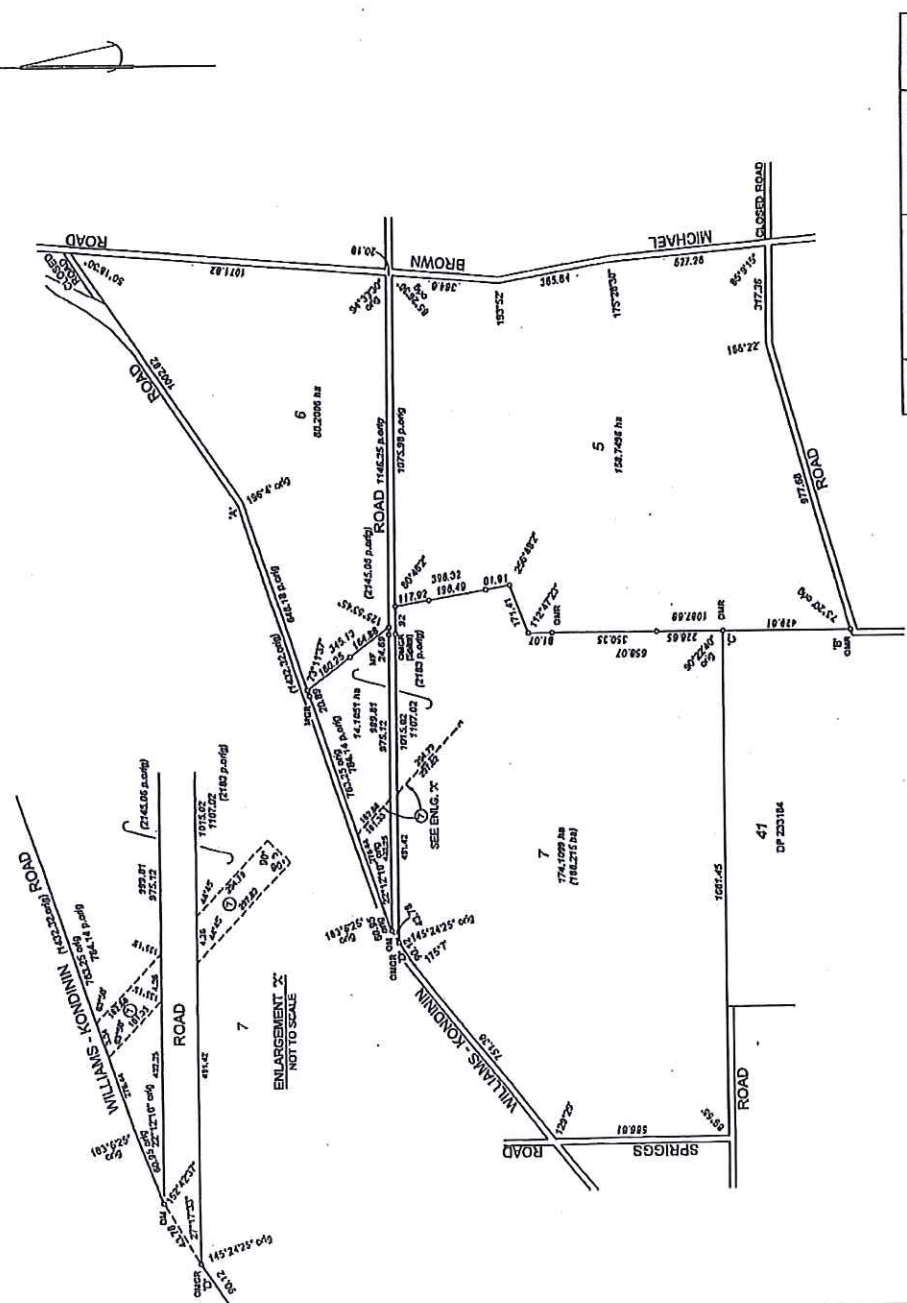
INDEX, NARROGIN (23) S.E., YLLUMNING (23) S.W. FIELD BOOK 187688

SCALE 1:10000 AT A2 SIZE  
 0 100 200 300 400 500 600  
 ALL DISTANCES ARE IN METRES  
 P.H. & K.E. GOW  
 Licensed Surveyor  
 Narrogin W.A. 5211  
 Phone (08) 9881 5142  
 Fax (08) 9883 2100

SURVEYORS CERTIFICATE- Reg 14  
 1. PETER GOW  
 hereby certify that this plan is accurate and is a correct reproduction of the original and that I am a duly qualified surveyor under the provisions of the Survey Act 1985.

APPROVED BY  
 NARROGIN PLANNING COMMISSION  
 DATE 29-Jul-08  
 LOCAL REPRESENTATIVE  
 POSITION  
 FILE 13504  
 BOOKET 01731-0510  
 CONFIRMED  
 \$359.00  
 \$22.00  
 4114823  
 P.L.C.  
 IN ORDER FOR DEALINGS

DEPOSITED PLAN  
**61309**  
 ORIGINAL  
 SHEET 1 OF 2  
 VERSION 1



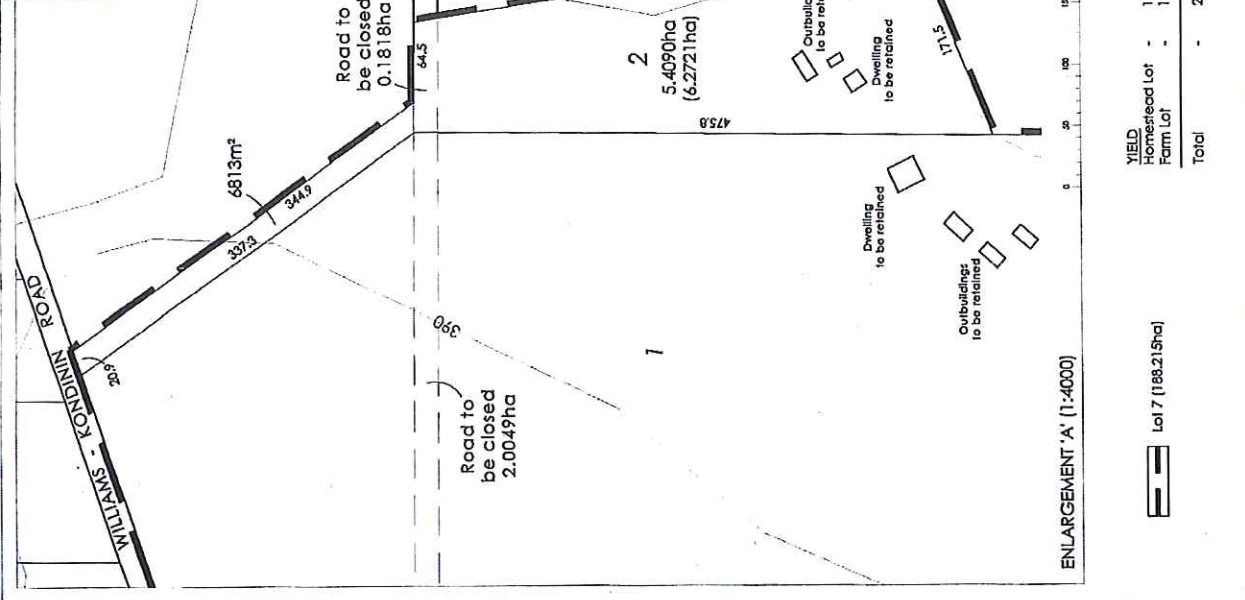
LOT	FORMER PFTENURE	ON PLANDIAGRAM	TITLE
5	PART LOT 45	DP 233184	2302768
6	PART LOT 46	DP 233185	2302768
7	LOT 4 PART LOT 45 PART LOT 46	D 94393 DP 233184 DP 233185	2302767 2302768 2302768

INTERESTS & NOTIFICATIONS			
SUBJECT	PURPOSE	STATUTORY REFERENCE	COMMENTS
①	EASMENT ACCESS	SECTION 84 TP & FACT 1957	BENEFIT TO ELECTRICITY CORPORATION
		ORIGIN	
		0 MARS	
		LOT 7	

ALL MEASUREMENTS FROM N 17° 30' E (CLOCKWISE) &  
 S 70° 0' E (CLOCKWISE) ARE ORIGINAL



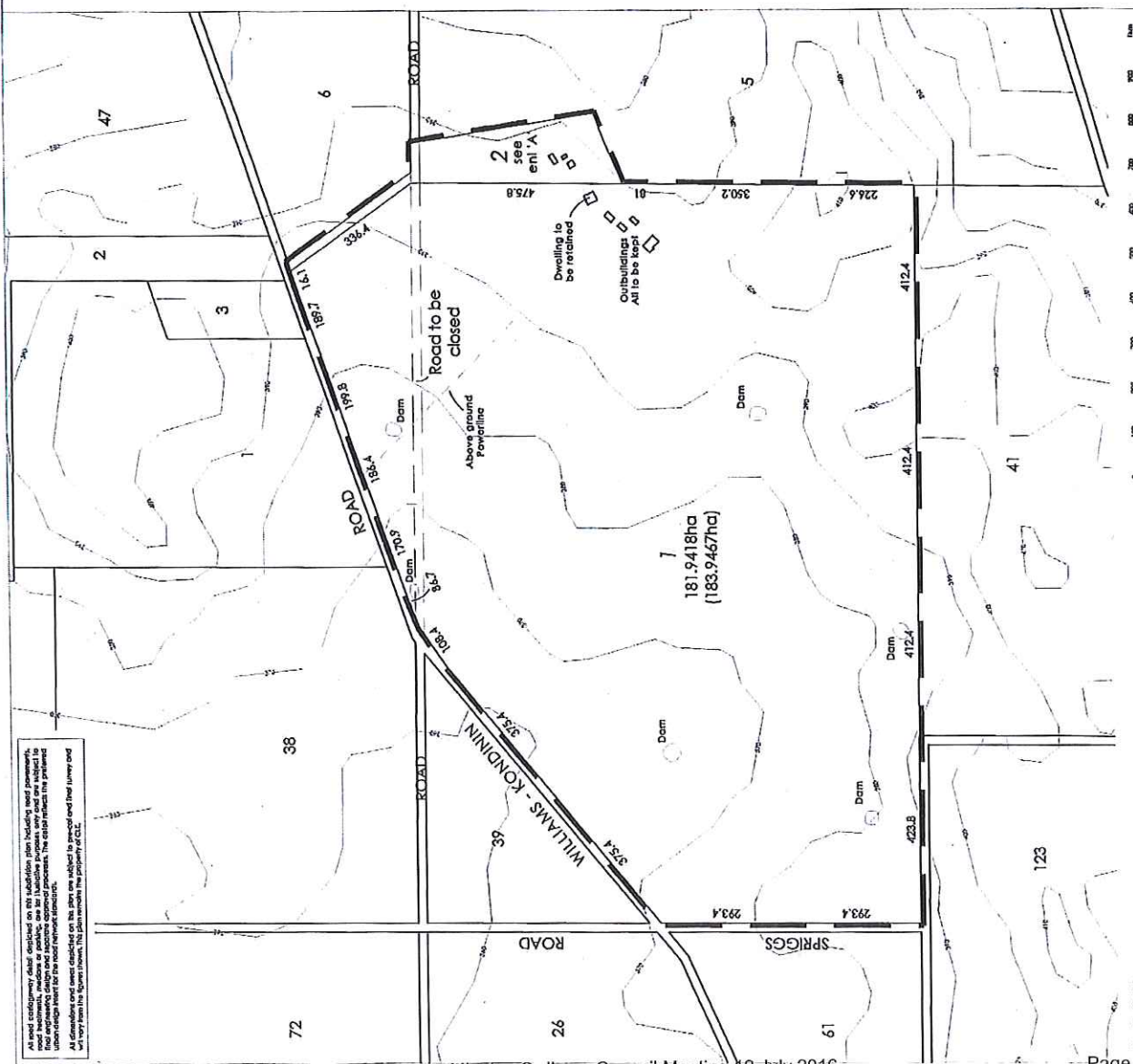
DEPARTMENT OF PLANNING  
 FILE  
 DATE 03/06/2016  
 153767



YIELD

Homestead Lot	-	1 lot
Farm Lot	-	1 lot
<b>Total</b>	-	<b>2 lots</b>

Lot 7 (188.219ha)



All land contained within this subdivision plan including road easements, road easements, easements or rights, or for any other purpose, are and are subject to the provisions of the relevant legislation. The plan is subject to the provisions of the relevant legislation. The plan is subject to the provisions of the relevant legislation. The plan is subject to the provisions of the relevant legislation.



plan no: 3025-01B-01  
 scale: 1:10,000 @ A3  
 date: 02.06.2016



**PROPOSED SUBDIVISION**  
 Lot 7 Williams-Kondinin Road, Narragoin  
 Shire of Narragoin





Our Reference: 3025Ltr2  
Enquiries: Phillida Rodic

2 June 2016

Western Australian Planning Commission  
Locked Bag 2506  
Perth WA 6001

**Attention: Ryan Shaw**

Dear Ryan,

**RE: SUBDIVISION APPLICATION - LOT 7 WILLIAMS KONDININ ROAD, NARROGIN VALLEY**

Further to our meeting mid 2015 and our prior and subsequent discussions, please find enclosed an application for subdivision of Lot 7 Williams Kondinin Road, Narrogin Valley. The application seeks to create a Homestead Lot around one of the two existing dwellings on the site to accommodate extended family and allow the continued operation of the farm through the next generation.

The application comprises of:

- 8 copies of the plan of application (3025-01B-01);
- A completed Form 1 A;
- The application fee - \$3044.94; and
- This letter.

A copy of the Certificate of Title for the subject site is also enclosed, as is a proposed road closure plan currently being finalised with the Department of Lands.

### **Background**

Lot 7 is a 188ha farm site located just over 5km from Narrogin townsite, on Williams Kondinin Road. It currently contains two houses in close proximity to one another (refer aerial photograph). One is utilised by the landowner, a lifelong resident of Narrogin and long term owner of the farm. The second has previously been used to accommodate the farm manager and staff but the landowner's daughter and her family wish to relocate to it as their family home to allow them to live in close proximity to her parents and assist in the ongoing management of the farm. Creation of a Homestead Lot is sought to facilitate this.

The site is zoned 'Farming' under the Shire of Narrogin Town Planning Scheme No.2. This zone seeks to protect the predominant form of activity as farming, based on large farming units. The proposal seeks to reflect an existing situation (i.e. existing dwelling) and to accommodate a specific family arrangement which will not prejudice (indeed will support) the continued use of Lot 7 for traditional farming practice. The Western Australian Planning Commission's operational (DC) Policy for Rural Subdivision makes provision for the creation of Homestead Lots under certain circumstances, with which this proposal complies.

Consultation with the Department of Planning prior to lodgement, in early 2015, identified a requirement to close the portion of unconstructed road reserve running across the site and providing a cadastral (if not physical) separation from the primary street (Williams Kondinin Road). The road closure (illustrated in plan 3025-03A-01 and -02) was initiated in April 2015 and has involved a protracted process, but is now being finalised. Authorisation for the subdivision application has been given by the Department of Land (DoL) as it incorporates the proposed road closure area.

### **Proposal**

The proposed seeks to create a 6.27ha (including 1862m<sup>2</sup> road closure area, and access leg) Homestead Lot around the existing dwelling, abutting the primary farm house. This would result in the minor reduction to parent lot to 184ha (including the additional 2ha road closure area for this portion of the site). The existing dwelling around which the Homestead Lot is based is approximately 345m from Williams Kondinin Road, and has historically shared the same access leg as is utilised for the parent farm house (refer aerial photograph). Creation of legal road access for the Homestead Lot via a 20m wide access leg to Williams Kondinin Road is proposed (although it is probable that in practice, the landowners will continue to share the existing driveway as they historically have). Formal arrangements for sharing of a single cross over could be made in the event that this is necessary.

Both dwellings enjoy separate servicing arrangements which can be confirmed if necessary through standard conditions of subdivision.

### **Town Planning Scheme No. 2**

The proposal is not inconsistent with the provisions of the Shire's Town Planning Scheme No. 2 as it does not prejudice the continued operation of the site for traditional farming purposes. Indeed creation of the Homestead Lot simply formalises the existing second dwelling on the site, to accommodate extended family arrangements, supporting the ongoing operation of the business. No additional dwellings are proposed on either site, and the location of the Homestead Lot on the eastern boundary of the site restricts any impact on the viability and operation of the substantial balance farm area.

### **Homestead Lot Policy**

The proposal is consistent with the provisions of Clause 6.6 of DC Policy 3.4 which specifically provides for the creation of Homestead Lots in rural areas in that:

1. It will enable the continued inhabitation of the farmhouse by the existing landowners, with the support of their family;
2. The site is located within the Homestead lot policy area appended to DC3.4 (are 47 – Narrogin);
3. The site has an area under 20 ha responding to existing features (namely the existing boundaries of the site to the north and east) and the locations of the existing dwelling and outbuildings;
4. There is adequate water supply available: the proposed Homestead lot currently has a sub-metre to the reticulated water supply supplying the parent lot and farmhouse;
5. Separate electricity connections already exist to both the existing farmhouse and proposed Homestead lot;
6. The proposed Homestead Lot has access to a constructed public road (Williams Kondinin Road);



7. The proposed Homestead Lot contains an existing dwelling (illustrated on the subdivision plan and aerial photograph). This is located 75m from the proposed new boundary with the balance farm, which is consistent with (indeed exceeds) the minimum 20m setbacks specified under the Shire of Narrogin Town Planning Scheme;
8. No Homestead lot has been excised from the farm in the past;
9. The balance of the lot (184ha – including 2ha of road closure area) is suitable for the continuation of existing rural land uses (namely grazing and pasture) consistent with the prevailing use in the area. Continued use for this purpose is intended, with the excise of the Homestead lot having no impact on the continued operation of the farm, other than to accommodate and provide for additional family support;
10. The dwelling on the proposed Homestead lot is of a habitable standard (though may be subject to improvement and / or reconstruction in the future to meet the family's requirements).

Small portions of remnant vegetation along Williams Kondinin Road and in the south and west of the site (within the retained farm area) have been mapped as potentially Bushfire Prone within the statewide mapping. These areas are located well away (well in excess of 100m) from the proposed Homestead Lot, other than the very northern end of the access leg to the Homestead Lot where it connects to Williams Kondinin Road. The proposal does not introduce or allow for any intensification of development or land use but simply seeks to create a lot boundary around an existing dwelling in recognition of an existing situation. Given that the proposal does not introduce any additional development or risk, given the distance (in excess of 300m) between the Homestead Lot dwelling and any areas of mapped vegetation, and the nature of the area which is predominantly managed farm land, it is considered consistent with the primary objective of SPP 3.7 namely to avoid any increase in the threat of bushfire to people, property.

### Conclusion

The proposal to create a Homestead Lot at Lot 7 Williams Kondinin Road is consistent with both the intent and provisions of the Town of Narrogin Town Planning Scheme No. 2 and WAPC policy in that it will have no negative impact on the continued operation of the existing farm and will, on the contrary, accommodate extended family on the new lot to enable and support continued operation of the farm by the Sims family. The proposed Homestead Lot is only 6ha, located on the periphery of the farm around an existing dwelling, leaving a balance of 184ha farm area around the primary farm house. The Shire's and Commission's support for the proposal is consequently sought.

Should you have any queries or concerns in regards to this application, please do not hesitate to contact Phillida Rodic of this office on 9382 1233.

Yours faithfully,



**Phillida Rodic**  
**Senior Associate**  
**CLE Town Planning + Design**

Enc: Form 1A, Subdivision Plan (3025-01B-01 & 3025-01B-02), Fee (\$3044.94), CT, Road Closure Plan (3025-03A-01 & 3025-03A-02)

Cc: Lindsay & Sue Sims  
Azhar Awang - Shire of Narrogin

## 10.2 CORPORATE AND COMMUNITY SERVICES

### 10.2.082 FINAL ADOPTION OF LOCAL LAWS

**File Reference:** 19.6.4  
**Disclosure of Interest:** Nil  
**Applicant:** Not Applicable  
**Previous Item Nos:** Nil  
**Date:** 1 July 2016  
**Author:** Niel Mitchell, Merger Project Manager

#### Attachments

- Draft Shire of Narrogin Cats Local Law 2016 and Summary of Submissions
- Draft Shire of Narrogin Cemetery Local Law 2016 and Summary of Submissions
- Draft Shire of Narrogin Dogs Local Law 2016 and Summary of Submissions
- Draft Shire of Narrogin Meeting Procedures Local Law 2016 and Summary of Submissions
- Draft Shire of Narrogin Parking Local Law 2016 and Summary of Submissions

#### Summary

To finalise the process of adoption of a number of local laws, which also revoke old and out of date local laws.

#### Background

The purpose of this report is:

- 1 consider the submissions received on the proposed local laws and determine if any drafting amendment(s) are required as a result of the submissions received;
- 2 give notice of the purpose and effect of the local laws;
- 3 make the local law, incorporating all amendments as approved by Council;
- 4 authorise the affixing of the Common Seal to the local laws;
- 5 authorise the local laws publication in the *Government Gazette*; and
- 6 give local public notice, (after Gazettal), of the date the local laws will come into effect.

#### Comment

At its ordinary meeting held on the 26 April 2016 the Town of Narrogin Council resolved to commence the process to make the Local Laws.

The procedure for making local laws requires Council to advertise state-wide, advising of its intention to make a local law, and invite submissions to be made on the proposed local law for a six-week period. At the closure of the submission period, Council is to consider all submissions before making a local law.



As the Town of Narrogin was the continuing legal entity, although with a name change, the matters commencing under the previous name, remain current and valid under the merged entity.

Council advertised, both locally and state-wide, for public comment on the proposed Local Laws –

- Draft Shire of Narrogin Cats Local Law 2016
- Draft Shire of Narrogin Cemetery Local Law 2016
- Draft Shire of Narrogin Dogs Local Law 2016
- Draft Shire of Narrogin Meeting Procedures Local Law 2016
- Draft Shire of Narrogin Parking Local Law 2016

An advertisement was placed in the West Australian on 4 May 2016 and the Narrogin Observer on 5 May 2016, with the submission period for public comment closing on 21 June 2016.

At the close of the submission period, submissions had been received from –

- Department of Local Government & Communities – in relation to each of the 5 proposals.
- Mr Neville Steicke, Dawsons Funeral Home – proposed Cemetery Local Law.
- Ms Donna Hardie, Unique for Hair – proposed Parking Local Law.
- Mr Brian Seale provided general advice that he was in support and has not been included as a formal submission.

The Departmental submissions covered multiple areas. Several substantive matters were raised, however, it is suggested that these be deferred for future amendment. All other matters raised by DLGC were of:

- minor editorial nature,
- being of a context or technical nature, punctuation and grammar, or
- it is suggested that no amendment be made.

The attached drafts have been amended from the proposed local laws advertised for public submissions. Not all suggestions of DLGC have been incorporated into the drafts, and these are noted in the Review Comment section of the documents.

Some of the suggested changes did require minor consequential amendment, however none have altered the intent of the provision amended nor placed additional obligations on the community. Despite the number of corrections, it is considered that the amendments are not of a significant nature that requires re-advertising. A number of the amendments suggested by DLGC but not made, would be considered a significant amendment, and would therefore trigger the requirement to recommence the process.

Once formally adopted by Council, the local laws:

- are to be published in the Government Gazette.
- local public notice given of adoption of the local laws (separate to previous advertising of proposals),

- signed copies are to be sent to Minister for Local Government, and
- copies sent to the Parliamentary Joint Standing Committee on Delegated Legislation together with other required documentation, within 10 days of publication in the Government Gazette.

Please note:

- disallowance of the local law may be made by Parliament, and could take some time depending on sitting days,
- takes effect on the day stipulated in the local law, generally 14 days after publication in the Government Gazette.

### **Consultation**

- Aaron Cook, CEO, Shire of Narrogin.
- Department of Local Government and Communities.
- Public submissions invited as required.

### **Statutory Environment**

- *Local Government Act 1995 – s.3.12 – Procedure for making local laws.*
- *incl. subclause (4) – requirement for absolute majority.*
- *Cat Act 2011.*
- *Cemeteries Act 1986.*
- *Dog Act 1986.*

### **Policy Implications**

Nil

### **Financial Implications**

Cost of publication in Government Gazette and giving local public notice.

### **Strategic Implications**

Nil

### **Voting Requirements**

Absolute Majority



**COUNCIL RESOLUTION 0714.105 AND OFFICER'S RECOMMENDATION**

**Moved: Commissioner L Ballard**

**Seconded: Commissioner G Ballard**

That Council:

1. notes the submissions from the Department of Local Government and Communities and members of the public in relation to the following proposed local laws –
  - Cats Local Law 2016;
  - Cemetery Local Law 2016;
  - Dogs Local Law 2016;
  - Meeting Procedures Local Law 2016; and
  - Parking Local Law 2016.
2. resolves to make the Local Laws noted above as per the attached drafts, incorporating amendments outlined by the Department of Local Government and Communities;
3. authorise the affixing of the Common Seal to the Local Laws noted above;
4. publish the Local Laws noted above, in the Government Gazette and provide copies of the local laws to the Minister for Local Government; and
5. forward a copy of the Gazetted Local Laws, explanatory memoranda and associated documentation to the Parliamentary Joint Standing Committee on Delegated Legislation for review.

**CARRIED 3/0  
BY ABSOLUTE MAJORITY**

<b>Commonly-used abbreviations:</b>	
<b>CEO</b>	<b>Chief Executive Officer</b>
<b>DLGC</b>	<b>Dept of Local Government and Communities</b>
<b>JSCDL</b>	<b>Joint Standing Committee on Delegated Legislation (WA Parliament)</b>

**CAT ACT 2011  
LOCAL GOVERNMENT ACT 1995**

SHIRE OF NARROGIN

**CATS LOCAL LAW 2016**

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- 1.3 Application
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- 3.2 Limitation on the number of cats
- 3.3 Cats for which a permit is required
- 3.4 Permits not required
- 3.5 Application for permit
- 3.6 Decision on application
- 3.7 Factors relevant to determination of application
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- 7.2 General penalty
- 7.3 Modified penalties
- 7.4 Issue of infringement notice



7.5 Withdrawal of infringement notice

Schedule 1 – Application for a licence for cat management facility or cat breeder

Schedule 2 – Conditions of a permit for an approved cat management facility

Schedule 3 – Modified penalties

**CAT ACT 2011  
LOCAL GOVERNMENT ACT 1995**

**SHIRE OF NARROGIN**

**CATS LOCAL LAW 2016**

Under the powers conferred by the *Cat Act 2011* and the *Local Government Act 1995* and by all other powers, the Council of the Shire of Narrogin resolved to make the following local law on \_\_\_\_\_ 2016.

**PART 1 - PRELIMINARY**

**1.1 Citation**

This local law may be cited as the *Shire of Narrogin Cats Local Law 2016*.

**1.2 Commencement**

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

**1.3 Application**

This local law applies throughout the district.

**1.4 Definitions**

In this local law unless the context otherwise requires –

**Act** means the *Cat Act 2011*;

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

**approved cat breeder** has the meaning given to it by section 3(1) of the Act;

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

**cat** has the meaning given to it by section 3(1) of the Act; but does not include the young of a cat normally kept on the premises less than 6 months old;

**cat management facility** has the meaning given to it by section 3(1) of the Act, and includes a cattery;

**cattery** means any premises where more than 2 cats are boarded, housed or trained temporarily, usually for profit, and where the occupier of the premises is not the ordinary keeper of the cats;

**central business zone** mean a lot zoned as central business in a local planning scheme;

**commercial lot** means a lot zoned under a local planning scheme as –

- (a) central business; or
- (b) service commercial;

**CEO** means the Chief Executive Officer of the local government;

**Council** means the Council of the local government;

**district** means the district of the local government;

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

- (a) held by a person who is capable of controlling the cat;
- (b) securely tethered;
- (c) secured in a cage; or
- (d) any other means of preventing escape.

**enclosed public space** means a public place which is enclosed by walls, whether solid materials or glass, and includes attached or adjoining areas not permitted to the public, unless airflow between the areas is prevented, but does not include a cat management facility or veterinary clinic or hospital;

**industrial lot** means a lot zoned under a local planning scheme as industry;

**keeper** in relation to a cat means any of the following persons –

- (a) the owner of the cat as defined in the Act;
- (b) a person by whom the cat is ordinarily kept;

- (c) a person who has or appears to have immediate custody or control of the cat;
- (d) a person who keeps the cat, or has the cat in her or his possession for the time being;
- (e) a permit holder of a permit which relates to the cat;
- (f) the holder of an exemption issued in relation to the cat;

**local government** means the Shire of Narrogin;

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

**local public notice** has the meaning given to it by section 1.7 of the *Local Government Act 1995*;

**nuisance** means behaviour that includes where a cat –

- (a) excretes or urinates on premises being premises where the cat is not normally resident;
- (b) is, or is likely to be, injurious or dangerous to the health of any person or domestic or Australian indigenous animal;
- (c) creates a noise which persistently occurs or continues to a degree or extent which in the opinion of an authorised person, and has or could have a disturbing effect on the state of reasonable physical, mental, or social well-being of a person; or
- (d) is shown to be allowed to behave consistently in a manner contrary to the general interest of the community;

**permit** means a permit issued by the local government under clause 3.5 of this local law;

**permit holder** means a person who holds a valid permit granted under this local law;

**pet shop** means premises operating in compliance with the local planning scheme, from which a cat may be offered for sale;

**premises** includes the following –

- (a) land, whether or not vacant;
- (b) the whole or part of a building or structure whether of a permanent or temporary nature; and
- (c) a vehicle;

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

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

**Schedule** means a schedule to this local law; and

**set fee** means a fee determined by the local government in accordance with sections 6.16 to 6.19 of the *Local Government Act 1995*.

## PART 2 - IMPOUNDING OF CATS

### 2.1 Impounded cats

- (1) The local government may determine from time to time –
  - (a) the times when a cat management facility will be open for the reception and release of cats; and
  - (b) times for the sale of cats from the cat management facility.
- (2) The local government is to keep a proper record of impounded cats.
- (3) The record is to contain the following information about each impounded cat –
  - (a) if known the breed and sex of the cat;
  - (b) the colour, distinguishing markings and features of the cat;
  - (c) if known, the name and address of the owner;
  - (d) the date and time of seizure and impounding;
  - (e) the name and address of the authorised person who impounded the cat and, if applicable, the person who delivered a cat for impounding;
  - (f) the reason for the impounding;
  - (g) a note of any order made by an authorised person relating to the cat; and
  - (h) the date of the sale, release or destruction of the cat.
- (4) The record is to be available for inspection by the public.
- (5) A person shall not –
  - (a) unless the person is the owner of the cat management facility, or an authorised person, release or attempt to release a cat from a cat management facility;
  - (b) destroy, break into, damage or in any other way interfere with or render not cat proof a cat management facility; or



- (c) destroy, break into, damage, or in any other way interfere with any container used for the purpose of catching, holding or conveying cats which have been seized.
- (6) A cat must not be released to a person until the person obtains the necessary permit or the cat is registered where –
  - (a) a person wishes to reclaim a cat within the period stated in a notice of impounding; and
  - (b) a permit is required for the keeping of the cat, but the person does not have the necessary permit and/or the cat is not registered.

### **PART 3 - KEEPING OF CATS**

#### **3.1 Keeping of cats in non-residential zones**

The keeping of cats is not permitted on a commercial or industrial lot unless –

- (a) the lot is associated with an occupied attached residence or caretaker's residence; or
- (b) the lot is is an approved cat management facility.

#### **3.2 Limitation on the number of cats**

- (1) This clause does not apply to premises which have been –
  - (a) licenced under Part 4 of this local law as an approved cat breeder or cat management facility; or
  - (b) granted an exemption under regulation 7 of the *Cat (Uniform Local Provisions) Regulations 2013*.
- (2) The standard number of cats which may be kept on any premises is, for the purpose of regulation 6 of the *Cat (Uniform Local Provisions) Regulations 2013* –
  - (a) 2 cats over the age of 6 months and the young of those cats under that age if the premises are zoned other than for the purposes of general agriculture under a local planning scheme; or
  - (b) 4 cats over the age of 6 months and the young of those cats under that age if the premises are zoned for the purposes of general agriculture under a local planning scheme.

#### **3.3 Cats for which a permit is required**

Subject to clause 3.4 an occupier is required to have a permit to –

- (a) keep more than 2 cats over the age of 6 months and the young of those cats under that age if the premises are zoned other than for the purposes of general agriculture under a local planning scheme;
- (b) keep more than 4 cats over the age of 6 months and the young of those cats under that age if the premises are zoned for the purposes of general agriculture under a local planning scheme;
- (c) use any premises as a cat management facility; or
- (d) be an approved cat breeder.

#### **3.4 Permits not required**

A permit is not required under clause 3.3 if the premises concerned are –

- (a) a cat management facility which has been approved by the local government;
- (b) a veterinary surgery;
- (c) a pet shop;
- (d) premises with 2 or less cats; or
- (e) the subject of an exemption granted by the local government.

#### **3.5 Application for permit**

An application for a permit under clause 3.3 shall be –

- (a) made by an occupier of the premises where the cats are to be kept;
- (b) if for a cat management facility, in the form of Schedule 1 and accompanied by the plans of the premises to which the application relates;
- (c) if for a cat breeder, in the form of Schedule 1;
- (d) accompanied by the consent in writing of the owner of the premises, where the occupier is not the premises to which the application relates; and
- (e) accompanied by the set fee.

### **3.6 Decision on application**

- (1) The local government may, upon payment of the set fee –
  - (a) approve an application for a permit subject to the conditions outlined in clauses 4.1, 4.2, 4.3 or 4.4 (as applicable); or
  - (b) refuse to approve an application for a permit.
- (2) If the local government approves an application under subclause (1), then it shall issue to the applicant approval in writing.
- (3) If the local government refuses to approve an application under subclause (1), then it is to advise the applicant accordingly in writing.

### **3.7 Factors relevant to determination of application**

- (1) In determining an application for a permit the local government may have regard to –
  - (a) the physical suitability of the premises for the proposed use;
  - (b) the suitability of the local planning scheme zoning of the premises for the proposed use;
  - (c) the environmental sensitivity and general nature of the location surrounding the premises for the proposed use;
  - (d) the structural suitability of any enclosure in which any cat is to be kept;
  - (e) the likelihood of a cat causing nuisance, inconvenience, or annoyance to the occupiers of adjoining land;
  - (f) the likely effect on the amenity of the surrounding area of the proposed use;
  - (g) the likely effect on the local environment including any pollution or other environmental damage which may be caused by the proposed use;
  - (h) any submissions received under subclause (2) within the time specified; and
  - (i) such other factors which the local government may consider to be relevant in the circumstances of the particular case.
- (2) The local government may require an applicant to –
  - (a) consult with adjoining landowners;
  - (b) advise the adjoining landowners that they may make submissions to the local government on the application for the permit within 14 days of receiving that advice, before determining the application for the permit; and
  - (c) give local public notice of the proposal.

### **3.8 Cats creating a nuisance**

- (1) The keeper of a cat shall not allow a cat to create a nuisance.
- (2) Where, in the opinion of an authorised person, a cat is creating a nuisance, the local government may give written notice to the keeper of the cat requiring that person to abate the nuisance.
- (3) When a nuisance has occurred and a notice to abate the nuisance is given, the notice remains in force for the period specified by the local government on the notice or until the notice is withdrawn by the local government.
- (4) A person given a notice to abate the nuisance shall comply with the notice within the period specified in the notice.

### **3.9 Cats in temporarily vacant premises**

The keeper of a cat shall not leave a cat on premises while the premises are temporarily vacant, without daily arrangements for the care and welfare of the cat.

## **PART 4 - PERMITS FOR KEEPING OF CATS**

### **4.1 Conditions applicable to all permits**

- (1) Every permit is issued subject to the following conditions –
  - (a) each cat kept on the premises to which the permit relates shall be registered under the Act;
  - (b) each cat shall be contained on the premises unless under the effective control of a person;
  - (c) the permit holder will provide adequate space for the exercise of the cats;
  - (d) the premises shall be maintained in good order and in a clean and sanitary condition; and



- (e) such other conditions, as the local government considers appropriate.
- (2) In addition to the conditions subject to which a permit is to be issued under subclause (1), a permit may be issued subject to other conditions, as the local government considers appropriate.

#### **4.2 Additional conditions for other than cat management facility**

Where an application to keep more than 2 cats is approved under clause 3.6 for other than a cat management facility, the following conditions apply –

- (a) compliance with clause 4.1;
- (b) in the case of a multiple dwelling, where there is no suitable dividing fence, the written consent to the application for a permit of the occupier of the adjoining multiple dwellings has been obtained; and
- (c) without the consent of the local government, the permit holder will not substitute or replace any cat once that cat –
  - (i) dies; or
  - (ii) is permanently removed from the premises.

#### **4.3 Additional conditions for cat management facility**

- (1) Where the local government approves an application under clause 3.6 for a cat management facility, the following conditions apply –
  - (a) compliance with clause 4.1; and
  - (b) compliance with Schedule 2.
- (2) In respect of a particular application for a permit, the local government may vary any of the conditions contained in Schedule 2.
- (3) A cat management facility may be inspected by an authorised person to ensure compliance with the conditions of the permit.

#### **4.4 Additional conditions for approved cat breeders**

- (1) Where a permit is approved under clause 3.6 as an approved cat breeder, the following conditions apply –
  - (a) compliance with clause 4.1;
  - (b) compliance with clause 4.2;
  - (c) compliance with Schedule 2 items (4)(c) to (g) inclusive;
- (2) The fee for an approved cat breeder is as specified in Schedule 3 of the *Cat Regulations 2012*.

#### **4.5 Duration of permit**

Unless otherwise specified in a condition on a permit, a permit for a cat management facility or as an approved cat breeder granted under clause 3.2(c) or (d), commences on the date of issue and is valid for a period of 12 months from the date of issue unless and until –

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

#### **4.6 Permit not transferable**

A permit is not transferable either in relation to the permit holder or the premises.

#### **4.7 Renewal of permit**

- (1) The local government may renew a permit for a cat management facility or as an approved cat breeder granted under clause 3.2(c) or (d) upon –
  - (a) payment of the set fee; and
  - (b) certification by the occupier that the circumstances of the original application are unchanged.
- (2) Where circumstances of the original application have changed, the application for renewal is to be considered an initial application.



#### **4.8 Revocation of permits**

- (1) A permit may be revoked by the local government if there is a breach of any condition of that permit or if the permit holder is convicted of a breach of any provision of this local law.
- (2) On revocation of a permit the permit holder is to be taken to have forfeited any set fees paid in respect of the permit.

### **PART 5 - CATS IN PUBLIC PLACES**

#### **5.1 Cats in public places**

A cat shall not be in a public place unless the cat is, in the opinion of an authorised person, under effective control.

#### **5.2 Places where cats are prohibited absolutely**

A cat shall not be in the following places at any time, whether or not under effective control –

- (a) an enclosed public place; or
- (b) any nature reserve.

### **PART 6 - MISCELLANEOUS**

#### **6.1 Fees and charges**

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

#### **6.2 Giving of a notice**

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

- (a) personally;
- (b) by registered mail addressed to the person; or
- (c) by leaving it for the person at her or his address.

#### **6.3 Objection and appeal rights**

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

### **PART 7 - ENFORCEMENT**

#### **7.1 Offences**

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.

#### **7.2 General penalty**

Any person who commits an offence shall be liable, upon conviction, to a penalty not exceeding \$5,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

#### **7.3 Modified penalties**

- (1) An offence against a clause specified in Schedule 3 is a prescribed offence for the purposes of section 84 of the Act.
- (2) The amount of the modified penalty for a prescribed offence is set out in the fourth column adjacent to the clause in Schedule 3.

#### **7.4 Issue of infringement notice**

Where an authorised person has reason to believe that a person has committed an offence in respect of which a modified penalty may be imposed, he or she may issue to that person a notice in the form of Form 6 of the Schedule 1 of the *Cat Regulations 2012*.

#### 7.5 Withdrawal of infringement notice

- (a) Whether or not the modified penalty has been paid, an authorised person may withdraw an infringement notice by sending a notice in the form of Form 7 of the Schedule 1 of the *Cat Regulations 2012*.
- (b) A person authorised to issue an infringement notice under clause 7.4 cannot sign a notice of withdrawal.

**Schedule 1 – Application for a licence for cat management facility or cat breeder**  
[cl. 3.3]  
**Shire of Narrogin**

I / We (full name/s) –		
Postal address –		
Telephone number –		
Mobile number –		
Fax number –		
E-mail address –		
<b>APPLY FOR A LICENCE</b>	Under clause 3.3(c) for cat management facility	
	Under clause 3.3(d) as cat breeder	
Address of proposed premises –		
<b>CAT MANAGEMENT FACILITY –</b>		
For number of cats –		
Attached are –	a site plan of the premises showing the location of the cat management facility and all other buildings and structures and fences;	
	plans and specifications of the proposed cat management facility.	
<b>CAT BREEDER -</b>		
For number of cats –		
Breed of cats –		
<b>Attached are –</b>		
(a) copy of notice of proposed use to appear in newspaper; (if required)		
(b) copy of notice of proposed use to be given to adjoining premises; (if required)		
Signature of applicant/s –		

Date –	
<b>NOTE – a licence will have effect for a period of 12 months if issued</b>	
OFFICE USE ONLY	Application fee paid on – Receipt No –

**Schedule 2 – Conditions of a permit for an approved cat management facility**  
[cl. 4.3]  
**Shire of Narrogin**

An application for a permit for an approved cat management facility may be approved subject to the following conditions –

- (1) Compliance with the conditions of clause 4.1.
- (2) Buildings and structures –
  - (a) all building enclosures must be structurally sound, have impervious flooring, be well lit and ventilated and otherwise comply with all legislative requirements;
  - (b) there is to be a feed room, wash area, isolation cages and maternity section;
  - (c) materials used in structures are to be approved by the local government;
  - (d) the internal surfaces of walls are to be smooth, free from cracks, crevices and other defects, where possible;
  - (e) all fixtures, fittings and appliances are to be capable of being easily cleaned, resistant to corrosion and constructed to prevent the harbourage of vermin;
  - (f) washing basins and running hot and cold water are to be available;
  - (g) the walls shall be rigid, impervious and structurally sound;
  - (h) the roof shall be constructed of approved impervious materials;
  - (i) all untreated external surfaces of cattery shall be well maintained and aesthetically suitable as not to detract from the local environment and amenity;
  - (j) each module and every part thereof shall not be at any less distance than nine metres from the boundaries of the land in the occupation of the owner of the cat management facility;
  - (k) each module and each yard and every part thereof shall be behind the house line; and
  - (l) any other matter which in the opinion of the local government is deemed necessary for wellbeing of any person, or adjoining premises or the amenity of the area (or any part thereof);
- (3) Walk-in modules and enclosures –
  - (a) cats shall be housed in walk-in modules that include a sleeping compartment and an exercise area or in colony pens;
  - (b) walk-in modules must have a minimum floor area of 1.5 square metres and contain at least 2 levels including raised sleeping quarters.
    - (i) this size is for 1 cat only and an additional 1 square metre floor space is required for a second cat;
    - (ii) no more than 2 cats may be housed together in this type of accommodation;
  - (c) cats may be multiple housed in colony pens provided that –
    - (i) each cat shall have a floor area of 2 square metres plus an individual sleeping area;
    - (ii) only desexed compatible cats should be housed in this type of accommodation;
  - (d) the lowest internal height shall be at least 1.65 metres from the floor;
  - (e) each yard shall be securely fenced and kept securely fenced with a fence not less than 1.65 metres in height constructed of galvanised iron, wood, galvanised link mesh or netting;
  - (f) all doors shall be provided with proper catches or means of fastening;



- (g) the upper surface of the floor shall be set at least 75 millimetres above the surface of the surrounding ground and shall be constructed of granolithic cement finished to a smooth surface, it shall have a fall of not less than 1 in 100;
- (h) all modules and yards shall be surrounded by a drain which shall be properly laid, ventilated and trapped, and all floor washings shall be disposed of in accordance with the health requirements of the local government; and
- (i) the floor of any yard shall be established and maintained to ensure a safe and hygienic environment.

(4) Management –

- (a) cats must be housed singly except in the case of compatible cats from the same household with the written agreement of the keeper;
- (b) enclosures are to be thoroughly cleaned each day and disinfected at least once a week to minimise disease;
- (c) no sick or ailing cat is to be kept on the premises;
- (d) the maximum number of cats to be kept on the premises stated on the permit is not to be exceeded;
- (e) an register is to be kept recording in respect of each cat or kitten, the –
  - (i) date of admission or birth if a kitten;
  - (ii) date of departure, sale or transfer;
  - (iii) breed, age, colour and sex;
  - (iv) the cat or kitten's microchip number; and
  - (v) the name and residential address of the keeper;
- (f) the register is to be made available for inspection on the request to an authorised person; and
- (g) any other matter which in the opinion of the local government is deemed necessary for the health and wellbeing of any cat, or person, or adjoining premises or the amenity of the area.

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**Schedule 3 – Modified penalties**

[cl.7.3]

Item	Clause No.	Nature of offence	Modified penalty \$
1	2.1(5)(a)	Unauthorised release or attempted release of a cat	500
2	2.1(5)(b)	Interference with a cat management facility	500
3	2.1(5)(c)	Interference with cage or container for seized cats	500
4	3.1	Keeping a cat in a non-residential zone	200
5	3.3(a)	Keeping more than 2 cats without a permit	200
6	3.3(c)	Failure to hold permit as a cat management facility	500
7	3.3(d)	Failure to hold permit as approved cat breeder	500
8	3.9(1)	Cat creating a nuisance	200
9	3.9(4)	Failure to comply with notice to abate a nuisance	200
10	3.10(a)	Abandonment of a cat	500
11	3.10(b)	Failure to make adequate arrangement while temporarily absent	200
12	4.1	Failure to comply with conditions for all permits	200

13	4.2	Failure to comply with conditions of permit for other than a cat management facility	200
14	4.3	Failure to comply with conditions of permit for cat management facility	500
15	4.4	Failure to comply with conditions of permit for approved cat breeder	500
16	5.1	Cat in a public place not under effective control	200
17	5.2	Cat in a place where prohibited	200
18	7.1	All other offences not specified	200

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 2016.

The Common Seal of the Shire of Narrogin was affixed by authority of a resolution of Council in the presence of –

R.S. YURYEVICH, Chairman of Commissioners

A.J. COOK, Chief Executive Officer

Proposed Shire of Narrogin Cats Local Law 2016 – Summary of submissions received

Submissions received –  
 - Department of Local Government and Communities

Dept of Local Government and Communities –

Item	Clause	Comment	Review Comment
1	1.4	<p><b>Definitions</b></p> <p>a) The local law refers to both an “authorised person” and an “authorised officer” at various points throughout. It is suggested that these terms be defined as an “authorised person” appears to relate to a person authorised to keep cats under the local law and “authorised officer” appears to relate to an officer of the Town authorised under the <i>Cat Act 2011</i>.</p> <p>b) The local law includes a definition of “keeper” which includes “a person who occupies any premises in which a cat is ordinarily kept or ordinarily permitted to live”. The Joint Standing Committee on Delegated Legislation has raised an issue in the past with this definition. It could have the unintended effect of, where several people are living within one premises, making innocent persons guilty of offences in circumstances where they neither own the cat nor have the care or control of it.</p> <p>The Cat Act refers to the “owner of the cat” rather than the “keeper”. The Town may wish to amend the wording in its local law to refer to “owner” rather than “keeper”, as this would make the local law consistent with section 26 of the Cat Act which refers to the giving of a cat control notice to the “owner of a cat”.</p> <p>A definition of “owner” is also included in the Cat Act and appears to generally satisfy the definition of “keeper”.</p> <p>Section 33B of the <i>Dog Act 1976</i> provides for a defence if a person can show that the dog is owned by another person over the age of 18, but the Cat Act does not have these provisions. If the City wishes to retain the term “keeper”, it is suggested that a clause be inserted that would provide a defence for persons who occupy the premises but are not the owner, and do not have the care or control of the cat.</p>	<p>Definition inserted                      Amended to “authorised person” throughout,                      consistent with Dog Local Law</p> <p>Suggest amend by deleting (e) of the definition, so that it reads –  <b>keeper</b> in relation to a cat means any of the following persons –                      (a) the owner of the cat as defined in the Act;                      (b) a person by whom the cat is ordinarily kept;                      (c) a person who has or appears to have immediate custody or control of the cat;                      (d) a person who keeps the cat, or has the cat in her or his possession for the time being;                      (e) <del>a person who occupies any premises in which a cat is ordinarily kept or ordinarily permitted to live;</del>                      (f) a permit holder of a permit which relates to the cat;                      (g) the holder of an exemption issued in relation to the cat;</p> <p>Disagree. The definition in the Act is inadequate, since an owner may leave a licenced microchipped cat with a carer while away – holidays, ill health, FIFO etc.</p> <p>DLGC queried – advised that change was suggested for consistency with the Act, but it is Council decision. Other local laws have used “keeper”.</p> <p>Considered remedied by deletion of (e) above</p>



		<p>c) It is suggested that the terms listed below are defined. While not all of these definitions are essential, they will ensure that the meaning of the term is clear and assist in avoiding potential disputes or misunderstandings when the local law becomes operational.</p> <ul style="list-style-type: none"> <li>• "abandon";</li> <li>• "animal welfare organisation"; and</li> <li>• "pet shop".</li> </ul>	<p>Additional definitions inserted –  <b>pet shop</b> means premises operating in compliance with the local planning scheme, from which a cat may be offered for sale;</p> <p>Definitions not required for –</p> <ul style="list-style-type: none"> <li>- abandon – cl.3.10 modified by change of title and deleting (a)</li> <li>- animal welfare organisation – cl.3.4(a) deleted</li> </ul>
		<p><b>Recommendation –</b></p>	<p><b>Amend as suggested</b></p>
2	3.5	<p><b>Application for permit</b>  At 3.5(b) the local law refers to the provision of plans for a proposed cat management facility "to the satisfaction of the local government". This phrasing is quite vague and open to interpretation. It is suggested that this be replaced with:  "in the form determined by the local government from time to time;"</p> <p>This would allow the Town to determine what it considers an acceptable plan.</p>	<p>Amended by deleting the phrase "to the satisfaction of the local government"</p> <p>Not replaced</p>
		<p><b>Recommendation –</b></p>	<p><b>Amend as suggested</b></p>
3	3.8	<p><b>Cats in other than public places</b>  The Joint Standing Committee on Delegated Legislation has recently formed the view that clauses similar to clause 3.8 are not contemplated by the Cat Act and should be removed from the local law.</p> <p>The corresponding modified penalty for this clause should also be deleted from Schedule 3 of the local law.</p>	<p>Deleted</p> <p>Deleted</p>
		<p><b>Recommendation –</b></p>	<p><b>Amend as suggested</b></p>
4	3.9	<p><b>Cats creating a nuisance</b>  Clause 3.9 provides that an owner must not allow a cat to create a nuisance. Clause 1.4 defines the term "nuisance".</p> <p>The definition in clause 1.4 is problematic since:</p> <p>(a) it includes activities which do not automatically constitute a nuisance in common law (such as the killing of a native animal when it is not privately owned); and</p> <p>(b) it prohibits activities which cats are virtually certain to commit if allowed to roam freely (such as urinating on another person's property).</p>	

	<p>The Delegated Legislation Committee has previously raised issues with clauses that directly or indirectly attempt to confine all cats in the district. The Committee has determined that such clauses are not permitted under the Cat Act.</p> <p>Although clause 3.9 does not expressly provide for the confinement of cats, it effectively results in the same outcome. Since cats are virtually certain to commit a "nuisance" as defined by the local law if allowed to roam, a person who fails to confine their cat will inevitably commit an offence.</p> <p>Accordingly, it is suggested that the definition for nuisance be amended. Local governments have previously defined "nuisance" as follows:</p> <p><b>nuisance</b> means –</p> <ul style="list-style-type: none"> <li>(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;</li> <li>(b) an unreasonable interference with the use and enjoyment of a person of his or her ownership or occupation of land; or</li> <li>(c) interference which causes material damage to land or other property on the land affected by the interference.</li> </ul> <p><b>Recommendation –</b></p>	<p>3.9 to remain unchanged.</p> <p>DLGC queried, and are of the opinion that an amended definition for nuisance may be acceptable to the JSCDL.</p> <p>Definition inserted as recommended Consistent with Dogs, Public Places and Local Government Property Local Laws etc.</p>
5	<p><b>Variation of conditions</b></p> <p>Clause 4.1 provides that every permit is subject to certain conditions.</p> <p>The Town may wish to consider whether it would like the power to vary or amend the conditions once a permit has been issued. If so, the Town should provide when conditions may be varied, how permit holders will be notified of any changes and when these changes are effective.</p> <p>If this additional power is included, the Town may need to restart the local law-making process as provided under section 3.13 of the Act (see comment 7 below).</p>	<p><b>Retain 3.9 Cats creating a nuisance</b> <b>Replace definition of "nuisance".</b></p> <p>Omission noted – there is no comparable provision in proposed Dog Local Law.</p> <p>However, the cat management facility permit is an annual renewal, so if circumstances change a new permit needs to be sought, and variation to conditions could be considered at that time.</p> <p>In extreme circumstances, revocation of the permit under cl.4.8 could be considered.</p> <p>Although this local law has been awaited for quite some time, it appears that readvertising is required as the result of a modified penalty needing to be inserted in Sch.3.</p> <p>Accordingly, the provision can be inserted without delaying the process.</p> <p>Alternatively, it is suggested that no change be</p>



			made that may require recommencement of the process, but that the clause remain unchanged. If the power to alter conditions is sought, it is suggested that an amendment be initiated once the local law is Gazetted.  The likelihood of the need to vary conditions for additional cats is low, Accordingly, it is suggested that provisions not be inserted at this time, but noted for future amendment.
		<b>Recommendation –</b>	<b>That provision for variation of conditions of licence for additional cats not be inserted at this time, but noted for future amendment.</b>
6	5.1 and 5.2	<b>Cats in Public Places</b> Clauses 5.1 and 5.2 relate to the prohibition of cats in public places. The Joint Standing Committee on Delegated Legislation has recently formed the view that clauses of this nature are not contemplated by the Cat Act and should be removed from the local law.  The corresponding modified penalties for these clauses should also be deleted from Schedule 3 of the local law.	DLGC queried The Act permits a local law to prohibit cats absolutely in specified areas – s.79(3)(f). DLGC notes – - no recent Cat Local Law have been made prohibiting cats in particular places, so difficult to judge JSCDL directions. - JSCDL may consider the concept of “enclosed public space” to place unreasonable restrictions over private property. - JSCDL may require an undertaking to remove the clauses  It is noted that other local laws exercise control over privately owned areas with public access (Health, Places and Property etc) and place restrictions on residents of private property where their actions may affect those on public lands or adjoin private property (dogs, noise, light, smoke etc)
		<b>Recommendation –</b>	<b>Retain both clauses, noting DLGC’s advice that the JSCDL may require amendment</b>
7	7.4 and 7.5	<b>Infringement notices</b> These clauses refer to infringement notices “substantially in the form of” Forms provided in the <i>Cat Regulations 2013</i> . Section 63 of the Cat Act states that infringement notices are to be in the prescribed form and does not provide any leniency for notices to only	Amended Amended



		<p>"substantially" comply with the prescribed forms. In the past, the Joint Standing Committee on Delegated Legislation has requested that the words "substantially in" be deleted.</p>	
		<p><b>Recommendation –</b></p>	<p><b>Amend as suggested</b></p>
8	Sch 3	<p><b>Modified penalties</b> The Town has not included a penalty for an offence against clause 3.3(b) – the keeping of 4 cats without a permit. The Town has, however, included penalties for offences against clauses 3.3(c) and (d).</p> <p>The Town should review Schedule 3 to ensure that it is consistent with the Town's intentions regarding which offences in the local law are subject to modified penalties.</p> <p>If the Town wishes to include new modified penalties it is likely to result in the local law becoming significantly different from what was originally proposed. Where the final local law to be adopted is significantly different than what was advertised, the procedure under section 3.12 of the <i>Local Government Act 1995</i> must be restarted in accordance with section 3.13.</p> <p>While the department is not able to advise definitively on this matter (it is considered by the Joint Standing Committee on Delegated Legislation), the general rule has been that it would be prudent to restart the process where any revisions change any obligations under the local law. Amendments relating to grammatical or formatting changes, or changes which remove inconsistencies with Acts or Regulations, are unlikely to be considered significantly different. If the Town elects to insert new modified penalties without restarting the section 3.12 process, the local law will be potentially invalid.</p>	<p>Amended – Omitted in error</p> <p>3.3(c) and (d) are incorrectly listed in the Schedule as (b) and (c)</p> <p>As this is considered a significant change (additional modified penalty), the proposed local law should be readvertised.</p> <p>An alternative would be to delete 3.3(b) from the proposed local law, and insert it as an amendment, together with power to vary conditions (refer cl.4.1 above).</p> <p>The likelihood of the need to use the penalty is low, Accordingly, it is suggested that the penalty not be inserted at this time, but noted for future amendment.</p>
		<p><b>Recommendation –</b></p>	<p><b>That a modified penalty for clause 3.3(b) keeping of more than 4 cats in the rural area without a permit not be inserted at this time, but noted for future amendment</b></p>
9	Various	<p><b>Minor comments and edits</b> The following minor comments are made and minor edits suggested:</p> <ul style="list-style-type: none"> <li>the local law uses digits and numbers expressed in words interchangeably. In line with best drafting principles, it is suggested to replace all numbers expressed in words with digits. For example, at 3.2(2)(a) and (b) change "two", "six" and "four" to "2", "6" and "4". Similar changes should be made at 3.3(a) and (b) and 3.4(1)(e), at sub-clauses (2)(j), (3)(b), (3)(b)(i) and (3)(b)(ii) in Schedule 2 and at Item 4 of</li> </ul>	<p>Amended throughout</p>



	<p>used throughout the local law.</p> <ul style="list-style-type: none"> <li>• at 7.1 change "Offences" to "Offences";</li> <li>• at Schedule 1, the clause referenced is 3.2. This should be changed to 3.3 and the clauses referred to in the "Apply for a Licence" section of the form should be changed to 3.3(c) and 3.3(d) respectively;</li> <li>• at Schedule 2 the tabulation of sub-clauses (2)(a) – (l), (3)(a) – (i) and (4)(a) – (g) is inconsistent. Each sub-clause should begin with a lowercase word and end with a semicolon except the penultimate sub-clause, which should end with a semicolon and the word and: "; and", and the final sub-clause, which should end with a full stop. This also relates to the sub-sub-clauses in these sub-clauses, except that they should end with semicolons ";" rather than full stops ".";</li> <li>• at Schedule 2, (3)(c), insert " provided that" after the words "colony pens";</li> <li>• at Schedule 2, abbreviations are used inconsistently – for example, at (2)(i) "metres" and at (3)(g) "mm". The Town should choose to either abbreviate or use words in full and then ensure this is consistent throughout the local law;</li> <li>• at Schedule 2, (3)(h), change "Health" to "health";</li> <li>• at Schedule 3 Item 2, change "pound" to "cat management facility";</li> <li>• at Schedule 3 Items 5 and 6, the clause numbers appear to be incorrect. They should be 3.3(c) and 3.3(d) respectively;</li> <li>• the final item in Schedule 3 does not have a number. The Town should insert the number "19" in the item column; and</li> <li>• delete the full stop "." after the words "Chief Executive Officer" at the signing clause.</li> </ul>	<p>Amended Amended</p> <p>Amended</p> <p>They are Amended</p> <p>Amend</p> <p>Amended</p> <p>Amended</p> <p>Amended Amended</p> <p>Amended x 2</p> <p>Amended Amended</p> <p><b>Amend as suggested</b></p>
	<p><b>Recommendation –</b></p>	<p><b>Amend as suggested</b></p>



**CEMETERIES ACT 1986  
LOCAL GOVERNMENT ACT 1995**

SHIRE OF NARROGIN

**CEMETERY LOCAL LAW 2016**

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**CEMETERIES ACT 1986  
LOCAL GOVERNMENT ACT 1995**

SHIRE OF NARROGIN

**CEMETERY LOCAL LAW 2016**

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 Narrogin resolved on \_\_\_\_\_ to adopt the following local law.

**PART 1 - PRELIMINARY**

**1.1 Citation**

This local law may be cited as the *Shire of Narrogin Cemetery Local Law 2016*.

**1.2 Commencement**

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

**1.3 Application**

This local law applies to Narrogin Cemetery (Reserve 1875) located in the district.

**1.4 Repeal**

The *Bylaws Relating to Narrogin General Cemetery (Reserve 745)* published in the *Government Gazette* on 24 February 1950, and amended from time to time are repealed.

**1.5 Definitions**

In this local law, unless the context otherwise requires –

**Act** means the *Cemeteries Act 1986*;

**ashes** means so much of the remains of a dead body after the due processes of cremation as may be contained in a standard sized cremation urn of which the volume does not exceed 4,000 cubic centimetres, or such greater volume as approved by the CEO in writing;

**assistance animal** has the meaning set out in the *Disability Discrimination Act 1992* (Commonwealth);

**authorised person** means a person –

- (a) appointed by the Board under section 9.10 of the *Local Government Act 1995* for the purposes of performing any function or exercising any power, other than the giving of infringement notices, conferred upon an authorised person by this local law; or
- (b) authorised under section 64 of the Act to give infringement notices;

**Board** means the local government;

**business day** means any week day other than a public holiday in Western Australia;

**cemetery** means Narrogin Cemetery (Reserve 1875);

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

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

**Commissioner of Police** means the Commissioner of Police for the time being appointed under the *Police Act 1892* and includes any person for the time being acting in that capacity;

**disability** has the meaning set out in the *Disability Discrimination Act 1992* (Commonwealth);

**district** means the district of the local government;

**funeral director** means a person –

- (a) holding current membership of –
  - (i) the Australian Funeral Directors Association, or
  - (ii) the National Funeral Directors Association; or
- (b) a person authorised by the personal representative of a deceased person, and approved by the CEO;



**grant of right of burial** means a right granted under clause 2.3 for immediate burial of a dead body, and for the purposes of this local law, includes placement of ashes in a grave, the niche wall or under a memorial plaque, or scattering of ashes within the cemetery;

**headstone** means a memorial designed for placement at the head of a grave, commemorating a grave or the placement of ashes;

**interment** includes, as the case may be –

- (a) burial of a dead body;
- (b) placement of ashes in a grave, niche wall or under a commemorative plaque; or
- (c) scattering of ashes;

**interment permit** means a single funeral permit issued by the Board under section 20 or 21 of the Act which entitles the holder to conduct the interment of a person named in the permit, and includes placement of ashes in a niche wall or memorial local, or scattering of ashes;

**local government** means the Shire of Narrogin;

**mausoleum** means a burial chamber 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** has the meaning set out in the Act;

**memorial plaque** means a panel, plate or tablet designed or used for purposes of bearing a commemorative inscription;

**memorial work** means to install, repair, renovate or remove a memorial;

**monument** means a sculpture, statue, cover of a grave or other form of memorial approved by the Board commemorating a grave or the placement of ashes, other than a headstone or memorial plaque;

**natural stone** means –

- (a) any variety of non-fabricated, naturally occurring stone or rock; or
- (b) any fabricated compound or fabricated aggregate which, in the opinion of the Board, has similar durability and aesthetic qualities as the materials specified in paragraph (a) above, suitable for decorative purposes and monumental sculpture and includes granite, but not glass, porcelain, ceramics or any pottery;

**personal representative** means –

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

**pre-need certificate** means the purchase of a certificate made under clause 2.4 setting aside for use of the person who wishes to secure the use of the grave, niche or memorial position, prior to any grant of right of burial made under clause 2.3;

**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;

**standard grave** means a grave which does not exceed any of the following dimensions: 2m long, 1.2m wide and 2.1m deep;

**utility services** means municipal or public services and include the supply of water, electrical power, gas and refuse, building waste and sewerage disposal services;

**vault** means a below ground lined grave with 1 or more sealed compartments constructed to specifications approved from time to time by the Board; and

**vehicle** includes every conveyance and every object capable of being propelled or drawn on wheels, tracks or otherwise, and includes a bicycle and a skateboard.

## PART 2 - ADMINISTRATION

### 2.1 Powers and functions of CEO

Unless a matter is specified to be determined by the Board, the CEO shall exercise all the powers and functions of the Board in respect of the cemetery.

## **2.2 Plans**

- (1) The Board shall establish and maintain a plan of the cemetery showing –
  - (a) the location of areas set aside for burials, niche wall compartments, and placement of ashes in a garden;
  - (b) the location of an area to be used only for burials of persons of a particular religious denomination;
  - (c) the location of different areas of the cemetery to which different requirements for memorials apply;
  - (d) the location of areas set aside for the works and other uses as specified in sections 24(2)(a) and (b) of the Act; and
  - (e) areas restricted in accordance with clause 2.6.
- (2) The Board may from time to time establish and vary the boundaries of any area referred to in subclause (1).
- (3) The plans referred to in subclause (1) shall be open for inspection by members of the public during normal office hours of the Board.

## **2.3 Grant of right of burial**

- (1) Upon payment of the set fee, a grave, niche compartment or memorial location shall be granted right of burial for a period in accordance with section 25(1) of the Act.
- (2) Upon payment of the set fee, a grant of right of burial shall be extended for a further period in accordance with section 25(2) or (4) of the Act.
- (3) A grant of right of burial made and recorded at the commencement of this local law, shall remain valid for the periods specified by the Act.
- (4) If the Board refuses to an application under subclause (1) or (2), written notice of the refusal is to be given to the applicant.

## **2.4 Pre-need certificate**

- (1) Prior to issue of a grant of right of burial, and upon payment of the set fee, purchase of a pre-need certificate for a specific position of gravesite, niche compartment or memorial location may be approved for a period not exceeding to 5 years.
- (2) Upon payment of the set fee, a pre-need certificate may be renewed for a further period not exceeding 5 years.
- (3) Cancellation of a pre-need certificate may be made by the person holding the pre-need certificate or authorised representative at any time.
- (4) For avoidance of doubt, a pre-need certificate is not a grant of right of burial.
- (5) If the Board refuses to grant an application under subclause (1) or (2), written notice of the refusal is to be given to the applicant.

## **2.5 Board may enter into an agreement for maintenance**

The Board may enter into an agreement with the holder of a grant of right of burial under clause 2.3 or holder of a pre-need certificate under clause 2.4 for the maintenance of an area of the cemetery at the expense of the holder.

## **2.6 Historical Indigenous areas**

- (1) No interments or memorials are permitted in the portions of the cemetery identified by the Board under clause 2.2, except with the specific approval of the Board, as records of burials in this area are unobtainable, or pre-date establishment of the district.
- (2) Should evidence of previously unknown burials or use be discovered, the reporting requirements of section 15 or section 41 of the *Aboriginal Heritage Act 1972*, as the case may require, shall be complied with.

# **PART 3 - APPLICATION FOR INTERMENT**

## **3.1 Application for interment permit**

- (1) A funeral director may apply for approval for interment in the cemetery.



- (2) An application for an interment permit is for a dead body and shall include coffin specifications and details of the vehicle transporting the dead body to the gravesite.
- (3) An application under subclause (1) shall be accompanied by the set fee.

**3.2 Applications to be accompanied by certificates etc.**

- (1) An application under clause 3.1 shall be accompanied by a certificate issued under clause 3.3, in respect of the dead body.
- (2) The Board may require that an application under clause 3.1 be accompanied by either a medical certificate of death or a Coroner's order of burial, in respect of the dead body.

**3.3 Certificate of identification**

- (1) After a dead body is placed in a coffin and prior to the dead body being removed to the cemetery, a person who personally knew the deceased shall identify the dead body and shall provide a certificate of identification, unless –
  - (a) in the opinion of the funeral director, the dead body is not in a fit state to be viewed; or
  - (b) after reasonable effort the funeral director is unable to arrange for a person to identify the dead body.
- (2) A funeral director shall provide a certificate, where –
  - (a) in the opinion of the funeral director, the dead body is not in a fit state to be viewed; or
  - (b) after reasonable effort the funeral director is unable to arrange for a person to identify the dead body.

**3.4 Minimum notice required**

An application for interment shall be made to the Board at least 4 business days prior to the day proposed for interment, otherwise an extra charge may be made.

**3.5 Refusal of application**

- (1) The Board may refuse an application for a interment permit –
  - (a) 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
  - (b) on any other grounds.
- (2) The Board may refuse an application for a pre-need certificate.
- (3) If the Board refuses to approve an application under subclause (1) or (2), written notice of the refusal is to be given to the applicant.

**PART 4 - FUNERALS AND MEMORIAL SERVICES**

**4.1 Fixing times for interments**

- (1) On receipt of a properly completed application form and the satisfaction of all other requirements of the Act and this local law, the Board may –
  - (a) approve a time for the funeral; and
  - (b) dig or re-open any grave that is required.
- (2) The time approved for an interment is at the discretion of the Board but will be as near as possible to the time requested by the applicant.
- (3) Except with the permission of the Board and subject to such conditions as may be applied, a person shall not carry out an interment –
  - (a) on a Saturday, a Sunday or a public holiday;
  - (b) commencing at any time other than between the hours 9:00 am to 2.00 pm; or
  - (c) to conclude later than 3.00pm.

**4.2 Memorial services or processions**

- Upon application, the Board may permit, with or without interment or broadcasting of ashes –
- (a) the conduct of a memorial service; or
  - (b) a procession.



#### **4.3 Processions**

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

#### **4.4 Conduct of interments by the Board**

When conducting an interment, or for the purposes of deciding whether to conduct an interment, under section 22 of the Act the Board may –

- (a) require a written request to be made for the Board to conduct an interment;
- (b) in its absolute discretion, charge any person requesting it to conduct an interment the set fee for the conduct of that funeral;
- (c) where no fee or a reduced fee has been charged by it for the conduct of the interment, determine the manner in which the interment shall be conducted;
- (d) specify an area in the cemetery for the interment;
- (e) conduct the funeral notwithstanding the failure of a person to make any application or to obtain any consent required under this local law; and
- (f) do or require anything which is considered necessary or convenient for the conduct of the funeral by the Board.

### **PART 5 - INTERMENTS**

#### **5.1 Requirements for burials and coffins**

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 clause 3.1;
- (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 properly affixed in a clearly visible position on the lid of the coffin; 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 Preparation of graves**

- (1) A person shall not dig or prepare a grave or fill a grave, unless that person has the permission of the Board.
- (2) Regardless of prior grant of right of burial under clause 2.3 or gravesite approved upon application made under clause 3.1, the Board may direct the digging or preparation of a grave in an alternate position, where –
  - (a) evidence of a prior interment is found, or known to have occurred;
  - (b) access to the position is constrained;
  - (c) the digging or preparation of the grave is unreasonably difficult; or
  - (d) utility services may be interfered with.
- (3) Where an alternative position for the grave is directed under subclause (2), the Board is to advise the funeral director immediately.

#### **5.3 Dimensions of graves**

- (1) A person shall not bury a dead body in the cemetery other than in a standard grave, unless that person has the permission of the CEO.
- (2) Every grave prepared by the Board shall be dug at least 1.8m deep and shall not exceed 2.3m in depth, unless otherwise determined by the Board.
- (3) A person shall not bury a dead body within the cemetery so that the distance from the top of the coffin to the original surface of the ground is –
  - (a) subject to paragraph (b), less than 1600mm, unless that person has the permission of the CEO; or
  - (b) in any circumstances less than 750mm.
- (4) The permission of the Board in subclause (3) shall not be granted unless in the opinion of the CEO exceptional circumstances require granting of that permission.

#### **5.4 Ashes not to be held by the Board**

The Board shall not accept custody of ashes of a deceased person.

#### **5.5 Disposal of ashes**

- (1) Except in accordance with an approved application under clause 3.1, a person shall not bring or dispose of the ashes of a deceased person in the cemetery.
- (2) A funeral director, the personal representative of a deceased person whose body has been cremated, or other person approved by the CEO, may apply to the Board for permission to dispose of the ashes of that deceased person in the cemetery by one of the following methods, if that method is available –
  - (a) placed in a niche wall;
  - (b) placed under a family tree or shrub;
  - (c) placed under a bench seat;
  - (d) placed in a grave, vault or mausoleum;
  - (e) scattered in an area approved by the Board;
  - (f) placed in a memorial garden; or
  - (g) placed in or under other memorials approved by the Board.
- (3) The Board may require a person making an application under subclause (2) to provide additional information reasonably related to the application before determining the application.
- (4) The Board may –
  - (a) approve an application under subclause (2) unconditionally or subject to any conditions; or
  - (b) refuse to approve an application under subclause (2).
- (5) Where an application under subclause (2) has been approved subject to conditions, the applicant must comply with each of those conditions, as amended.
- (6) If the Board refuses to approve an application under subclause (2), written notice of the refusal is to be given to the applicant.

#### **5.6 Vaults and mausoleums**

- (1) A person shall not construct a vault or mausoleum within the cemetery, except with the specific approval of the Board.
- (2) A vault or mausoleum within the cemetery shall at all times remain the property of the Board.
- (3) An application under subclause (1) shall be in writing and shall be accompanied by payment of the set fee.
- (4) The Board may require a person making an application under subclause (1) to provide additional information reasonably related to the application before determining the application.
- (5) The Board may –
  - (a) approve an application under subclause (1) unconditionally or subject to any conditions; or
  - (b) refuse to approve an application under subclause (1).
- (6) Where an application under subclause (1) has been approved subject to conditions, the applicant must comply with each of those conditions, as amended.
- (7) If the Board refuses to approve an application under subclause (1), written notice of that refusal is to be provided to the applicant.
- (8) A person shall not place a dead body in a vault or mausoleum except –
  - (a) in a closed coffin;
  - (b) in a soundly constructed and sealed chamber; and
  - (c) in accordance with subclause (9).
- (9) The number of burials in a chamber must not exceed the number for which the chamber was designed.

#### **5.7 Re-opening a grave**

- (1) A person shall not reopen a grave without the approval of the Board.
- (2) If for the purpose of re-opening a grave in the cemetery, the Board finds it necessary to remove plants, grass, shrubs or other like matter from the grave, then the person ordering the re-opening of that grave shall bear the cost of the removal and any necessary reinstatement.



### **5.8 Exhumation of a coffin**

- (1) Subject to subclause (2), a person shall not exhume a coffin in the cemetery for the purposes of reburial within 12 months after the date of its interment.
- (2) Subclause (1) shall not apply where the exhumation is ordered or authorised pursuant to the Act.
- (3) Subject to subclause (1) and (2) prior to any other exhumation, the holder of a grant of right of burial must have applied in writing to the CEO requesting the exhumation and the CEO has authorised the exhumation.

### **5.9 Opening of coffin**

A person shall not open a coffin in the cemetery unless –

- (a) the coffin is opened for the purposes of the exhumation of a dead body; or
- (b) that person has produced to the CEO an order signed by the Commissioner of Police and the CEO has approved the opening of that coffin.

## **PART 6 - APPLICATIONS FOR MEMORIALS**

### **6.1 Application to place memorial**

- (1) Upon payment of the set fee, the Board may approve an application to place a memorial with or without conditions, including restricting use of materials such as wood, dimensions of a memorial etc, so as not to detract from the amenity of the cemetery.
- (2) The Board may require the written consent of the holder of the right of burial of the grave, the personal representative of a deceased person, or other person to the satisfaction of the CEO to accompany an application for a memorial made under section 30 of the Act.
- (3) Where written consent is not able to be produced, the Board may approve with or without conditions or decline an application in its absolute discretion.
- (4) If the Board refuses to approve an application under subclause (2), written notice of that refusal is to be provided to the applicant.

### **6.2 Australian War Graves**

Notwithstanding anything in this local law to the contrary, the Office of Australian War Graves –

- (a) may place a complying memorial on a military grave; and
- (b) is not required to pay the set fee for any memorial that is placed upon a military grave.

## **PART 7 - MEMORIALS PERMITTED**

### **7.1 Limitation on dimensions of memorials**

- (1) No part of a memorial, including any grave cover, kerbing, boundary marker or enclosure is to extend beyond the standard dimensions of a gravesite.
- (2) No part of a monument above its base shall extend horizontally beyond its base.
- (3) Notwithstanding subclause (1), on request of the personal representative, the Board may approve a memorial over adjoining multiple gravesites –
  - (a) where the persons interred are of the same family; or
  - (b) for another acceptable reason.

### **7.2 Specification for monument**

- (1) A monument in the cemetery –
  - (a) shall be made of natural stone;
  - (b) shall be placed on a base of natural stone;
- (c) the portion not being a grave cover, shall comply with the following specifications –
  - (i) unless a greater height is approved by the CEO, the overall height of a monument above the original surface of the grave shall not exceed 1.2m;
  - (ii) the height of the base of the monument above the original surface of the grave shall not be less than 150mm nor more than 450mm;
  - (iii) the width of the base of the monument shall not exceed 1.2m;



- (iv) the length of the base of the monument measured along the length of the grave shall not exceed 600mm;
  - (d) the portion being a grave cover, shall comply with the following specifications
    - (i) unless a greater height is approved by the CEO, the overall height of a monument above the original surface of the grave shall not exceed 300mm;
    - (ii) the width of the grave cover shall not exceed 1.2m;
    - (iii) the length of the grave cover shall not exceed 2.4m; and
  - (e) shall have foundations extending to a depth of 1m unless concrete beam foundations are approved by the Board.
- (2) Subject to subclause (3) a memorial plaque may be attached to a monument that has been or is being erected.
- (3) The provisions of clause 7.4 and clause 7.5 apply to plaques that are attached to a headstone.

### 7.3 Specification for headstone

- (1) A headstone shall –
- (a) be made of natural stone;
  - (b) be placed on a base of natural stone;
  - (c) comply with the following specifications –
    - (i) be placed on proper and substantial foundations extending to a depth of 1m unless concrete beam foundations are provided
    - (ii) the height of the base of the headstone above the highest point of the original surface of the grave shall not be less than 150mm nor more than 200mm;
    - (iii) the overall height of the headstone, including the base, shall not exceed 1.2m;
    - (iv) the length of the base of the headstone measured across the width of the grave shall not exceed 1.2m;
    - (v) the width of the base of the headstone measured along the length of the grave shall not exceed 300mm; and
    - (vi) no part of a headstone above its base shall extend horizontally beyond that base.
  - (d) have foundations extending to the bottom of the grave unless concrete beam foundations are approved by the Board.
- (2) Subject to subclause (3) a memorial plaque may be attached to a headstone erected or being erected within the cemetery.
- (3) The provisions of clause 7.4 and clause 7.5 apply to plaques that are attached to a headstone.

### 7.4 Specification for memorial plaque

- (1) A memorial plaque shall –
- (a) be made of –
    - (i) admiralty bronze;
    - (ii) polished or brushed stainless steel, or
    - (iii) other material approved by the Board;
  - (b) have the dimensions not being more than –
    - (i) single – 380mm x 280mm; or
    - (ii) double – 560mm x 280mm.
- (2) If not mounted on a monument, headstone or wall other than a niche wall, a memorial plaque is to –
- (a) be mounted on a base not more than –
    - (i) single – 395mm x 295mm; or
    - (ii) double – 575mm x 295mm.
  - (b) have foundations extending to a depth of 1m unless concrete beam foundations are approved by the Board.
  - (c) the highest part of the memorial plaque is to be not less than 150mm nor more than 450mm above the surrounding surface.
- (3) A memorial plaque –
- (a) made of admiralty bronze shall not exceed 20mm in thickness;
  - (b) made of polished or brushed stainless steel shall not exceed 8mm in thickness;

- (c) made of stone –
    - (i) shall not exceed 50mm in thickness if placed upon a base;
    - (ii) shall not be less than 100mm in thickness if it is not to be placed upon a base mounting, and
  - (d) shall be placed upon a base mounting approved by the Board.
- (4) A memorial plaque shall not extend beyond the physical dimensions of the monument, headstone, base or other item on which it is mounted.

### **7.5 Specification for niche wall and other commemorative plaques**

- (1) A niche wall or other commemorative plaque shall –
- (a) be made of –
    - (i) admiralty bronze;
    - (ii) polished or brushed stainless steel; or
    - (iii) other material approved by the Board;
  - (b) have the dimensions not being more than –
    - (i) single – minimum of 140mm x 115mm, to maximum of 145mm x 120mm;
    - (ii) double – minimum of 275mm x 120mm, to maximum of 285mm x 125mm;
- (2) If not mounted on a monument, headstone or wall, a niche wall or commemorative plaque is to –
- (a) be mounted on a base not more than –
    - (i) single – minimum of 155mm x 130mm, to maximum of 160mm x 135mm;
    - (ii) double – minimum of 290mm x 135mm, to maximum of 300mm x 140mm;
  - (b) have foundations extending to a depth of 1m unless concrete beam foundations are approved by the Board.
  - (c) the highest part of the commemorative plaque is to be not less than 150mm nor more than 450mm above the surrounding surface.
- (3) A niche wall or commemorative plaque shall be –
- (a) made of admiralty bronze shall not exceed 20mm in thickness;
  - (b) made of polished or brushed stainless steel shall not exceed 8mm in thickness;
  - (c) placed upon a base mounting approved by the Board.
- (4) A commemorative plaque shall not to extend beyond the physical dimensions of the monument, headstone, base or other item on which it is mounted.

### **7.6 Specification for gravesite fencing**

Any fencing used as a memorial or part of a memorial shall –

- (a) be a picket fence made of white powder coated aluminium or other materials approved by the Board;
- (b) have concrete foundations not less than 250mm square and 750mm deep not more than 1200mm apart, or concrete beam foundations approved by the Board;
- (c) unless otherwise approved by the Board, comply with the following specification –
  - (i) in length, not be more than 2400mm in length, nor less than 900mm;
  - (ii) in width, not be more than 1200mm in width, nor less than 900mm; and
  - (iii) in height, not less than 450mm, nor more than 550mm from the original surface of the grave.

### **7.7 Display of trade names on memorials not allowed**

A person shall not display any trade names or marks on a memorial.

### **7.8 Use of wood**

No wooden fence, railing or construction other than a cross, shall be allowed on or around a grave, other than as a temporary marker or with the permission of the Board.

## **PART 8 - MEMORIALS AND OTHER WORK**

### **8.1 Numbering of graves**

A person shall not install a memorial on a grave unless the number of that grave is, depending on the area where the grave is located, indelibly and legibly inscribed either on the base of the head of the monument or on the base of the headstone, or if this is not practicable, on the kerbing at the foot of the grave.



## **8.2 Carrying out memorial work**

- (1) A person shall not carry out memorial work within the cemetery unless that person is authorised by the Board to do so under clause 6.1.
- (2) All material required in the erection and completion of any memorial work shall, be prepared before being taken to the cemetery.
- (3) The Board may place restrictions on the hours of work, access to the cemetery or other matters considered appropriate.
- (4) Memorial works shall be suspended during the conduct of any funeral within the cemetery.
- (5) Work is not permitted to be left unattended in an untidy or unsafe state.

## **8.3 Removal of sand, soil or loam**

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

## **8.4 Removal of rubbish**

All refuse, rubbish or surplus material remaining after approved memorial works are completed shall be immediately removed from the cemetery by the person carrying out the same.

## **8.5 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 Board.

## **8.6 Supervision**

All workers, whether employed by the Board or by any other person, shall at all times while within the boundaries of the cemetery be subject to the supervision of the Board and shall obey any directions of the Board.

## **8.7 Placing of grave ornaments**

- (1) A person shall not place 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) outside of an area set aside by the Board as a memorial plaque section.
- (2) The use of glass, porcelain, ceramics or pottery is not permitted, other than that already in place at commencement of this local law.

## **8.8 Hours of work**

Except in accordance with the permission of an authorised person, a person shall not carry out memorial or other work within the cemetery –

- (a) during a funeral; or
- (b) other than between the hours of 8:00 am and 5:00 pm on a business day.

## **8.9 Unfinished work**

A person who does not complete any work before 5:00 pm on a business day shall leave the work in a neat and safe condition to the satisfaction of the Board.

## **PART 9 - GENERAL**

### **9.1 Vehicle access and speed limitation**

- (1) A person shall drive a vehicle on a vehicular access way or the constructed roadway or other areas designated for the use of vehicles within the cemetery, unless otherwise authorised by the Board.
- (2) A person driving a vehicle, within the cemetery, shall not exceed the speed limit of 20km per hour, and shall comply with the signs and directions in the cemetery.



## **9.2 Assistance animals**

This local law is subject to any written law and law of the Commonwealth about assistance animals as defined in the *Disability Discrimination Act 1992 (Commonwealth)* section 9(2).

## **9.3 Utility services**

- (1) Other than with the approval of the Board, a person shall not –
  - (a) connect any device or equipment to any utility services supplied on or at the cemetery; or
  - (b) alter or interfere with utility services infrastructure located in the cemetery.
- (2) The Board may recover from a person the reasonable costs incurred by the Board for the supply to and use of any utility services by that person at the cemetery.

## **9.4 Damaging and removing of objects**

Subject to clause 9.5, a person shall not damage, remove or pick any tree, plant, shrub or flower in 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.

## **9.5 Withered flowers**

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

## **9.6 Littering and vandalism**

A person shall not –

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

## **9.7 Advertising**

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

## **9.8 Signs and directions of the Board**

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

## **9.9 Removal from the cemetery**

- (1) Any person failing to comply with any provisions of this local law or behaving in a manner that in the opinion of the Board is inappropriate in the cemetery may in addition to any penalty provided by this local law be ordered to leave the cemetery.
- (2) A person to whom an order under subclause (1) is given must comply with that order.

## **9.10 Board may close cemetery**

The Board may –

- (a) temporarily close the cemetery or any part of it;
- (b) exclude from the cemetery the public and all persons or so many of the public or so many persons as the Board consider to be necessary;
- (c) regulate, prohibit or restrict access to the cemetery or any part of it; or
- (d) direct persons to leave the cemetery or any part of it, for purposes of –
  - (i) a funeral or public convenience;
  - (ii) maintenance, redevelopment or extension of the cemetery;
  - (iii) public safety; or

(iv) other operational reasons.

#### **9.11 Fireworks or firearms**

Upon application, and subject to the approval of the Commissioner of Police, the CEO may permit an honour guard and discharge of firearms in a volley salute for a deceased military or police officer.

#### **9.12 Liability for damage or works required to comply**

(1) Where a person –

- (a) causes damage to any grave, memorial, structure, building, furniture, plant or any other item or thing in the cemetery;
- (b) does a thing not authorised by this local law; or
- (c) does not do a thing required by this local law;

the Board may by notice in writing to that person require that person within the time required in the notice to, at the option of the Board –

- (d) pay the costs of reinstating the property to the state it was in prior to the occurrence of the damage;
- (e) pay the costs of replacing that property;
- (f) pay the costs of works required to comply with this local law; or
- (g) carry out works required to comply with this local law.

(2) On a failure to comply with a notice issued under subclause (1), the Board may recover the costs referred to in the notice as a debt due to it.

#### **9.13 Offence to fail to comply with notice**

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

#### **9.14 Board may undertake requirements of notice**

Where a person fails to comply with a notice referred to in clause 9.13, the Board may do the thing specified in the notice and recover from the person to whom the notice was given, as a debt, the costs incurred in so doing.

### **PART 10 - OFFENCES AND MODIFIED PENALTIES**

#### **10.1 General penalties**

A person who commits a breach of any provisions of this local law commits an offence and shall on conviction be liable to a penalty not exceeding \$500, and if the offence is a continuing one to a further penalty not exceeding \$20 for every day or part of a day during which the offence has continued.

#### **10.2 Modified penalties**

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



**Schedule 1 – Modified Penalties**  
[cl.10.2]

<b>Item</b>	<b>Clause</b>	<b>Nature of offence</b>	<b>Modified Penalty \$</b>
1	4.2(a)	Holding a memorial service without permission	50
2	4.2(b)	Conducting a procession without permission	50
3	5.1	Failure to obtain approval to bring a dead body into the cemetery	50
4	5.2(1)	Unauthorised digging, preparation or filling of grave	50
5	5.3(1)	Unauthorised burial of dead body	50
6	5.5(1)	Unauthorised disposal of ashes	50
7	5.5(2)	Disposal of ashes in an unauthorised manner	50
8	5.6(1)	Unauthorised construction of vault or mausoleum	50
9	5.7(1)	Unauthorised reopening of a grave	50
10	5.8(1)	Unauthorised exhumation of a coffin	50
11	5.9	Unauthorised opening of a coffin	50
12	7.7	Use of trade name or mark on a memorial	50
13	8.1	Carrying out memorial work without grave number on memorial or surrounds	50
14	8.2	Unauthorised construction of a memorial	50
15	8.3	Unauthorised use of materials taken from within the cemetery	50
16	8.4	Failure to remove rubbish and surplus materials	50
17	8.5	Unauthorised planting of tree or shrub	50
18	8.6	Failure to comply with direction of authorised person	50
19	8.7	Unauthorised placing of grave ornaments	50
20	8.8	Works carried out during unauthorised times	50
21	8.9	Failure to leave uncompleted works in a tidy and safe condition	50
22	9.1(1)	Driving vehicle other than on vehicular access way or constructed roadways or within designated areas	50
23	9.1(2)	Exceeding speed limit	50
24	9.3	Interference with utility services	50
25	9.4	Damaging or removing object	50
26	9.5	Failure to dispose of withered flowers appropriately	50
27	9.6	Littering and/or vandalism	50
28	9.7	Unauthorised advertising and/or trading	50
29	9.8(2)	Failure to obey sign or lawful direction within cemetery	50
30	9.9(2)	Failure to comply with order to leave cemetery	50
31	9.10	Failure to comply with closure of all or part of cemetery	50
32	9.13	Failure to comply with notice within specified period	50

**Schedule 2 – Infringement Notice**  
[cl. 10.2(3)]  
**Shire of Narrogin**

<b>INFRINGEMENT NUMBER –</b>		
To:		
Address:		
	It is alleged that –	
At –		
On –	Day	Date
Location –	Narrogin General Cemetery (Reserve 745)	
	You committed the following offence –	
Contrary to –	Shire of Narrogin Cemetery Local Law 2016	
Schedule 1 reference –	Item No. –	Clause –
Offence –		
Brief description –		
The modified penalty for the offence is –	\$	
	If you do not wish to have a complaint of the alleged offence heard and determined by a court, the amount of the modified penalty may be paid at the Shire of Narrogin within a period of 28 days after the giving of this notice.	
Name of authorised person –		
Position –		
Signature –		
Date –		
	Payments may be made – a) On-line at <a href="http://www.narrogin.wa.gov.au">www.narrogin.wa.gov.au</a> b) EFT to _____ c) In person at – Shire of Narrogin, 89 Earl St, Narrogin during business hours d) By mail to – Shire of Narrogin PO Box 1145, Narrogin 6312 Please make cheques payable to Shire of Narrogin.	



**Schedule 3 – Withdrawal of Infringement Notice**  
 [cl. 10.2(4)]  
**Shire of Narrogin**

To –	
Address –	
	It is advised that –
Infringement Notice No. –	
Dated –	
For the alleged offence of –	
	has been withdrawn.
The modified penalty of –	\$
Reason for withdrawal –	No further action will be taken.
(Delete whichever does not apply)	It is proposed to institute court proceedings for the alleged offence
Name of authorised person –	
Position –	
Signature –	
Date –	

\_\_\_\_\_

Dated \_\_\_\_\_ 2016.

The Common Seal of the Shire of Narrogin was affixed by authority of a resolution of Council in the presence of –

R.S. YURYEVICH, Chairman of Commissioners

A.J. COOK, Chief Executive Officer

Proposed Shire of Narrogin Cemetery Local Law 2016 – Summary of submissions received

- Submissions received –  
 - Department of Local Government and Communities  
 - Dawsons Funeral Home

Dept of Local Government and Communities –

Item	Clause	Comment	Review Comment
1	1.4	<p><b>Repeal</b>                      It is suggested that the Shire specifies in the repeal clause the date(s) that the <i>Bylaws</i> were amended (if known).</p>	<p>Previously, DLGC have advised that dates of amendments are not required, and confirmed this on 27 June –</p> <p>Section 33 of the <i>Interpretation Act 1984</i> provides that when a principal local law is repealed, this will automatically repeal any amendments which have been made to that local law.                      In line with best drafting practices, it is suggested that a repeal clause states the date that amendments were made. For example, the standard format is –                      This local law repeals the [insert name of principal local law] as published in the <i>Government Gazette</i> on [insert date] and as amended on [insert date(s)] when amendment local law(s) was published in the <i>Gazette</i>.                      In certain instances it may be more appropriate to state "as amended from time to time". For example, there may have been a significant number of amendments made or it may be difficult to ascertain the exact date(s) that the principal local law was amended.</p> <p><b>No change be made</b></p>
2	1.5	<p><b>Recommendation –</b>  <b>Definitions</b>                      a) Under the Cemetery Act, local governments which are vested with a cemetery are taken to have all the powers and responsibilities of a Cemetery Board.                      The Joint Standing Committee on Delegated Legislation has advised that local governments who manage cemeteries are a form of Cemetery Board and this should be reflected in the terminology of the local law.                      It is suggested that the definition for <b>local government</b> is replaced with the following definition:  <b>Board</b> means the local government;                      Following this amendment, references to "local government" throughout the</p>	<p>Amended throughout to Board                      Amended</p>

	<p>local law should be replaced with references to "the Board".</p> <p>b) It is suggested that the Shire inserts definitions for the following terms which are used throughout the local law to ensure that the meaning of the terms are clear:</p> <ul style="list-style-type: none"> <li>• "cemetery" – (e.g. means "Narrogin General Cemetery (Reserve 745)";</li> <li>• "Pre-need certificate";</li> <li>• "memorial work".</li> </ul>	<p>Inserted, although clause 1.3 makes it clear that the application is solely to the cemetery reserve</p> <p>Definition of "reservation" amended to "pre-need certificate" and use of "reservation" deleted</p> <p>Inserted, although no other local law appears to have such a definition</p>
	<p style="text-align: center;"><b>Recommendation –</b></p> <p><b>Historical Indigenous area</b></p> <p>Subclause (1) of this clause refers to "portions of the cemetery identified by the Board" and "area" on which interments or memorials are not permitted. Apart from the clause heading, it is unclear what area of the cemetery is being restricted. It is suggested that the Shire clarifies this - for example, subject to the Shire's intentions, the Shire may wish to refer to "historical Indigenous areas" within the clause and define this term under clause 1.5.</p> <p>In subclause (2), it is unclear what "evidence" the Shire is referring to which would trigger the reporting requirements under the <i>Aboriginal Heritage Act 1972</i>. It is suggested that the Shire clarifies what evidence it is referring to. For example, it may wish to refer to "evidence of burials on historical Indigenous areas".</p>	<p style="text-align: center;"><b>Amended as noted</b></p> <p>The issue is that although it is known that there are Aboriginal burials within the Reserve, they are not marked, and often it is not until a grave is being dug, that employees are made aware of the issue.</p> <p>It is simple to mark the resulting location on a map after the event, but at the moment, it is only the general vicinity of these very old burials that are known.</p> <p>Accordingly, marking the exact place on plans required under clause 2.2, is all that can be reasonably done.</p> <p>The evidence could be of several kinds –</p> <ul style="list-style-type: none"> <li>- anecdotal;</li> <li>- family members of deceased notifying the Shire;</li> <li>- remnants of tools or other items that may be associated with funerary rites etc;</li> <li>- human remains as stipulated by the Aboriginal Heritage Act etc;</li> </ul> <p>As this clause is a limitation on and instruction to the local government, not the general community, any perceived vagueness is a matter for the staff at that time to resolve, and does not affect the wider community.</p> <p>However, some clarification has been made, without limiting the necessary breadth of the clause.</p>
	<p style="text-align: center;"><b>Recommendation –</b></p>	<p style="text-align: center;"><b>Amend as suggested</b></p>



4	3.5	<p><b>Refusal of application</b> Subclause (1)(b) refers to the refusal of an application for an interment permit "on any other grounds". For the purposes of clarity, the Shire may wish to consider including (in further paragraphs) specific grounds on which an interment permit would be refused.</p> <p>It is also suggested that the Shire inserts the grounds on which an application for a pre-need certificate may be refused under subclause (2).</p>	<p>Other recent local laws do not expand the term "on any other grounds" as suggested. In the likely extremely rare instance of refusal, the applicant has a common law right of appeal, although details of this are not specified in the local law.</p> <p>No amendment made</p> <p>No amendment made</p>
		<p><b>Recommendation –</b></p>	<p><b>No amendment be made</b></p>
5	Part 6	<p><b>Application for memorials</b> The Shire may wish to insert provisions which deal with when an approval under clause 6.1 can be revoked or transferred.</p>	<p>The only reason for revoking approval for a memorial would be if it takes too long to do, in which case the family of the deceased would no doubt become involved, or if the work done was not in compliance with approval. In this case clauses 9.13 (Offence not to comply with a notice issue issued), 9.14 (Board may carry out requirements of Notice and recover costs), as well as the general an modified penalties of 10.1 and 10.2, could be applied.</p>
		<p><b>Recommendation –</b></p>	<p><b>No amendment be made</b></p>
6	9.2	<p><b>Assistance animals</b> Clause 9.2 provides that the local law is subject to the <i>Disability Discrimination Act 1992</i> (Cth) in relation to assistance animals.</p> <p>For clarity and depending on the Shire's intentions, the Shire may wish to provide that a person must not bring an animal into the cemetery, other than an "assistance animal" as defined under the Act or with the approval of the CEO or an authorised person. This will make it clear that assistance animals may enter the cemetery and also address the entry of animals other than assistance animals.</p>	<p>As required</p> <p>Such a provision was initially proposed, however, the advice of the Ranger was that people frequently walk their dogs in the area, and often through the cemetery. A prohibition on other animals is therefore likely to be ignored, as well as create a significant enforcement issue. The Ranger also advises that those who do walk their dogs through the cemetery have not created an issue to date.</p>
		<p><b>Recommendation –</b></p>	<p><b>No amendment be made</b></p>
7	n/a	<p><b>Significantly different from originally proposed local law</b> The Department is aware that the effect of some of its suggestions may have the potential for the local law to be significantly different than the local law that was originally advertised by the Shire.</p>	<p>It is considered that no significant changes to the proposed local are required to be made</p>

	<p>Where the final local law to be adopted by Council is significantly different, then the section 3.12 procedure must be restarted in accordance with section 3.13 of the Act.</p> <p>While the Department is not able to advise definitively on this matter (it is considered by the Joint Standing Committee on Delegated Legislation), the general rule has been it would be prudent to restart the process where any revisions change any obligations under the local law. Amendments relating to grammatical or formatting changes, or changes which remove inconsistencies with Acts or Regulations are unlikely to be considered significantly different.</p>	
	<p><b>Recommendation –</b></p> <p><b>Minor edits</b></p> <p>The following minor edits are suggested:</p> <ul style="list-style-type: none"> <li>a) Contents - Centralize the word "Contents".</li> <li>b) Contents – Centralize and bold all 'Part' headings and associated titles.</li> <li>c) Contents - Amend the spelling against "Schedule 3" to read "withdrawal" and again in Schedule 3.</li> <li>d) Clause 2.3(4) – replace "refuses to an application" with "refuses to grant an application".</li> <li>e) Clause 2.3(2) – delete the 2<sup>nd</sup> full stop after "Act".</li> <li>f) Clause 2.4(1) – replace "pre-need purchase of a certificate (reservation)" with "a reservation".</li> <li>g) Clauses 2.4(2) and (4) – replace "pre-need purchase of a certificate" with "a reservation".</li> <li>h) Clause 2.4(3) – replace "pre-need purchase certificate" with "reservation".</li> </ul> <p>i) Clause 2.4(5) – replace "refuses to an application" with "refuses to</p>	<p><b>Noted</b></p> <p>Amended</p> <p>Amended</p> <p>Amended</p> <p>Amended</p> <p>Amended</p> <p>Not amended as suggested. Prior advice of DLGC is the use of the term "reservation" triggers the requirements of the Act surrounding Grant of Right of Burial. Grant of Right of Burial is a mandatory 25 years term, with an additional term of 25 years at the purchaser's discretion. Only after 50 years does the Board have the ability to refuse. As with many smaller Councils and quite a few larger ones, these requirements are a complete nightmare to administer, and the concept of pre-need certificate has been adopted, similar to Bunbury Cemetery Board.</p> <p>Terminology has been amended to read "... purchase of and pre-need certificate for a specific position ..." deleting "(reservation)".</p> <p>Definition of reservation has also been removed from clause 1.5</p> <p>Amended</p>

	<p>approve an application".</p> <p>j) Clause 2.6(2) - Titles of Acts, Regulations and other Legislation should be italicised to reflect good drafting principles, for example: <i>Aboriginal Heritage Act 1972</i></p> <p>k) Clause 3.1 – replace the comma with "and".</p> <p>l) Clause 3.2 – in the clause heading, insert full stop after etc.</p> <p>m) Clause 3.4 –</p> <ul style="list-style-type: none"> <li>• Replace "with" with "to".</li> <li>• Replace "four" with "4" (this is in line with best drafting practices).</li> <li>• Replace "otherwise" with " , otherwise".</li> </ul> <p>b) Clause 3.5 –</p> <ul style="list-style-type: none"> <li>• Delete "if" at the end of subclause (1).</li> <li>• Insert "if" at the beginning of subclause (1)(a).</li> </ul> <p>n) Clause 4.2 – at the beginning of paragraph (a) insert "the".</p> <p>o) Clause 4.4(f) – swap the words "considered" and "is" around.</p> <p>p) Clause 7.1 –</p> <ul style="list-style-type: none"> <li>• In subclause (3) delete " , where"</li> <li>• At the beginning of subclause (3)(a) insert "where".</li> <li>• Replace "other" with "another".</li> </ul> <p>q) Clause 7.2(1)(e) – replace "1.0 metre" with "1m".</p> <p>r) Clause 7.4–</p> <ul style="list-style-type: none"> <li>• In subclause (3)(c), replace "stone" with "stone -".</li> <li>• In subclause (3)(c)(ii), remove the additional space between "shall" and "not", and replace "and" with "; and".</li> <li>• In subclause (4), delete "to".</li> </ul> <p>s) Clause 7.5 –</p> <ul style="list-style-type: none"> <li>• In subclause (1)(a)(ii) replace the comma with a semicolon.</li> <li>• Insert a semicolon at the end of subclauses (1)(b)(i), (1)(b)(ii), (2)(a)(i) and (2)(ii).</li> </ul> <p>t) Clause 8.7(2) – replace "in place" with "already in place".</p> <p>u) Clause 9.3(1)(b) – replace the " , " with a " . "</p> <p>v) Clause 9.4 – there is a cross reference to "clause 9.7" which appears to be incorrect. The Shire should review this cross reference to ensure it is correct. It appears that the cross reference should be a reference</p>	<p>Amended</p> <p>Amended</p> <p>Amended</p> <p>Amended x 3</p> <p>Amended x 2</p> <p>Amended</p> <p>Amended</p> <p>Amended x 3</p> <p>Amended</p> <p>Amended x 3</p> <p>Amended x 2</p> <p>Amended</p> <p>Amended</p> <p>Amended</p>
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Dawsons Funeral Home –

Item	Clause	Comment	Review Comment
1	7.2 and 7.3	<p>Just one little issue I have noticed. The by-laws state that both monuments and headstones are to be of "natural stone".</p> <p>One of the products that is used in both of these is a product called "terrazzo". This is a composite of marble, quartz or granite in concrete base which is ground back to a desired finish.</p> <p>This product would represent about 20% of monuments installed. This product is cheaper than using natural granite or marble and preferred by those that cannot afford to use natural stone.</p> <p>If this could be passed onto the law makers for the possible inclusion of terrazzo in the by-laws, or at very least put in a clause that enables local government to approve such materials.</p>	<p>Refer clause 1.5 Definitions –</p> <p><b>natural stone</b> means –</p> <p>(a) any variety of non-fabricated, naturally occurring stone or rock; or</p> <p>(b) any fabricated compound or fabricated aggregate which, in the opinion of the local government, has similar durability and aesthetic qualities as the materials specified in paragraph (a) above, suitable for decorative purposes and monumental sculpture and includes granite, but not glass, porcelain, ceramics or any pottery;</p> <p>It is considered that the definition is adequate, and provides sufficient discretion if required.</p>
		<p><b>Recommendation –</b></p>	<p><b>No amendment be made</b></p>

LOCAL GOVERNMENT ACT 1995  
DOG ACT 1976

SHIRE OF NARROGIN

**DOGS LOCAL LAW 2016**

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LOCAL GOVERNMENT ACT 1995  
DOG ACT 1976

SHIRE OF NARROGIN

**DOGS LOCAL LAW 2016**

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

**PART 1 - PRELIMINARY**

**1.1 Citation**

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

**1.2 Commencement**

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

**1.3 Application**

This local law applies throughout the district.

**1.4 Repeal**

- (1) The *By-laws Relating to Dogs* made by the Town of Narrogin and published in the *Government Gazette* on 16 October 1987, are repealed.
- (2) The *Shire of Narrogin Dogs Local Law 2005* published in the *Government Gazette* on 7 June 2005, is repealed.

**1.5 Definitions**

In this local law unless the context otherwise requires –

**Act** means the *Dog Act 1976*;

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

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

**CEO** means the Chief Executive Officer of the local government;

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

**district** means the district of the Shire of Narrogin;

**dog management facility** has the meaning given to it in section 3(1) of the Act, and includes a kennel establishment;

**infringement notice** means the notice referred to in clause 7.4;

**kennel establishment** means any premises where more than the number of dogs under clause 3.3 over the age of 3 months are kept, boarded, trained or bred temporarily, usually for profit and where the occupier of the premises is not the ordinary keeper of the dogs;

**licence** means a licence to keep an approved kennel establishment on premises granted under clause 4.4;

**licensee** means the holder of a licence granted under clause 4.4;

**local government** means the Shire of Narrogin;

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

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

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

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

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

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

**Regulations** means the *Dog Regulations 2013*;

**Schedule** means a schedule to this local law;

**set fee** means a fee or charge made by the local government in accordance with clause 2.1 or clause 4.9;

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

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

## PART 2 - IMPOUNDING OF DOGS

### 2.1 Fees and charges

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

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

### 2.2 Attendance of authorised person at dog management facility

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

### 2.3 Release of impounded dog

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

### 2.4 Unauthorised release

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

## PART 3 - KEEPING OF DOGS

### 3.1 Dogs to be confined

- (1) An occupier of premises on which a dog is kept must –
  - (a) cause a portion of the premises on which the dog is kept to be fenced in a manner capable of confining the dog;
  - (b) ensure the fence used to confine the dog and every gate or door in the fence is of a type, height and construction which having regard to the breed, age, size and physical condition of the dog is capable of preventing the dog at all times from passing over, under or through it;
  - (c) ensure that every gate or door in the fence is kept closed at all times when the dog is on the premises (unless the gate is temporarily opened in a manner that ensures that the dog remains confined) and is fitted with a proper latch or other means of fastening it;
  - (d) maintain the fence and all gates and doors in the fence in good order and condition; and
  - (e) where no part of the premises consists of open space, yard or garden or there is no open space or



garden or yard of which the occupier has exclusive use or occupation, ensure that other means exist on the premises (other than the tethering of the dog) for effectively confining the dog within the premises.

- (2) Where an occupier fails to comply with subclause (1), he or she commits an offence.
- (3) Notwithstanding subclause (1) and (2), the confinement of dangerous dogs is dealt with in the Act and the Regulations.

### **3.2 Limitation on the number of dogs**

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

### **3.3 Application to keep additional dog or dogs**

Subject to clause 3.5, the local government may consider –

- (1) an application to keep 1 additional dog on premises that are zoned other than for the purposes of general agriculture under a local planning scheme which shall –
  - (a) provide sufficient detail regarding the reason for keeping more than 2 dogs;
  - (b) provide written consent from owners and occupiers of any premises adjoining the premises; and
  - (c) in the case of a tenanted property, provide written consent from either the landowner or their appointed real estate agent.
- (2) an application to keep more than 4 dogs on premises zoned for the purposes of general agriculture under a local planning scheme which shall –
  - (a) provide sufficient detail regarding the reason for keeping more than 4 dogs; and
  - (b) in the case of a tenanted property, provide written consent from either the landowner or their appointed real estate agent.
- (3) applications to keep an additional dog or dogs where –
  - (a) the property is deemed suitable by an authorised person –
    - (i) having sufficient space capable of confining all dogs;
    - (ii) noise, odours, fleas, flies and other vectors of disease will be effectively controlled; and
    - (iii) the care and welfare of the dogs is considered adequate.
  - (b) the details of every dog proposed to be kept on the premises are provided including name, age, colour/description, breed, registration number and microchip details; and
  - (c) sufficient reason has been provided, including –
    - (i) to replace an elderly or sick dog not expected to live;
    - (ii) a family emergency resulting in the dog being inherited;
    - (iii) merging of 2 households;
    - (iv) where the applicants have had approval to keep an additional dog or dogs in another local authority; or
    - (v) on premises zoned for the purposes of general agriculture under a local planning scheme, the dog or dogs are required for stock management or to be on the premises temporarily for the purposes of training for stock management.

### **3.4 Determination of application**

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

- (a) the matters referred to in clause 3.5;
- (b) the effect which approval of the proposed may have on the environment or amenity of the neighbourhood; and
- (c) whether approval of the application will create a nuisance for the owners and occupiers of adjoining premises.



### **3.5 Where application cannot be approved**

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

- (a) more than 3 dogs are proposed to be kept on premises zoned other than for the purposes of general agriculture under a local planning scheme;
- (b) more than 6 dogs are proposed to be kept on premises zoned for the purposes of general agriculture under a local planning scheme; or
- (c) where any dog already kept on the premises is a dangerous dog.

### **3.6 Conditions of approval**

- (1) The local government may approve an application for a licence subject to any conditions as considered appropriate.
- (2) Approval of an application is not transferable to successive owners or occupiers of the premises.

### **3.7 Revocation of licence to keep additional dogs**

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

## **PART 4 - APPROVED KENNEL ESTABLISHMENTS**

### **4.1 Application for licence for approved kennel establishment**

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

- (a) plans and specifications of the kennel establishment, including a site plan;
- (b) copies of the notices to be given under clause 4.2;
- (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 set fee for the application for a licence referred to in clause 4.9(1).

### **4.2 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, plans and specifications may be inspected at the offices of the local government.
- (3) The local government may refuse to determine the application for a licence until the notice or notices, as the case may be, is given in accordance with its directions where –
  - (a) a notice given under subclause (1) does 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.

### **4.3 Exemption from notice requirements**

The requirements of clauses 4.1(b), 4.2 and 4.4(a) do not apply in respect of the application for a licence where under a local planning scheme an application for a licence is made in respect of premises on which an approved kennel establishment is either a –

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

#### **4.4 When application can be determined**

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

- (a) the applicant has complied with clause 4.2;
- (b) the applicant submits proof that the notices referred to in clause 4.2(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 4.2(2)(a) on the proposed use of the premises.

#### **4.5 Determination of application**

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

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

#### **4.6 Where application cannot be approved**

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

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

#### **4.7 Conditions of approval**

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

#### **4.8 Compliance with conditions of approval**

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

#### **4.9 Fees**

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

#### **4.10 Form of licence**

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

#### **4.11 Period of licence**

- (1) The period of effect of a licence is set out in section 27(5) of the Act.
- (2) A licence is to be renewed if the set fee referred to in clause 4.9(2) is paid to the local government prior to the expiry of the licence.



- (3) On the renewal of a licence the conditions of the licence at the time of its renewal continue to have effect.

#### **4.12 Variation or cancellation of licence**

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

#### **4.13 Transfer**

- (1) An written application for the transfer of a valid licence from the licensee to another person must be –
- (a) made by the transferee;
  - (b) made with the written consent of the licensee; and
  - (c) lodged with the local government together with –
    - (i) written evidence that a person will reside at or within reasonably close proximity to the premises the subject of the licence;
    - (ii) the set fee for the application for the transfer of a licence referred to in clause 4.9(3); and
    - (iii) any other relevant information required.
- (2) The local government is not to determine an application for the transfer of a valid licence until the transferee has complied with subclause (1).
- (3) The local government may approve, whether or not subject to such conditions as it considers appropriate, or refuse to approve an application for the transfer of a valid licence.
- (4) Where the local government approves an application for the transfer of a valid licence, then on the date of approval, unless otherwise specified in the notice issued under clause 4.14(b), the transferee becomes the licensee of the licence for the purposes of this local law.

#### **4.14 Notification**

The local government is to give written notice to –

- (a) an applicant for a licence of the local government's decision on her or his application;
- (b) a transferee of the local government's decision on her or his application for the transfer of a valid licence;
- (c) a licensee of any variation made under clause 4.12(1);
- (d) a licensee when her or his licence is due for renewal and the manner in which it may be renewed;
- (e) a licensee when her or his licence is renewed;
- (f) a licensee of the cancellation of a licence under clause 4.12(2)(a); and
- (g) a licensee of the cancellation of a licence under paragraphs (b) or (c) of clause 4.12(2), which notice is to be given in accordance with section 27(6) of the Act.

#### **4.15 Objections and appeals**

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

#### **4.16 Inspection of kennel**

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

## PART 5 - DOGS IN PUBLIC PLACES

### 5.1 Places where dogs are prohibited absolutely

- (1) Designation of places where dogs are prohibited absolutely is dealt with in the Act.
- (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.
- (3) Subclause (2) does not apply to a dog who is being used as an assistance animal as defined in the *Disability Discrimination Act 1992* (Commonwealth).

### 5.2 Places which are dog exercise areas

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

## PART 6 - MISCELLANEOUS

### 6.1 Fees and charges

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

### 6.2 Offence to excrete

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

## PART 7 - ENFORCEMENT

### 7.1 Offences

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

### 7.2 General penalty

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

### 7.3 Modified penalties

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

### 7.4 Issue of infringement notice

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

### 7.5 Failure to pay modified penalty

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



### 7.6 Payment of modified penalty

A person who has received an infringement notice may, within the time specified in that notice or within such further time as may in any particular case be allowed by 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.

### 7.7 Withdrawal of infringement notice

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

### 7.8 Service of notices

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

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## Schedule 1 – Application for a licence for an approved kennel establishment

[cl. 4.1]

### Shire of Narrogin

I / We (full name/s) –	
Postal address –	
Telephone number –	
Mobile number –	
Fax number –	
E-mail address –	
	Apply for a licence for an approved kennel establishment.
Address of proposed premises –	
For number of dogs –	
Breed of dogs –	
<b>EITHER</b>	Person residing on the premises.
Name	
As from	
<b>OR</b>	Person sufficiently close to the premises so as to control the dogs and ensure their health and welfare.
Name –	
Address –	
As from –	
	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 proposed 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 – <ul style="list-style-type: none"> <li>• at the premises; or</li> <li>• sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare; and</li> </ul>	
(f) if the person in item (e) is not the applicant, written evidence that the person is a person in charge of the dogs.	
Signature of applicant/s –	
Date –	
<b>NOTE – a licence will have effect for a period of 12 months if issued - Dog Act 1976 section 27(5)</b>	
OFFICE USE ONLY	Application fee paid on – Receipt No –

**Schedule 2 – Conditions of a licence for an approved kennel establishment**  
[cl. 4.7]  
**Shire of Narrogin**

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.

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**Schedule 3 – Prescribed offences**  
[cl.7.3]

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

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Dated \_\_\_\_\_ 2016



The Common Seal of the Shire of Narrogin was affixed by authority of a resolution of Council in the presence of –

R.S. YURYEVICH, Chairman of Commissioners

A.J. COOK, Chief Executive Officer

Proposed Shire of Narrogin Dogs Local Law 2016 – Summary of submissions received

Submissions received –  
Department of Local Government and Communities

Dept of Local Government and Communities –

Item	Clause	Comment	Review Comment
1	Contents	<p>The <i>Local Government Act 1995</i> should also be listed above the title of the local law, as it is made by the enabling powers of both acts. This change should also be made to the first page of the local law itself.</p> <p>The contents listing for Part 4 does not include 4.15 Objections and appeals. A listing should be inserted for this item and the item number 4.15 Inspection of kennels amended accordingly.</p> <p>The Shire should ensure that the contents page accurately reflects the contents of the local law.</p>	<p>Done Amended</p> <p>Inserted Amended</p> <p>Done</p>
		<p><b>Recommendation –</b></p>	<p><b>Amend as suggested</b></p>
2	1.5	<p>It is suggested that the term “nuisance” be defined. Previous local governments have defined nuisance with the following:</p> <p><b>nuisance</b> means –</p> <p>(a) an activity or condition which is harmful or annoying and which gives rise to legal liability in the tort of public or private nuisance at law;</p> <p>(b) an unreasonable interference with the use and enjoyment of a person of his or her ownership or occupation of land; or</p> <p>(c) interference which causes material damage to land or other property on the land affected by the interference;</p>	<p>A search of Government Gazettes of the past 3 years, indicate this definition has not been used or inserted in recent times in Dogs Local Laws.</p> <p>It is however, a definition that has been used in a range of other local laws such as –</p> <ul style="list-style-type: none"> <li>- Public Places and Local Government Property,</li> <li>- Animals Environment and Nuisance</li> </ul> <p>Given the its relevance and applicability to third party actions, it is suggested the Departments’ definition be inserted</p> <p>Amended</p>
		<p><b>Recommendation –</b></p>	<p><b>Amend as suggested</b></p>
3	3.1	<p>The Department notes that the confinement of dangerous dogs is covered under the <i>Dog Act 1976</i>. The Act establishes maximum penalties of up to \$10,000 when a dangerous dog is not confined in accordance with the Act.</p> <p>To reflect this, it is suggested that the following subclause be inserted –</p> <p>(3) Notwithstanding subclause (1) and (2), the confinement of</p>	<p>Inserted</p>



		dangerous dogs is dealt with in the Act and the Regulations. Item 1 of Schedule 3 should also be updated to delete the modified penalty for dangerous dogs, as regulation 33 of the <i>Dog Regulations 2013</i> already prescribes modified penalties where a dangerous dog is not sufficiently confined.	Effect is to recognise the priority of the Act and Regulations  Amended
		<b>Recommendation –</b>	<b>Amend as suggested</b>
4	4.1	In clause 4.1, it is suggested that the Shire deletes "substantially". This will ensure that all applications are made in the form of Schedule 1 and will avoid any uncertainty arising regarding the information that applicants are required to provide.	Amended
		<b>Recommendation –</b>	<b>Amend as suggested</b>
5	4.2	Clause 4.2(b) requires that the notice published in the newspaper be of a size and placement that, in the opinion of the Shire, serves the purpose of notifying interested persons of the proposed use of the premises as a kennel. This may be considered onerous or difficult to interpret as the Shire has not made clear its preferred size or placement of the notice. The Shire may wish to specify the size and placement of the notice so that applicants are aware of the requirements prior to publishing the notice.	Noted Many local laws have similar provisions that require notices or works to be done "...to the satisfaction of ..." an EHO, an authorised person, a planner etc. The onus is on the applicant to ensure that the proposed notice will be satisfactory. The opportunity exists for the applicant to ensure the details are satisfactory, as well as the proposed size and placement.
		<b>Recommendation –</b>	<b>No amendment be made</b>
6	4.8	This clause provides that a person must comply with the conditions of a kennel licence.  The Act and Regulations already provide the following penalties for failing to comply with a kennel licence:  (a) an unmodified penalty of \$5,000; (b) a daily penalty of \$100; and (c) a modified penalty of \$200.  These penalty amounts apply, irrespective of whether the offence involves a dangerous dog or not.  The Shire may wish to delete this clause altogether (along with the corresponding penalties in Schedule 3) and enforce the penalties in the Act	Suggest the clause be retained

		and Regulations directly. Alternatively, the Shire can amend the penalties at Item 4 of Schedule 3 to ensure consistency with the penalties in the Act and Regulations.	Schedule amended by deleting Item 4
		<b>Recommendation –</b>	<b>Amend as suggested</b>
7	4.12	Subclause 4.12(2)(c) provides that a local government may cancel a licence if the licensee is not a "fit and proper person". It is suggested that the term "fit and proper" be clarified, since it is not certain what circumstances may qualify as sufficient grounds for cancellation.	Noted  Other recent local laws have the same provision without further clarification
		<b>Recommendation –</b>	<b>No amendment be made</b>
8	7.4	<p>Currently clauses 7.4 and 7.7 refer to forms in Schedule 1 of the Dog Regulations.</p> <p>Since the Dog Act and Regulations do not prescribe what form of infringement notices should be used by local governments for breaches of local laws, the relevant forms can be those prescribed by section 9.17 of the <i>Local Government Act 1995</i> and regulation 26(2) of the <i>Local Government (Functions and General) Regulations 1996</i>. Accordingly, if the Shire wishes to use these forms the cross references in clause 7.4 and 7.7 should be updated accordingly.</p> <p>Alternatively, the Shire can create its own forms for infringement notices and withdrawal notices. In that case, the local government can remove the specific references to forms and simply refer to a notice "in the form determined by the local government from time to time".</p> <p>While the Dog Regulations have forms for an infringement notice and withdrawal of an infringement notice, these notices are designed to be used for offences under the Dog Act or Dog Regulations. If the Shire wishes to retain the use of these forms, it should modify the "Alleged offence" box on the form to refer to an offence under the local law instead. If the Shire wishes to refer to notices in regulations, it is suggested that the Shire removes the word "substantially" in this clause. Regulations provide that infringement and withdrawal notices need to be issued in the prescribed form. Regulations do not appear to allow notices that only substantially comply with these forms.</p> <p>In the past, the Delegated Legislation Committee has requested that the word</p>	<p>Not consistent with other recent Dog local laws – Shark Bay, Dalwallinu etc</p> <p>Both amended As the effect is considered identical to intention, the modification is minor</p> <p>Amended</p>



		<p>"substantially" be deleted from a similar clause where there was a requirement to use forms in regulations.</p>	Noted
		<p><b>Recommendation –</b></p>	<p><b>Amend as suggested</b></p>
9	Sch.3	<p>Clause 3.2 provides the limit on the number of dogs that can be kept on premises for the purposes of section 26(4) of the Dog Act.</p> <p>As regulation 33 of the Dog Regulations already provides the modified penalties for the keeping of more than the prescribed number of dogs under section 26(4), it is suggested that the Shire deletes the modified penalties in item 2 of Schedule 3. The Shire should enforce the modified penalties under the Dog Regulations directly.</p> <p>Clause 3.7 provides that a person who does not comply with the conditions of approval to keep an additional dog or dogs commits an offence. Item 3 of Schedule 3 provides the modified penalties for this offence. It is suggested that the Shire deletes clause 3.7 and the modified penalties in item 3 of Schedule 3 as it is arguable that the clause and modified penalties are going beyond the head of powers conferred under the Dog Act. If clause 3.7 is retained, the Joint Standing Committee on Delegated Legislation may raise an issue with the clause and may request an undertaking for the clause and modified penalties to be deleted.</p> <p>In place of clause 3.7 and the modified penalties, the Shire may wish to enforce the conditions of an approval by providing that if a person does not comply with any conditions of the approval, the Shire may revoke the approval. If a person continues to keep an unauthorised number of dogs, this will be in breach of clause 3.2 of the local law. Accordingly, in this case, the Shire may wish to enforce the modified penalties under the Dog Regulations in relation to the keeping of more than the prescribed number of dogs (as discussed in comment 9 above).</p>	<p>Item 2 of Schedule deleted</p> <p>Replaced – refer following</p> <p>Power to revoke is needed, as the number of dogs is not the only potential issue. Title change to better reflect purpose of clause. Clause expanded for clarification.</p> <p>Clause 3.7 replaced by 3.7 Revocation of licence to keep additional dogs Where a person does not comply with the conditions of approval to keep an additional dog or dogs under clause 3.6 the local government may revoke the licence to keep an additional dog or dogs.</p> <p>Although the change is not minor, neither is it considered a significant change, since the resulting effect is the same being either compliance or removal of the additional dog/s.</p>
		<p><b>Recommendation –</b></p>	<p><b>Amend as suggested</b></p>
10	Minor edits	<p>The Department is aware that the effect of some of its suggestions may have the potential for the local law to be significantly different than the local law that was originally advertised by the Shire. Where the final local law to be</p>	<p>The changes suggested by the Department and recommended as above, are not considered significant, as the</p>







# LOCAL GOVERNMENT ACT 1995

## SHIRE OF NARROGIN

### MEETING PROCEDURES LOCAL LAW 2016

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## LOCAL GOVERNMENT ACT 1995

### SHIRE OF NARROGIN

## MEETING PROCEDURES LOCAL LAW 2016

Under the powers conferred by the *Local Government Act 1995* and under all other relevant powers, the Council of the Shire of Narrogin resolved on \_\_\_\_\_ to adopt the following local law.

### PART 1 - PRELIMINARY

#### 1.1 Citation

This local law may be cited as the *Shire of Narrogin Meeting Procedures Local Law 2016*.

#### 1.2 Commencement

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

#### 1.3 Application

This local law provides rules and guidelines which apply to the conduct of meetings of the Council, its committees and to meetings of electors.

#### 1.4 Repeal

The *Town of Narrogin Standing Orders Local Law* published in the *Government Gazette* on 14 August 1998 is repealed.

#### 1.5 Definitions

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

**absolute majority** has the meaning given to it in section 1.4 of the Act;

**Act** means the *Local Government Act 1995*;

**CEO** means the Chief Executive Officer of the local government;

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

**committee meeting** means a meeting of a committee;

**Council** means the Council of the local government;

**local government** means the Shire of Narrogin;

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

**member** has the meaning given to it in section 1.4 of the Act;

**Minister** means the Minister for Local Government;

**officer** means an officer of the local government;

**President** means the President of the local government or other presiding member at a Council meeting under section 5.6 of the Act;

**presiding member** means –

(a) in respect of the Council, the person presiding under section 5.6 of the Act; and

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

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

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

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

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

## **PART 2 - ESTABLISHMENT AND MEMBERSHIP OF COMMITTEES**

### **2.1 Establishment of committees**

- (1) The establishment of committees is dealt with in section 5.8 of the Act.
- (2) A Council resolution to establish a committee under section 5.8 of the Act is to include –
  - (a) the terms of reference of the committee;
  - (b) the number of Council members, officers and other persons to be appointed to the committee;
  - (c) the names or titles of the Council members and officers to be appointed to the committee;
  - (d) the names of other persons to be appointed to the committee or an explanation of the procedure to be followed to determine the appointments; and
  - (e) details of the delegation of any powers or duties to the committee under section 5.16 of the Act.
- (3) This local law is to apply to the conduct of committee meetings.

### **2.2 Types of committees**

The types of committees are dealt with in section 5.9 of the Act.

### **2.3 Delegation of some powers and duties to certain committees**

The delegation of some powers and duties to certain committees is dealt with in section 5.16 of the Act.

### **2.4 Limits on delegation of powers and duties to certain committees**

The limits on the delegation of powers and duties to certain committees are dealt with in section 5.17 of the Act.

### **2.5 Appointment of committee members**

The appointment of committee members is dealt with in sections 5.10 and 5.11A of the Act.

### **2.6 Tenure of committee membership**

Tenure of committee membership is dealt with in section 5.11 of the Act.

### **2.7 Resignation of committee members**

The resignation of committee members is dealt with in regulation 4 of the Regulations.

### **2.8 Register of delegations to committees**

The register of delegations to committees is dealt with in section 5.18 of the Act.

### **2.9 Committees to report**

A committee –

- (a) is answerable to the Council; and
- (b) is to report on its activities when, and to the extent, required by the Council.

## **PART 3 - CALLING AND CONVENING MEETINGS**

### **3.1 Ordinary and special Council meetings**

- (1) Ordinary and special Council meetings are dealt with in the Act.
- (2) An ordinary meeting of the Council, held on a twice monthly basis or otherwise as determined by the Council, is for the purpose of considering and dealing with the ordinary business of the Council.
- (3) A special meeting of the Council is held for the purpose of considering and dealing with Council business that is urgent, complex in nature, for a particular purpose or confidential.

### **3.2 Calling Council meetings**

The calling of Council meetings is dealt with in section 5.4 of the Act.

### **3.3 Convening Council meetings**

- (1) The convening of a Council meeting is dealt with in section 5.5 of the Act.

- (2) The CEO is to give at least 72 hours notice, for the purposes of section 5.5 of the Act, in convening a special meeting of the Council, subject to subclause (3).
- (3) Where, in the opinion of the President or at least one-third of the members, there is a need to meet urgently, the CEO may give a lesser period of notice of a special Council meeting.

#### **3.4 Calling committee meetings**

The CEO is to call a meeting of any committee when requested by the President, the presiding member of a committee or any two members of that committee.

#### **3.5 Public notice of meetings**

Public notice of meetings is dealt with in regulation 12 of the Regulations.

### **PART 4 - PRESIDING MEMBER AND QUORUM**

#### **4.1 Who presides**

Who presides at a Council meeting is dealt with in section 5.6 of the Act.

#### **4.2 When the Deputy President can act**

When the Deputy President can act is dealt with in section 5.34 of the Act.

#### **4.3 Who acts if no President**

Who acts if there is no President is dealt with in section 5.35 of the Act.

#### **4.4 Election of presiding members of committees**

The election of presiding members of committees is dealt with in section 5.12(1) of the Act.

#### **4.5 Election of deputy presiding members of committees**

The election of Deputy presiding members of committees is dealt with in section 5.12(2) the Act.

#### **4.6 Functions of deputy presiding members**

The functions of Deputy presiding members are dealt with in section 5.13 of the Act.

#### **4.7 Who acts if no presiding member**

Who acts if no presiding member is dealt with in section 5.14 of the Act.

#### **4.8 Quorum for meetings**

The quorum for meetings is dealt with in section 5.19 of the Act.

#### **4.9 Reduction of quorum for Council meetings**

The power of the Minister to reduce the number for a quorum and certain majorities is dealt with in section 5.7 of the Act.

#### **4.10 Reduction of quorum for committee meetings**

The reduction of a quorum for committee meetings is dealt with in section 5.15 the Act.

#### **4.11 Procedure where no quorum to begin a meeting**

The procedure where there is no quorum to begin a meeting is dealt with in regulation 8 of the Regulations.

#### **4.12 Procedure where quorum not present during a meeting**

If at any time during a meeting a quorum is not present, the presiding member is –

- (a) immediately to suspend the proceedings of the meeting for a period of up to 30 minutes; and
- (b) if a quorum is not present at the expiry of that period, the presiding member is to adjourn the meeting to some future time or date.



#### **4.13 Names to be recorded**

The names of the members then present are to be recorded in the minutes at any meeting –

- (a) at which there is not a quorum present; or
- (b) which is adjourned for want of a quorum.

### **PART 5 - BUSINESS OF A MEETING**

#### **5.1 Business to be specified**

- (1) No business is to be transacted at any ordinary meeting of the Council other than that specified in the agenda, without the approval of the presiding member or the Council.
- (2) No business is to be transacted at a special meeting of the Council other than that given in the notice as the purpose of the meeting.
- (3) Where a meeting is adjourned to the next ordinary meeting of the Council then, unless the Council resolves otherwise, the business unresolved at the adjourned meeting is to be dealt with before considering Reports under Item 8 of clause 5.2(1) at that ordinary meeting.
- (4) Subject to subclause (3), no business is to be transacted at an adjourned meeting of the Council other than that –
  - (a) specified in the notice of the meeting which had been adjourned; and
  - (b) which remains unresolved.

#### **5.2 Order of business**

- (1) The order of business of an ordinary meeting of the Council shall be determined by the local government from time to time, and shall include –
  1. Declaration of Opening
    - 1.1 Opening
    - 1.2 Announcements by presiding member
    - 1.3 Announcement of visitors and presentations
  2. Record of attendance –
    - 2.1 Members present
    - 2.2 Staff attending
    - 2.3 Apologies
    - 2.4 Approved leave of absence
  3. Applications for leave of absence
  4. Declaration of interest –
    - 4.1 Financial
    - 4.2 Proximity
    - 4.3 Impartiality
  5. Public Question Time –
    - 5.1 Response to previous public questions taken on notice
    - 5.2 Public questions without notice
  6. Confirmation of minutes –
    - 6.1 Council meetings – ordinary and special meetings
    - 6.2 Committees – all Committees established by Council
  7. Submissions –
    - 7.1 Petitions
    - 7.2 Presentations
    - 7.3 Deputations
  8. Reports –
    - 8.1 Member reports requiring decision
    - 8.2 Reports of committees requiring decision
    - 8.3 Reports of officers
  9. Member motions of which previous notice has been given
  10. New business of an urgent nature introduced by decision of the meeting

- 11. Meeting closed to public –
    - 11.1 Matters for which the meeting may be closed
    - 11.2 Public reading of resolutions made during a closed meeting
  - 12. Closure of meeting
- (2) Unless otherwise decided by the Council, the order of business at any ordinary or special meeting of the Council is to be the order in which that business stands in the agenda of the meeting.
- (3) In determining the order of business for any meeting of the Council, the provisions of the Act and Regulations relating to the time at which public question time is to be held are to be observed.

### **5.3 Motions of which previous notice has been given**

- (1) Unless the Act, Regulations or this local law otherwise provide, a member may raise at a meeting such business as he or she considers appropriate, in the form of a motion, of which notice has been given in writing to the CEO and which has been included on the agenda.
- (2) A notice of motion under subclause (1) is to be given at least 7 working days before the meeting at which the motion is moved.
- (3) A notice of motion is to relate to the good governance of the district.
- (4) The CEO –
- (a) with the concurrence of the President, may exclude from the notice paper any notice of motion deemed to be, or likely to involve, a breach of any of this local law or any other written law;
  - (b) will inform members on each occasion that a notice has been excluded and the reasons for that exclusion;
  - (c) after consultation with the member where this is practicable, may make such amendments to the form but not the substance as will bring the notice of motion into due form; and
  - (d) may provide to the Council relevant and material facts and circumstances pertaining to the notice of motion on such matters as policy, budget and law.
- (5) A motion of which notice has been given is to lapse unless –
- (a) the member who gave notice of it, or some other member authorised by the originating member in writing, moves the motion when called on; or
  - (b) the Council on a motion agrees to defer consideration of the motion to a later stage or date.
- (6) If a notice of motion is given and lapses under subclause (5), notice of a motion in the same terms or to the same effect is not to be given again for at least 3 months from the date of such lapse.

### **5.4 New business of an urgent nature**

- (1) In cases of urgency or other special circumstances, matters may, on a motion by the presiding member that is carried by the meeting, be raised without notice and decided by the meeting.
- (2) In subclause (1), "cases of urgency or other special circumstances" means matters that have arisen after the preparation of the agenda that are considered by the presiding member to be of such importance and urgency that they are unable to be dealt with administratively by the local government and must be considered and dealt with by the Council before the next meeting.

### **5.5 Adoption by exception resolution**

- (1) In this clause "adoption by exception resolution" means a resolution of the Council that has the effect of adopting, for a number of specifically identified reports, the officer recommendation as the Council resolution.
- (2) Subject to subclause (3), the local government may pass an adoption by exception resolution.
- (3) An adoption by exception resolution may not be used for a matter –
- (a) in which an interest has been disclosed;
  - (b) that has been the subject of a petition or deputation;
  - (c) that is a matter on which a member wishes to make a statement; or
  - (d) that is a matter on which a member wishes to move a motion that is different to the recommendation.



## **PART 6 - PUBLIC PARTICIPATION**

### **6.1 Meetings generally open to the public**

Meetings being generally open to the public is dealt with in section 5.23(1) of the Act.

### **6.2 Meetings not open to the public**

- (1) The CEO may, at any time, recommend that a meeting or part of a meeting be closed to members of the public.
- (2) The Council or a committee, in one or more of the circumstances dealt with in section 5.23(2) of the Act, may at any time, by resolution, decide to close a meeting or part of a meeting.
- (3) If a resolution under subclause (2) is carried –
  - (a) the presiding member is to direct everyone to leave the meeting except –
    - (i) the members; unless a relevant interest is declared; and
    - (ii) any officer specified by the presiding member; and
  - (b) the meeting is to be closed to the public until, at the conclusion of the matter justifying the closure of the meeting to the public, the Council or the committee, by resolution, decides otherwise.
- (4) A person who fails to comply with a direction under subclause (3)(a) may, by order of the presiding member, be removed from the meeting.
- (5) A resolution under this clause may be made without notice.
- (6) Unless the Council resolves otherwise, once the meeting is reopened to members of the public, the presiding member is to ensure that any resolution of the Council made while the meeting was closed is to be read out including a vote of a member to be included in the minutes.

### **6.3 Question time for the public**

Question time for the public is dealt with in section 5.24 of the Act.

### **6.4 Question time for the public at certain meetings**

Question time for the public at certain meetings is dealt with in regulation 5 of the Regulations.

### **6.5 Minimum question time for the public**

Minimum question time for the public is dealt with in regulation 6 of the Regulations.

### **6.6 Procedures for question time for the public**

Procedures for question time for the public are dealt with in regulation 7 of the Regulations.

### **6.7 Other procedures for question time for the public**

- (1) A member of the public who raises a question during question time, is to state his or her name and address.
- (2) A question may be taken on notice by the Council for later response.
- (3) When a question is taken on notice the CEO is to ensure that –
  - (a) a response is given to the member of the public in writing; and
  - (b) a summary of the response is included in the agenda of the next meeting of the Council.
- (4) Where a question relating to a matter in which a relevant person has an interest is directed to the relevant person, the relevant person is to –
  - (a) declare that he or she has an interest in the matter; and
  - (b) allow another person to respond to the question.
- (5) A member of the public shall have two minutes to submit a question or questions, unless the presiding member agrees to extend the time permitted.
- (6) Each member of the public with a question is entitled to ask up to two questions before other members of the public will be invited to ask their questions.
- (7) Where a member of the public provides written questions then the presiding member may elect for the questions to be responded to as normal business correspondence.
- (8) The presiding member may decide that a public question shall not be responded to where –
  - (a) the same or similar question was asked at a previous meeting, a response was provided and the member of the public is directed to the minutes of the meeting at which the response was provided;



- (b) the member of the public uses public question time to make a statement, provided that the presiding member has taken all reasonable steps to assist the member of the public to phrase the statement as a question; or
  - (c) the member of the public asks a question that is offensive or defamatory in nature, provided that the presiding member has taken all reasonable steps to assist the member of the public to phrase the question in a manner that is not offensive or defamatory.
- (9) The presiding member may agree to extend public question time beyond the prescribed 15 minutes, but not more than an additional 15 minutes.
- (10) Where an answer to a question is given at a meeting, a summary of the question and the answer is to be included in the minutes.

### **6.8 Distinguished visitors**

If a distinguished visitor is present at a meeting of the Council, the presiding member may acknowledge the presence of the distinguished visitor at an appropriate time during the meeting, and the presence of that visitor shall be recorded in the minutes.

### **6.9 Deputations**

- (1) Any person or group wishing to be received as a deputation by the Council is to either –
  - (a) apply, before the meeting, to the CEO for approval; or
  - (b) with the approval of the presiding member, at the meeting, address the Council.
- (2) The CEO may either –
  - (a) approve the request and invite the deputation to attend a meeting of the Council; or
  - (b) refer the request to the Council to decide by simple majority whether or not to receive the deputation.
- (3) Unless the council resolves otherwise, a deputation invited to attend a Council meeting –
  - (a) is not to exceed 5 persons, only 2 of whom may address the Council, although others may respond to specific questions from members;
  - (b) is not to address the Council for a period exceeding 10 minutes without the prior agreement of the presiding member under subclause (1) or resolution of Council; and
  - (c) additional members of the deputation may be allowed to speak with the permission of the presiding member if providing additional information.
- (4) A person addressing the Council is to cease that address immediately after being directed to do so by the presiding member in order to preserve order, the time permitted has expired or the presentation has diverged from the purpose of the deputation.
- (5) A person who fails to comply with a direction of the presiding member under subclause (4) may, by order of the presiding member, be removed from the meeting.
- (6) Any matter which is the subject of a deputation to the Council is not to be decided by the Council until the deputation has completed its presentation.

### **6.10 Petitions**

- (1) A petition to the local government is to –
  - (a) be addressed to the President;
  - (b) be made by electors of the district;
  - (c) state the request on each page of the petition;
  - (d) contain the name, address and signature of each elector making the request, and the date each elector signed;
  - (e) contain a summary of the reasons for the request; and
  - (f) state the name of the person to whom, and an address at which, notice to the petitioners can be given.
- (2) Upon receiving a petition, the local government is to submit the petition to the relevant officer to be included in his or her deliberations and report on the matter that is the subject of the petition, subject to subclause (3).
- (3) At any meeting, the Council is not to vote on any matter that is the subject of a petition presented to that meeting, unless –
  - (a) the matter is the subject of a report included in the agenda; and

- (b) the Council has considered the issues raised in the petition.

#### **6.11 Presentations**

- (1) In this clause, a "presentation" means the acceptance of a gift or an award by the Council on behalf of the local government or the community.
- (2) A presentation may be made to the Council at a meeting only with the prior approval of the President or CEO.

#### **6.12 Participation at committee meetings**

- (1) In this clause a reference to a person is to a person who –
  - (a) is entitled to attend a committee meeting;
  - (b) attends a committee meeting; and
  - (c) is not a member of that committee.
- (2) Without the consent of the presiding member, no person is to address a committee meeting.
- (3) A person is not to address the committee for a period exceeding 3 minutes without the agreement of the presiding member.
- (4) A person addressing the committee with the consent of the presiding member is to cease that address immediately after being directed to do so by the presiding member.
- (5) A person who fails to comply with a direction of the presiding member under subclause (4) may, by order of the presiding member, be removed from the meeting.
- (6) The Council may make a policy dealing with the circumstances in which a person may be given consent to address a committee meeting.

#### **6.13 Council may meet to hear public submissions**

- (1) Where an item on the agenda at a Council meeting is contentious and is likely to be the subject of a number of deputations, the Council may resolve to meet at another time to provide a greater opportunity to be heard.
- (2) The CEO and the President shall set the time and date of the meeting to provide the opportunity to be heard.
- (3) Where the Council resolves to meet to provide the opportunity to be heard under subclause (1), the presiding member shall –
  - (a) instruct the CEO to provide local public notice of the time and date when the Council will meet to provide an opportunity to be heard;
  - (b) provide a written invitation to attend the meeting to provide the opportunity to be heard to all members of the public who have applied under clause 6.9 to make a deputation on the issue; and
  - (c) cause minutes to be kept of the meeting to provide the opportunity to be heard.
- (4) A meeting held under subclause (1) shall be conducted only to hear submissions. The council shall not make resolutions at a meeting to provide the opportunity to be heard.
- (5) At a meeting held under subclause (1), each person making a submission shall be provided with the opportunity to fully state his or her case.
- (6) A member of the public shall with prior approval of the presiding member be limited to 10 minutes in making an oral submission at the time of discussion of the item, but this period may be extended at the discretion of the presiding member.
- (7) Once every member of the public has had the opportunity to make a submission the presiding member is to close the meeting.
- (8) The CEO is to ensure that a report is included on the agenda of the next Council meeting summarising each submission made at the meeting.
- (9) The Council must not resolve on the matter that is the subject of a meeting to provide the opportunity to be heard until it has received the CEO's report under subclause (8).

#### **6.14 Public inspection of agenda materials**

The right of the public to inspect the documents referred to, and in accordance with, regulation 14 of the Regulations may be exercised at the office of the local government.



### **6.15 Confidentiality of information withheld**

- (1) Information withheld by the CEO from the public under regulation 14(2) of the Regulations is to be –
  - (a) identified in the agenda of a Council meeting under the item "Matters for which meeting may be closed";
  - (b) marked "*Confidential*" in the agenda; and
  - (c) kept confidential by officers and members until the Council resolves or the CEO determines otherwise.
- (2) A member or an officer in receipt of confidential information under subclause (1) or information that is provided or disclosed during a meeting or part of a meeting that is closed to the public is not to disclose any of that information to any person other than another member or an officer to the extent necessary for the purpose of carrying out his or her duties.
- (3) Subclause (2) does not apply where a member or officer discloses the information to his or her lawyer or government officer for the purpose of seeking advice in order to lawfully fulfil his or her role and responsibilities.

### **6.16 Recording of proceedings**

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

### **6.17 Prevention of disturbance**

- (1) A reference in this clause to a person is to a person other than a member.
- (2) A person addressing the Council shall extend due courtesy and respect to the Council and the processes under which it operates and shall comply with any direction by the presiding member.
- (3) A person observing a meeting shall not create a disturbance at a meeting, by interrupting or interfering with the proceedings, whether by expressing approval or dissent, by conversing or by any other means.
- (4) A person shall ensure that his or her mobile telephone or audible pager is not audible or used during any meeting of the Council.
- (5) The presiding member may expel a person from the meeting by ordering the person to leave the meeting room, if –
  - (a) after being warned, the person again acts contrary to this clause, or to this local law; or
  - (b) a person refuses or fails to comply with a direction of the presiding member.
- (6) A person who is ordered to leave the meeting room and fails to do so may by order of the presiding member, be removed from the meeting room, and if the presiding member orders, from the premises.
- (7) A person in breach of this clause is subject to the penalties specified in clause 19.1.

## **PART 7 - QUESTIONS BY MEMBERS**

### **7.1 Questions by members**

- (1) Members may ask questions relating to an item on the notice paper or on matters related to the good government of persons in the district.
- (2) A member requesting general information from an officer at a Council meeting may ask a question without notice and with the consent of the presiding member, may ask one or more further questions of that officer or another officer present at the meeting.
- (3) Where possible the officer shall endeavour to answer the question to the best of his or her knowledge and ability, however, if the information is unavailable or the answer requires research or investigation, the officer may ask that –
  - (a) the question be placed on notice for the next meeting of Council; and
  - (b) the answer to the question be given to the member who asked it within 14 days.



- (4) Every question and answer –
  - (a) is to be brief and concise; and
  - (b) is not to be accompanied by argument, expression of opinion or statement of facts, except to the extent necessary to explain the question or answer.
- (5) In answering any question, an officer may qualify his or her answer and may at a later time in the meeting or at a subsequent meeting alter, correct, add to or otherwise amend the original answer.

## **PART 8 - CONDUCT OF MEMBERS**

### **8.1 Members to be in their proper places**

- (1) At the first meeting held after each election day, Council will, by consensus, determine a position at the Council table for each member.
- (2) Each member is to occupy his or her allotted position at each Council meeting.

### **8.2 Official titles to be used**

A speaker, when referring to the President, Deputy President or presiding member, or a member or officer, is to use the title of that person's office.

### **8.3 Entering or leaving a meeting**

- (1) During the course of a meeting of the Council, a member is not to enter or leave the meeting without first advising the presiding member, in order to facilitate the recording in the minutes of the time of entry or departure, and ensuring a quorum is present in the meeting.
- (2) Where a member is leaving a meeting and does not intend to return, the member is to advise the presiding member of such prior to departing.

### **8.4 Members to indicate their intention to speak**

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

### **8.5 Priority of speaking**

- (1) Where two or more members indicate, at the same time, their intention to speak, the presiding member is to decide which member is entitled to be heard first.
- (2) A decision of the presiding member under subclause (1) is not open to discussion or dissent.
- (3) A member is to cease speaking immediately after being asked to do so by the presiding member.

### **8.6 Presiding member may take part in debates**

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

### **8.7 Relevance**

- (1) A member is to restrict his or her remarks to the motion or amendment under discussion, or to a personal explanation or point of order.
- (2) The presiding member may at any time –
  - (a) call the attention of the meeting to –
    - (i) any irrelevant, repetitious, offensive or insulting language by a member; or
    - (ii) any breach of order by a member; and
  - (b) direct that member, if speaking, to discontinue his or her speech.
- (3) A member is to comply with the direction of the presiding member under subclause (2) by immediately ceasing to speak.

### **8.8 Speaking twice**

Without the consent of the presiding member, a member is not to address the Council more than once on any motion or amendment except –

- (a) as the mover of a substantive motion, to exercise a right of reply;
- (b) to raise a point of order; or

- (c) to make a personal explanation.

### **8.9 Duration of speeches**

A member is not to speak on any matter for more than 5 minutes without the consent of the Council which, if given, is to be given without debate.

### **8.10 No speaking after conclusion of debate**

A member is not to speak on any motion or amendment –

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

### **8.11 No interruption**

A member is not to interrupt another member who is speaking unless –

- (a) to raise a point of order;
- (b) to call attention to the absence of a quorum;
- (c) to make a personal explanation under clause 8.12; or
- (d) to move a procedural motion that the member be no longer heard under clause 11.1.

### **8.12 Personal explanations**

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

### **8.13 No reopening of discussion**

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

### **8.14 Adverse reflection**

- (1) A member is not to reflect adversely on a decision of the Council except on a motion that the decision be revoked or changed.
- (2) Unless the meeting resolves, without debate, that the motion then before the meeting cannot otherwise be adequately considered, a member is not –
  - (a) to reflect adversely on the character or actions of another member or officer; or
  - (b) to impute any motive to a member or officer.
- (3) A member is not to use offensive or objectionable expressions in reference to any member, officer or other person.
- (4) If a member specifically requests, immediately after their use, that any particular words used by a member be recorded in the minutes –
  - (a) the presiding member is to cause the words used to be taken down and read to the meeting for verification; and
  - (b) the Council may, by resolution, decide to record those words in the minutes.

### **8.15 Withdrawal of offensive language**

- (1) A member must withdraw the expression and make a satisfactory apology when directed by the presiding member, if the presiding member is of the opinion that an expression used by the member –
  - (a) in the absence of a resolution under subclause 8.14(2) –
    - (i) reflects adversely on the character or actions of another member or officer; or
    - (ii) imputes any motive to a member or officer; or
  - (b) is offensive or insulting.



- (2) If a member fails to comply with a direction of the presiding member under subclause (1), the presiding member may refuse to hear the member further on the matter then under discussion and call on the next speaker.

## **PART 9 - PRESERVING ORDER**

### **9.1 Presiding member to preserve order**

- (1) The presiding member is to preserve order, and, whenever considered necessary, may call any member to order.
- (2) When the presiding member speaks during a debate, any member then speaking, or indicating that he or she wishes to speak, and every member present is to preserve strict silence so that the presiding member may be heard without interruption.
- (3) Subclause (2) is not to be used by the presiding member to exercise the right provided in clause 8.6, but to preserve order.

### **9.2 Point of order**

- (1) A member may object, by way of a point of order, only to a breach of –
  - (a) this local law; or
  - (b) any other written law.
- (2) Despite anything in this local law to the contrary, a point of order –
  - (a) takes precedence over any discussion; and
  - (b) until determined, suspends the consideration or discussion of any other matter.

### **9.3 Procedures on a point of order**

- (1) A member who is addressing the presiding member is not to be interrupted except on a point of order.
- (2) A member interrupted on a point of order shall not continue until permitted, but is to remain silent until –
  - (a) the member raising the point of order has been heard; and
  - (b) the presiding member has ruled on the point of order.

### **9.4 Calling attention to breach**

A member may, at any time, draw the attention of the presiding member to any breach of this local law.

### **9.5 Ruling by the presiding member**

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

### **9.6 Continued breach of order**

The presiding member may direct the member to refrain from taking any further part in the debate of that item, other than by voting, and the member is to comply with that direction, if a member –

- (a) persists in any conduct that the presiding member had ruled is out of order; or
- (b) refuses to make an explanation, retraction or apology required by the presiding member under clause 9.5(3).

### **9.7 Right of presiding member to adjourn**

- (1) For the purpose of preserving or regaining order, the presiding member may adjourn the meeting for a period up to 15 minutes.
- (2) On resumption, the debate is to continue at the point at which the meeting was adjourned.



- (3) If, at any one meeting, the presiding member adjourns the meeting more than once for the purpose of preserving or regaining order, the second or subsequent adjournment may be to a later time on the same day or to another day.

## **PART 10 - DEBATE OF SUBSTANTIVE MOTIONS**

### **10.1 Motions to be stated and in writing**

Any member who wishes to move a substantive motion or an amendment to a substantive motion –

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

### **10.2 Motions to be supported**

- (1) A substantive motion or an amendment to a substantive motion is not open to debate until it has been seconded.
- (2) A motion to revoke or change a decision made at a Council meeting is not open to debate unless the motion has the support required under regulation 10 of the Regulations.

### **10.3 Unopposed business**

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

### **10.4 Only one substantive motion at a time**

- (1) When a substantive motion is under debate at a meeting of the Council, no further substantive motion is to be accepted.
- (2) The Council is not to consider more than one substantive motion at any time.

### **10.5 Complex motions**

The presiding member may require that a complex substantive motion, or a complex amendment to a substantive motion, is to be broken down and put in the form of more than one motion, each of which is to be put in sequence.

### **10.6 Order of call in debate**

The presiding member –

- (a) is to manage debate in any manner considered appropriate to fully consider and determine the business before Council, and
- (b) may call speakers to a substantive motion or amendment in the following order –
  - (i) the mover to state the motion;
  - (ii) a seconder to the motion;
  - (iii) the mover to speak to the motion;
  - (iv) the seconder to speak to the motion;
  - (v) a speaker against the motion;
  - (vi) a speaker for the motion;
  - (vii) other speakers against and for the motion, alternating where possible; and
  - (viii) mover takes right of reply which closes debate.

#### **10.7 Limit of debate**

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

#### **10.8 Member may require motion to be read**

A member may require the motion under discussion to be read at any time during a debate, but not so as to interrupt any other member who is speaking.

#### **10.9 Consent of seconder required for alteration**

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

#### **10.10 Order of amendments**

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

#### **10.11 Form of an amendment**

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

#### **10.12 Amendment must not negate original motion**

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

#### **10.13 Relevance of amendments**

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

#### **10.14 Mover of motion may speak on amendment**

Any member may speak during debate on an amendment consistent with subclause 10.6(b).

#### **10.15 Effect of an amendment**

If an amendment to a substantive motion is carried, the motion as amended then becomes the substantive motion, on which any member may speak and any further amendment may be moved.

#### **10.16 Withdrawal of motion or amendment**

- (1) Subject to subclause (2), the Council may, without debate, grant leave to withdraw a motion or amendment on the request of the mover of the motion or amendment and with the approval of the seconder.
- (2) Where an amendment has been proposed to a substantive motion, the substantive motion is not to be withdrawn, except by consent of the majority of members present, until the amendment proposed has been withdrawn or lost.

#### **10.17 Right of reply**

- (1) The mover of a substantive motion has the right of reply.
- (2) The mover of any amendment to a substantive motion has a right of reply.
- (3) The right of the reply may only be exercised –
  - (a) where no amendment is moved to the substantive motion, at the conclusion of the discussion on the motion; or
  - (b) where one or more amendments have been moved to the substantive motion, at the conclusion of the discussion on the substantive motion and any amendments.
- (4) After the mover of the substantive motion has commenced the reply –
  - (a) no other member is to speak on the motion;
  - (b) there is to be no further discussion on, or any further amendment to, the motion.
- (5) The right of the reply is to be confined to rebutting arguments raised by previous speakers and no new matter is to be introduced.



- (6) At the conclusion of the right of reply, the substantive motion, or the substantive motion as amended, is immediately to be put to the vote.

## **PART 11 - PROCEDURAL MOTIONS**

### **11.1 Permissible procedural motions**

In addition to the right to move an amendment to a substantive motion a member may move the following procedural motions –

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

### **11.2 No debate**

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

### **11.3 Procedural motion – right of reply on substantive motion**

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

### **11.4 Meeting to proceed to the next business**

- (1) The motion that the meeting proceed to the next item of business, if carried, has the effect that –
  - (a) the debate on the substantive motion or amendment ceases immediately;
  - (b) no decision is made on the substantive motion;
  - (c) the Council moves to the next item of business; and
  - (d) there is no requirement for the matter to be raised again for consideration.
- (2) No person who has moved, seconded, or spoken for or against the substantive motion, or any amendment to the substantive motion, may move a motion to proceed to the next business.

### **11.5 Debate to be adjourned**

A motion that the debate be adjourned –

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

### **11.6 Meeting now adjourn**

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



### **11.7 Question to be put**

- (1) If the motion "that the question be now put" is carried during debate on a substantive motion without amendment, the presiding member is to offer the right of reply and then put the motion to the vote without further debate.
- (2) If the motion "that the motion be now put" is carried during discussion of an amendment, the presiding member is to put the amendment to the vote without further debate.
- (3) The motion "that the question be now put", if lost, causes debate to continue.
- (4) No person who has moved, seconded, or spoken for or against the substantive motion, or any amendment to the substantive motion, may move a motion "that the question be now put".

### **11.8 Member to be no longer heard**

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

### **11.9 Ruling of the presiding member to be disagreed with**

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

## **PART 12 - DISCLOSURE OF INTERESTS**

### **12.1 Disclosure of interests**

Disclosure of interests is dealt with in Division 6 of Part 5 of the Act.

## **PART 13 - VOTING**

### **13.1 Motion – when put**

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

### **13.2 Voting**

Voting is dealt with in the Act and the Regulations.

### **13.3 Majorities required for decisions**

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

### **13.4 Method of taking vote**

- (1) In taking the vote on any motion or amendment the presiding member –
  - (a) is to put the motion, first in the affirmative, and then in the negative;
  - (b) may put the motion in this way as often as may be necessary to enable determination whether the affirmative or the negative has the majority of votes;
  - (c) may accept a vote on the voices or may require a show of hands; and,
  - (d) subject to this clause, is to declare the result.
- (2) If a member calls for a show of hands, the result of the vote is to be determined on the count of raised hands.
- (3) If a member of council or a committee specifically requests that the details of the vote on a matter voted on at a meeting of the council or committee be recorded, the person presiding is to cause the vote or votes as the case may be, be recorded in the minutes of –
  - (a) his or her vote; or,
  - (b) the vote of all members present.

### **13.5 Recording of votes**

Recording of votes is dealt with in section 5.21(4) of the Act.

## **PART 14 - MINUTES OF MEETINGS**

### **14.1 Keeping of minutes**

The keeping and confirmation of minutes are dealt with in section 5.22 of the Act.

### **14.2 Content of minutes**

- (1) The content of minutes is dealt with in regulation 11 of the Regulations.
- (2) In addition to the matters required by regulation 11 of the Regulations, the minutes of a Council meeting is to include, where an application for approval is refused or the authorisation of a licence, permit or certificate is withheld or cancelled, the reasons for the decision.

### **14.3 Public inspection of unconfirmed minutes**

The public inspection of unconfirmed minutes is dealt with in regulation 13 of the Regulations.

### **14.4 Confirmation of minutes**

- (1) When minutes of an ordinary meeting of the Council are distributed for consideration prior to their confirmation at the next meeting, if a member is dissatisfied with the accuracy of the minutes, the member may provide the local government with a written copy of the alternative wording to amend the minutes no later than 7 clear working days before the next ordinary meeting of the Council.
- (2) At the next ordinary meeting of the Council, the member who provided the alternative wording shall, at the time for confirmation of minutes –
  - (a) state the item or items with which he or she is dissatisfied; and
  - (b) propose a motion clearly outlining the alternative wording to amend the minutes.
- (3) Members must not discuss items of business contained in the minutes, other than discussion as to their accuracy as a record of the proceedings.

## **PART 15 - ADJOURNMENT OF MEETING**

### **15.1 Meeting may be adjourned**

The Council may adjourn any meeting –

- (a) to a later time on the same day; or
- (b) to any other time on any other day, including a time which coincides with the conclusion of another meeting or event.

### **15.2 Effect of adjournment**

Where any matter, motion, debate or meeting is adjourned under this local law, debate is to be resumed at the next meeting at the point where it was interrupted.

## **PART 16 - REVOKING OR CHANGING DECISIONS**

### **16.1 Requirements to revoke or change decisions**

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

### **16.2 Limitations on powers to revoke or change decisions**

- (1) Subject to subclause (2), the Council or a committee is not to consider a motion to revoke or change a decision –
  - (a) where, at the time the motion is moved or notice is given, any action has been taken under clause 16.3 to implement the decision; or
  - (b) where the decision is procedural in its form or effect.



- (2) The Council or a committee may consider a motion to revoke or change a decision of the kind described in subclause (1)(a) if the motion is accompanied by a written statement of the legal and financial consequences of carrying the motion.

### 16.3 Implementing a decision

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

## PART 17 - SUSPENSION OF LOCAL LAW

### 17.1 Suspension of local law

- (1) A member may at any time move that the operation of one or more of the provisions of this local law be suspended.
- (2) A member moving a motion under subclause (1) is to state the reasons for the motion but no other discussion is to take place.
- (3) Unless the meeting resolves otherwise, a resolution to suspend the operation of the clause or clauses to which the motion relates is for the duration of the meeting.

### 17.2 Where local law does not apply

- (1) The presiding member is to decide any question relating to the conduct of the meeting in situations where –  
(a) one or more provisions of this local law have been suspended; or  
(b) a matter is not regulated by the Act, the Regulations or this local law.
- (2) The decision of the presiding member under subclause (1) is final, except where a motion is moved and carried under clause 11.9.
- (3) Notwithstanding the provisions of subclause (1), the presiding member may call for a vote on a ruling open to him or her under subclause (1).
- (4) The vote is to be taken without a motion and without debate and the presiding member shall be bound by the outcome of the vote.

## PART 18 - MEETINGS OF ELECTORS

### 18.1 Electors' general meetings

Electors' general meetings are dealt with in section 5.27 of the Act.

### 18.2 Matters for discussion at electors' general meetings

The matters to be discussed at electors' general meetings are dealt with in regulation 15 of the Regulations.

### 18.3 Electors' special meetings

Electors' special meetings are dealt with in section 5.28 of the Act.

### 18.4 Requests for electors' special meetings

Requests for electors' special meetings are dealt with in regulation 16 of the Regulations.

### 18.5 Convening electors' meetings

Convening electors' meetings is dealt with in section 5.29 of the Act.

### 18.6 Who presides at electors' meetings

Who presides at electors' meetings is dealt with in section 5.30 of the Act.

### 18.7 Procedure for electors' meetings

- (1) The procedure for electors' meetings is dealt with in section 5.31 of the Act and regulation 18 of the Regulations.
- (2) In exercising his or her discretion to determine the procedure to be followed at an electors' meeting, the presiding member is to have regard to this local law.

### 18.8 Participation of non-electors

A person who is not an elector of the local government shall not take part in any discussion at an electors' meeting unless the meeting, by resolution, permits the person do so.

### 18.9 Voting at electors' meetings

Voting at electors' meetings is dealt with in regulation 17 of the Regulations.

### 18.10 Minutes of electors' meetings

Minutes of electors' meetings are dealt with in section 5.32 of the Act.

### 18.11 Decisions made at electors' meetings

Decisions made at electors' meetings are dealt with in section 5.33 of the Act.

## PART 19 - ENFORCEMENT

### 19.1 Penalty for breach

A person who breaches a provision of this local law commits an offence, and is liable for a penalty up to \$1,000, and if the breach is of a continuing nature, a further penalty of up to \$500 in respect of each day during which the offence has continued.

### 19.2 Who can prosecute

Who can prosecute is dealt with in the Act.

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Dated \_\_\_\_\_ 2016



Proposed Shire of Narrogin Meeting Procedures Local Law 2016 – Summary of submissions received

Submissions received –  
Department of Local Government and Communities

Dept of Local Government and Communities –

Item	Clause	Comment	Review Comment
1	1.4	<p>It is suggested that the Shire insert a definition for the following terms used in the local law:</p> <ul style="list-style-type: none"> <li>o "Council Officer";</li> <li>o "deputation";</li> <li>o "government officer";</li> <li>o "original motion";</li> <li>o "personal explanation";</li> <li>o "point of order";</li> <li>o "procedural motion";</li> <li>o "special majority".</li> </ul> <p>While not all of these definitions are essential, they will avoid potential disputes or misunderstandings when the local law becomes operational.</p>	<p>None of these re considered necessary as the intent is generally clear from the text and use of the term.</p> <p>Special majority is defined by the Act, and does not apply to Councils with less than 12 elected members</p>
		<p><b>Recommendation –</b></p>	<p><b>No amendment be made</b></p>
2	4.2	<p>As this clause is currently written, when the Deputy President can act is dealt with in section 5.45 of the Act.</p> <p>Section 5.45 of the <i>Local Government Act 1995</i> deals with "other matters relevant to delegations under this Division." The Shire should review this clause to ensure it is referring to the correct section of the Act.</p> <p>The Shire should check to ensure that all references and cross references in the local law are correct, particularly if any changes are made as a result of the Department's comments</p>	<p>Amended to read section 5.34</p>
		<p><b>Recommendation –</b></p>	<p><b>Amend as suggested</b></p>
3	4.4	<p>As this clause is currently written, the election of presiding members of committees and their deputies is dealt with in the Act under section 5.12(1).</p> <p>It is suggested that the Shire delete "and their deputies" in this clause, as section 5.12(1) of the <i>Local Government Act 1995</i> does not deal with deputies. Furthermore, the election of deputy presiding members of committees is dealt with in clause 4.5.</p>	<p>Amended</p>
		<p><b>Recommendation –</b></p>	<p><b>Amend as suggested</b></p>

4	9.5	<p>It is suggested that subclause (2)(a) is deleted.</p> <p>The Delegated Legislation Committee has objected to this paragraph in several local laws. The most likely reason is because the prohibition of any "debate or comment" could hinder the Council's ability to consider motions under paragraph (b).</p> <p><b>Recommendation –</b></p>	Amended
5	17.2	<p>Subclause (2) currently refers to clause "11.10" despite the local law not including a clause 11.10.</p> <p>It is suggested that the Shire replace the reference "11.10" with "11.9".</p> <p>The Shire should check to ensure that all references and cross references in the local law are correct, particularly if any changes are made as a result of the Department's comments.</p> <p><b>Recommendation –</b></p>	Amend as suggested
6	19.1	<p>a) Currently, clause 19.1 prescribes a penalty of up to \$5000 for a breach of a provision of the local law.</p> <p>The Delegated Legislation Committee has previously requested that penalties for a breach of Standing Orders local laws be reduced from \$5000 to \$1000.</p> <p>It is recommended that the Shire lower the penalty to \$1000 in clause 19.1.</p> <p>b) Furthermore, it is suggested that the Shire choose only one continuing penalty, for example \$100 or \$500.</p> <p><b>Recommendation –</b></p>	Amended Amended to \$500
7		<p>The following minor edits are suggested:</p> <p>a) Titles of Acts, Regulations and other Legislation should be italicised to reflect good drafting practices:</p> <ul style="list-style-type: none"> <li>o Clause 1.4: in the definition of "Act", italicise "<i>Local Government Act 1995</i>";</li> <li>o Clause 1.4: in the definition of "Regulations", italicise "<i>Local Government (Administration) Regulations 1996</i>".</li> </ul> <p>b) Clause 1.4 – The following defined terms should be italicised:</p> <ul style="list-style-type: none"> <li>o "Act";</li> <li>o "presiding member";</li> <li>o "Regulations".</li> </ul> <p>c) Clause 1.4 – the first letter of "substantive motion" should be bolded.</p> <p><b>Recommendation –</b></p>	Amended Mended Amended Amended



	<p>d) Clause 5.2 – in subclause (1), insert a hyphen after “6. Confirmation of minutes”.</p> <p>e) Clause 6.7 – in subclause (10), insert a space between “(10)” and “where an answer”.</p> <p>f) Clause 6.13 – in subclause (3), the font size differs and should be changed to be consistent.</p> <p>g) Clause 6.17 – in subclause (6), delete “meeting room ,and” and insert “meeting room, and”.</p> <p>h) Clause 8.11 – insert a full stop after “11.1”.</p> <p>i) Clause 8.15(1)(b) – remove comma and insert a full stop at the end of the paragraph.</p> <p>j) Clause 11.7:</p> <ul style="list-style-type: none"> <li>o In subclause (1) to (4), insert quotation marks around all references to “that the question be now put”.</li> <li>o In subclause (3), delete “This motion” and insert “The motion “that the question be now put”.</li> </ul> <p>k) Clause 11.8 – insert quotation marks around “that the member be no longer heard”.</p> <p>l) Clause 11.9 – insert quotation marks around “that the ruling of the presiding member be disagreed with”.</p> <p>m) Clause 15.2 – insert comma after “this local law”.</p> <p>n) Clause 16.2 – insert the designation “(2)” to the left of the paragraph that begins with “The Council or a committee may consider a motion to revoke”.</p> <p>o) Clause 18.7 – insert a space between “regulation” and “18”.</p>	<p>Amended</p> <p>Formatting only</p> <p>Amended</p> <p>Amended</p> <p>Amended</p> <p>Amended</p> <p>Amended</p> <p>Amended</p> <p>Amended</p> <p>Amended</p> <p>Amended</p> <p>Amended</p> <p>Amended</p> <p>Amended</p> <p>Amended</p>
	<p><b>Recommendation –</b></p>	<p><b>Amend as suggested</b></p>

LOCAL GOVERNMENT ACT 1995  
SHIRE OF NARROGIN  
**PARKING LOCAL LAW 2016**

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LOCAL GOVERNMENT ACT 1995

SHIRE OF NARROGIN

**PARKING 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 Narrogin resolved on \_\_\_\_\_ to make the following local law.

**Part 1 - Preliminary**

**1.1 Citation**

This local law may be cited as the *Shire of Narrogin Parking Local Law 2016*.

**1.2 Commencement**

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

**1.3 Application**

This local law applies throughout the district.

**1.4 Repeal**

The *Town of Narrogin Parking Facilities By-Laws No. 19* published in the *Government Gazette* on 11 May 1979, and amended from time to time is repealed.

**1.5 Definitions**

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

**Act** means the *Local Government Act 1995*;

**authorised person** means a person appointed by the local government to perform any of the functions of an authorised person under this local law;

**authorised vehicle** means a vehicle authorised by the local government, CEO, authorised person or by any written law to stop or park on a thoroughfare or on a parking facility;

**bicycle** has the meaning given to it by the Code;

**bicycle path** has the meaning given to it by the Code;

**built-up area** 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** has the meaning given to it by section 5 of the *Caravan Parks and Camping Grounds Act 1995*;

**carriageway** has the meaning given to it by the Code;

**CBD** means the area of Narrogin townsite bounded by, and including both sides of the thoroughfares –

(a) Clayton Road;

(b) Earl Street;

(c) Park Street; and

(d) the western boundary of Great Southern railway;

**centre** in relation to a carriageway, has the meaning given to it by the Code;

**CEO** means the Chief Executive Officer of the local government;

**children's crossing** has the meaning given to it by the Code;

**Code** means the *Road Traffic Code 2000*;

**commercial vehicle** –

(a) means a 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 vehicle for the conveyance of passengers; and

(b) includes any 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** has the meaning given to it by the *Local Government (Parking for People with Disabilities) Regulations 2014*;

**district** means the district of the local government;

**dividing line** has the meaning given to it in the Code;

**driver** means any person driving or in control of a vehicle;

**edge line** has the meaning given to it by the Code;

**emergency vehicle** has the meaning given to it by the Code;

**footpath** has the meaning given to it by the Code;

**GVM** or "gross vehicle mass" has the meaning given to it by the *Road Traffic (Vehicles) Act 2012*;

**heavy vehicle** has the meaning given to it by the Code;

**infringement notice** means the notice referred to in clause 7.5;

**keep clear marking** has the meaning given to it by the Code;

**kerb** means the constructed border or edge of the portion of a road paved for the use of vehicular traffic where any constructed border exists at the edge of the paved road and whether any footpath has been constructed or not;

**level crossing** has the meaning given to it by the Code;

**loading zone** has the meaning given to it by the Code;

**local government** means the Shire of Narrogin;

**local planning scheme** means a local planning scheme and includes any structure plan adopted or approved by the local government made under the *Planning and Development Act 2005*;

**median strip** has the meaning given to it by the Code;

**motorcycle** has the meaning given to it by the Code;

**motorised scooter** has the meaning given to it by the Code, and includes a motorised wheelchair that is designed so as to be not capable of a speed exceeding 10 kilometres per hour;

**nature strip** has the meaning given to it in the Code;

**no parking area** has the meaning given to it in the Code;

**no parking sign** means –

- (a) a sign with the words "no parking" in red letters on a white background, or
- (b) 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 in the Code;

**no stopping sign** means a sign with –

- (a) the words "no stopping" or "no standing" in red letters on a white background;
- (b) the words "no stopping" or "no standing" in white letters on a red background; or
- (c) the letter "S" within a red annulus and a red diagonal line across it on a white background;

**notice of withdrawal** means the notice referred to in clause 7.6(1);

**occupier** has the meaning given to it in section 1.4 of the Act;

**owner** where used in relation to –

- (a) a vehicle licensed under the *Road Traffic (Vehicles) Act 2012*, means the person in whose name the vehicle has been registered under the *Road Traffic (Vehicles) Act 2012*;
- (b) any other vehicle, means the person who owns, or is entitled to possession of that vehicle; and
- (c) land, has the meaning given to it in section 1.4 of the Act;

**park** has the meaning given to it by the Code;

**parking area** has the meaning given to it by the Code;

**parking bay** and **parking lane** 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 control sign** has the meaning given to it by the Code;

**parking facilities** includes –

- (a) land, buildings, shelters, places, parking bays, parking lanes and other facilities open to the public generally for the parking of vehicles with or without charge; and
- (b) signs, notices and facilities used in connection with the parking of vehicles;

**path** has the meaning given to it in the Code;

**pedestrian crossing** has the meaning given to it by the Code;

**permit parking area** has the meaning given to it by the *Local Government (Parking for People with Disabilities) Regulations 2014*;

**public bus** has the meaning given to it by the Code, and includes a school bus in the performance of its duties;

**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

(c) which is an otherwise unvested facility within section 3.53 of the *Land Administration Act 1997*;

**right of way** means a thoroughfare separating 2 portions of land by a public reserve, road, laneway, pedestrian access way, and includes the access leg of a battle-axe lot or the equivalent not more than 6m in width;

**Schedule** means a Schedule to this local law;

**school bus** means a vehicle that is used solely or principally for the carriage of children to and from school, and is equipped to seat 8 or more persons, including the driver;

**shared zone** has the meaning given to it by the Code;

**sign** includes a parking control sign or other sign, inscription, road marking, painted line, mark, structure or other device or method 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 facilities or reserve for the purpose of prohibiting, regulating, guiding, directing or restricting the stopping and parking of vehicles;

**special purpose vehicle** has the meaning given to it by the Code;

**stop** in relation to a vehicle, has the meaning given to it by the Code;

**symbol** has the meaning given to it by the Code ;

**taxi** has the meaning given to it by the Code;

**taxi zone** has the meaning given to it by the Code;

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

**traffic island** has the meaning given to it by the Code;

**trailer** has the meaning given to it by the Code;

**vehicle** has the meaning given to it in the *Road Traffic (Administration) Act 2008*, but does not include a motorised scooter; and

**verge** has the same meaning as *nature strip*.

- (2) 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 1974*, the *Road Traffic (Administration) Act 2008*, the *Road Traffic (Vehicles) Act 2012* or in the Code, then the term shall have the meaning given to it in that Act or the Code.

## Part 2 - Administration

### 2.1 Powers of the local government

- (1) The local government may, by resolution, prohibit or regulate, including but not limited to –
- (a) the stopping or parking of any vehicle or any class of vehicle;
  - (b) parking bays;
  - (c) parking facilities;
  - (d) permitted time and conditions of parking in parking bays and parking facilities which may vary with the locality;
  - (e) permitted classes of vehicle which may park in parking bays and parking facilities;
  - (f) permitted classes of persons who may park in specified parking bays or parking facilities; and
  - (g) the manner of parking in parking bays and parking facilities.
- (2) Where the local government makes a resolution under subclause (1), it must erect signs to give effect to the resolution.

### 2.2 Thoroughfares under control of Commissioner of Main Roads

- (1) Subject to subclause 2, this local law does not apply to –
- (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 which comes under the control of the Commissioner of Main Roads.
- (2) Upon request of the local government, the control of parking and parking facilities on a thoroughfare under the control of the Commissioner of Main Roads may be delegated by the Commissioner of Main Roads to the local government.

### **2.3 Parking not under the control of the local government**

- (1) This local law does not apply to a parking bay, parking lane or parking facility that is not occupied, managed or controlled by the local government, unless the local government and the owner or occupier of that land or facility have agreed in writing that this local law will apply to that land or facility.
- (2) The agreement referred to in subclause (1) may be made on such terms and conditions as the parties may agree.

### **2.4 Classes of vehicle**

For the purpose of this local law, vehicles are divided into the following classes –

- (a) public buses and school buses;
- (b) commercial vehicles;
- (c) motorcycles and bicycles;
- (d) taxis; and
- (e) all other vehicles.

## **Part 3 - Parking throughout the district**

### *Division 1 – District generally*

#### **3.1 Application of Part 3**

This Part applies to the whole of the district.

#### **3.2 Parking for people with disabilities**

For avoidance of doubt, and notwithstanding clause 2.3(1), the provisions of the *Local Government (Parking for People with Disabilities) Regulations 2014*, apply throughout the district to all parking bays, parking lanes or parking facilities, whether under the control of the local government or not, which are a public place.

#### **3.3 Parking vehicles on a carriageway**

A person parking a vehicle on a carriageway other than in a parking bay 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 –
  - (i) the vehicle and the farther boundary of the carriageway, any dividing line or median strip, or
  - (ii) 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 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.

#### **3.4 Parking near a railway level crossing**

A person shall not park a 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.

#### **3.5 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.

### **3.6 General prohibitions on parking**

- (1) This clause does not apply to a vehicle parked in a parking bay nor to a bicycle in a bicycle rack.
- (2) Subclauses (3)(c), (e) and (g) do not apply to a public bus or school bus which parks in a bus zone.
- (3) Subject to any applicable law, unless a sign or markings on the carriageway indicate otherwise, a person shall not park a vehicle so that any portion of the vehicle is –
  - (a) between any other stationary vehicles and the centre of the carriageway, except where –
    - (i) a driver stopped in traffic; or
    - (ii) a driver angle parking on the side of the carriageway or in a median strip parking area, in accordance with this local law;
  - (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 10 metres of any portion of a carriageway bounded by a traffic island;
  - (f) on any footpath, children's crossing or pedestrian crossing;
  - (g) between the boundaries of a carriageway and any double longitudinal line consisting of 2 dividing lines or between a double longitudinal line consisting of a dividing line and a broken or dotted line and the boundary of a carriageway nearer to the dividing line, unless there is a distance of at least 3 metres clear between the vehicle and the double longitudinal line;
  - (h) on an intersection, except adjacent to a carriageway boundary that is not broken by an intersecting carriageway;
  - (i) 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; or
  - (j) within 10 metres of the nearer property line of any thoroughfare intersecting the thoroughfare on the side on which the vehicle is parked.
- (4) A person shall not park a vehicle so that any portion of the vehicle is within 20 metres of the approach side or within 10 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 public bus or school bus stopped to take up or set down passengers; or
  - (b) a children's crossing or pedestrian crossing.

### **3.7 Restrictions on parking in particular areas**

- (1) Subject to subclause (2), a person shall not park a vehicle in a thoroughfare, part of a thoroughfare, or part of a parking facility –
  - (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) The driver may park a vehicle in a thoroughfare or a part of a thoroughfare or part of a parking facility, except in a thoroughfare or a part of a thoroughfare or part of a parking facility to which a disabled parking sign relates for twice the period indicated on the sign, if –
  - (a) the driver's vehicle displays a valid disability parking permit sticker; and
  - (b) a person with a disability to which the valid disability parking permit relates is either the driver of the vehicle or a passenger in the vehicle.
- (3) A person shall not park a vehicle in a parking bay marked "M/C" unless it is a motorcycle without a sidecar or a trailer, or it is a bicycle.
- (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".

### **3.8 Vehicles not to obstruct a thoroughfare or public place**

A person shall not leave a vehicle, or any part of a vehicle, in a thoroughfare or public place including a right

of way, so that it obstructs the use of any part of that thoroughfare or public place without the permission of the local government or unless authorised under any written law.

### **3.9 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.

### **3.10 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), 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.

## *Division 2 – No Parking and No Stopping*

### **3.11 No parking**

A driver shall not park on a length of carriageway or in an area to which a “no parking” sign applies, unless the driver is –

- (a) is dropping off, or picking up, passengers or goods;
- (b) remains within 3 metres of the vehicle at all times; and
- (c) completes the dropping off, or picking up, of the passengers or goods within 2 minutes of stopping and drives on.

### **3.12 No stopping**

- (1) A driver shall not stop on a length of carriageway, or in an area, to which a “no stopping” sign applies or in an area with keep clear markings.
- (2) A driver must not stop at the side of a carriageway marked with a continuous yellow edge line.

### **3.13 Application of particular definitions**

For the purposes of the application of clause 3.11 and clause 3.12 an arrow inscribed on a sign erected at an angle to 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 carriageway.

## *Division 3 – Stopping in particular circumstances*

### **3.14 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.

### **3.15 Stopping on a bridge, etc.**

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 parking control 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.

### **3.16 Stopping on crests, curves, etc.**

- (1) 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 if the driver stops at a place on the carriageway to which a parking control sign applies and the driver is permitted to stop at that place under this local law.



### **3.17 Stopping near a fire hydrant, etc.**

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 remains within 3 metres of the vehicle at all times; or
- (b) the driver is driving a taxi, and the driver stops in a taxi zone and remains within 3 metres of the vehicle at all times.

### **3.18 Obstructing access to and from a path, driveway, etc.**

A driver shall not stop a vehicle so that any portion of the vehicle is in front –

- (a) of a path, in a position that obstructs access by vehicles or pedestrians to or from that path;
- (b) on or across a driveway or other way of access for vehicles travelling to or from adjacent land;

unless –

- (c) the driver is dropping off, or picking up, passengers; or
- (d) the driver stops in a parking bay and the driver is permitted to stop in the parking bay under this local law.

## *Division 4 – Signs*

### **3.19 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.

### **3.20 Pre-existing signs**

- (1) A sign is deemed for the purposes of this local law to have been erected by the local government under the authority of this local law where that sign –
  - (a) was erected by the local government or the Commissioner of Main Roads prior to the commencement of this local law; and
  - (b) relates to the parking of vehicles within the district.
- (2) An inscription, word, number, expression or symbol on a sign referred to in subclause (1) operates and has effect according to its tenor, and where the inscription, word, number, expression or symbol relates to the stopping of vehicles, it is to be deemed for the purposes of this local law to operate and have effect as if it related to the parking of vehicles.

### **3.21 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.

### **3.22 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.

### **3.23 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.



*Division 5 – Zones for particular vehicles*

**3.24 Stopping in a loading zone**

A person shall not stop a vehicle in a loading zone unless it is –

- (a) a vehicle used for commercial or trade purposes engaged in the picking up or setting down of goods;  
or
- (b) a vehicle that completes the dropping off or picking up of passengers within 2 minutes of stopping and then drives on,

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.

**3.25 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 school bus.

**3.26 Stopping in a shared zone**

A driver shall not stop in a shared zone unless –

- (1) 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) the driver stops in a parking bay and the driver is permitted to stop in the parking bay under this local law;
- (3) the driver is dropping off, or picking up, passengers or goods; or
- (4) the driver is engaged in door-to-door delivery or collection of goods, or in the collection of waste or garbage.

**3.27 Other limitations in zones**

A person shall not stop a vehicle in a zone to which a 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 parking control sign that applies to the zone.

**Part 4 - Parking in built-up areas**

*Division 1 – Built-up areas generally*

**4.1 Application of Part 4**

This Part applies to built up areas of the district.

**4.2 No parking of vehicles exposed for sale and 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 (Vehicles) Act 2012*;
- (c) if that vehicle is a trailer or a caravan unattached to a 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.

**4.3 Parking on a carriageway with heavy and long vehicles**

- (1) Unless engaged in the picking up or setting down of goods, a person shall not park on any part of a carriageway for any period exceeding 1 hour, 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.
- (2) Nothing in this clause affects the operation of any other clause in this local law or any other written law relating to the parking or stopping of vehicles.

**4.4 Event parking**

- (1) The local government may determine that all or part of a parking facility, thoroughfare or public place is set aside, during the period indicated in a sign, for the parking of vehicles by persons attending a particular event.
- (2) The local government may issue to a person a permit in respect of all or part of a parking facility, thoroughfare or public place for an event referred to in subclause (1).
- (3) A person must not park or stop a vehicle, or permit a vehicle to remain parked, in any area that is set aside under subclause (1) unless the permit issued under subclause (2) for the relevant event is displayed inside the vehicle so that it is clearly visible to an authorised person examining the ticket from outside the vehicle.

*Division 2 – Parking bays, parking lanes, and parking facilities*

**4.5 Vehicles to be within parking bays or parking lanes on thoroughfare**

- (1) Subject to subclause (2) and (3), a person shall not park a vehicle in a parking bay in a thoroughfare otherwise than –
  - (a) parallel to and as close to the kerb as is practicable;
  - (b) wholly within the parking bay or parking lane; and
  - (c) headed in the direction of the movement of traffic on the side of the thoroughfare in which the parking bay is situated.
- (2) If a vehicle is too long or too wide to fit completely within a single parking bay then the person parking the vehicle shall do so within the minimum number of parking bays needed to park that vehicle.
- (3) A person shall not park a vehicle partly within and partly outside a parking area.

**4.6 Parking prohibitions and restrictions**

- (1) A person shall not –
  - (a) park a vehicle so as to obstruct an entrance to, or an exit from parking facilities, or an access way within parking facilities;
  - (b) except with the permission of the local government or an authorised person, park a vehicle on any part of a parking facility contrary to a sign referring to that part;
  - (c) permit a vehicle to park in any part of parking facilities, if an authorised person directs the driver of such vehicle to move the vehicle; or
  - (d) park or attempt to park a vehicle in a parking bay in which another vehicle is parked, unless –
    - (i) parking of a motorcycle and a bicycle together in a parking bay marked "M/C", and
    - (ii) the bicycle is parked in accordance with subclause (2).
- (2) A person must not park a bicycle –
  - (a) in a parking bay other than in a parking bay marked for motorcycles only; and
  - (b) other than against the kerb.
- (3) Notwithstanding the provisions of subclause (1)(b) a driver may park a vehicle in a parking bay or facility (except in a parking area for people with disabilities) for twice the length of time allowed, provided that –
  - (a) the driver's vehicle displays a valid disability parking permit; and
  - (b) a person with a disability to which a valid disability parking permit relates is either the driver of or a passenger in the vehicle.

**4.7 Angle parking**

- (1) This clause does not apply to –
  - (a) a vehicle with a mass including any load, of over 4.5 tonnes; or
  - (b) a person parking either a motorcycle 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 stopping or parking a vehicle shall stop or park the vehicle at an angle and in the position indicated by the inscription on the parking sign or by marks on the carriageway.

*Division 3 – Stopping in particular circumstances*

**4.8 Stopping at or near a bus stop**



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 10m of the departure side of a bus stop, measured in the direction of traffic movement on that portion of the thoroughfare, unless –

- (a) the vehicle is a public bus or school 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 permitted by a parking control sign.

#### **4.9 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 permitted by a parking control sign.

#### **4.10 Stopping on verge**

- (1) A person shall not stop so that any portion of the following is on or projects over a verge –
  - (a) a vehicle (other than a bicycle);
  - (b) a commercial vehicle or any combination of vehicles that exceeds 4.5 tonnes GVM, a public bus, a trailer or caravan unattached to a vehicle; or
  - (c) any vehicle (other than a bicycle) during any period when the stopping of vehicles on that verge is prohibited by a sign adjacent and referable to that verge.
- (2) Subclause (1)(a) does not apply to the person if he or she is the owner or occupier of the land adjacent to that verge, or is a person authorised by the occupier of that land 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 or any vehicle with a GVM that exceeds 4.5 tonnes when it is being loaded or unloaded with reasonable expedition with goods, merchandise or materials collected from or delivered to the land adjacent to the portion of the verge on which the vehicle is parked, provided no obstruction is caused to the passage of any vehicle or person using a carriageway or a path.

#### **4.11 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.

#### **4.12 Stopping on a carriageway with a bicycle sign**

Unless dropping off or picking up passengers, the driver of a vehicle (other than a bicycle) must not stop on a length of carriageway to which any of the following apply –

- (a) a "bicycle path" sign;
- (b) a "bicycle parking" sign; or
- (c) a "dual use path" or other sign indicating bicycles are permitted to use the path.

### **Part 5 - Parking in the CBD**

#### **5.1 Application of Part 5**

This Part applies to the thoroughfares and parking facilities within the CBD.

#### **5.2 Timed parking**

- (1) Where indicated by a sign, timed parking applies to CBD thoroughfares from 8.00 am to 6.00 pm Monday to Friday and 8.00 am to 12.30 pm Saturday, except public holidays.
- (2) The period for which parking is permitted is that indicated on the sign.

#### **5.3 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 making the mark is defeated or likely to be defeated.



#### **5.4 No movement of vehicles to avoid time limitation**

- (1) Where the parking of vehicles in a thoroughfare or parking facility is permitted for a limited time, a person shall not move a vehicle within the thoroughfare or parking facility so that the total time of parking exceeds the maximum time allowed for parking in the thoroughfare or parking facility.
- (2) Where the parking of vehicles in a thoroughfare is permitted for a limited time, a person shall not move a vehicle to another parking bay within 50 metres so that the total time of parking exceeds the maximum time permitted, unless the vehicle has first been removed from the vicinity for at least 30 minutes.

### **Part 6 - Miscellaneous**

#### **6.1 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.

#### **6.2 Emergency and special purpose vehicles**

Notwithstanding anything to the contrary in this local law, the driver of –

- (a) an emergency vehicle may, in the course of their duties and when it is expedient and safe to do so or where they believe that it is expedient and safe to do so, stop, or park the vehicle at any place, at any time; and
- (b) a special purpose vehicle may, only in the course of his or her duties and when it is necessary and safe to do so, stop, or park the vehicle in any place, at any time.

#### **6.3 Removal and impounding of vehicles**

- (1) The impounding of vehicles and other goods shall be carried out in accordance with Part 3 Division 3 Subdivision 4 of the Act and regulation 29 of the *Local Government (Functions and General) Regulations 1996*.
- (2) An employee authorised specifically for the purposes of section 3.39 of the Act and this clause may remove and impound any vehicle that is involved in a contravention that can lead to impounding.
- (3) A person authorised to impound a vehicle in accordance with subclause (2) may use reasonable force to exercise the power given by that clause.
- (4) The form of the notice referred to in section 3.42 of the Act is set out in Schedule 1.

#### **6.4 Notice to owner of vehicle involved in offence**

The owner of a vehicle may be required to identify the driver or person in charge of a vehicle at the time when an offence is alleged to have been committed by sending a notice in the form of Form 1 of Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

### **Part 7 - Enforcement**

#### **7.1 Legal proceedings**

Evidentiary provisions relating to offences involving vehicles are contained in Division 3 of Part 9 of the Act.

#### **7.2 Offences**

A person who breaches a provision of this local law commits an offence.

#### **7.3 General penalty**

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

#### **7.4 Modified penalties**

- (1) The offences contained in the Schedule 3 are offences in relation to which a modified penalty may be imposed.
- (2) The amount appearing in the final column of Schedule 3 directly opposite a clause specified in that

Schedule is the modified penalty for an offence against that clause.

### 7.5 Issue of infringement notice

Where an authorised person has reason to believe that a person has committed an offence in respect of which a modified penalty may be imposed, he or she may issue to that person a notice in the form of either –

- (a) Form 2 of Schedule 1 of the *Local Government (Functions and General) Regulations 1996*; or
- (b) Schedule 2 of this local law, in accordance with section 9.18 of the Act.

### 7.6 Withdrawal of infringement notice

- (1) Whether or not the modified penalty has been paid, an authorised person may withdraw an infringement notice by sending a notice in the form of Form 3 of Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.
- (2) A person authorised to issue an infringement notice under clause 7.5 cannot sign or send a notice of withdrawal.

**Schedule 1 – Notification of impoundment of vehicle**  
[cl. 6.3]  
**Shire of Narrogin**

To (full name/s) –	
Of (address) –	
	Department of Transport records indicate that you are the registered owner of the vehicle detailed below and notice is hereby given that the vehicle has been impounded in accordance with the provisions of the <i>Local Government Act 1995</i> .
Make –	
Model –	
Registration –	
Impounded from –	
Positioned at/near –	
Date impounded –	
Time impounded –	
	The vehicle has been taken to a secure facility.
Facility address –	
	<b>IT IS A REQUIREMENT THAT ALL PAYMENTS ARE RECEIVED PRIOR TO THE RELEASE OF THE VEHICLE.</b>
Documentation required –	The following must be produced before payment can be accepted and release of the vehicle is permitted— <ul style="list-style-type: none"> <li>• Current vehicle registration document.</li> <li>• Drivers licence or other legal form of identification.</li> <li>• Payment receipt (required for vehicle release at secure facility).</li> </ul>



Payment in person only –	Chief Executive Officer Shire of Narrogin, 89 Earl Street, (PO Box 188), NARROGIN 6312 Between – 8.30am and 4.30pm Monday to Friday (except public holidays) Payments by cash, cheque or EFTPOS.
	The vehicle will then be available for release, by contacting the Shire to make the necessary arrangements.
Vehicle impound fee –	
Additional days storage fee or part thereof –	
<p>(1) Subject to clause 2 below, if your vehicle is not collected within 2 months after the date of this notice the Shire may either –</p> <p>(a) under section 3.46 of the <i>Local Government Act 1995</i> refuse to allow the vehicle to be collected until the Shire's costs of removing and keeping the vehicle have been paid to the Shire; or</p> <p>(b) under section 3.47 of the <i>Local Government Act 1995</i> sell or otherwise dispose of the vehicle and credit the money received from that sale or disposal to the Shire's Trust Fund except to the extent required to meet the cost and expenses incurred by the Shire in removing, impounding and selling of the vehicle.</p> <p>(2) If the Local Government has made a declaration that in accordance with 3.40A(4) of the <i>Local Government Act 1995</i> the vehicle is an abandoned wreck then the vehicle may be disposed of within 7 days of that declaration being made.</p>	
If you are convicted of an offence against this Local Law, section 3.48 of the <i>Local Government Act 1995</i> allows the Shire to recover from you its outstanding expenses incurred in the removing, impounding and selling of the vehicle.	
Take note –	Unless all fees are paid for and the vehicle collected within 2 months from the date of impounding, the Shire may sell the subject vehicle.
Authorised person – Name	
Signature	
Title	
Date issued –	

**Schedule 2 – Infringement notice and notice requiring owner of vehicle to identify vehicle**  
[cl. 7.5(b)]  
**Shire of Narrogin**

<b>INFRINGEMENT NUMBER –</b>	
To (full name/s) –	
Of (address) –	
	It is alleged that –
On (day) –	
At (time) –	
	Your vehicle –

Make –	
Model –	
Registration –	
As from –	
	Was involved in the commission of the following offence –
Details of offence –	
	Contrary to –
<i>Local Government (Parking for People with Disabilities) Regulations 2014 –</i>	
<i>Shire of Narrogin Parking Local Law 2016, clause –</i>	
The modified penalty item number is –	
The modified penalty for the offence is –	\$
<p>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 within a period of 28 days after the giving of this notice.</p>	
<p>Unless within 28 days after being served with this notice –</p> <p>(a) you pay the modified penalty; or</p> <p>(b) you –</p> <p>(i) inform the Chief Executive Officer or another authorised person at the Shire of Narrogin 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</p> <p>(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.</p>	
<p>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.</p> <p>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.</p>	
In person or by mail to –	<p>Chief Executive Officer          Shire of Narrogin, 89 Earl Street, (PO Box 188), NARROGIN 6312          Between – 8.30am and 4.30pm Monday to Friday (except public holidays)          Payments by cash, cheque or EFTPOS.</p>
Electronic payment or correspondence –	<p>Refer website at <a href="http://www.narrogin.wa.gov.au">www.narrogin.wa.gov.au</a>          Quoting infringement number  <a href="mailto:enquiries@narrogin.wa.gov.au">enquiries@narrogin.wa.gov.au</a></p>
Authorised person – Name	
Signature	
Title	



Date issued –

**Schedule 3 – Prescribed offences**

[cl. 7.4]

Item	Clause	Nature of offence	Modified penalty \$
1	3.3(a)	Failure to park on the left of a two-way carriage way	50
2	3.3(b)	Failure to park on the left of a one-way carriageway	50
3	3.3(c)	Parking when the distance from farther boundary is less than 3 metres	50
4	3.3(d)	Parking closer than 1 metre from any other vehicle	50
5	3.3(e)	Causing obstruction	50
6	3.4	Parking within 20 metres of a railway level crossing	100
7	3.5	Driving or parking on a reserve	50
8	3.6(3)(a)	Double parking	50
9	3.6(3)(b)	Parking on or adjacent to a median strip	50
10	3.6(3)(c)	Obstructing a private driveway or right of way	50
11	3.6(3)(d)	Parking beside excavation or obstruction so as to obstruct traffic	50
12	3.6(3)(e)	Parking within 10 metres of traffic island	50
13	3.6(3)(f)	Parking on footpath, children's crossing or pedestrian crossing	50
14	3.6(3)(g)	Parking contrary to continuous line markings	50
15	3.6(3)(h),	Parking on an intersection	50
16	3.6(3)(i)	Parking within 1 metre of a fire hydrant	50
17	3.6(3)(j),	Parking within 10 metres of an intersection	50
18	3.6(4)(a) or (b)	Parking vehicle within 10 metres of departure side of bus stop, children's crossing or pedestrian crossing	50
19	3.6(4)(a) or (b)	Parking vehicle within 20 metres of approach side of bus stop, children's crossing or pedestrian crossing	50
20	3.7(1)	Parking contrary to signs on thoroughfare or parking facility	50
21	3.7(2)	Parking contrary to limitations on thoroughfare or parking facility	50
22	3.7(3)	Parking vehicle in a parking bay marked "M/C" that is not a motorcycle or bicycle	50
23	3.7(4)	Parking without permission in an area designated for "Authorised Vehicles Only"	50
24	3.8	Vehicle obstructing a thoroughfare or public place	100
25	3.9	Failure to comply with instruction of authorised person	100
26	3.10(1)	Failure to obtain permission to park a vehicle other than as provided by this local law	50
27	3.10(2)	Failure to comply with conditions of suspension of parking requirements	100

28	3.11	Failure to comply with "no parking" sign	50
29	3.12	Failure to comply with "no stopping" sign	50
30	3.14	Stopping near an obstruction	50
31	3.15	Stopping on a bridge, etc.	100
32	3.16	Stopping on crests, curves, etc.	100
33	3.17	Stopping near fire hydrant	50
34	3.18	Obstructing path, a driveway etc	50
35	3.21	Failure to comply with sign	50
36	3.22	Unauthorised placement, misuse or obstruction of a sign	100
37	3.24	Stopping unlawfully in a loading zone	50
38	3.25	Stopping unlawfully in a taxi or bus zone	50
39	3.26	Stopping in a shared zone	50
40	3.27	Stopping in a zone contrary to a sign	50
41	4.2(a)	Parking in thoroughfare for purpose of sale	50
42	4.2(b)	Parking unlicensed vehicle in thoroughfare	50
43	4.2(c)	Parking a trailer or caravan on thoroughfare	50
44	4.2(d)	Parking in thoroughfare for purpose of repairs	50
45	4.3	Failure to comply with limitations on heavy and long vehicles	100
46	4.4(1)	Failure to comply with event parking sign	50
47	4.54(3)	Failure to display required event permit information	50
48	4.5	Failure to wholly within parking bay or lane	50
49	4.6(1)(a)	Causing obstruction at parking facilities	50
50	4.6(1)(b)	Parking contrary to a sign at a parking facility	50
51	4.6(1)(c)	Failure to comply with directions of an authorised person in a parking facility	50
52	4.6(1)(d)	Parking or attempting to park a vehicle in a bay occupied by another vehicle	50
53	4.6(2)	Incorrect parking of a bicycle in a parking facility	50
54	4.6(3)	Unauthorised extended parking in a facility	50
55	4.7	Failure to comply with angle parking	50
56	4.8	Stopping at or near bus stop	50
57	4.9	Stopping on path, median strip or traffic island	50
58	4.10	Stopping on verge	50
59	4.11	Stopping in a motorcycle parking area	50
60	4.12	Stopping in a bicycle area	50
61	5.2	Parking vehicle in excess of maximum time	50
62	5.3(2)	Removing mark of authorised person	100
63	5.4	Moving vehicle to avoid time limitations	50
64	6.1	Removing notice from vehicle	100
65	6.2(b)	Unauthorised parking of special purpose vehicle	50
66	7.2	All other offences not specified	50



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Dated \_\_\_\_\_ 2016

The Common Seal of the Shire of Narrogin was affixed by authority of a resolution of Council in the presence of –

R.S. YURYEVICH, Chairman of Commissioners

A.J. COOK, Chief Executive Officer.

Proposed Shire of Narrogin Parking Local Law 2016 – Summary of submissions received

Submissions received –  
 - Department of Local Government and Communities  
 - Ms Donna Hardie, Unique for Hair

Dept of Local Government and Communities –

Item	Clause	Comment	Review Comment
1	1.5	<p><b>Definitions</b></p> <p>a) In the definition for “symbol”, it is suggested that the Shire specifies which Australian Standard it is referring to and ensures that the reference is current and cited correctly with its full title used. Alternatively, the definition should omit the Australian Standard entirely and refer to the symbols as defined in the Code to avoid any chance of inconsistency. Should the Shire wish to include the reference to the Australian Standard, it is suggested the Shire provide information to the Delegated Legislation Committee, when submitting its required documents, on how the general public will be able to freely access these standards. The Committee has previously inquired with local governments how this information will be available to the public.</p> <p>b) The Shire should check each of the defined terms under this clause as to whether they are already defined under the Code (e.g. “built-up area, etc.,”). If the definition of a term under the local law has a different definition under the Code, the local law will be inconsistent and void to the extent of the inconsistency. It is possible that the Joint Standing Committee may request an undertaking to correct the definition if it is not consistent with the Code.</p> <p>c) “disabled parking bay” – it is suggested that rather than referring to a disabled person, the clause should refer to a person who has a valid disability parking permit. Alternatively, the Shire may wish to remove this definition and instead insert a definition of “permit parking area” as it appears in the <i>Local Government (Parking for People with Disabilities) Regulations 2014</i>. This would ensure that the definitions are consistent.</p>	<p>Amended to refer to the Code, as per Bayswater</p> <p>Built-up area - amended                      Checked – various consequential minor changes made</p> <p>Deleted                      Inserted                      “Disabled person” amended to “person with a disability”</p>
		<p><b>Recommendation –</b></p> <p><b>Powers of the local government</b>                      Clause 2.1 provides the powers of the local government in relation to the prohibition and regulation of certain parking matters.                      The Committee has previously objected to clauses that the local government “may...indicate by signs”. This is because the Committee has taken the position that restrictions need to be clearly indicated to the public by signs.                      As drafted, clause 2.1 may be interpreted to mean that the indication of signs is optional. It is suggested that the Shire amends the clause to provide that it must erect signs when such resolutions are made. An example for drafting purposes only is to delete the words “by signs or otherwise”, renumber the existing clause to subclause “(1)” and then insert a new</p>	<p>Amend as suggested</p> <p>Amended</p>



		subclause (2) as follows: (2) Where the local government makes a resolution under subclause (1), it must erect signs to give effect to the resolution.	Inserted Intent remains the same
		<b>Recommendation –</b>	<b>Amend as suggested</b>
3	Part 3 Part 4 Part 5	<b>Parking Throughout the District, Parking in Built-Up Areas, Parking in the CBD</b> There are three Parts in the local law which refer to the different areas that the local law applies to, namely, parking in the district generally, built-up areas, and the CBD. The local law states that certain Parts override other Parts, which could lead to confusion and may result in members of the public accidentally committing an offence against the local law without realising it. This ambiguity may also result in authorised persons finding it difficult to comprehend, apply and enforce the local law.  It is suggested that the Shire considers the structure of the local law to ensure that: a) the area that each Part refers to can be clearly identified (e.g. clause 4.1 provides that Part 4 applies to the "built-up area of a built-up area", which is unclear. The Shire may wish to consider inserting further details of the areas referred to in each Part and diagrams/maps of the areas); and b) it is clear which provisions apply to each of the specified areas (e.g. the Shire could consolidate the three parts and insert the words "in a built-up area" or "in the CBD" in appropriate clauses. Another option is for the Shire to specify in each Part which provisions in the other Parts are and are not applicable to the particular area).  It is suggested that the Shire review the provisions of the local law to avoid any unnecessary duplication of clauses. For example, clauses 4.4, 4.9 and 4.10 are already substantially addressed at clause 3.6 – General prohibitions on parking.	The concept of the area/Parts was created as some restrictions applicable for the CBD or built up areas are inappropriate for farming areas. There are three distinct zones of activity within the Shire, and the local law is written to address this.  Noted  Provisions for over-riding sections deleted 4.1 corrected Description of CBD and amended definition of "built-up area" is considered adequate for purpose  Consolidation would require a range of exceptions for many actions to then be included, creating a range of different potential ambiguities.  Incorrect – 3.6 refers to "parking" whereas 4.9 and 4.10 relate to "stopping" – different actions under the Code 4.4 – deleted, with (2) transferred to 3.6(a)
		<b>Recommendation –</b>	<b>Amended as suggested</b>
4	3.16	<b>Stopping on crests, curves, etc</b> Clause 3.16 states that a person must not stop a motor vehicle on a road if it will not be visible to an overtaking vehicle which is a certain distance away. Depending on the hills and curves on a road, this may result in drivers committing an offence even when they are parked in a validly marked parking bay. It is common for parking local laws to contain the following exemption: (2) A driver may stop on a crest or curve on a carriageway if the driver stops at a	Inserted

	<p>place on the carriageway to which a parking control sign applies and the driver is permitted to stop at that place under this local law.</p> <p>The Shire may wish to consider adding a similar subclause.</p>	
<p><b>Amend as suggested</b></p> <p>The wording of the clause almost identical with that of the City of Wanneroo in their Gazetted Local Law of 2015.</p> <p>The Committee's Report indicates that the matter relates to the delegation of authority, and they consider that by allowing event parking to be determined by a simple majority of Council, or administratively, this bypasses the intent of public consultation and process, ordinarily required by a local law. In recognition of the sometime very limited timeframes prior to a special event, the Committee has allowed a formal determination process (advertising etc). The Committee notes that some local governments deleted the clause when queried, as they considered the likelihood of use to be rare.</p> <p>Although perhaps rare, the recent international hockey matches showed the possible need for an appropriate clause. Other occasions where there is a need for temporary arrangements include the annual Narrogin Show.</p> <p>A subclause could be inserted such as –</p> <p>(1) The local government may determine arrangements for event parking by giving 21 days local public notice on at least 2 occasions.</p> <p>Given that the JSCDL has previously accepted very similar provisions to the proposed clause, and more recently than the Report referred to by DLGC, it is suggested</p>	<p><b>Recommendation –</b></p> <p><b>Event parking</b></p> <p>The Joint Standing Committee on Delegated Legislation has previously found issues with clauses that relate to special event parking.</p> <p>The primary concerns of the Committee relate to sufficient public notice. In the event that the Shire wishes to retain the clause, it should consider the Committee's 44<sup>th</sup> Report. The Shire should also anticipate that the Committee may make further inquiries regarding this clause.</p>	<p>5</p> <p>4.5 (4.4)</p>



			that minimal change be made rather than impose further administrative task.
		<b>Recommendation –</b>	<b>Suggest remain unchanged</b>
6	6.4 7.5 7.6	<p><b>Forms of notices</b> It is suggested that the words “substantially in” be deleted from clauses 6.4, 7.5 and 7.6 of the local law. Under the <i>Local Government (Functions and General) Regulations 1996</i>, infringement and withdrawal notices need to be in the prescribed form. The Regulations do not appear to provide any leniency for notices to only “substantially” comply with the prescribed forms. In the past, the Committee has requested the words “substantially in” to be deleted. For consistency, it is also suggested that clause 7.5 only refers to one infringement notice rather than giving two options. Schedule 2 should be deleted if the reference to this form under clause 7.5 is removed (and the contents page updated accordingly).</p>	Deleted
7	Various	<p><b>Recommendation –</b> The following minor edits are suggested: a) On both the contents page and the first page of the local law, reference is made to the “Local Government Act 1976”. This should be amended to reflect the correct title of “Local Government Act 1995”. b) The Shire should ensure the contents page accurately reflects the content of the local law if suggestions made in these comments are adopted. c) Part headings should be bold, lower case and centralised. It is suggested that you replace all your part headings as follows – <b>Part 2 – Administration</b> d) Clause 1.2 – left align the sentence so it is consistent with the rest of the local law. e) Clause 1.4 – replace “are” with “is”. f) Clause 1.5(1) i. In the definition for authorised person, replace “authorised by” with “appointed by”; ii. In the definition of “caravan” delete the colon “:” between “5” and the semicolon. iii. In the definition of “CBD”, replace the comma “,” after “Clayton Road” with a semicolon “;”. iv. In the definition of “CBD”, replace the full stop “.” after “railway” with a semicolon “;”. v. Replace “commercial motor vehicle” with “commercial vehicle”. This change should be reflected in the entire local law. vi. In the definition of “edge line” replace the colon “:” with a semicolon “;”. vii. Replace “emergency motor vehicle” with “emergency vehicle” so it is consistent with the Code. This change should be reflected in the entire local law. viii. In the definition of “GVM” amend the definition to refer to the <i>Road Traffic (Vehicles) Act 2012</i>.</p>	Amend as suggested  Each item has been amended unless noted otherwise.

	<p>ix. Replace "heavy motor vehicle" with "heavy vehicle" so it is consistent with the Code. This change should be reflected in the entire local law.</p> <p>x. The definition of "motor cycle" in the Road Traffic Code has it spelled as one word – "motorcycle". The Shire should replace all instances of "motor cycle" in the local law with "motorcycle".</p> <p>xi. In the definition of "motor vehicle", replace "Road Traffic (Administration) Act 2012" with "Road Traffic (Administration) Act 2008" and delete the word "and" at the end of the line.</p> <p>xii. In the definition of "motorised scooter", change "10 km/h" to "10 kilometres per hour" – the Shire has expressed measurements (tonnes, metres, minutes) in full elsewhere in the local law and this should be consistent throughout.</p> <p>xiii. In the definition of "nature strip", after the word Code insert a semicolon " ;".</p> <p>xiv. In the definition of "notice of withdrawal" replace the cross-reference to "clause 7.6(1)" with "7.6(a)" and replace the full stop "." with a semicolon " ;".</p> <p>xv. In the definition of "owner" paragraph (a) replace "Road Traffic (Motor vehicles) Act 2012" with "Road Traffic (Vehicles) Act 2012".</p> <p>xvi. In the definition of "trailer", insert the word "and" after the semicolon.</p> <p>g) Clause 1.5(2) – amend the reference to the Road Traffic (Motor vehicles) Act 2012" with "Road Traffic (Vehicles) Act 2012". The reference to the "Road Traffic (Administration) Act 2013" should be changed to "Road Traffic (Administration) Act 2008".</p> <p>h) Clause 2.2(2) – insert a full stop "." at the end of the sentence.</p> <p>i) Clause 3.3(c)(ii) – delete "between".</p> <p>j) Clause 3.3(e) – delete the comma between "carriageway" and the full stop.</p> <p>k) Clause 3.6(2) – replace the cross reference to "Subclauses (2)(c)" with "Subclauses (3)(c)".</p> <p>l) Clause 3.6(3) – replace "law" with "applicable law".</p> <p>m) Clause 3.6(3)(i) – insert the word "or" after the semicolon.</p> <p>n) Clause 3.6(3)(j) – after "parked," move the remaining sentence to the end of the paragraph as follows:</p> <p>(e) within 10 metres of the nearer property line of any thoroughfare intersecting the thoroughfare on the side on which the vehicle is parked, unless a sign or markings on the carriageway indicate otherwise.</p> <p>o) Clause 3.7(2)(b) – after "vehicle" insert "or a passenger in the vehicle."</p> <p>p) Clause 3.7(4) – replace "vehicles Only" with "Vehicles Only".</p> <p>q) Clause 3.11 – replace the first occurrence of "stop" with "park".</p> <p>r) Clause 3.12(1) – to use terms defined in the Code, it is suggested that you replace "a "keep clear area" with "an area that has clear markings".</p> <p>s) Clause 3.13 – check that the subsections referred to are correct.</p> <p>t) Clause 3.17 – for consistency with the surrounding clause titles, the title should be changed to "Stopping near a fire hydrant, etc." and this change should also be made to the listing in the contents.</p> <p>u) Clause 3.18 – delete the "!" after the dash "-".</p>	
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- v) Clause 3.20(1) – replace “A sign is to” with “A sign is to” and replace “that where that sign” with “where that sign”.
- w) Clause 3.20(1)(a) – replace “coming into operation” with “commencement”.
- x) At 3.20(1)(b) replace the comma after “district” with a full stop “.”.
- y) Clause 3.21 – delete the extra space between clauses 3.21 and 3.22.
- z) Clause 4.2(b) – replace “Road Traffic (Motor vehicles) Act 2012” with “Road Traffic (Vehicles) Act 2012”.
- aa) Clause 4.5 – if the Shire chooses to retain this clause, the clause heading should be changed to “Event parking” and this change should also be made to the listing in the contents.
- bb) Clause 4.8(2) – replace “parking a motor vehicle stop or shall park” with “parking a motor vehicle shall stop or park”.
- cc) Clause 4.11(1) – delete “stop” from paragraphs (a), (b) and (c).
- dd) Clause 4.11(1)(b) – replace “commercial motor vehicle” with “commercial vehicle”.
- ee) Clause 4.11(3) – replace “commercial motor vehicle” with “commercial vehicle”.
- ff) Clause 5.1(2) – remove the indent between “(2)” and “This” so the clause is consistently formatted.
- gg) Clause 6.2(a) – replace “believes” with “believe”.
- hh) Clause 7.4(1) - replace “Schedule 4” with “Schedule 3”.
- ii) Schedule 1 – under Documentation required, replace “Current Motor vehicle Registration Document” with “Current motor vehicle registration document”.
- jj) The sentence “The motor vehicle will then be available for release, by contacting the Shire to make the necessary arrangements” should be closed with a full stop “.” and a dash should be added after the words “Additional days storage fee or part thereof” to maintain consistency with the other fields in the form.
- kk) Schedule 2 – insert a dash “-” after the words “As from” in the form and insert a full stop at the end of the sentence “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 within a period of 28 days after the giving of this notice”.
- ll) Schedule 3 – update the clause numbers to accurately reflect any changes made as a result of the department’s comments.
- mm) Schedule 3
  - i. Item 1 can be deleted as the offence is against the *Local Government (Parking for People with Disabilities) Regulations 2014* rather than this parking local law. The Shire can enforce the Regulations directly rather than attempting to mirror offences against them in the local law.
  - ii. It is suggested that the offences under item 2 are separated into offences for each subclause, as follows:
    - Clause 3.3(1)(a), “Failure to park on the left of a two-way carriageway”.
    - Clause 3.3(1)(b), “Failure to park on the left of a one-way carriageway”.
    - Clause 3.3(1)(c), “Parking when distance from farther boundary is less than 3 metres”.

While the number of items in Schedule 3 is substantially lengthened, there are no additional penalties created, nor changes in value.

	<ul style="list-style-type: none"> <li>▪ Clause 3.3(1)(d), "Parking closer than 1 metre from any other motor vehicle"</li> <li>▪ Clause 3.3(1)(e), "Causing obstruction"</li> </ul> <p>iii. In the description of item 3, replace "parking too close to a railway level crossing" with "parking vehicle within 20 metres of approach side or departure side of railway level crossing".</p> <p>iv. In the description of item 4, replace "Unauthorised parking on a reserve" with "Driving or parking on reserve".</p> <p>v. It is suggested that the offences under item 5 are separated into offences for each subclause, as follows:</p> <ul style="list-style-type: none"> <li>▪ Clause 3.6(3)(a), "Double parking"</li> <li>▪ Clause 3.6(3)(b), "Parking on or adjacent to a median strip"</li> <li>▪ Clause 3.6(3)(c), "Obstructing a private driveway or right of way"</li> <li>▪ Clause 3.6(3)(d), "Parking beside excavation or obstruction so as to obstruct traffic"</li> <li>▪ Clause 3.6(3)(e), "Parking within 10 metres of traffic island"</li> <li>▪ Clause 3.6(3)(f), "Parking on footpath, children's crossing or pedestrian crossing"</li> <li>▪ Clause 3.6(3)(g), "Parking contrary to continuous line markings"</li> <li>▪ Clause 3.6(3)(h), "Parking on an intersection"</li> <li>▪ Clause 3.6(3)(i), "Parking within 1 metre of a fire hydrant"</li> <li>▪ Clause 3.6(3)(j), "Parking within 10 metres of an intersection"</li> <li>▪ Clause 3.6(4)(a) or (b), "Parking vehicle within 10 metres of departure side of bus stop, children's crossing or pedestrian crossing"</li> <li>▪ Clause 3.6(4)(a) or (b), "Parking vehicle within 20 metres of approach side of bus stop, children's crossing or pedestrian crossing"</li> </ul> <p>vi. It is suggested that the offences under item 6 are separated into offences for each subclause, as follows:</p> <ul style="list-style-type: none"> <li>▪ Clause 3.7(1), "Parking contrary to signs on thoroughfare or parking facility"</li> <li>▪ Clause 3.7(2), "Parking contrary to limitations on thoroughfare or parking facility"</li> <li>▪ Clause 3.7(3), "Parking motor vehicle in a stall marked "M/C" that is not a motorcycle or bicycle"</li> <li>▪ Clause 3.7(4), "Parking without permission in an area designated for "Authorised Motor Vehicles Only"</li> </ul> <p>vii. In the description of item 14, replace "Stopping on a bridge etc" with "Stopping on a bridge, etc."</p> <p>viii. In the description of item 15, replace "Stopping on crests/curves" with "Stopping on crests, curves, etc."</p> <p>ix. It is suggested that the offences under item 24 are separated into offences for each subclause, as follows:</p>



<ul style="list-style-type: none"> <li>▪ Clause 4.2(a), "Parking in thoroughfare for purpose of sale".</li> <li>▪ Clause 4.2(b), "Parking unlicensed vehicle in thoroughfare".</li> <li>▪ Clause 4.2(c), "Parking a trailer or caravan on thoroughfare".</li> <li>▪ Clause 4.2(d), "Parking in thoroughfare for purpose of repairs".</li> </ul> <p>If the Shire chooses not to separate out these items, the full stop at the end of the described offence should be deleted.</p>	<p>x. In the description of item 30, replace "Failure to park with market bay or lane" with "Failure to park wholly within a parking bay or lane".</p> <p>xi. It is suggested that the offences under item 30 are separated into offences for each subclause as follows:</p> <ul style="list-style-type: none"> <li>▪ Clause 4.7(1)(a), "Causing obstruction at parking facilities".</li> <li>▪ Clause 4.7(1)(b), "Parking contrary to a sign at a parking facility".</li> <li>▪ Clause 4.7(1)(c), "Failure to comply with directions of an authorised person in a parking facility".</li> <li>▪ Clause 4.7(1)(d), "Parking or attempting to park a motor vehicle in a bay occupied by another motor vehicle".</li> </ul> <p>i. In the description of item 40, replace "Failure to comply with time parking sign" with "Parking vehicle in excess of maximum time".</p> <p>ii. In the description of item 41, replace "Unauthorised making or removal of mark" with "Removing mark of authorised person".</p> <p>iii. All item numbers should be amended to reflect the additional items.</p> <p>The Shire should ensure that all references and cross-references in the local law are correct.</p> <p><b>Recommendation –</b></p>	<p><b>Amended as noted</b></p>
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<p><b>Ms Donna Hardie</b></p>		<p><b>Review Comment</b></p> <p>Time limits for various bays will be as signed, and are not part of the local law.</p> <p>Noted.</p> <p>Suggestion would require Ranger to identify "non-customer" cars. Unless these vehicles display some form of identification, unable to separate from others, but still relies on the good-will of those businesses and customers for compliance.</p> <p><b>Recommend no change</b></p>
<p><b>Item</b></p>	<p><b>Clause</b></p> <p><b>Comment</b></p> <p>I'm contacting the town of Narrogin regarding the situation of business owners &amp; their staff parking ALL day on the main streets around town.</p> <p>I have a business on Egerton St and I'm sick and tired of the parking spaces along here and also along the one way street been used by workers &amp; business owners.</p> <p>I know the town is looking at changing the parking limit too two hours and some 20min bays. I don't feel this will be a solution as to the problem. When we have out-of-town visitors to our town we need the parking to be for as long as they require. If someone is in my shop they can be here between 45mins to 2 1/2 hours. I don't want people getting fined for this. I do think that a few 15-20mins bays on each street is a good idea tho.</p> <p>As far as stopping business &amp; employees parking in bays that should be for customers, just send ALL businesses a map of town and where 'staff' parking is. If they park in the wrong spot they will be fined.</p>	<p><b>Recommendation –</b></p>

## 10.2.083 COMMITTEE NOMINATIONS AND EXTERNAL ORGANISATION REPRESENTATIVES

**File Reference:** 1332  
**Disclosure of Interest:** Nil  
**Applicant:** Not Applicable  
**Previous Item Nos:** Nil  
**Date:** 18 June 2016  
**Author:** Niel Mitchell, Merger Project Manager

### Attachments

- Listing of proposed nominations and representatives

### Summary

Consideration of the membership of Council established Committees and nominations of Council to external organisations not controlled by Council.

### Background

There is a legislative requirement for the establishment and nominations of the Audit Committee and the Local Emergency Management Committee, and for representatives to the Development Assessment Panel.

In addition, there are several Local Government based external organisations and many community organisations that should have continuity of representation.

### Comment

For the purposes of Committees and external representation, Commissioners are considered elected members for the duration of their appointment.

It should be noted that –

- there are legislative requirements that are mandatory for any Committee established by Council, regardless of membership composition.
- external organisations are those that Council has no responsibility for establishment, management or oversight. Accordingly, a clear division between the two needs to be maintained.
- an appointment by name is specific to that person, whereas an appointment by position means the incumbent or a person relieving to that position may substitute.

The Act permits a deputy to be appointed for a committee member, however, it is mandatory that the deputy have the same origin as the appointed member. For instance a former councillor cannot be a deputy to a Commissioner, nor Commissioner for a community member. This restriction does not apply to representatives to external organisations.

The attached listing is a proposal for the period 1 July 2016 until Committees are established by the new Council in October 2016, and representatives to external organisations appointed.



The recommendations are based on committees established by the former Town, so those committees are continuing with revised membership. No revision of terms of reference for these committees is proposed at this time, but would be appropriate for their re-establishment in October 2016.

The only committees established by the former Shire were the Audit Committee, and joint operation of the Local Emergency Management Committee.

External representation lists all from both precursor local governments, as each had nominated representatives to a number of organisations not considered by the other.

In some instances, both committee membership and external representation is suggested for deferment until October, when the new Council can consider whether to continue with the committee or representation.

This listing was considered by the Transition Working Group Meeting on 10 May 2016 and by the former Shire of Narrogin on 19 May 2016, and the former Town of Narrogin on 24 May 2016.

Following discussion with the Commissioners on 14 June 2016, it is suggested that Commissioner Leigh Ballard be a delegate to the Central Country Zone, and Commissioner Ron Yuryevich be a Deputy Delegate to the Zone.

Committee Terms of Reference, establishment and membership are currently being reviewed. The Act provides for a Committee to continue until disbanded, although membership is required to be reappointed after every local government election. An item will be put to Council in the near future, to allow for approach to be made to relevant community organisations and advertising, if appropriate for general community nominations to be appointed as members of Council Committees.

The Terms of Reference (TOR) and community nominations for appointment will then be considered and finalised by the newly elected Council in October 2016. It is expected that there will be significant changes in TOR, membership, governance arrangements etc required, and these will be implemented at that time.

### **Consultation**

- Aaron Cook, CEO, Shire and Town of Narrogin.
- Transition Working Group, 10 May 2016.
- Shire of Narrogin, Council meeting 19 May 2016.
- Town of Narrogin Council meeting 24 May 2016.

### **Statutory Environment**

*Local Government Act 1995 –*

- *s.5.8 – establishment of committees, must have a minimum of 3 members in total, stipulate quorum, terms of reference etc.*
- *s.5.9 – types of committees (composition).*
- *s.5.10(1) – requirement for the members of a committee to be appointed by Council by absolute majority.*

- s.5.11A
  - (1) – Council may appoint a deputy to a committee member by absolute majority.
  - Deputies appointed must be like for like.
- s.5.11 – tenure of committee established may be limited.

**Policy Implications**

Nil

**Financial Implications**

Nil

**Strategic Implications**

Continuity of representation of membership of the local government's committees and to external organisations.

**Voting Requirements**

Absolute Majority

**OFFICER'S RECOMMENDATION**

That Council:

1. endorse the attached listing of Committee members and representatives to external organisations, for the period 1 July 2016 until considered by the Council in October 2016, be approved, with the following amendments:
  - Commissioner Geoff Ballard as Delegate to the Central Country Zone, and
  - Commissioner Ron Yuryevich as Deputy Delegate to the Zone.
  
1. the continuation of current community members on local government Committees, be endorsed.

**COUNCIL RESOLUTION 0714.106 AND OFFICER'S RECOMMENDATION**

**Moved: Commissioner G Ballard**

**Seconded: Commissioner L Ballard**

That Council:

1. endorse the attached listing of Committee members and representatives to external organisations, for the period 1 July 2016 until considered by the Council in October 2016, be approved, with the following amendments:
  - Commissioner Leigh Ballard as Delegate to the Central Country Zone, and



- Commissioner Geoff Ballard as Deputy Delegate to the Zone.
2. the continuation of current community members on local government Committees, be endorsed.

**CARRIED 3/0  
BY ABSOLUTE MAJORITY**

Please note: Reason for change was to amend the names of the Commissioner representatives.

<b>Commonly-used abbreviations:</b>	
<b>CEO</b>	<b>Chief Executive Officer</b>
<b>TOR</b>	<b>Terms of Reference</b>

**COMMITTEE MEMBERS and EXTERNAL ORGANISATION REPRESENTATIVES**  
For period 1 July 2016 until Council determination in October 2016 as at 18 June 2016

<b>Council Committee</b>	<b>Member/s</b>	<b>Deputy/s</b>
<b>Audit Committee</b>	Commissioner Ron Yuyevich	
	Commissioner Leigh Ballard	
	Commissioner Geoff Ballard	
	Barry Hardie	
	Paul Schutz	
<b>Local Emergency Management Committee</b>	Commissioner Leigh Ballard	
	Commissioner Geoff Ballard	
	Manager Operations	
<b>Australia Day Committee</b>	Arthur Paternoster	
	Jan McKenzie	
	Colin Ward	
	Janice Sieber	
<b>Townscape Advisory Committee</b>	Jan McKenzie	
	Clive Bartron	
<b>Narrogin Safe Town / Roadwise Committee</b>	Commissioner Leigh Ballard	
	Arthur Paternoster	
	Michael Kain	
<b>Disability Access Advisory Committee</b>	Clive Bartron	
	David Russell	
<b>Narrogin Airport Committee</b>	Commissioner Leigh Ballard	
	Richard Chadwick	
	Arthur Paternoster	
	Keiran Quartermaine	
	Clive Bartron	
	Barry Hardie	
<b>CEO Performance Review and Advisory Committee</b>	Incorporate into Audit Committee Terms of Reference	
<b>Narrogin Leisure Centre Committee</b>	Defer / Discontinue	
<b>Courthouse Museum Committees</b>	Defer	



## REPRESENTATIVES TO EXTERNAL ORGANISATION

For period 1 July 2016 until Council determination in October 2016

as at 18 June 2016

External organisations are those where Council does not exercise any control (establishment, dissolution etc), and may be established by a variety of arrangements.

External Organisation	Delegate/s	Deputy/s
<b>Development Advisory Panel</b> must be elected member	Commissioner Leigh Ballard	None
	Commissioner Geoff Ballard	
<b>Central Country Zone WALGA</b> must be elected member	Commissioner Leigh Ballard	Commissioner Geoff Ballard
<b>Wheatbelt South Regional Roads Group</b> ( & Narrogin Sub-Group) must be elected member	Commissioner Leigh Ballard	
	Commissioner Geoff Ballard	
<b>CATS Advisory Group</b> (Community Assisted Transport Service)	Clive Bartron	Paul Schutz
	Andrew Borthwick	
<b>Narrogin Agricultural College Advisory Committee</b>	Commissioner Geoff Ballard	
<b>Narrogin Chamber of Commerce</b>	Commissioner Leigh Ballard	Michael Kain
	Commissioner Geoff Ballard	Murray Fisher
	Paul Schutz	
	CEO	DCCS
<b>Dryandra Country Visitors Centre</b>	Janice Sieber	Murray Fisher
	Arthur Paternoster	
<b>Narrogin Cottage Homes Committee</b>	David Russell	Commissioner Leigh Ballard
	Tim Wiese	
<b>Regional Waste Management Group</b>	Commissioner Leigh Ballard	Commissioner Geoff Ballard
<b>Rural Clinical School Advisory Group</b>	Defer	
<b>Narrogin Community Youth Support Committee</b>	Defer	
<b>Regional Childcare</b>	Defer	
<b>Dryandra Voluntary Regional Organisation of Councils</b>	Defer	
<b>Intensive Agriculture Committee</b>	Defer	
<b>Tourism and Area Promotion</b>	Defer	

Other Council involvement in Committees –

<b>Narrogin Land Conservation District Committee</b>	Andrew Borthwick	Committee being wound up
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Commissioner L Ballard and Commissioner G Ballard declared an interest in the following agenda item. As the motion cannot proceed it is deferred to the next ordinary meeting of Council.

## **10.2.084 DRAFT POLICY – ELECTED MEMBERS RECOGNITION OF SERVICE**

### **File Reference:**

**Disclosure of Interest:** Nil  
**Applicant:** Not Applicable  
**Previous Item Nos:** Nil  
**Date:** 18 June 2016  
**Author:** Niel Mitchell, Merger Project Manager

### **Attachments**

- Draft Policy – Elected member recognition of service

### **Summary**

Consideration of a draft policy for Elected Members Recognition of Services

### **Background**

Many Councils have a policy in recognition of the service given by their elected members.

### **Comment**

As the former Shire of Narrogin has now been abolished, and all elected members of the former Town of Narrogin have resigned, it would be appropriate that consideration be given to such a policy for the merged Shire.

The Local Government Act s.5.100A specifies that a gift cannot be given to a Council member except as prescribed. The Administration Regulations r.34AC restricts the gift to –

- elected members who have completed at least one 4 year term.
- maximum amount of gifts is up to \$100 per year of service to a maximum of \$1,000.

It should be noted that a decision to make a gift is a financial interest for any person that may benefit from the adoption of the policy, and must therefore be declared under the Act. For the Councils or Commissioners to consider the matter, the approval of the Minister will be required under the Act s.5.69, and if to be a Policy, a draft policy submitted.

Application under s.5.69 may be made by council or the CEO.

Attached is the draft Policy as discussed by the Transition Working Group.

### **Consultation**

- Aaron Cook, CEO, Shire and Town of Narrogin.



- Transition Working Group, 14 June 2016.

### **Statutory Environment**

#### *Local Government Act 1995 –*

- s.5.60 – *when a person has an interest.*
- s.5.60A – *financial interest.*
- s.5.69 – *Minister may allow members disclosing interests to participate etc. in meetings.*
- s.5.100A – *gifts to elected members may only be made in prescribed circumstances.*

#### *Local Government (Administration) Regulations 1996 –*

- r.34AC – *gifts to council members, when permitted etc.*
  - (1) *at least one 4 year term must be completed.*
  - (2) *maximum gift of \$100 per year of service to maximum of \$1,000.*

### **Policy Implications**

Draft new policy.

### **Financial Implications**

Cost of gifts to departing elected members.

### **Strategic Implications**

Nil

### **Voting Requirements**

Absolute Majority

<b>OFFICER'S RECOMMENDATION</b>
---------------------------------

That Council:

Review the attached proposed Policy and recognise this it instigates financial interests under the Act and Council request the Minister for exemption under *the Local Government Act s.5.69* for disclosing persons to participate and vote on the matter.

# Draft Policy

## Elected Members – Recognition of service

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<b>Statutory context</b>	Local Government Act 1995 – <ul style="list-style-type: none"><li>• s.5.60 – when a person has an interest</li><li>• s.5.60A – financial interest</li><li>• s.5.69 – Minister may allow members disclosing interests to participate etc. in meetings</li><li>• s.5.100A – gifts to elected members may only be made in prescribed circumstances</li></ul> Local Government (Administration) Regulations 1996 – <ul style="list-style-type: none"><li>• r.34AC – gifts to council members, when permitted etc.<ul style="list-style-type: none"><li>(1) at least one 4 year term must be completed</li><li>(2) maximum gift of \$100 per year of service to maximum of \$1,000</li></ul></li></ul>
<b>Council context</b>	None
<b>History</b>	Adopted _____ Last amended _____

### Policy Statement

1. The CEO is to arrange a suitable gift for departing elected members, to the value permitted by the *Local Government (Administration) Regulations 1996 s.34AC*, on the basis of –
  - a) \$50.00 per year for each Elected Member,
  - b) an additional \$25.00 per year for each year of service as Deputy President / Mayor,
  - c) an additional \$50.00 per year for each year of service as President / Mayor,
2. Multiple terms of service as a member of Council are to be considered individually according to each period, and not cumulatively.
3. Each departing Councillor shall also receive an appropriate plaque or certificate of service.
4. Presentation of the gift and plaque or certificate will generally be made at the final meeting being attended by the Councillor, or at a suitable function.
5. Where qualifying, application for a Certificate of Appreciation from the Minister is to be made through the Department of Local Government.

– End of Policy

### Notes

**Statutory requirement – Prior to adoption, amendment or revocation to clauses 1, 2 or 3 of this Policy, elected members must –**

- **declare a financial interest in accordance with the Local Government Act, and**
- **receive written permission of the Minister for Local Government to participate and vote.**

This Policy is a Financial Interest as defined by the Local Government Act s.5.60 and 5.60A and an exemption from the Minister under s.5.69, is therefore required prior to any amendment, alteration or revocation of the Policy whatsoever.

Although Councillors are able to claim travel, meeting expenses etc as of right, it is considered appropriate that there be some recognition from the Shire on behalf of the community, for their commitment to the district.

Where qualifying, enquiries should also be made through the Department of Local Government to obtain a Certificate of Appreciation from the Minister



## 10.2.085 DELEGATIONS REGISTER 2016/2017 – ADOPTION

**File Reference:** 1342  
**Disclosure of Interest:** Nil  
**Applicant:** Not Applicable  
**Previous Item Nos:** Nil  
**Date:** 5 July 2016  
**Author:** Niel Mitchell, Merger Project Manager

### Attachments

- Draft Delegations Register 2016/2017.

### Summary

To adopt the Delegations Register 2016/2017.

### Background

The purpose of this report is the adoption of the Delegations Register 2016/2017 in accordance with the provisions of the *Local Government Act 1995*.

### Comment

The draft Delegations Register 2016/2017 is derived from –

- former Shire and former Town of Narrogin Delegations Registers,
- review of former Shire and former Town of Narrogin Policy Manuals,
- review of a number of documents from other local governments, including City of Armadale, City of Busselton, Shire of Yilgarn and others.

Previously there were quite a number of delegations that –

- were very similar or doubled up,
- had their origin in a single item of legislation,
- should not be considered a delegation, as they were of administrative nature, or
- were inappropriately included, particularly statutory planning matters, as planning policy requires a specific process for adoption.

Accordingly, the draft Delegations Register is a complete re-write of previous delegations, after consolidation or removal as necessary.

During the course of its development, there were brief discussions with Mr Anthony Quahe, Civic Legal, and Mr Tim Fowler, Dept of Local Government and Communities.

In line with DLGC advice and that of Civic Legal, the delegations are prepared on the basis that the CEO should have as broad an operating authority as is possible, consistent with legislation, Council's strategic directions, and the level of control and management desired. Accordingly, the Delegations are written to provide the CEO with a broad ability, but are subject to a range of limitations or requirements specified in the delegation.

As these limitations and requirements are part of the delegated decision, the CEO has no discretion to modify them. Amendment must be made by absolute majority of Council.

Each delegation cites the head of power to be exercised, and generally a number of additional citations are made for ease of reference with the delegation is used.

The Act requires –

- each delegation to be in writing both when given by Council or on further delegation by the CEO.
- each delegation to be approved by absolute majority of Council when made to CEO or other officer –
  - o generally all delegations are made to CEO, regardless of authorising legislation,
  - o in some instances, particularly health, food and buildings, a delegation may only be made to a qualified or registered person.
- the use of the delegation to be recorded in writing –
  - o this does not imply a register of exercise of use of the delegated authority to be completed, only that there is a written record of its use,
  - o accordingly, each delegation also specifies what the written record is to be.
- the CEO may only delegate to employees-
  - o this has been taken to include employees under contract, such as a Registered Building Surveyor etc, but does not include a consultant contracted to the Shire.

The arrangement of the document is –

- Part A – all delegations made to CEO, regardless of authorising legislation -
  - o Further delegations by the CEO is permitted to officers as noted,
  - o The CEO is not obligated to delegate permitted delegations to officers, and may place further limits on secondary delegations as is considered appropriate.
- Part B – delegations made to other officers as required by legislation -
  - o Further delegation by other officers is not permitted.
- Part C – record of secondary delegations and their extent/limits, and of authorised officers is information only and does not require specific authorisation -
  - o Section 21.3 Authorised Officer appointed by CEO under delegated authority is incomplete, and files are being reviewed for current authorisations in order to update.

Delegations may be adopted, amended or revoked at any time, by an absolute majority of Council.

It is intended that further review of the Delegations Register be made over the coming months, and if appropriate, further considered following the election of the new Council in October 2016.

### **Consultation**

- Aaron Cook, CEO, Shire of Narrogin.
- Relevant staff members.
- Anthony Quahe, Civic Legal.
- Tim Fowler, Department of Local Government and Communities.
- Various source Local Governments.

### **Statutory Environment**

*Local Government Act 1995* –



- s.5.42 – Council may delegate certain powers and functions to the CEO by absolute majority, in writing.
- s.5.43 – Limits on delegations to CEO.
- s.5.44 – CEO may further delegate the discharge of duties to any employee, in writing.
- s.5.46 – register of delegations made to CEO or to other staff by CEO –
  - (1) to be kept,
  - (2) to be reviewed annually,
  - (3) record of exercise of the power or discharge of duty to be kept.

*Local Government (administration) Regulations 1996 –*

- r.18G – some matters may not be delegated to CEO.
- r.19 – Delegates to keep certain records.

**Policy Implications**

Nil

**Financial Implications**

Nil.

**Strategic Implications**

Nil

**Voting Requirements**

Absolute Majority

Commonly-used abbreviations:	
CEO	Chief Executive Officer
DLGC	Dept of Local Government and Communities

**OFFICER'S RECOMMENDATION**

That Council –

1. adopts Part A (Primary Delegations – to CEO), and Part B (Primary Delegations – to other officers), of the draft Delegations Register 2016/2017 as attached, and
2. notes Part C (Secondary Delegations and Authorised Persons) of the draft Delegations Register 2016/2017 as attached, for information.

**COUNCIL RESOLUTION 0714.107**

**Moved: Commissioner G Ballard**

**Seconded: Commissioner L Ballard**

That Council:

1. adopts Part A (Primary Delegations – to CEO), and Part B (Primary Delegations – to other officers), of the draft Delegations Register 2016/2017 as attached except for those listed below which are deferred until after Gazettal of the Local Law:
  - 4.3 Cats Local Law 2016
  - 4.5 Dogs Local Law 2016
  - 4.8 Parking Local Law 2016
  - 6.1 Health Local Law 2016 – authorised person
  - 6.2 Amenity Local Law 2016
  - 7.1 Cemetery Local Law 2016
  - 10.5 Fencing Local Law 2016
  - 11.3 Public Places and Local Government Property Local Law 2016
  - 18.2 Health Local Law 2016 – Qualified person
2. notes Part C (Secondary Delegations and Authorised Persons) of the draft Delegations Register 2016/2017 as attached, for information.

**CARRIED 3/0  
BY ABSOLUTE MAJORITY**

Please note: Reason for change was to remove the delegations to the local laws that have not been enacted.





Shire of  
**Narrogin**  
*Love the life*

89 Earl Street, Narrogin  
**Correspondence to:**  
PO Box 1145, Narrogin WA 6312  
T (08) 9890 0900  
E [enquiries@narrogin.wa.gov.au](mailto:enquiries@narrogin.wa.gov.au)  
W [www.narrogin.wa.gov.au](http://www.narrogin.wa.gov.au)

# REGISTER OF DELEGATIONS

## CEO AND OFFICERS

### FOR 2016 / 2017



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Review of Delegations Financial Year 2016/2017

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New delegations

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Review of delegations

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Delegation by CEO

## Certification

### Review of Delegations Financial Year 2016/2017

#### Delegations to CEO and other Officers

The Delegations contained in Parts A and B of this Register were formally reviewed by Council on

\_\_\_\_\_ and adopted by absolute majority.

\_\_\_\_\_  
**Ron Yuryevich**  
Chairman of Commissioners

\_\_\_\_\_  
Date

#### Delegations by CEO to other Officers

The Delegations contained in Part C of this Register were formally reviewed by me and approved

\_\_\_\_\_  
**Aaron Cook**  
CEO

\_\_\_\_\_  
Date

## PART A – PRIMARY DELEGATIONS – to CEO

### Section 1 - Council / Governance

#### 1.1 Appointment of authorised persons

---

<b>Statutory context</b>	Local Government Act 1995 – <ul style="list-style-type: none"> <li>• s.3.18 – local government to administer its local laws and perform its required functions under the Act</li> <li>• s.9.10(1) – Appointment of authorised persons</li> </ul>
<b>Council context</b>	None
<b>Primary delegation</b>	CEO
<b>Secondary delegation</b>	Not permitted
<b>Permitted to</b> (Refer Part C)	None
<b>Formal record of use</b>	Authorised person's certificate of authorisation File copy of authorisation
<b>File number</b>	Personnel file Relevant subject file
<b>History</b>	Adopted _____ Last amended _____

#### Functions to be performed

The CEO is delegated authority to appoint employees (including employees under contract) as authorised persons for the purposes of performing functions under the following Acts and associated Regulations –

- (a) Local Government Act 1995, excluding –
  - s.5.37(1) – determination that an employee or class of employee is or is not designated; and
  - s.5.37(1) – appointment or termination of a person to a designated position without Council's consent
- (b) Local Government (Miscellaneous Provisions) Act 1960
- (c) Health Act 1911, excluding –
  - s.27(1) – appointment of a Medical Officer of Health
- (d) Building Act 2011
- (e) Bush Fires Act 1954
- (f) Cat Act 2008
- (g) Cemeteries Act 1986
- (h) Dog Act 1976
- (i) Environmental Protection Act & Regulations 1986
- (j) Food Act 2008
- (k) Litter Act 1979
- (l) Planning and Development Act 2005
- (m) Control of Vehicles (Off-road Areas) Act 1978
- (n) Caravan Parks & Camping Grounds Act 1995



The CEO is delegated authority to appoint employees (including employees under contract) as authorised persons for the purposes of performing functions under the following local laws –

- (a) Animals, Environment & Nuisance
- (b) Cats;
- (c) Cemetery
- (d) Dogs,
- (e) Fencing,
- (f) Heath,
- (g) Local Government Property and Public Places;
- (h) Parking

The CEO is delegated authority to appoint employees (including employees under contract) as authorised persons for the purposes of performing functions under –

- (a) Local Planning Scheme;
- (b) Local Planning Policy.

Appointments made by the CEO are limited to employees of the Shire, and are to state the appointment is for –

- (a) the duration of employment by the Shire,
- (b) the duration of the contract with the Shire, or
- (c) specified time, event or purpose.

Appointment to a position by Council or CEO, in either a substantive or temporary capacity, includes the authority to administer and perform the functions delegated to that position, subject to –

- (a) any limitations specified in the relevant general delegation to the person or position;
- (b) any specific limitations imposed by the Council or CEO in making the appointment.

All proposals to commence prosecution are to be referred to Council for decision, unless specifically authorised under delegated authority or by specific decision.

– End of Delegation

## Notes

No delegated authority for –

- legislation not listed,
- persons who are not employees.
- Meeting Procedure Local Law – not required
- Bush Fire Brigades Local Law – fire control officers not being employees are to be appointed/confirmed annual by Council

Authorised persons exercise their authority directly from the Act, Regulation or local law that refers to “an authorised person”, and may be appointed directly by Council, or by the CEO under delegated authority.

Where the Act, Regulation or local law refers to “local government” the function must be exercised through a formal delegation.

Where the Act, Regulation or local law refers to “Council”, it means the elected members in session.

Appointments of person other than employees are to be referred to Council for determination.

Some appointments can be made independent of employment with the Shire, and unless revoked or otherwise limited, the appointment continues to remain valid. This is the case with Fire Control Officers, Authorised Dog Control Officers etc. Their appointment means –

- the community member is an officer of Council,

- as an officer or Council, there is a duty of care to the person, as well as to the community, and must ensure that the person is adequately resourced for the task, including training, equipment etc, as necessary,
- as an officer of the Shire, there is a legal responsibility for their actions, and in making the appointment there is an obligation to be satisfied that the person is appropriate and competent to exercise the authority.

As these appointments mean that the person is an officer of Council for that specific purpose, they have the statutory authority to commit Council to particular actions, initiate various proceedings etc, as listed in the authorising Act, and as permitted or limited by Council.

When making an appointment, the CEO must be certain that the person appointed is capable of undertaking the role, is a suitable, and provide the necessary resources for the role to be carried out such as training, equipment, etc.

This delegation does not apply to allocation of statutory functions made by the CEO to fulfil legislative requirements undertaken as a component of administrative tasks.

## 1.2 Acting CEO – Appointment

---

<b>Statutory context</b>	Local Government Act 1995 – <ul style="list-style-type: none"> <li>• s.5.35 – Appointment of CEO requires absolute majority</li> <li>• s.5.37 – Designation as senior employee to have Council consent</li> <li>• s.5.42 – Council may delegate functions to CEO</li> </ul>
<b>Council context</b>	None
<b>Primary delegation</b>	CEO
<b>Secondary delegation</b>	Not permitted
<b>Permitted to</b> (Refer Part C)	None
<b>Formal record of use</b>	Written record on personnel file
<b>File number</b>	Personnel file
<b>History</b>	Adopted _____ 2016

### Functions to be performed

The CEO is delegated authority to appoint an officer designated under the Local Government Act 1995 s.5.37 as Acting CEO when the CEO is on periods of leave, over a minimum of 5 days and up to a maximum period of 20 working days.

In the case of the unavailability of the CEO due to emergency, the DCCS is automatically appointed as Acting CEO for up to 2 weeks from commencement, and continuation is then subject to confirmation by President/Council.

– End of Delegation

### Notes

Council may only delegate to a CEO under the Local Government Act s.5.42 who is appointed in accordance with s.5.35(1)&(2) requiring an absolute majority. Accordingly, a person who is to exercise the responsibilities and delegations of CEO while acting in that position must also have specific Council approval.

Designation as a senior employee under s.5.37 complies with this requirement, as it specifies that Council must consent to the employment of a designated senior employee.

Generally, employees designated under the Act s.5.37 will only be –

- Director Corporate & Community Services
- Executive Manager Development & Regulatory Services
- Executive Manager Technical & Rural Services

A senior employee in the organisation is not automatically a designated employee under s.5.37.



## Section 2 - Administration / Organisation

### 2.1 Common Seal – Execution of documents

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<b>Statutory context</b>	<p>Local Government Act 1995 –</p> <ul style="list-style-type: none"> <li>• s. 5.43(ha) – CEO cannot authorise a person to sign documents on behalf of the local government</li> <li>• s.9.49A(1) –only affixed as authorised by Council</li> <li>• s.9.49A(2) – only to documents as authorised by Council</li> <li>• s.9.49A(3) – affixed in presence of President and CEO or senior employee authorised by CEO</li> <li>• s.9.49A(4) – Council may authorise person to sign documents</li> <li>• s.9.49A(5) – Document does not have legal status as a deed unless permitted and executed as a deed</li> </ul> <p>Local Government (Functions &amp; General) Regulations 1996 –</p> <ul style="list-style-type: none"> <li>• r.34 – Common seal, unauthorised use of</li> </ul>
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**Council context** None

**Primary delegation** CEO

**Secondary delegation** Not permitted

**Permitted to** None  
(Refer Part C)

**Formal record of use** File copy of document executed  
Common Seal – Register of Use

**File number** Various according to subject

**History** Adopted \_\_\_\_\_ 2016

#### Functions to be performed

Council delegates authority to the President and the CEO to affix the Common Seal without prior approval by Council where the document is –

- a) a renewal or extension of an original document, and there is no significant variation in clauses or conditions in the renewal;
- b) an agreement to provide funding to the Shire and the project/item to be funded is disclosed in the budget or previously approved by Council.

Subject to the conditions above on use of the Common Seal, the CEO is delegated authority to sign and make all necessary arrangements including lodgement, removal, withdrawal, surrender or modification to –

- (a) Notifications, covenants and easements under the Transfer of Land Act 1893;
- (b) reciprocal access and/or parking agreements;
- (c) rights of carriageway agreements;
- (d) caveats under the Transfer of Land Act 1893; and
- (e) easements or deeds under the Land Administration Act 1997 or Strata Titles Act 1985.

The Common Seal is to be kept in the custody of the CEO.

– End of Delegation

## Notes

The Local Government Act s.5.43 (ha) prohibits the CEO delegating the power under section 9.49A(4) to authorise a person to sign documents on behalf of the local government (i.e. to make a decision whether to sign/affix the seal or not).

This is not to be confused with the power of the CEO under 9.49A(3)(b) to authorise a senior employee to sign a document to attest that the common seal was so affixed (i.e. the decision to affix the seal was made by authorised persons prior).

Most contracts for supply of services, including contracts of employment, do not legally require the Common Seal to be affixed, although its use may be usual practice.

## 2.2 Destruction of records

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<b>Statutory context</b>	State Records Act 2000 – <ul style="list-style-type: none"> <li>• s.16 (2) – mandatory compliance of record keeping plans with principles and standards of the State Records Commission</li> <li>• s.19 – requirement for a record keeping plan</li> <li>• Sch.1 cl.12 – local governments are a government organisation</li> </ul> Local Government General Disposal Authority
<b>Council context</b>	Record Keeping Plan
<b>Primary delegation</b>	CEO
<b>Secondary delegation</b>	Permitted
<b>Permitted to</b> (Refer Part C)	Director Corporate & Community Services
<b>Formal record of use</b>	Signed authority for destruction of records
<b>File number</b>	16.3.1 / 16.3.2 / 16.3.5
<b>History</b>	Adopted _____ 2016

### Functions to be performed

The CEO is delegated authority to destroy records subject to compliance to –

- the Local Government General Disposal Authority as prepared by the State Records Office, and
- Shire of Narrogin Record Keeping Plan.

– End of Delegation

Notes



## 2.3 Confidential records – Inspection

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<b>Statutory context</b>	<p>Local Government Act 1995 –</p> <ul style="list-style-type: none"> <li>• s.5.92 – <u>Council or committee members</u> may access confidential information only if, and to the extent necessary, to fulfil their function</li> <li>• s.5.93 – penalties if Council or committee member, or employee misuses information</li> <li>• 5.94 – public inspection of information permitted, with some restrictions</li> <li>• s.5.94 (1) to (3) – information that is required to remain confidential</li> <li>• s.5.95 (1) to (6) and (8) – exclusions from public inspection</li> <li>• s.5.95 (7) – some previously confidential information may be made available in some circumstances</li> </ul> <p>Administration Regulations 1996 –</p> <ul style="list-style-type: none"> <li>• r.29A – limits on confidential information that may be inspected</li> </ul> <p>Rules of Conduct Regulations 2007 –</p> <ul style="list-style-type: none"> <li>• r.6 – use of information, including confidential information, by council members</li> <li>• r.7 – prohibition on improper use, for personal advantage or to someone's detriment</li> <li>• r.8 – misuse of local government resources</li> </ul>
<b>Council context</b>	Shire of Narrogin Record Keeping Plan
<b>Primary delegation</b>	CEO
<b>Secondary delegation</b>	Permitted
<b>Permitted to</b> (Refer Part C)	Director Corporate & Community Services
<b>Formal record of use</b>	File copy of written request and decision by CEO
<b>File number</b>	16.3.1 / 16.3.2
<b>History</b>	Adopted _____ 2016

### Functions to be performed

The CEO is delegated authority to make available information determined by Council or the CEO to be confidential, and not available for public inspection.

Prior to making a decision, the CEO is to determine –

- (a) whether or not the information should remain confidential or public inspection permitted;
- (b) the extent of information that may be released.

The CEO is to use discretion in exercising the authority, taking note that –

- (a) there is no compulsion to release confidential information,
- (b) some information is required to remain confidential.

– End of Delegation

## Notes

Examples of information that is required to remain confidential includes –

- (a) employee details, conditions, negotiations etc
- (b) supplier's bank information;
- (c) details required by legislation to be omitted from electoral roll;
- (d) information regarding debts owed to the Shire

CEO may consider some information to remain confidential, due to –

- (a) commercial in confidence;
- (b) potential for misuse;
- (c) insufficient reasons/justification to access the information.

Note – refusal of access does not prevent application being made under the Freedom of Information Act.

## Section 3 - Financial Management

### 3.1 Tenders – authority to set specifications, criteria, call, accept, vary

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<b>Statutory context</b>	<p>Local Government Act 1995 –</p> <ul style="list-style-type: none"> <li>• s.3.57– Tenders for providing goods or services</li> <li>• s.3.58 – Disposing of property</li> <li>• 5.43(b) – Limits on delegation to accept tenders</li> </ul> <p>Local Government (Functions and General) Regulations 1996 – Part 4 – provision of goods and services</p> <ul style="list-style-type: none"> <li>• Division 1 – Purchasing policies for local government <ul style="list-style-type: none"> <li>○ r.11A – requirement for a purchasing policy</li> </ul> </li> <li>• Division 2 – Tenders for providing goods and services, specifically – <ul style="list-style-type: none"> <li>○ r.14(2a) – criteria for deciding on tender to be determined in writing prior</li> <li>○ r.14(4) – information to be disclosed, specifications, own tender to be determined prior</li> <li>○ r.14(5) – vary information disclosed subject to all being informed</li> <li>○ r.20 – Minor variation of requirements before entry into contract</li> <li>○ r.23 – Rejecting and accepting expressions of interest</li> </ul> </li> <li>• Division 3 – Panels of pre-qualified suppliers, specifically – <ul style="list-style-type: none"> <li>○ r.24AD(2a) – requirements to join panel of pre-qualified suppliers</li> </ul> </li> </ul> <p>Part 4A – Regional Price Preference Part 6 - Miscellaneous</p> <ul style="list-style-type: none"> <li>○ 30 (3) – exempt disposition of property</li> </ul>
<b>Council context</b>	<p>Delegation                      3.8 – Municipal Fund – Incurring expenditure Policy                            3.1 – Purchasing – Framework Policy                            3.2 – Local Price Preference</p>
<b>Primary delegation</b>	CEO
<b>Secondary delegation</b>	Permitted
<b>Permitted to</b> (Refer Part C)	Director Corporate & Community Services Executive Manager Technical & Rural Services Executive Manager Development & Regulatory Services
<b>Formal record of use</b>	Report to Council via monthly briefing papers Tender register and documentation on file
<b>File number</b>	1.2.1
<b>History</b>	Adopted                      _____ 2016

#### Functions to be performed

The CEO is delegated authority, subject to prior budget provision having been made or to give effect to a Council decision, to –

- (a) prepare and finalise specifications for calling all tenders, expressions of interest and panels for pre-qualified suppliers in accordance with Budget provision and at the appropriate time;
- (b) determine the criteria for assessment of all tenders, expressions of interest and panels for pre-qualified suppliers;
- (c) invite all tenders, expressions of interest and applications for panels of pre-qualified suppliers; or



- (d) approve a minor variation to an accepted tender, provided the intentions and purposes of the tender are not substantially altered, and where the effect on the total contract is a –
- (i) reduction;
  - (ii) increase in cost to a cumulative total of \$25,000 ex GST or 5% whichever is the greater, where the adjusted total remuneration remains within Budget provision; or
  - (iii) reasonable and unforeseen increase in duration of the contract.

The CEO is delegated authority to accept tenders called where the value of the proposed purchase is less than the tender threshold stipulated by Regulations, without further reference to Council.

All tenders and expressions of interest are to be approved by Council.

Acceptance and variation of tenders is limited to CEO only.

All matters dealing with purchase or disposal of land (sale or lease) are to have the specific authorisation of Council, subject to any prior directions of Council.

– End of Delegation

#### Notes

Expression of interest is not a quote – refer Functions & General Regulations r.21(3). The mandatory requirements are equivalent to those for a tender.

As clarification –

- Panels of suppliers – (a), (b) and (c) only apply
- Expressions of interest – (a), (b), (c) and (d) only apply

This delegation applies to all tenders – whether acquisition or disposal.

### 3.2 Contracts – Variations

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<b>Statutory context</b>	Local Government (Functions and General) Regulations 1996 – <ul style="list-style-type: none"> <li>• r.21A – Varying a contract for the supply of goods or services</li> <li>• r.24AJ – Contracts with pre-qualified suppliers</li> </ul>
<b>Council context</b>	None
<b>Primary delegation</b>	CEO
<b>Secondary delegation</b>	Permitted
<b>Permitted to</b> (Refer Part C)	Director Corporate & Community Services Executive Manager Technical & Rural Services Executive Manager Development & Regulatory Services
<b>Formal record of use</b>	File copy of authorised variation
<b>File number</b>	Various according to subject matter
<b>History</b>	Previously _____ Adopted _____ 2016

#### Functions to be performed

The CEO is delegated authority subject to prior budget provision having been made or to give effect to a Council decision –

- (a) accept a minor variation of a contract entered into, subject to the intentions and purposes of the tender are not substantially altered, and where the effect on the total contract is a –
- (i) reduction;
  - (ii) increase in cost to a cumulative total of \$25,000 or 5% whichever is the greater, where the adjusted total remuneration remains within Budget provision; or
  - (iii) reasonable and unforeseen increase in duration of the contract.

– End of Delegation

Notes

### 3.3 Disposing of property, and impounded, confiscated or uncollected goods

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<b>Statutory context</b>	<p>Local Government Act 1995 –</p> <ul style="list-style-type: none"> <li>• s.3.39 – Power to remove an impound</li> <li>• s.3.40 – Vehicle may be removed if goods to be impounded are in or on it</li> <li>• s.3.40A – Abandoned vehicle wreck – disposal</li> <li>• s.3.41 – Impounded perishable goods</li> <li>• s.3.42 – Impounded non-perishable goods</li> <li>• s.3.43 – Impounded non-perishable goods, court may confiscate</li> <li>• s.3.44 – Notice to collect goods if not confiscate</li> <li>• s.3.47(1) – Confiscated or uncollected goods, disposal of</li> <li>• s.3.47(2b) – Periods of retention before disposal</li> <li>• s.3.48 – Impounding expenses, recovery of</li> <li>• s.3.58 – Disposing of property</li> </ul>
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	<p>Local Government (Functions and General) Regulations 1996 –</p> <ul style="list-style-type: none"> <li>• r.29A – Abandoned vehicle wrecks, value etc. prescribed for</li> <li>• r.30 – Disposition of property excluded from Act s.3.58</li> <li>• r.31 – Anti-avoidance provision for Act s.3.58</li> </ul>
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**Council context** None

**Primary delegation** Chief Executive Officer

**Secondary-delegation** Permitted

**Permitted to**  
(Refer Part C) Director Corporate & Community Services  
Executive Manager Technical & Rural Services  
Executive Manger Development & Regulatory Services

**Formal record of use** Acceptance of offer on disposal file

**File number** 23.4.1

**History** Adopted \_\_\_\_\_ 2016

#### Function/s to be performed

The CEO is delegated authority to dispose of a vehicle considered to be an abandoned vehicle wreck under section 3.40A(3).

The CEO is delegated authority to dispose of goods confiscated under section 3.43.

The CEO is delegated authority to take all appropriate action under section 3.48 that may be necessary to recover the costs of impounding good or vehicles.

The CEO is delegated authority to dispose of property under section 3.58.

This delegated authority –

- (a) is subject to the operation of Delegation 3.1 Tenders.
- (b) applies to property other than land and buildings;
- (c) applies to property less than \$20,000 ex GST (individually or collective of associated similar items), unless prior authorisation given by Council specifically or by reference (such as trade-in vehicle or replacement vehicle);



- (d) applies to property that is surplus to requirements, unlikely to be used, damaged, or impounded;
- (e) is to be exercised ensuring disposal of assets is by offering them for public sale by any fair means, or to an appropriate not-for-profit community group;

Restrictions –

- (a) Where the "income" from the asset being disposed of is to be used as part of consideration for the acquisition of a new asset, both disposal and acquisition must be disclosed in Budget;
- (b) If required, transfer of the property is subject to the asset not being available to the purchaser until such time as the replacement asset is available for Shire use;
- (c) And price offered is paid

– End of Delegation

Notes

All matters dealing with purchase or disposal of land (sale or lease) are to have the specific authorisation of Council, subject to any prior directions of Council.

### 3.4 Disposing of land – leases, rentals etc

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<b>Statutory context</b>	Local Government Act 1995 – <ul style="list-style-type: none"> <li>• s.3.58 – disposition of assets</li> </ul> Local Government (Function and General) Regulations 1996 – <ul style="list-style-type: none"> <li>• r.30 – limited exemption for disposition of assets</li> </ul>
<b>Council context</b>	None
<b>Primary delegation</b>	CEO
<b>Secondary delegation</b>	Permitted
<b>Permitted to</b> (Refer Part C)	Director Corporate & Community Services
<b>Formal record of use</b>	File copy of notice
<b>File number</b>	5.1.5
<b>History</b>	Adopted _____ 2016

#### Functions to be performed

The CEO is delegated authority to determine leases, licences or rental of land or property for periods of 12 months or less, in accordance with any policy, guidelines or conditions as set by Council from time to time.

This delegation applies where the consideration is less than \$20,000 ex GST, unless prior authorisation given by Council specifically or by reference.

All leasing or rental of property for more than 12 months to be referred to Council for decision, except for staff in Shire owned housing.

All sale of land requires authorisation by Council resolution.

– End of Delegation

#### Notes

Dept of Local Government and Communities considers leasing and rentals to be disposal of land under LG Act s.3.58 as it is a grant of exclusive right for the period agreed.

### 3.5 Rates record, extensions and objections

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<b>Statutory context</b>	Local Government Act 1995 – <ul style="list-style-type: none"> <li>• s.6.39 (2) – amend rate records for up to 5 years</li> <li>• s.6.40 (3) – refund of rates after overpayment</li> <li>• s.6.76 (4) – extension of time to make objection to rate record</li> <li>• s.6.76 (5) – determination of objection to rate record</li> </ul>
<b>Council context</b>	None
<b>Primary delegation</b>	CEO
<b>Secondary delegation</b>	Permitted
<b>Permitted to</b> (Refer Part C)	Director Corporate & Community Services
<b>Formal record of use</b>	File copy of rates notice, payment, agreement or determination
<b>File number</b>	25.3.1 Property / Assessment file
<b>History</b>	Adopted _____ 2016

#### Functions to be performed

The CEO is delegated authority to –

- a) amend rate records for the past five years preceding the current year,
- b) refund of rates overpaid following an adjustment to the rate record if requested,
- c) extend the time for making the objection for such period as the CEO thinks fit, on application by a person proposing to make an objection to the rate record
- d) consider any objection to the rate record and may either disallow it or allow it, wholly or in part.

– End of Delegation

Notes



### 3.6 Sundry and rate debtors – Recovery and agreements

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<b>Statutory context</b>	Local Government Act 1995 – <ul style="list-style-type: none"> <li>• s.6.49 – Agreement as to payment of rates and service charges</li> <li>• s.6.56 (1) – recovery of rates by complaint or action</li> <li>• s.6.60 (2) – recovery of rates by requiring payment of rent to Shire</li> </ul>
<b>Council context</b>	None
<b>Primary delegation</b>	CEO
<b>Secondary delegation</b>	Permitted
<b>Permitted to</b> (Refer Part C)	Director Corporate & Community Services Manager Finance
<b>Formal record of use</b>	File copy of instruction to court or debt collection agency etc, written agreement with debtor, notice tenant etc
<b>File number</b>	12.7.1 / 25.5.2 / Property file
<b>History</b>	Adopted _____ 2016

#### Functions to be performed

The CEO is delegated authority to negotiate an agreement for the payment of rates, service charge and sundry debts, together with the costs of proceedings, if any, for that recovery, subject to any administrative or instalment charges, penalty interest etc being incorporated into the agreement.

The CEO is delegated authority to recover unpaid rates or service charges after becoming due and payable, together with the costs of proceedings, if any, for that recovery –

- by use of a debt collection agency,
- in a court of competent jurisdiction;
- by serving notice on a tenant to pay rent to the Shire;
- other such means as is provided for and appropriate.

The CEO is delegated authority to recover unpaid sundry debtors, together with the costs of proceedings, if any, for that recovery –

- by use of a debt collection agency,
- in a court of competent jurisdiction;
- other such means as is provided for and appropriate.

– End of Delegation

Notes

### 3.7 Write off of sundry debts

<b>Statutory context</b>	Local Government Act 1995 – <ul style="list-style-type: none"> <li>• s.5.95– information that is required to remain confidential</li> <li>• s.6.12(c) – Power to write off any amount of money</li> </ul>
<b>Council context</b>	None
<b>Primary delegation</b>	CEO
<b>Secondary delegation</b>	Permitted
<b>Permitted to</b> (Refer Part C)	Director Corporate & Community Services
<b>Formal record of use</b>	Listing of debts written off to be signed by CEO Report to Council via monthly briefing papers of the number of debts and total amount only
<b>File number</b>	12.7.1
<b>History</b>	Adopted _____ 2016

#### Functions to be performed

The CEO is delegated authority to write off small amounts to a maximum of \$100.00 ex GST per individual debt for –

- (a) sundry debtors and any interest, charges and associated cost where the debtor can no longer be traced, or recovery is deemed unlikely;
- (b) interest on rates or service charges, or rate instalment charge where there is satisfactory evidence of attempt to pay by the required date –
  - (i) where as a result of daily interest calculations, the rates were intended to be paid in full, but an error occurred, or the payment was received by mail after the calculation was made; or
  - (ii) on transfer of the property from one owner to the next.

This delegation does not apply to an amount of rates or any service charge levied on the annual rate notice.

– End of Delegation

#### Notes

This delegation is not authority for the write-off of rates or service charges, but rate interest and administration charges and sundry debts. Where a write-off is intended for rate interest/charges, there must be evidence that reasonable attempts were made to pay the amount by the date of calculation.

Debt information is to be kept confidential under the Local Government Act s.5.95(2), and therefore no identifying details should be in public documents such as Agendas or Minutes. Debt information includes rate debts as well as sundry debts.

### 3.8 Municipal Fund – Incurring expenditure

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<b>Statutory context</b>	<p>Local Government Act 1995 –</p> <ul style="list-style-type: none"> <li>• s.6.8 – expenditure from Municipal Fund</li> <li>• s.6.8(1)(c) – Payment in an emergency</li> </ul> <p>Local Government (Financial Management) Regulations 1996 –</p> <ul style="list-style-type: none"> <li>• r.5 – CEO's duties as to financial management</li> <li>• r.11 – Payments, procedures for making etc</li> <li>• r.12 – Payments from municipal fund or trust fund, restrictions on making</li> <li>• r.13 – Duties of CEO</li> </ul> <p>Local Government (Audit) Regulations</p> <ul style="list-style-type: none"> <li>• r.16 – CEO to review certain systems and procedures</li> </ul>				
<b>Council context</b>	<table border="0"> <tr> <td>Council Policy</td> <td>3.1 – Purchasing – Framework</td> </tr> <tr> <td>Council Policy</td> <td>3.2 –Purchasing – Local Price Preference</td> </tr> </table>	Council Policy	3.1 – Purchasing – Framework	Council Policy	3.2 –Purchasing – Local Price Preference
Council Policy	3.1 – Purchasing – Framework				
Council Policy	3.2 –Purchasing – Local Price Preference				
<b>Primary delegation</b>	CEO				
<b>Secondary delegation</b>	Permitted				
<b>Permitted to</b> (Refer Part C)	Director Corporate & Community Services				
<b>Formal record of use</b>	<p>Issue of purchase order.</p> <p>Receipt of expenditure</p> <p>Reconciled credit card or store card statement signed by the authorised user</p>				
<b>File number</b>	Not applicable				
<b>History</b>	Adopted _____ 2016				

#### Functions to be performed

The CEO is delegated authority to incur expenditure from the Municipal Fund subject to –

- (a) being compliant with the Local Government Act and Regulations,
- (b) being in accordance with the adopted Budget,
- (c) being authorised by a resolution of Council,
- (d) and being compliant with –
  - i) Delegation 3.1 Tenders, and
  - ii) Council Policy 3.1 and 3.2,
- (e) being authorised emergency expenditure.

The CEO is to ensure –

- (a) systems and procedures required by FM Reg. r.5 are in place;
- (b) compliance with procedures developed in accordance with FM Reg r.11;
- (c) constant review of procedures in accordance with Audit Reg. r.17

The CEO may authorise the issue of a second credit card to a senior executive officer.

The CEO is authorised to approve appropriate staff to issue purchase orders, and use of credit cards and store cards –

- (a) within limits as considered appropriate,



- (b) Use of credit cards to a maximum of \$15,000 in total and store cards to a maximum account value of \$2,000, in accordance with Schedule 3.8 Credit Cards, Store Cards and Fuel Cards.

– End of Delegation

#### Notes

This delegation is not for authorisation of payments from Municipal Fund Bank Account or Trust Fund Bank Account, or the procedures required for the processing of creditors invoice.

**Schedule 3.8(a) – Use of Credit Cards, Store Cards and Fuel Cards**

1. All Cards

All cardholders are to comply with the following –

- Under no circumstance is the card to be used for private purpose.
- Under no circumstances are items to be purchased without the prior approval of the card holder.
- Under no circumstances are any credit card, store card or fuel cards details such as card number and expiry dates to be recorded by officers for future use without the permission of the cardholder.
- Cards must only be used for the purchasing of goods associated with the Shire’s operations and business, in accordance with adopted purchasing policies and Code of Conduct.
- All cards are to be reconciled on a monthly basis, and the reconciliation signed by the authorised cardholder.

2. Corporate Credit Cards

a) Cardholders –

- The provision of a corporate credit card is a facility offered to officers occupying the positions of Chief Executive Officer and another senior executive officer.

b) Use of a Corporate Credit Card by another Officer –

- If an officer, other than cardholder requires the use of a corporate credit card to purchase goods or services, then the officer must firstly complete the Credit Card Requisition Form and have the transaction approved by the cardholder before any purchase/payment is made.

3. Store Cards

a) Cardholders –

- Officers who need the use of a store card as part of their day to day duties must apply in writing to the Chief Executive Officer for permission to be issued with a card.
- Generally, a store card will only be issued for an area of activity, and in the custody of a specified person.

b) Use of a Store Card by another Officer –

- If an officer, other than cardholder requires the use of a store card to purchase goods or services, then the officer must have approval of the cardholder before any purchase is made.
- Upon return of the store card to the cardholder, the receipt is to be presented to the cardholder, and a record of purchase completed for the purposes of allocation of the costs, and be signed by both the purchaser and cardholder.
- Non-compliance is to be reported immediately by the cardholder to the CEO.

4. Fuel Card

- A fuel card is permitted to be used only to purchase fuel or oil for the specific vehicle the card has been allocated to.
- If an officer, other than cardholder requires the use of a fuel card to purchase goods or services, then the officer must have approval of the cardholder before any purchase is made.

5. Store Cards and Fuel Cards

- Store card and fuel card facilities may only be established with the specific written approval of the CEO.

**ACKNOWLEDGEMENT OF RECEIPT OF CREDIT, STORE AND FUEL CARD/S**

I have read this policy and understand my responsibilities which include the requirement that the card/s can only be used for official business only and acknowledge receipt of the following cards –

Corporate Credit Card	Organisation	Number
Store Card/s		
Fuel Card		

Name and Signature \_\_\_\_\_ Date \_\_\_\_\_

– End of Schedule

**Schedule 3.8(b) – Purchase Order Authorised Limits**

As determined by CEO under delegated authority

**Purchase Orders –**

<b>Staff member</b>	<b>\$ limit authorised</b>	<b>Restrictions on purpose</b>
CEO	All	None
Executive Assistant	1,000	Executive & corporate services matters only
Corporate & Community Services Director	75,000	Relevant business unit matters only
Records Officer	500	Relevant corporate services matters only
Manager Finance	10,000	Relevant business unit matters only
Manager Leisure & Culture	10,000	Leisure & culture matters only
Manager Library & Info Services	10,000	Library related matters only
Manager Community Care	10,000	Community care matters only
Technical & Rural Services Executive Manager	75,000	Relevant business unit matters only
Technical Officer	10,000	Relevant business unit matters only
Manager Operations	30,000	Relevant business unit matters only
Maintenance Foreman	10,000	Works maintenance matters only
Construction Foreman	10,000	Works construction matters only
Mechanic	30,000	Warranty and insurance repairs
Depot Support Officer	5,000	Depot matters only
Development & Regulatory Services Executive Manager	75,000	Depot administrative matters only
DRS Support Officer	10,000	Relevant business unit matters only
Environmental Health Surveyor	5,000	Relevant business unit matters only
Authorised Building Officer	5,000	Environmental health matters only
		Building matters only

Last reviewed by CEO on 22 June 2016

– End of Schedule



### 3.9 Municipal Fund and Trust Fund – Payments from Bank Accounts

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<b>Statutory context</b>	<p>Local Government Act 1995 –</p> <ul style="list-style-type: none"> <li>• s.6.8 – expenditure from Municipal Fund</li> <li>• s.6.8(1)(c) – Payment in an emergency</li> </ul> <p>Local Government (Financial Management) Regulations 1996 –</p> <ul style="list-style-type: none"> <li>• r.5 – CEO's duties as to financial management</li> <li>• r.11 – Payments, procedures for making etc</li> <li>• r.12 – Payments from municipal fund or trust fund, restrictions on making</li> <li>• r.13 – Duties of CEO</li> </ul> <p>Local Government (Audit) Regulations</p> <ul style="list-style-type: none"> <li>• r.16 – CEO to review certain systems and procedures</li> </ul>
<b>Council context</b>	None
<b>Primary delegation</b>	CEO
<b>Secondary delegation</b>	Permitted
<b>Permitted to</b> (Refer Part C)	<p>Director Corporate &amp; Community Services          Executive Manager Technical &amp; Rural Services          Executive Manager Development &amp; Regulatory Services          Manager Finance</p>
<b>Formal record of use</b>	<p>Copy of approval, authorisation, payment of invoice etc. with financial transaction          Monthly report to Council Meeting</p>
<b>File number</b>	Not applicable
<b>History</b>	Adopted _____ 2016

#### Functions to be performed

The CEO is delegated authority to make payments from the Municipal Bank Account and Trust Bank Account subject to –

- (a) being in accordance with the adopted Budget;
- (b) being authorised by a resolution of Council;
- (c) disbursement as authorised, of funds lodged to the Trust Account, or
- (d) being authorised emergency expenditure.

The CEO is to ensure –

- (a) systems and procedures required by FM Reg. r.5 are in place;
- (b) compliance with procedures developed in accordance with FM Reg r.11;
- (c) constant review of procedures in accordance with Audit Reg. r.17

All transactions are to have the authorised signatures or secure electronic passwords by any two of the following authorised person, jointly –

Position	Authorising Signature	
	Initial	Secondary
CEO	All	All
DCCS	All	All
EMDRS	All	All
EMTRS	All	All
MF	All	All

– End of Delegation

#### Notes

This delegation is not for the issue of purchase orders, use of credit cards, store cards or fuel cards, or procedures for the processing of creditors invoice.

### 3.10 Investments

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<b>Statutory context</b>	Local Government Act 1995 – <ul style="list-style-type: none"> <li>• s.6.14 – Power to invest</li> </ul> Local Government (Financial Management) Regulations <ul style="list-style-type: none"> <li>• r.19 – Investments, control procedure for</li> <li>• r.19C – Investments of money, restrictions on</li> </ul>
<b>Council context</b>	None
<b>Primary delegation</b>	CEO
<b>Secondary delegation</b>	Permitted
<b>Permitted to</b> (Refer Part C)	Director Corporate & Community Services Executive Manager Technical & Rural Services Executive Manager Development & Regulatory Services Manager Finance
<b>Formal record of use</b>	Record of lodgement of funds for investment, and instructions given
<b>File number</b>	12.3.2
<b>History</b>	Adopted _____ 2016

#### Functions to be performed

The CEO is delegated authority to invest money held in any Council fund that is not required for immediate use, provided that sufficient working funds are retained at all times.

All transactions are to have two authorised signatures or secure electronic passwords, at least one of whom must be –

- (a) CEO;
- (b) Director Corporate & Community Services; or
- (c) Manager Finance

Second signatories may be –

- (d) Executive Manager Development & Regulatory Services
- (e) Executive Manager Technical & Rural Services

– End of Delegation

#### Notes

FM Reg r.19C imposes limits on institutions, duration of investment, type etc.



## Section 4 - Order / public safety

**4.1 Disposal of sick or injured animals**

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<b>Statutory context</b>	Local Government Act 1995 – • s.3.47A – Sick or injured animals, disposal of
<b>Council context</b>	None
<b>Primary delegation</b>	CEO
<b>Secondary delegation</b>	Permitted
<b>Permitted to</b> (Refer Part C)	Director Corporate & Community Services Executive Manager Development & Regulatory Services Executive Manager Technical & Rural Services Rangers
<b>Formal record of use</b>	File copy of written instruction or record of destruction
<b>File number</b>	19.1.3
<b>History</b>	Adopted _____ 2016

**Functions to be performed**

The CEO is delegated authority to arrange for an impounded animal that is ill or injured to an extent that treatment is not practical, to be humanely destroyed.

The CEO is delegated authority to take all appropriate action that may be necessary to recover the costs of destroying the animal.

– End of Delegation

Notes

## 4.2 Cat Act 2011

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<b>Statutory context</b>	Cat Act 2011 – <ul style="list-style-type: none"> <li>• s.44 – Council may delegate to CEO</li> <li>• s.45 – CEO may delegate to any employee</li> <li>• s.48 – an authorised person may perform functions under the Act</li> <li>• s.70 – dealing with objections – to be by Council</li> <li>• s.73(1) – Prosecutions under the Act</li> </ul>
<b>Council context</b>	None
<b>Primary delegation</b>	CEO
<b>Secondary delegation</b>	Permitted
<b>Permitted to</b> (Refer Part C)	Executive Manager Development & Regulatory Services Director Corporate & Community Services Rangers Customer Service Officers
<b>Formal record of use</b>	File copy of notice, approval etc.
<b>File number</b>	19.7.5
<b>History</b>	Adopted _____ 2016

### Functions to be performed

The CEO is delegated authority to exercise all discretionary matters in the Cat Act 2011, including –

- (a) issue of all notices and infringements etc;
- (b) granting, refusal, cancellation and setting conditions of approval to conduct activities;
- (c) extending the time period within which infringement notices may be paid.
- (d) withdrawal of an infringement notice issued by an authorised officer, following consideration of any submissions of special circumstances relating to it received from the authorised officer, the notice recipient or other persons;
- (e) carrying out of works in default of a duly served notice;

The delegation excludes –

- (a) determination of any fee or charge
- (b) dealing with an objection.

Commencement of prosecution is restricted to the CEO, who may instigate action where the offence –

- (a) is of such severity that the action is appropriate or
- (b) an infringement notice remains unpaid after reasonable attempts to obtain payment.

– End of Delegation

## Notes

The Act (e.g. s.63, s.64, s.65) restricts some matters to CEO.

For the purposes of the Act s.48(2), s.62 and this delegation, a person under contract is considered to be an employee.

Objections and review are those matters refused under delegated authority which the applicant requests Council to reconsider.



### 4.3 Cats Local Law 2016 *(this delegation has been deferred for adoption)*

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<b>Statutory context</b>	<p>Cats Local Law 2016</p> <ul style="list-style-type: none"> <li>• s.44 – Council may delegate to CEO</li> <li>• s.45 – CEO may delegate to any employee</li> <li>• s.48 – an authorised person may perform functions under the Act</li> <li>• s.73(2) – Prosecutions under a local law</li> </ul> <p>Local Government Act 1995 –</p> <ul style="list-style-type: none"> <li>• s.9.6 – Dealing with objection – to be by council</li> </ul> <p>Shire of Narrogin Cats Local Law 2016</p>
<b>Council context</b>	None
<b>Primary delegation</b>	CEO
<b>Secondary delegation</b>	Permitted
<b>Permitted to</b> (Refer Part C)	<p>Executive Manager Development &amp; Regulatory Services          Director Corporate &amp; Community Services          Rangers          Customer Service Officers</p>
<b>Formal record of use</b>	File copy of approval of discretionary use
<b>File number</b>	19.7.5
<b>History</b>	Adopted _____ 2016

#### Functions to be performed

The CEO is delegated authority to approve all discretionary matters in the Shire of Narrogin Cats Local Law 2016 including –

- (a) granting, refusal, cancellation and setting conditions of approval to conduct activities;
- (b) issue of all notices and infringements etc;
- (c) extending the time period within which infringement notices may be paid.
- (d) withdrawal of an infringement notice issued by an authorised officer, following consideration of any submissions of special circumstances relating to it received from the authorised officer, the notice recipient or other persons;
- (e) carrying out of works in default of a duly served notice;

The delegation excludes –

- (a) determination of any fee or charge
- (b) dealing with an objection.

Commencement of prosecution is restricted to the CEO, who may instigate action where the offence –

- (a) is of such severity that the action is appropriate or
- (b) an infringement notice remains unpaid after reasonable attempts to obtain payment.

– End of Delegation

Notes

This delegation becomes effective only upon the Cats Local Law 2016 coming into operation.

For the purposes of the local law and this delegation, a person under contract is considered to be an employee.

Objections and review are those matters refused under delegated authority which the applicant requests Council to reconsider.

#### 4.4 Dog Act 1976

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<b>Statutory context</b>	Dog Act 1976 – <ul style="list-style-type: none"> <li>• s.11 – appointment of dog registration officer</li> <li>• s.10AA – delegations must be to CEO, who may delegate functions</li> <li>• s.29 – appointment of authorised person to perform functions under Act</li> <li>• s.33F – dealing with objections (dangerous dogs)</li> <li>• s.44(2)(b) – enforcement proceedings by an authorised person</li> </ul>
<b>Council context</b>	None
<b>Primary delegation</b>	CEO
<b>Secondary delegation</b>	Permitted
<b>Permitted to</b> (Refer Part C)	Executive Manager Development & Regulatory Services Director Corporate & Community Services Rangers Customer Service Officers
<b>Formal record of use</b>	File copy of notice
<b>File number</b>	19.7.4
<b>History</b>	Adopted _____ 2016

#### Functions to be performed

The CEO is delegated authority to exercise all discretionary matters in the Dog Act 1976, including –

- (a) granting, refusal, cancellation and setting conditions of approval to conduct activities;
- (b) issue of all notices and infringements etc;
- (c) extending the time period within which infringement notices may be paid.
- (d) withdrawal of an infringement notice issued by an authorised officer, following consideration of any submissions of special circumstances relating to it received from the authorised officer, the notice recipient or other persons;
- (e) carrying out of works in default of a duly served notice

The delegation excludes –

- (a) determination of any fee or charge
- (b) dealing with an objection.

Commencement of prosecution is restricted to the CEO, who may instigate action where the offence –

- (a) is of such severity that the action is appropriate or
- (b) an infringement notice remains unpaid after reasonable attempts to obtain payment.

The CEO has authority to waive the registration fee for a maximum of 12 months where a dog is rescued from impoundment by a new owner.

– End of Delegation



Notes

For the purposes of the Act s.10AA(5) and this delegation, a person under contract is considered to be an officer.

Objections and review are those matters refused under delegated authority which the applicant requests Council to reconsider.

#### 4.5 Dogs Local Law 2016 *(this delegation has been deferred for adoption)*

<b>Statutory context</b>	<p>Dogs Act 2016 –</p> <ul style="list-style-type: none"> <li>• s.10AA – delegations must be to CEO, who may delegate functions</li> <li>• s.29 – appointment of authorised person to perform functions under Act</li> <li>• s.44(2)(b) – enforcement proceedings by an authorised person</li> </ul> <p>Local Government Act 1995 –</p> <ul style="list-style-type: none"> <li>• s.9.6 – Dealing with objection – to be by council</li> </ul> <p>Shire of Narrogin Dogs Local Law 2016 –</p> <ul style="list-style-type: none"> <li>• cl.4.15 – dealing with objections – to be by Council</li> </ul>
<b>Council context</b>	None
<b>Primary delegation</b>	CEO
<b>Secondary delegation</b>	Permitted
<b>Permitted to</b> (Refer Part C)	Executive Manager Development & Regulatory Services Director Corporate & Community Services Rangers Customer service officers
<b>Formal record of use</b>	File copy of approval of discretionary use
<b>File number</b>	19.7.4
<b>History</b>	Adopted _____ 2016

#### Functions to be performed

The CEO is delegated authority to approve all discretionary matters in the Shire of Narrogin Dogs Local Law 2016 including –

- granting, refusal, cancellation and setting conditions of approval to conduct activities;
- issue of all notices and infringements etc;
- extending the time period within which infringement notices may be paid.
- withdrawal of an infringement notice issued by an authorised officer, following consideration of any submissions of special circumstances relating to it received from the authorised officer, the notice recipient or other persons;
- carrying out of works in default of a duly served notice;

The delegation excludes –

- determination of any fee or charge
- dealing with an objection.

Commencement of prosecution is restricted to the CEO, who may instigate action where the offence –

- is of such severity that the action is appropriate or
- an infringement notice remains unpaid after reasonable attempts to obtain payment.

– End of Delegation

Notes

This delegation becomes effective only upon the Dogs Local Law 2016 coming into operation.

For the purposes of the local law and this delegation, a person under contract is considered to be an employee.

Objections and review are those matters refused under delegated authority which the applicant requests Council to reconsider.



#### 4.6 Impounding of vehicles and goods

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<b>Statutory context</b>	Local Government Act 1995 – Part 3, Division 3, Subdivision 4 – Impounding abandoned vehicles wreck and goods involved in certain contraventions • s.3.37 to s.3.48
<b>Council context</b>	None
<b>Primary delegation</b>	CEO
<b>Secondary delegation</b>	Permitted
<b>Permitted to</b> (Refer Part C)	Executive Manager Technical & Rural Services Director Corporate & Community Services Executive Manager Development & Regulatory Services Rangers
<b>Formal record of use</b>	File copy of notice
<b>File number</b>	19.4.2
<b>History</b>	Adopted _____ 2016

**Functions to be performed**

The CEO is delegated authority to the power to remove and impound goods from a public place if –

- (a) the goods or vehicle present a hazard to public safety;
- (b) the goods or vehicle obstruct the lawful use of any place;
- (c) the goods or vehicle have been, or appear to have been abandoned

The CEO is delegated authority to take all appropriate action that may be necessary to recover the costs of impounding vehicles and goods.

– End of Delegation

**Notes**

Disposal of impounded vehicles or goods is covered by Delegation 3.2

## 4.7 Impounding of cattle etc

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<b>Statutory context</b>	Local Government (Miscellaneous Provisions) Act 1960 – <ul style="list-style-type: none"> <li>• s.458 – power to impound trespassing cattle</li> <li>• s.459 – power to destroy cattle in certain circumstances</li> <li>• s.460 – impounding in other than a public pound</li> <li>• s.462 – fees for impounded cattle</li> <li>• s.463 – damage by trespassing cattle</li> <li>• s.464 – local government may vary fees of Sch.2, 3, 4 after notice in Government Gazette</li> </ul>
<b>Council context</b>	None
<b>Primary delegation</b>	CEO
<b>Secondary delegation</b>	Permitted
<b>Permitted to</b> (Refer Part C)	Executive Manager Technical & Rural Services Director Corporate & Community Services Executive Manager Development & Regulatory Services Rangers
<b>Formal record of use</b>	Impounding register
<b>File number</b>	19.1.3
<b>History</b>	Adopted _____ 2016

### Functions to be performed

The CEO is delegated authority to enforce the provisions of the Local Government (Miscellaneous Provisions) Act 1960, and Regulations.

The CEO is authorised to make appropriate arrangements for the custody and care of cattle, either within a designated pound, or by written arrangement with a land holder, including any costs or charges the landholder may incur or impose

The CEO is authorised to recover the costs and charges imposed by the landholder from the owner of the cattle.

The CEO is delegated authority to take all appropriate action that may be necessary to recover the costs of impounding the animal.

– End of Delegation

### Notes

Although “cattle” is not defined, the Local Govt (Miscellaneous Provisions) Act provides for charges for various animals, that include sheep impounded–

- Schedule 2 – Ranger’s fees
- Schedule 3 – Poundage and sustenance charges
- Schedule 4 – rates for damage by trespass by cattle

Animals listed in the Schedules include in various combinations of descriptions –

- (1) Entire horses, mules, asses, camels, bulls or boars above or apparently above the age of 2 years
- (2) Entire horses, mules, asses, camels, bulls or boars under the age of 2 years
- (3) Mares, geldings, colts, fillies, foals, oxen, cows, steers, heifers, calves, rams or pigs
- (4) Pigs of any description
- (5) Rams, wethers, ewes, lambs, goats
- (6) Sheep of any description
- (7) Goats



#### 4.8 Parking Local Law 2016 *(this delegation has been deferred for adoption)*

<b>Statutory context</b>	Parking Local Law 2016
<b>Council context</b>	None
<b>Primary delegation</b>	CEO
<b>Secondary delegation</b>	Permitted
<b>Permitted to</b> (Refer Part C)	Executive Manager Development & Regulatory Services Rangers
<b>Formal record of use</b>	File copy of approval of discretionary use
<b>File number</b>	19.7.3
<b>History</b>	Adopted _____ 2016

#### Functions to be performed

The CEO is delegated authority to approve all discretionary matters in the Shire of Narrogin Parking Local Law 2016 including –

- (a) granting, refusal, cancellation and setting conditions of approval to conduct activities;
- (b) issue of all notices and infringements etc;
- (c) extending the time period within which infringement notices may be paid.
- (d) withdrawal of an infringement notice issued by an authorised officer, following consideration of any submissions of special circumstances relating to it received from the authorised officer, the notice recipient or other persons;
- (e) carrying out of works in default of a duly served notice;

The delegation excludes –

- (a) determination of any fee or charge

Commencement of prosecution is restricted to the CEO, who may instigate action where the offence –

- (a) is of such severity that the action is appropriate or
- (b) an infringement notice remains unpaid after reasonable attempts to obtain payment.

– End of Delegation

#### Notes

This delegation becomes effective only upon the Parking Local Law 2016 coming into operation.

## Section 5 - Fire Control

## 5.1 Issue of burning permits – CEO

<b>Statutory context</b>	<p>Bush Fires Act 1954 –</p> <ul style="list-style-type: none"> <li>• s.18 – Restricted burning times <ul style="list-style-type: none"> <li>(1) – nothing in this section permits burning in prohibited period</li> <li>(2) – prohibited &amp; restricted times to be published in Government Gazette</li> <li>(5) – Local government may vary burning periods after consultation</li> <li>(5B) – variation for maximum of 14 days</li> <li>(5C) – burning period restrictions apply to variation period</li> <li>(6) – permit required to set fire to bush from either FCO or CEO</li> <li>(7) – person issuing permit may apply requirements or conditions</li> <li>(8) – permit holder to comply with conditions</li> <li>(9) – permit may authorise burning of bush on adjoining road reserve</li> <li>(10A) – local government may adopt enforceable schedule for burning</li> <li>(11) – if fire escapes etc expenses up to \$10,000 may be recouped</li> <li>(12) – penalty on first breach \$4,500, subsequent breaches \$10,000</li> </ul> </li> <li>• s.23(2)(a)(iv) – road verge burning between constructed portion of road and established fire break only</li> <li>• s.24A – clover may be burnt in prohibited burning period with permit</li> </ul> <p>Bush Fire Regulations 1954 –</p> <ul style="list-style-type: none"> <li>• r.15(1) – Permit to burn as per section 18 of the Act</li> <li>• r.15(2) – If request to burn is conditional or refused, review is only by the local government or Chief BFCO</li> <li>• r.15A – BFCO to comply with directions of local government</li> <li>• r.15B – Permit holder to comply with permit conditions</li> <li>• r.15C – Local Government may prohibit burning on certain days</li> <li>• r.16 – CEO or specifically authorised person may permit burning of clover in prohibited period</li> <li>• r.17 – permit required to burn clover</li> <li>• r.18 – 7 days notice of clover burn required, under specified restrictions</li> <li>• r.19A – duties of clover burning permit holder</li> <li>• r.20 – local government may prohibit issue of clover burn permits</li> <li>• r.21A – permit holder may be required to advertise clover burn</li> <li>• r.21B – FCO may postpone clover burn</li> </ul> <p>Local Government Property and Public Places Local Law 2016</p> <ul style="list-style-type: none"> <li>- activities on land under Council management and control including roads</li> </ul>
<b>Council context</b>	None
<b>Primary delegation</b>	CEO
<b>Secondary delegation</b>	Permitted
<b>Permitted to</b>  (Refer Part C)	Director Corporate & Community Service Executive Manager Development & regulatory Services Executive Manager Technical & Rural Services Rangers
<b>Formal record of use</b>	Duplicate copy of permit issued

**File number** Not applicable

**History** Adopted \_\_\_\_\_ 2016

### Functions to be performed

The CEO is delegated authority to issue, vary or prohibit burning permits in accordance with Bush Fires Act s.18 and Bush Fires Regulations r.15(1).

The CEO is delegated authority, in consultation with the Chief Bush Fire Control Officer and the issuing FCO is possible, to review or vary the conditions of a permit issued, or issue a permit if refused.

The CEO is delegated authority to issue, vary or prohibit permits to burn clover in accordance with Bush Fires Act s.18 and Bush Fires Regulations r.16.

The CEO is delegated authority to approve applications to burn a road verge vested in the care, control and management of the Shire, in accordance with the Bush Fires Act 1954 s.18(9), subject to the applicant obtaining the approval of the Dept of Parks and Wildlife.

The CEO is delegated authority, in consultation with the Chief Bush Fire Control Officer, to issue instructions, restrictions or conditions relating to burning permits to apply generally throughout the Shire.

– End of Delegation

### Notes

The Act s.16(6)(a) stipulates

*...obtained a permit in writing to burn the bush from a bush fire control officer of the local government in whose district the land upon which the bush proposed to be burnt is situated, or from the chief executive officer ...*

Refer also Delegation 20.1 and 20.2.



## 5.2 Fire fighting – Emergency plant hire

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<b>Statutory context</b>	Local Government Act 1995 – <ul style="list-style-type: none"> <li>s.6.8(1)(c) – authorisation of unbudgeted expenditure in an emergency</li> </ul> <p>Bush Fires Act 1954 –</p> <ul style="list-style-type: none"> <li>s.38(3)(4)(5) – appointed BFCO's may exercise specific authorities given to them</li> </ul>
<b>Council context</b>	None
<b>Primary delegation</b>	CEO
<b>Secondary delegation</b>	Permitted
<b>Permitted to</b> (Refer Part C)	Executive Manager Technical & Rural Services Director Community & Corporate Services Executive Manager Development & Regulatory Services
<b>Formal record of use</b>	Report to Council via briefing papers Duplicate copy of purchase order issued File copy of notes
<b>File number</b>	9.2.1
<b>History</b>	Adopted _____ 2016

### Functions to be performed

The CEO is delegated authority to commit expenditure for the private hire of plant and equipment necessary for the efficient fighting and control of fires.

– End of Delegation

### Notes

The approval to be sought is an administrative function for expenditure purposes only, and does not extend to giving of operational instructions.

Where possible, the CEO is to seek advice from the senior FCO at the fire, and approval from the President or Deputy President. However, since this delegation will only be used in emergency situations, it is acknowledged that this may not be possible.

Adequate resources to fight a fire, for the safety of fire fighters, and for the protection of life and property have the highest priority, and are not to be unnecessarily jeopardised by delay.

## Section 6 - Environmental Health / Food

**6.1 Health Local Law 2016 – authorised person (*this delegation has been deferred for adoption*)**

<b>Statutory context</b>	Health Local Law 2016
<b>Council context</b>	None
<b>Primary delegation</b>	CEO
<b>Secondary delegation</b>	Permitted
<b>Permitted to</b> (Refer Part C)	Executive Manager Development & Regulatory Services Environmental Health Officer
<b>Formal record of use</b>	File copy of approval of discretionary use
<b>File number</b>	24.2.1
<b>History</b>	Adopted _____ 2016

**Functions to be performed**

The CEO is delegated authority to approve all discretionary matters in –

- the Model "A" Series Health Bylaws adopted by the former Shire of Narrogin and former Town and Narrogin, and
- the Shire of Narrogin Health Local Law 2016

including but not limited to –

- (a) granting, refusal, cancellation and setting conditions of approval to conduct activities;
- (b) issue of all notices and infringements etc;
- (c) extending the time period within which infringement notices may be paid.
- (d) withdrawal of an infringement notice issued by an authorised officer, following consideration of any submissions of special circumstances relating to it received from the authorised officer, the notice recipient or other persons;
- (e) carrying out of works in default of a duly served notice;

The delegation excludes –

- (a) determination of any fee or charge;
- (b) dealing with an objection,
- (c) the exercise of any authority required to be by a qualified environmental health officer.

Commencement of prosecution is restricted to the CEO, who may instigate action where the offence –

- (a) is of such severity that the action is appropriate or
- (b) an infringement notice remains unpaid after reasonable attempts to obtain payment.

– End of Delegation

**Notes**

This delegation becomes fully effective only upon the Health Local Law 2016 coming into operation.

Refer also Delegation 18.2 Local Law – Health 2016 (EHO).

## 6.2 Amenity Local Law 2016 *(this delegation has been deferred for adoption)*

<b>Statutory context</b>	Amenity Local Law 2016
<b>Council context</b>	None
<b>Primary delegation</b>	CEO
<b>Secondary delegation</b>	Permitted
<b>Permitted to</b> (Refer Part C)	Executive Manager Development & Regulatory Services Environmental Health Officer Registered Building Surveyor Authorised Building Officer Rangers
<b>Formal record of use</b>	File copy of approval, notice, etc Duplicate copy of infringement etc
<b>File number</b>	Various depending on subject matter
<b>History</b>	Adopted _____ 2016

### Functions to be performed

The CEO is delegated authority to approve all discretionary matters in the Shire of Narrogin Amenity Local Law 2016 including –

- (a) granting, refusal, cancellation and setting conditions of approval to conduct activities;
- (b) issue of all notices and infringements etc;
- (c) extending the time period within which infringement notices may be paid.
- (d) withdrawal of an infringement notice issued by an authorised officer, following consideration of any submissions of special circumstances relating to it received from the authorised officer, the notice recipient or other persons;
- (e) carrying out of works in default of a duly served notice;

The delegation excludes –

- (a) determination of any fee or charge
- (b) dealing with an objection.

Commencement of prosecution is restricted to the CEO, who may instigate action where the offence –

- (a) is of such severity that the action is appropriate or
- (b) an infringement notice remains unpaid after reasonable attempts to obtain payment.

– End of Delegation

### Notes

This delegation becomes effective only upon the Amenity Local Law 2016 coming into operation.

Objections and review are those matters refused under delegated authority which the applicant requests Council to reconsider.



## Section 7 - Community Services

**7.1 Cemetery Local Law 2016 *(this delegation has been deferred for adoption)***

<b>Statutory context</b>	Cemetery Local Law 2016
<b>Council context</b>	None
<b>Primary delegation</b>	CEO
<b>Secondary delegation</b>	Permitted
<b>Permitted to</b> (Refer Part C)	Director Corporate & Community Services Executive Manager Development & Regulatory Services Employee responsible for cemetery administration Rangers
<b>Formal record of use</b>	File copy of approval of grant of right of burial, pre-need certificate, notice etc Duplicate copy of infringement etc
<b>File number</b>	24.7.1
<b>History</b>	Adopted _____ 2016

**Functions to be performed**

The CEO is delegated authority to approve all discretionary matters in the Shire of Narrogin Cemetery Local Law 2016 including –

- (a) granting, refusal, cancellation and setting conditions of approval to conduct activities;
- (b) issue of all notices and infringements etc;
- (c) extending the time period within which infringement notices may be paid.
- (d) withdrawal of an infringement notice issued by an authorised officer, following consideration of any submissions of special circumstances relating to it received from the authorised officer, the notice recipient or other persons;
- (e) carrying out of works in default of a duly served notice;

The delegation excludes –

- (a) determination of any fee or charge

Commencement of prosecution is restricted to the CEO, who may instigate action where the offence –

- (a) is of such severity that the action is appropriate or
- (b) an infringement notice remains unpaid after reasonable attempts to obtain payment.

– End of Delegation

**Notes**

This delegation becomes effective only upon the Cemetery Local Law 2016 coming into operation.

## Section 8 - HR / Personnel

**8.1 Designated senior employee – Vacancy**

<b>Statutory context</b>	Local Government Act 1995 – • s.5.37 (3) – advertising of designated senior positions
<b>Council context</b>	None
<b>Primary delegation</b>	CEO
<b>Secondary delegation</b>	Not permitted
<b>Permitted to</b> (Refer Part C)	None
<b>Formal record of use</b>	Report to Council recommending appointment File copy of finalised Information Package
<b>File number</b>	Personnel file
<b>History</b>	Adopted _____ 2016

**Functions to be performed**

The CEO is delegated authority to determine an appropriate employment package for designated senior staff other than CEO, with consideration to include but not limited to –

- (a) salary,
- (b) salary sacrifice options;
- (c) removal expenses,
- (d) accommodation arrangements,
- (e) private use of vehicle etc, and
- (f) any associated FBT implications.

The CEO is delegated authority to advertise the vacancy when, as and for an appropriate period.

– End of Delegation

**Notes**

This delegation does not extend to –

- the appointment of a person to the vacancy without Council consent.
- determining the remuneration package for a CEO.

Information Package for a vacancy to include –

- remuneration range;
- other benefits available;
- selection criteria or key position requirements
- closing date and application submission requirements
- any additional information appropriate.

Local Government Act 1995 –

5.41 – Functions of CEO

The CEO's functions are to –

- (g) be responsible for the employment, management supervision, direction and dismissal of other employees (subject to section 5.37(2) in relation to senior employees);

Local Government (Rules of Conduct) Regulations 2007 –

10. –Relations with local government employees

(1) A person who is a council member must not –

- (a) direct or attempt to direct a person who is a local government employee to do or not to do anything in the person's capacity as a local government employee; or
- (b) attempt to influence, by means of a threat or the promise of a reward, the conduct of a person who is a local government employee in the person's capacity as a local government employee.



## 8.2 Long service leave

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<b>Statutory context</b>	Local Government Act 1995 – <ul style="list-style-type: none"> <li>• s.5.48 – Long service leave benefits for employees</li> </ul> Local Government (Long Service Leave Regulations) <ul style="list-style-type: none"> <li>• r.6A – long service leave on half pay</li> <li>• r.6B – long service leave on double pay</li> <li>• r.7 – taking of long service leave</li> <li>• r.8(2) – Payment for or in lieu of leave</li> </ul>
<b>Council context</b>	None
<b>Primary delegation</b>	CEO
<b>Secondary delegation</b>	Permitted
<b>Permitted to</b> (Refer Part C)	Director Corporate & Community Services
<b>Formal record of use</b>	Personnel file copy of letter to employee advising of decision
<b>File number</b>	Personnel file
<b>History</b>	Adopted _____ 2016

### Functions to be performed

The CEO is delegated authority to approve –

- (a) applications for long service leave at half pay;
- (b) applications for long service leave at double pay;
- (c) appropriate period or period for taking of long service leave;
- (d) on application of the employee, to defer taking of long service leave beyond 6 months of becoming entitled subject, subject to the employee's agreement to –
  - (i) deferral being for not more than 2 years, and
  - (ii) rate of pay shall not exceed that applicable to the employee at the end of 6 months of becoming entitled.

On application, the CEO is to advise the employee that deferral of long service leave beyond six months of becoming due may be approved however when the leave is taken it will be paid at the hourly rate earned by the employee at the anniversary of the 10<sup>th</sup> year plus six months.

– End of Delegation

### Notes

Applications that are to be referred to Council –

- (a) deferment of long service leave for more than 2 years;
- (b) request for payment at a rate greater than the rate applicable at 6 months after becoming entitled;
- (c) payment at the higher rate, where long service leave has been deferred at the request of the CEO.

## Section 9 - Occupational Safety & Health

This section is currently empty

## Section 10 - Building / Development

**10.1 Building permits (authorised person)**

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<b>Statutory context</b>	<p>Local Government Act 1995 –</p> <ul style="list-style-type: none"> <li>• s.5.36 – Local government employees</li> </ul> <p>Building Act 2011 –</p> <ul style="list-style-type: none"> <li>• s.3 – authorised person to be designated under s.96</li> <li>• s.96(3) – the local government may designate a person to be authorised</li> <li>• s.127(3) – delegation by a local government must be to an employee</li> <li>• s.127(6A) – further delegation of authority given to CEO</li> </ul> <p>Building Regulations 2012 –</p> <ul style="list-style-type: none"> <li>• r.31B – applicable standards for buildings in bush fire prone areas</li> </ul> <p>Building Services (Registration) Act 2011</p> <ul style="list-style-type: none"> <li>• s.17 – registration of building service practitioners</li> </ul> <p>Building Services (Registration) Regulations 2011 –</p> <ul style="list-style-type: none"> <li>• r.4 – prescribed levels for building surveying</li> <li>• Part 3A – Building surveyors</li> </ul>
<b>Council context</b>	None
<b>Primary delegation</b>	CEO
<b>Secondary delegation</b>	Permitted
<b>Permitted to</b> (Refer Part C)	Executive Manager Development & Regulatory Services Registered Building Surveyor Authorised Building Officer
<b>Formal record of use</b>	Report to Council via monthly briefing papers – Items (a), (b), (h), (i) File copy of permit, notice etc issued
<b>File number</b>	Property file
<b>History</b>	Adopted _____ 2016

**Functions to be performed**

The CEO is delegated authority to determine matters under –

- (a) sections 18, 20, 22, 23, 24 – Building permits
- (b) sections 21, 22, 23, 24 – Demolition permits
- (c) sections 27 – Conditions for building permit or demolition permit
- (d) sections 32 – Duration of building permit or demolition permit
- (e) sections 58, 59, 60 – occupancy permit
- (f) sections 62 – conditions of occupancy permit
- (g) sections 65 – duration of occupancy permit
- (h) sections 110, 111, 112 – Issue of notices and building orders
- (i) sections 117 – Revocation of building orders
- (j) sections 118 – giving effect to building order if non-compliance



The delegation excludes –

- (a) determination of matter requiring a registered building surveyor

The CEO is to be consulted prior to use of any sub-delegation in relation to items (b), (h), (i) and (j).

A building permit may be issued if –

- (a) a valid Certificate of Design Compliance is presented;
- (b) compliance with requirements for bush fire prone areas;
- (c) all buildings where permitted in accordance with the Building Act 2011 and
- (d) the information required by the Regulations is provided.

A building permit is not to be issued unless payment has been received for –

- (a) the assessed building permit fees
- (b) Building Services Levy
- (c) Building and Construction Industry Training Fund levy, or production of evidence of payment or exemption where applicable

The following matters are to be referred to Council for decision

- (a) s.192 – Dangerous Buildings
- (b) s.193 – Removal of Neglected Building

Any prosecution proposed is to be referred to Council for decision to proceed.

– End of Delegation

## Notes

Building permits are separate from the Local Planning Scheme functions, but are governed by them.

Any authorised person can issue a permit or notice etc – certifications can only be issued by a Registered Building Surveyor

For the purposes of this delegation, a Registered Building Surveyor under contract is considered to be an employee.

The Building Act 2011 requires response –

- within 10 days of lodgment, if a valid CDC is presented, as all assessment and preparation is done prior to lodgment in order to obtain the CDC, accordingly there is no reason that the CEO and other appropriate persons cannot be authorised to approve applications.
- for Class 1 and 10 buildings only, within 25 days of lodgment if a valid CDC is not presented, and the local government is required to source/provide the CDC.

With the Building Act 2011, the functions separated are –

- (a) Issue of permits, notices etc –
  - o does not require a registered person (Registered Building Surveyor), since the Certificate of Design Compliance has to be signed by a registered person
  - o the decision is on the basis of whether all the requirements of CDC have been met, and any appropriate person can do that if authorised
  - o delegation to issue permits can be made under this amended delegation
- (b) Building inspection and certification of plans still requires a registered person –
  - o who is registered as per the Act and Regulations and holding appropriate qualifications
  - o to provide a building certification service

Refer Delegation 17.1 Building certifications – Registered person

## 10.2 Illegal development

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<b>Statutory context</b>	<p>Local Government Act 1995 –</p> <ul style="list-style-type: none"> <li>• s.5.42(1)(b) – Delegation to CEO of powers under the Planning and Development Act 2005 s.214(2), (3) and (5)</li> </ul> <p>Planning and Development Act 2005 –</p> <ul style="list-style-type: none"> <li>• s.214 – development in contravention of planning scheme or interim development order             <ul style="list-style-type: none"> <li>○ (2) – power to order stop work</li> <li>○ (3) – power to remove, alter etc and restore land to original condition</li> <li>○ (5) – if delay interferes with scheme operation, power to order work to be undertaken</li> </ul> </li> </ul> <p>Town Planning Scheme No. 1 –</p> <ul style="list-style-type: none"> <li>• Part 9 – Applications for Planning Approval</li> </ul>
<b>Council context</b>	Local Planning Policies
<b>Primary delegation</b>	CEO
<b>Secondary delegation</b>	Permitted
<b>Permitted to</b> (Refer Part C)	Executive Manager Development & Regulatory Services
<b>Formal record of use</b>	Report to Council via monthly briefing papers File copy of notice
<b>File number</b>	Property file
<b>History</b>	Adopted _____ 2016

### Functions to be performed

The CEO is delegated authority to issue notices in relation to illegal or delayed works in accordance with the Planning and Development Act 2005 s 214(2), (3) and (5).

Where a notice is not complied with, the CEO is authorised to commence prosecution without reference to Council.

– End of Delegation

Notes

**10.3 Control of planning matters**

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<b>Statutory context</b>	Planning and Development Act 2005 – Part 5 – Local planning schemes <ul style="list-style-type: none"> <li>• s.68 – Town planning schemes continued as local planning schemes</li> <li>• s.72 – Local government may prepare or adopt scheme</li> <li>• s.73 – Provisions of a local planning scheme</li> <li>• s.214 (2)(3)(5) – development works not in compliance may have written stop work or remedial action order issued</li> </ul> Town Planning Scheme No. 1 – <ul style="list-style-type: none"> <li>• Part 9 – Applications for Planning Approval</li> </ul>
<b>Council context</b>	Local Planning Policies
<b>Primary delegation</b>	CEO
<b>Secondary delegation</b>	Permitted
<b>Permitted to</b> (Refer Part C)	Executive Manager Development & Regulatory Services
<b>Formal record of use</b>	Office copy of notice
<b>File reference</b>	Property file
<b>History</b>	Adopted _____ 2016

**Functions to be performed**

The CEO is delegated authority to administer all planning matters or functions for the Shire of Narrogin, subject to compliance with –

- (a) Planning and Development Act,
- (b) Planning Regulations,
- (c) Residential R Codes
- (d) Local Planning Scheme, and
- (e) Local Planning Policy.

Any proposal that is not compliant, where discretionary approval by Council may be considered, is to be referred to Council for decision.

Any proposal requiring a decision but which has been refused is to be notified to Council for information.

The CEO is delegated authority to respond to –

- (a) any appeal against a discretionary decision of Council in accordance with Council’s decision on the matter to which the appeal or request for reconsideration relates,
- (b) Development Assessment Panel requirements.

Where a planning approval is not complied with, the CEO is authorised to commence prosecution without reference to Council.

– End of Delegation

**Notes**



## 10.4 Applications for subdivision and amalgamations

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<b>Statutory context</b>	Planning and Development Act 2005 – <ul style="list-style-type: none"> <li>• s.4 – Subdivision includes amalgamation</li> <li>• s.135 – subdivision (and amalgamation) not permitted without WA Planning Commission approval</li> <li>• s.138(2) – Commission to have due regard to local planning scheme</li> <li>• s.142 – Commission to seek local government's comments, objections, recommendations</li> </ul> Local Planning Scheme
<b>Council context</b>	Local Planning Policies
<b>Primary delegation</b>	CEO
<b>Secondary delegation</b>	Permitted
<b>Permitted to</b> (Refer Part C)	Executive Manager Development & Regulatory Services
<b>Formal record of use</b>	File copy of advice of decision to applicant, developer etc
<b>File number</b>	18.6.4
<b>History</b>	Adopted _____ 2016

### Functions to be performed

The CEO is delegated authority in respect to an application received from the *Western Australian Planning Commission (WAPC)* to subdivide, re-subdivide or amalgamate land contained within the local government and to recommend to the WAPC –

- (a) No objection to the granting of approval of an application to amalgamate or subdivide involving five (5) lots or less (including lots forming part of any strata-title scheme);
- (b) No objection to the granting of approval of an application to rationalise or reconfigure existing allotments where there is no net increase in lots created, and the new lot sizes will conform with the relevant requirements of the local planning schemes and their policies, and policies adopted in accordance with the Planning and Development Act s.26 relating to State planning policies; and
- (c) the imposition of relevant conditions on any approval proposed to be granted by the WAPC, considered necessary to secure the objectives of the local planning scheme, and any land use plan or strategy adopted by Council;

The CEO is delegated authority to certify to the WAPC compliance with conditions imposed on an approval to subdivide, re-subdivide or amalgamate land have been completed to the satisfaction of the Shire.

– End of Delegation

Notes

## 10.5 Fencing Local Law 2016 *(this delegation has been deferred for adoption)*

<b>Statutory context</b>	Fencing Local Law 2016 <ul style="list-style-type: none"> <li>cl.7.1 – dealing with objections – to be by Council</li> </ul> <p>Town Planning Scheme No. 1 –</p> <ul style="list-style-type: none"> <li>Part 9 – Applications for Planning Approval</li> </ul>
<b>Council context</b>	None
<b>Primary delegation</b>	CEO
<b>Secondary delegation</b>	Permitted
<b>Permitted to</b> (Refer Part C)	Executive Manager Development & Regulatory Services Registered Building Surveyor Authorised Building Officer
<b>Formal record of use</b>	File copy of advice of decision to applicant, developer etc
<b>File number</b>	Property file
<b>History</b>	Adopted _____ 2016

### Functions to be performed

The CEO is delegated authority to approve all discretionary matters in the Shire of Narrogin Fencing Local Law 2016 including –

- granting, refusal, cancellation and setting conditions of approval to conduct activities;
- issue of all notices and infringements etc;
- extending the time period within which infringement notices may be paid.
- withdrawal of an infringement notice issued by an authorised officer, following consideration of any submissions of special circumstances relating to it received from the authorised officer, the notice recipient or other persons;
- carrying out of works in default of a duly served notice;

The delegation excludes –

- determination of any fee or charge
- dealing with an objection.

Commencement of prosecution is restricted to the CEO, who may instigate action where the offence –

- is of such severity that the action is appropriate or
- an infringement notice remains unpaid after reasonable attempts to obtain payment.

– End of Delegation

### Notes

This delegation becomes effective only upon the Fencing Local Law 2016 coming into operation.

Objections and review are those matters refused under delegated authority which the applicant requests Council to reconsider.

## Section 11 - Public Facilities

**11.1 Liquor Control Act**

<b>Statutory context</b>	Liquor Control Act 1988 – <ul style="list-style-type: none"> <li>• s.39 – Certificate of local government of compliance with laws</li> <li>• s.40 – Certificate of planning authority of compliance with planning laws</li> <li>• s.156 – Local governments, functions of</li> </ul> Town Planning Scheme No. 1 – <ul style="list-style-type: none"> <li>• Part 9 – Applications for Planning Approval</li> </ul>
<b>Council context</b>	Local Planning Policies
<b>Primary delegation</b>	CEO
<b>Secondary delegation</b>	Permitted
<b>Permitted to</b> (Refer Part C)	Director Corporate & Community Services Executive Manager Development & Regulatory Services Executive Manager Technical & Rural Services
<b>Formal record of use</b>	File copy of notice
<b>File number</b>	3.2.3
<b>History</b>	Adopted _____ 2016

**Functions to be performed**

The CEO is delegated authority to –

- (a) s.39 – Issue Certificates advising compliance with Food, Health and Local Government laws.
- (b) s.40 – Issue Certificates of the Local Planning Authority
- (c) s.66 (1)(d) and (2) – Respond to applications for Extended Trading Permits;
- (d) s.69 (8) – Make submissions on health grounds regarding a license;
- (e) s.153 (2) – Request copies of reports produced by the Liquor Licensing Authority;
- (f) s.156 – Report to the Liquor Licensing Authority any offences committed by a licensee and ensure appropriate assistance is given to the Authority if requested.

– End of Delegation

**Notes**



## 11.2 Discount/waiver/subsidy of facility hire fees

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<b>Statutory context</b>	Local Government Act 1995 – • s.6.12(1)(b) – Power to defer, grant discounts etc
<b>Council context</b>	None
<b>Primary delegation</b>	CEO
<b>Secondary delegation</b>	Permitted
<b>Permitted to</b> (Refer Part C)	Director Corporate & Community Services
<b>Formal record of use</b>	Copy of approval of written request
<b>File number</b>	12.15.3
<b>History</b>	Adopted _____ 2016

### Functions to be performed

The CEO is delegated authority to approve reduction in fees and charges of Council owned facilities, subject to –

- a) the request is from a local community, charitable or not-for-profit organisation; or
- b) the event is for the specific benefit of the local community; and
- c) each request of the organisation does not exceed \$500 ex GST;
- d) cleaning cost of the venue hire is not to be discounted.

– End of Delegation

Notes

### 11.3 Public Places and Local Government Property Local Law 2016 *(this delegation has been deferred for adoption)*

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<b>Statutory context</b>	Public Places and Local Government Property Local Law 2016
<b>Council context</b>	None
<b>Primary delegation</b>	CEO
<b>Secondary delegation</b>	Permitted
<b>Permitted to</b> (Refer Part C)	Director Corporate & Community Services Executive Manager Technical & Rural Services Executive Manager Development & Regulatory Services Environmental Health Officer Rangers Customer service officers
<b>Formal record of use</b>	File copy of hire, approval, notice, etc Duplicate copy of infringement etc
<b>File number</b>	Property file
<b>History</b>	Adopted _____ 2016

#### Functions to be performed

The CEO is delegated authority to approve all discretionary matters in the Shire of Narrogin Public Places and Local Government Property Local Law 2016 including –

- (a) hire of facilities, including issue of permit for consumption/sale of alcohol;
- (b) granting, refusal, cancellation and setting conditions of approval to conduct activities;
- (c) issue of all notices and infringements etc;
- (d) extending the time period within which infringement notices may be paid.
- (e) withdrawal of an infringement notice issued by an authorised officer, following consideration of any submissions of special circumstances relating to it received from the authorised officer, the notice recipient or other persons;
- (f) carrying out of works in default of a duly served notice;

The delegation excludes –

- (a) cl. 1.5 – setting of any fee or charge
- (b) cl.1.8 – enter into an agreement with a permit holder in respect of ownership of materials in a building;
- (c) cl.2.1 – making of a Determination;
- (d) cl.2.6 – amending or revoking a Determination;
- (e) cl.4.1 – Activities requiring a licence
  - (c) erect a structure for amusement in excess of 28 days
  - (m) erect a building or refuelling site
  - (o) erect or install a structure for utilities
- (f) cl.7.9 – Crossings in unsafe locations;
- (g) cl.10.1 – dealing with an objection;
- (h) cl.3.1 – adoption, variation or revocation of any policy containing conditions subject to which an application for a permit may be approved;

On written application made under cl.3.3, the CEO is authorised to give permission to hirers of premises or land under the control and management of the local government to consume and sell liquor on the premises or land, under such conditions and in such areas as considered appropriate.

Every permit issued for consumption/sale of alcohol is to be advised to Narrogin Police.

Commencement of prosecution is restricted to the CEO, who may instigate action where the offence –

- (a) is of such severity that the action is appropriate or
- (b) an infringement notice remains unpaid after reasonable attempts to obtain payment.

– End of Delegation

#### Notes

This delegation becomes effective only upon the Local Government Property and Public Places Local Law 2016 coming into operation.

Refer Delegation 3.7 – Discount/waiver/subsidy of facility hire fees

Refer Delegation 15.2 – Native flora and Fauna

Objections and review are those matters refused under delegated authority which the applicant requests Council to reconsider.



## Section 12 - Tourism

This section is currently empty

## Section 13 - Works &amp; Services

**13.1 Reserves under control of the local government**

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<b>Statutory context</b>	Local Government Act 1995 – <ul style="list-style-type: none"> <li>• s.3.54(1) – Reserves under control of a Local Government</li> </ul> Land Administration Act 1997
<b>Council context</b>	None
<b>Primary delegation</b>	CEO
<b>Secondary delegation</b>	Permitted
<b>Permitted to</b> (Refer Part C)	Director Corporate & Community Services Executive Manager Technical & Rural Services Executive Manager Development & Regulatory Services
<b>Formal record of use</b>	Not applicable
<b>File number</b>	21.4.2
<b>History</b>	Adopted _____ 2016

**Functions to be performed**

The CEO is delegated authority to do anything on land vested or under the control and management of Council –

- (a) subject to prior budget provision having been made, or
- (b) to give effect to a Council decision.

– End of Delegation

Notes

## 13.2 Things to be done on land not local government property

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<b>Statutory context</b>	Local Government Act 1995 – <ul style="list-style-type: none"> <li>• s.3.24 – Authorising person under this subdivision</li> <li>• s.3.27 – Particular things local government can do on land that is not local government property</li> <li>• s.3.33 – Entry under warrant</li> <li>• s.3.34(2) – Entry in an emergency</li> <li>• Sch.3.2 – Particular things local governments can do on land even though it is not local government property</li> </ul>
<b>Council context</b>	None
<b>Primary delegation</b>	Chief Executive Officer
<b>Secondary delegation</b>	Permitted
<b>Permitted to</b> (Refer Part C)	Executive Manager Technical & Rural Services Director Corporate & Community Services Executive Manager Development & Regulatory Services Manager Operations
<b>Formal record of use</b>	File copy of notice
<b>File number</b>	Property file
<b>History</b>	Adopted _____ 2016

### Function to be performed

The CEO is delegated authority to carry out work on land that is not local government property subject to –

- a) prior budget provision having been made,
- b) to give effect to a Council decision;
- c) if the matter is considered to be an emergency;
- a) the consent is obtained of –
  - the owner of the land;
  - if the land is occupied, the occupier of the land; and
  - if the land is under the control or management of any other person, that other person.
- b) compensation agreed for the functions is provided for within the adopted Budget or is specifically approved.

– End of Delegation

### Notes

The delegation applies to land not under local government control that is within the district, and is in relation to things being done on the land, not taken from the land.



### 13.3 Works on land outside the district

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<b>Statutory context</b>	Local Government Act 1995 – <ul style="list-style-type: none"> <li>• s.3.20 – performing function outside the district</li> <li>• s.3.21 – duties when performing functions</li> <li>• s.3.22 - compensation</li> </ul>
<b>Council context</b>	None
<b>Primary delegation</b>	CEO
<b>Secondary delegation</b>	Permitted
<b>Permitted to</b> (Refer Part C)	Executive Manager Technical & Rural Services Director Corporate & Community Services Manager Operations
<b>Formal record of use</b>	File copy of agreement, consent etc
<b>File number</b>	28.4.2
<b>History</b>	Adopted _____ 2016

#### Functions to be performed

The CEO is delegated authority to undertake necessary executive functions on land outside the district that is not property of the Shire provided that –

- c) the consent is obtained of –
  - the owner of the land;
  - if the land is occupied, the occupier of the land; and
  - if the land is under the control or management of any other person, that other person.
- d) compensation agreed for the functions is provided for within the adopted Budget or is specifically approved.

– End of Delegation

#### Notes

Executive functions does not includes private works requested of the Shire by an individual or other local government, but does apply to sourcing of roadmaking materials and water.

The delegation applies to land not under local government control that is outside the district, and is in relation to things being done on the land, not taken from the land.

**13.4 Materials from land not under local government control**

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<b>Statutory context</b>	Local Government Act 1995 – <ul style="list-style-type: none"> <li>• s.3.21 – Duties when performing functions</li> <li>• s.3.22 – Compensation for materials, damage, access etc</li> </ul>
<b>Council context</b>	None
<b>Primary delegation</b>	CEO
<b>Secondary delegation</b>	Permitted
<b>Permitted to</b> (Refer Part C)	Director Corporate & Community Services Executive Manager Technical & Rural Services Manager Operations
<b>Formal record of use</b>	Written agreement with land owner/occupier
<b>File number</b>	28.4.2 / Property file where the land is within the district
<b>History</b>	Adopted _____ 2016

**Functions to be performed**

The CEO is delegated authority to negotiate with land owners and/or occupiers for access to materials required for local government functions, principally –

- (a) extraction of gravel, sand or other materials from land;
- (b) water, etc.

The agreement reached with the land owner/occupier is to –

- (a) state a specific duration, that it is indefinite or otherwise provide for termination;
- (b) provide for mutually agreed compensation;
- (c) specify rehabilitation responsibilities if appropriate;
- (d) within the budget provision.

The CEO is delegated authority to apply to the Department of Environmental Regulation for permits to clear vegetation as applicable.

*– End of Delegation*

**Notes**

The delegation applies to land not under local government control that that may be either within or outside the district, and is in relation to materials to be taken from the land, not things being done on the land.

Until such time as agreement is signed, or compulsory notice of acquisition is given under the Act, employees should not access the materials.

### 13.5 Notices requiring certain things to be done

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<b>Statutory context</b>	<p>Local Government Act 1995 –</p> <ul style="list-style-type: none"> <li>• s.3.24 – Authorising person under this subdivision</li> <li>• s.3.25(1) – Notices requiring certain things to be done by owner or occupier of land</li> <li>• s.3.26(2) – Additional powers when notice is given</li> <li>• s.3.33 – Entry under warrant</li> <li>• s.3.34(2) – Entry in an emergency</li> <li>• s.9.60 – Regulations that operate as local laws</li> <li>• Sch.3.1 – Powers under notices to owners or occupiers of land</li> <li>• Sch 9.1(6) – dangerous excavations in or near public thoroughfare</li> <li>• Sch.9.1(7) – Matters for which regulations under s.9.60 may be made</li> </ul> <p>Local Government (Uniform Local Provisions) Regulations 1996 –</p> <ul style="list-style-type: none"> <li>• r.11 – dangerous excavation in or near public thoroughfare</li> <li>• 13 – Requirement to construct or repair crossing</li> </ul>
<b>Council context</b>	None
<b>Primary delegation</b>	Chief Executive Officer
<b>Secondary delegation</b>	Permitted
<b>Permitted to</b> (Refer Part C)	<p>Executive Manager Technical &amp; Rural Services          Director Corporate &amp; Community Services          Executive Manager Development &amp; Regulatory Services</p>
<b>Formal record of use</b>	File copy of notice
<b>File number</b>	Property file
<b>History</b>	Adopted _____ 2016

#### Function/s to be performed

The CEO is delegated authority to issue notices requiring certain things to be done by the owner or occupier of land.

The CEO is delegated authority to take any necessary action to achieve the purpose for which the notice was given in the event of non-compliance of the notice recipient.

The CEO is delegated authority to seek a warrant for entry to carry out the works of a notice where the owner or occupier of land has not complied with the notice in the time specified.

Any prosecution proposed resulting from non-compliance with a notice is to be referred to Council for decision to proceed.

– End of Delegation



Notes

Under LG Act s.9.6(1) an objection to a notice must be dealt with by Council and cannot be delegated.

Objections and review are those matters refused under delegated authority which the applicant requests Council to reconsider.

### 13.6 Notice of local government works

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<b>Statutory context</b>	Local Government Act 1995 – • s.3.51(3) – notice to adjoining owners affected by works
<b>Council context</b>	None
<b>Primary delegation</b>	CEO
<b>Secondary delegation</b>	Permitted
<b>Permitted to</b> (Refer Part C)	Executive Manager Technical & Rural Services Director Corporate & Community Services Executive Manager Development & Regulatory Services
<b>Formal record of use</b>	File copy of notice
<b>File number</b>	Advertisement records – 16.2.2 / 16.2.4 Property file
<b>History</b>	Adopted _____ 2016

#### Functions to be performed

The CEO is delegated authority to give the required public notice and individual notice to landowners and occupiers adjoining proposed works to –

- (a) fix or alter the levels, or the alignment of a public thoroughfare, or
- (b) drain water from a public thoroughfare or public place onto adjoining land

– End of Delegation

Notes

### 13.7 Private works/infrastructure on, over or under public land

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<b>Statutory context</b>	Local Government Act 1995 – <ul style="list-style-type: none"> <li>• s.3.37 – Contraventions that can lead to impounding</li> <li>• s.9.60 – Regulations that operate as local laws</li> <li>• Sch.9.1(8) – Private works/infrastructure on, over, or under public places</li> <li>• Sch.9.2(5) – gates across public thoroughfares</li> </ul> Local Government (Uniform Local Provisions) Regulations 1996 – <ul style="list-style-type: none"> <li>• r.9 – gates across a public thoroughfare</li> <li>• r.17 – Private works on, over, or under public places</li> </ul>
<b>Council context</b>	None
<b>Primary delegation</b>	CEO
<b>Secondary delegation</b>	Permitted
<b>Permitted to</b> (Refer Part C)	Executive Manager Technical & Rural Services
<b>Formal record of use</b>	Report to Council via monthly briefing papers if significant infrastructure File copy of written approval
<b>File number</b>	Property file of applicant Copy on road/reserve/local government property file
<b>History</b>	Adopted _____ 2016

#### Functions to be performed

The CEO is delegated authority to approve private works/infrastructure on, over or under public places subject to –

- (a) written application being made;
- (b) the applicant accepts all liability for every part and aspect of the works/infrastructure;
- (c) impose conditions, such as –
  - building permit, structural engineering certification, environmental assessment etc, where appropriate;
  - any damage or interference to public assets to be made good to the satisfaction of CEO (roadway, fence, other structure etc)
  - traffic management plan to be approved
- (d) where deemed appropriate, an insurance certificate indemnifying the Shire while works are underway, or for any structure, is to be provided;
- (e) estimated value of works does not exceed \$25,000 ex GST.

The CEO may enter into an agreement with the applicant to carry out the works/infrastructure as a private works.

Any prosecution proposed for non-compliance is to be referred to Council for decision to proceed.

– End of Delegation



**Notes**

Local Government (Uniform Local Provisions) Regulations 1996 –

r.17 – Private works on, over, or under public places

- (4) – approval of local government required
- (5) – conditions may be imposed
- (6) – mandatory conditions – no permanent impairment of public use, public safety to be ensured, damaged to be fully repaired
- (7) – penalty for non-compliance is \$5,000 and \$500 daily
- (8) – person constructing is responsible for maintenance, and must insure structure, specifically indemnifying Council against any claim
- (9) – unauthorised constructions, or contravention of approval/conditions can lead to impounding

If insurance indemnity is required, a certificate is to be provided to the Shire annually. It is to be a condition of approval, that a lapse of insurance means automatic withdrawal of approval, and removal of the previously insured structure is required within 14 days.

This delegation includes minor works on the road such as –

- drilling for soil testing;
- pressure or gravity pipe from a water tank or windmill to a stock trough;
- farm drainage.

### 13.8 Events on roads

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<b>Statutory context</b>	<p>Road Traffic Act 1974 –</p> <ul style="list-style-type: none"> <li>• s.81C(2) – Making order for road closure for event</li> <li>• s.81D – Road closure, how effected by local government</li> </ul> <p>Road Traffic (Administration) Act 2008 –</p> <ul style="list-style-type: none"> <li>• s.139(2) – Temporary suspension of road law</li> </ul> <p>Road Traffic (Events on Roads) Regulations 1991 –</p> <ul style="list-style-type: none"> <li>• s.4 – local government approval and payment of fee required</li> <li>• r.9 – Erection of barriers, signs and other equipment</li> </ul> <p>Local Government Property and Public Places Local Law</p>
<b>Council context</b>	None
<b>Primary delegation</b>	CEO
<b>Secondary delegation</b>	Permitted
<b>Permitted to</b> (Refer Part C)	<p>Executive Manager Technical &amp; Rural Services          Director Corporate &amp; Community Services          Executive Manager Development &amp; Regulatory Services</p>
<b>Formal record of use</b>	File copy of decision on written application
<b>File number</b>	28.7.1
<b>History</b>	Adopted _____ 2016

#### Functions to be performed

The CEO is delegated authority –

- in consultation with the President, to approve with or without conditions or refuse to approve, an event or function on a thoroughfare in accordance with section 81C of the *Road Traffic Act 1974*;
- in consultation with the President, to approve with or without conditions, or refuse to approve, the temporary suspension of written law in accordance with section 83 of the *Road Traffic Act 1974*; and
- make all necessary arrangement to comply with Road Traffic (Events on Roads) Regulations r.9.

The CEO is delegated authority, in consultation with the President, to respond to any request for information made under section 7(1) of the *Public Order in Streets Act 1984*.

In considering any application, the CEO is to have regard to Police and Main Roads WA guidelines.

– End of Delegation

#### Notes

See Road Traffic (Administration) Act –

135. Protection from liability for wrongdoing

- (1) An action in tort does not lie against a person for anything that the person has done, in good faith, in the performance or purported performance of a function under a road law.

- (3) A local government is also relieved of any liability that it might otherwise have had for another person having done anything as described in subsection (1) in relation to a function of a local government under section 11, 139 or 141.

141. Closure of roads

- (2) A local government may cause a road in its district to be closed for such period that the local government considers necessary if the local government considers that the road is unsafe for traffic but the road cannot be closed by the local government for more than one month without with the Minister's written approval to do so.

See Events on Roads Regulations –

9. Erection of barriers, signs and other equipment

- (1) A road closure ordered by the Commissioner of Police under Part VA of the Act shall be effected by the erection and maintenance by the local government for the district within which the road concerned is situated of —
  - (a) barriers, being free standing posts and rails, or other barriers which are substantial and uniform in construction;
  - (b) signs, being substantial and uniform in design, with the words "Road Closed" or similar, clearly printed in black letters upon a reflective background; and
  - (c) such other equipment as the local government considers is reasonably necessary to effect the road closure.
- (2) The costs of erecting, maintaining and removing barriers, signs and other equipment to effect a road closure are payable to the local government by the person or body who applied for the order for that road closure.
- (3) A local government may waive the payment of all or any of the costs referred to in subregulation (2).
- (4) Any costs payable to a local government under subregulation (2) may be recovered as a debt due to that local government in a court of competent jurisdiction.

19 April 2016

Main Roads WA – Traffic Management for Events on Roads: "Code of Practice"



### 13.9 Temporary road closures

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<b>Statutory context</b>	<p>Local Government Act 1995 –</p> <ul style="list-style-type: none"> <li>• s.3.50 – closing to vehicles</li> <li>• s.3.50A – closure for repairs or maintenance</li> </ul> <p>Road Traffic Act 1974</p> <ul style="list-style-type: none"> <li>• s.81D – how a road is to be closed</li> <li>• s.92 – power to close unsafe roads</li> </ul> <p>Local Government Property and Public Places Local Law 2016 –</p> <ul style="list-style-type: none"> <li>• cl.5.2 – no entry to closed local government property</li> <li>• cl.6.13 – no driving on closed thoroughfare</li> </ul>
<b>Council context</b>	None
<b>Primary delegation</b>	CEO
<b>Secondary delegation</b>	Permitted
<b>Permitted to</b> (Refer Part C)	<p>Director Corporate &amp; Community Services          Executive Manager Technical &amp; Rural Services          Executive Manager Development &amp; Regulatory Services          Manager Operations</p>
<b>Formal record of use</b>	File copy of public notice, instruction to staff etc
<b>File number</b>	28.7.1
<b>History</b>	Adopted _____ 2016

#### Functions to be performed

The CEO is delegated authority to –

- (a) temporarily close a thoroughfare or a portion of a street for a period not exceeding 28 days (without providing local public notice) if of the opinion –
  - a thoroughfare is likely to be damaged by the passage of traffic generally or traffic of any particular class;
  - that the thoroughfare is unsafe for use.
- (b) temporarily close a road or portion of a road for repairs and maintenance;
- (c) temporarily close a thoroughfare for a period in excess of 28 days by providing local public notice.

Commencement of prosecution is restricted to the CEO, who may instigate action where the offence –

- (a) is of such severity that the action is appropriate or
- (b) an infringement notice remains unpaid after reasonable attempts to obtain payment.

– End of Delegation

Notes

## Section 14 - Plant / Equipment

This Section is currently empty

## Section 15 - Natural Resource Management

**15.1 Control of Vehicles (Off-road Areas) Act 1978**

<b>Statutory context</b>	Control of Vehicles (Off-road Areas) Act 1978 – <ul style="list-style-type: none"> <li>• s.5(1) – Duty of local government to administer and enforce the Act</li> <li>• s.5(3) – authorised officers</li> </ul>
<b>Council context</b>	None
<b>Primary delegation</b>	CEO
<b>Secondary delegation</b>	Permitted
<b>Permitted to</b> (Refer Part C)	Director Corporate & Community Services Executive Manager Technical & Rural Services Executive Manager Development & Regulatory Services Manager Operations Rangers
<b>Formal record of use</b>	File copy of notice
<b>File reference</b>	19.6.5
<b>History</b>	Adopted _____ 2016

**Functions to be performed**

The CEO is delegated authority to exercise all discretionary matters in the Control of Vehicles (Off-road Areas) Act 1978, including –

- (a) granting, refusal, cancellation and setting conditions of approval to conduct activities;
- (b) issue of all notices and infringements etc;
- (c) extending the time period within which infringement notices may be paid.
- (d) withdrawal of an infringement notice issued by an authorised officer, following consideration of any submissions of special circumstances relating to it received from the authorised officer, the notice recipient or other persons;
- (e) carrying out of works in default of a duly served notice;

The delegation excludes –

- (a) determination of any fee or charge

Commencement of prosecution is restricted to the CEO, who may instigate action where the offence –

- (a) is of such severity that the action is appropriate or
- (b) an infringement notice remains unpaid after reasonable attempts to obtain payment.

– End of Delegation

**Notes**



## 15.2 Native flora and fauna

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<b>Statutory context</b>	<p>Environmental Protection Act 1986 –</p> <ul style="list-style-type: none"> <li>• s.51C – Unauthorised clearing of native vegetation</li> </ul> <p>Wildlife Conservation Act 1950 –</p> <ul style="list-style-type: none"> <li>• s.14 – Protection of fauna</li> <li>• s.23C – Licences to take protected flora</li> <li>• s.23D – Taking and sales of protected flora on private land</li> </ul> <p>Wildlife Conservation Regulations 1970</p> <p>Local Government Property and Public Places Local Law 2016 –</p> <ul style="list-style-type: none"> <li>• cl.4.4(2) – Written authority of local government required to remove, damage, interfere with any flora on local government property</li> </ul>
<b>Council context</b>	None
<b>Primary delegation</b>	CEO
<b>Secondary delegation</b>	Permitted
<b>Permitted to</b> (Refer Part C)	Executive Manager Technical & Rural Services
<b>Formal record of use</b>	File copy of notice of approval
<b>File number</b>	11.3.1
<b>History</b>	Adopted _____ 2016

### Functions to be performed

The CEO is delegated authority to approve a request for permission to pick wildflowers and / or collect seed on lands under Council's control, under the following conditions –

- written application is to be made;
- it is for their own domestic or hobby use;
- permission is given for a period not exceeding one week;
- the area of picking and/or collection is strictly limited;
- not more than one collector is permitted in any one location;
- a maximum of 10% of seed only to be taken in any one area.

All applications for commercial picking of wildflowers or collection of seed are to be referred to Council for consideration, and required details include –

- collector's credentials and purpose (collector includes the permit holder and up to 2 assistants),
- duration of approval, if any,
- the area of picking and/or collection
- not more than one collector being permitted in any one location
- a maximum of 25% of seed only to be taken in any one area

All applications for the collection of animals, reptiles, amphibians and birds from lands under Council's control, are to be referred to Council for consideration.

All applications to collect flora or fauna are to provide the following information at minimum –

- (a) collector's credentials, including any person acting on the collector's behalf
- (b) purpose of collection – domestic, hobby, display, educational, commercial
- (c) flora/fauna to be collected – rarity, locality, need for preservation etc
- (d) locality of collection – ease of access, likelihood of general public-knowledge or access
- (e) period or duration sought

Where Council has previously permitted an application, the CEO may issue permission in subsequent consecutive years under identical terms and conditions, without further reference to Council.

The following statement is to be included in every approval by the CEO –

*The approval of the Department of Parks and Wildlife is mandatory, and Shire permission is invalid without the Department's written consent accompanying Shire approval.*

– End of Delegation

#### Notes

Dept of Parks and Wildlife –

- may issue a permit for a maximum of one year;
- is to be provided a copy of every approved application.

## Section 16 - Unclassified

This section is currently empty



## 16.1 Heavy haulage vehicles – Permits

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<b>Statutory context</b>	Road Traffic (Vehicle Standards) Regulations 2002
<b>Council context</b>	None
<b>Primary delegation</b>	CEO
<b>Secondary delegation</b>	Permitted
<b>Permitted to</b> (Refer Part C)	Executive Manager Technical & Rural Services
<b>Formal record of use</b>	File copy of decision on written application
<b>File number</b>	3.2.2
<b>History</b>	Adopted _____ 2016

### Functions to be performed

The CEO is delegated authority to determine any application referred from Main Roads WA to use heavy haulage vehicles on any local road within the district, recommending approval or refusal where the estimated volume is 50,000 tonnes per annum or less, subject to –

- a) where the road has been assessed by Main Roads WA as being suitable for the configuration proposed by the applicant,
- b) recommending CA07 conditions on roads where deemed necessary to manage RAV access in order to preserve the condition of the road and avoid heavy vehicle damage
- c) written agreement of the application accepting liability for damage to the roads that exceeds fair use

Where a CA07 condition exists, RAV operators must complete and lodge a written application and pay the CA07 processing fee. Operators must provide all relevant details, and additional information if requested.

Where the CEO declines an application, the applicant has the right to lodge a written appeal which will be presented to Council for consideration.

For applications exceeding 50,000 tonnes per annum, the application is to be submitted to Council for consideration, and must contain a detailed proposal from the operator including, but not limited to –

- (a) Vehicle movements
- (b) Operational controls
- (c) Proposed contribution to road maintenance
- (d) Proposed capital investment on the road to bring up to the necessary standards for the freight task proposed,
- (e) Proposed asset replacement contribution
- (f) Consultation with other stakeholders
- (g) Enforceable agreement accepting liability for damage to the roads that exceeds fair use.

– End of Delegation

Notes

## PART B – PRIMARY DELEGATIONS – to other officers

### Section 17 - Building Act 2011

#### 17.1 Building certifications – Registered person

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<b>Statutory context</b>	<p>Local Government Act 1995 –</p> <ul style="list-style-type: none"> <li>• s.5.36 – Local government employees</li> </ul> <p>Building Act 2011 –</p> <ul style="list-style-type: none"> <li>• s.3 – authorised person to be designated under s.96</li> <li>• s.96(3) – The local government may designate a person to be authorised</li> <li>• s.127(3) – Delegation by a local government must be to an employee</li> <li>• s.127(6A) – Further delegation of authority given to CEO</li> </ul> <p>Building Services (Registration) Act 2011</p> <ul style="list-style-type: none"> <li>• s.17 – registration of building service practitioners</li> </ul> <p>Building Services (Registration) Regulations 2011 –</p> <ul style="list-style-type: none"> <li>• r.4 – prescribed levels for building surveying</li> <li>• Part 3A – Building surveyors</li> </ul>
<b>Council context</b>	None
<b>Primary delegation</b>	Registered Building Surveyor
<b>Secondary delegation</b>	Not permitted
<b>Permitted to</b> (Refer Part C)	None
<b>Formal record of use</b>	Report to Council via monthly briefing papers – Items (a), (b), (h), (i) File copy of notice, approval etc
<b>File number</b>	Property file
<b>History</b>	Adopted _____ 2016

#### Functions to be performed

The Registered Building Surveyor is delegated authority to issue any certification required by the Building Act 2011 in accordance with the approved registration level held by the individual.

In addition, the Registered Building Surveyor is also delegated all matter in relation to Delegation 10.1 Building Permits (authorised persons).

Any prosecution proposed is to be referred to Council for decision to proceed.

– End of Delegation

Notes

## Section 18 - Health Act 1911

**18.1 Control of environmental health matters – Qualified person**

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<b>Statutory context</b>	Health Act 1911 – <ul style="list-style-type: none"> <li>• s.26 – the local government may appoint a deputy (i.e. delegate) to discharge all or any of the functions and powers</li> </ul>
<b>Council context</b>	None
<b>Primary delegation</b>	Environmental Health Officer
<b>Secondary delegation</b>	Not permitted
<b>Permitted to</b> (Refer Part C)	None
<b>Formal record of use</b>	Report to Council via monthly briefing papers File copy of notice
<b>File number</b>	11.1.1
<b>History</b>	Adopted _____ 2016

**Functions to be performed**

The EHO is delegated authority to exercise and discharge all or any of the powers and functions of the local government with regard to the Health Act 1911 and Regulations, including but not limited to –

- (a) Part IV Sanitary Provisions,
- (b) Part V Dwellings;
- (c) Part VI Public Buildings;
- (d) Part VII Nuisances and Offensive Trades;
- (e) Part IX Infectious Diseases;
- (f) Part XV Miscellaneous Provisions;
- (g) Regulations made under the above parts of the Health Act 1911, and in particular the Health (Treatment of Sewage and Disposal of Liquid Waste) Regulations 1974

Where approvals are required, compliance with the Health Act and Regulations, the Building Code of Australia, the Local Planning Scheme and Planning Policies is mandatory.

Any application not complying is to be refused, unless there is a discretion, in which case it is to be referred to Council for decision.

The delegation excludes –

- (a) determination of any fee or charge;
- (b) dealing with an objection,

Commencement of prosecution is restricted to the CEO, who may instigate action where the offence –

- (a) is of such severity that the action is appropriate or
- (b) an infringement notice remains unpaid after reasonable attempts to obtain payment.

Any prosecution proposed is to be referred to Council for decision to proceed.

– End of Delegation



## Notes

It should be noted that in some instances the EHO may be required to act without reference to Council or CEO, and regardless of Council's or CEO's wishes.

Refer also Delegation 6.1 Health Local Law 2016 – Authorised person.

Objections and review are those matters refused under delegated authority which the applicant requests Council to reconsider.

## 18.2 Health Local Law 2016 – Qualified person *(this delegation has been deferred for adoption)*

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<b>Statutory context</b>	Health Local Law 2016
<b>Council context</b>	None
<b>Primary delegation</b>	EHO
<b>Secondary delegation</b>	Not permitted
<b>Permitted to</b> (Refer Part C)	None
<b>Formal record of use</b>	File copy of approval of discretionary use
<b>File number</b>	19.6.4 and Property file
<b>History</b>	Adopted _____ 2016

### Functions to be performed

The EHO is delegated authority to approve all discretionary matters in –

- the Model "A" Series Health Bylaws adopted by the former Shire of Narrogin and former Town and Narrogin, and
- the Shire of Narrogin Health Local Law 2016

including but not limited to –

- (a) granting, refusal, cancellation and setting conditions of approval to conduct activities;
- (b) issue of all notices and infringements etc;
- (c) extending the time period within which infringement notices may be paid.
- (d) withdrawal of an infringement notice issued by an authorised officer, following consideration of any submissions of special circumstances relating to it received from the authorised officer, the notice recipient or other persons;
- (e) carrying out of works in default of a duly served notice;

The delegation excludes –

- (a) determination of any fee or charge;
- (b) the exercise of any authority restricted to the Council or CEO.

Commencement of prosecution is restricted to the CEO, who may instigate action where the offence –

- (a) is of such severity that the action is appropriate or
- (b) an infringement notice remains unpaid after reasonable attempts to obtain payment.

– End of Delegation

### Notes

This delegation becomes fully effective only upon the Health Local Law 2016 coming into operation.

Refer also Delegation 6.1 Health Local Law 2016 – authorised person

## Section 19 - Food Act 2008

**19.1 Control of food matters – Qualified person**

<b>Statutory context</b>	<p>Food Act 2008 –</p> <ul style="list-style-type: none"> <li>- s.118 – authority to delegate functions and obligations to qualified authorised person</li> <li>- s.122(1)(b) – authorised person must hold office as an environmental health officer under the <i>Health Act 1911</i></li> </ul> <p>Food Regulations 2009 –</p> <ul style="list-style-type: none"> <li>- s.5 – a local government is an appropriate enforcement agency for the purposes of certain food businesses, animal processing premises and retail pet meat shops</li> </ul> <p>Health Act 1911 –</p> <ul style="list-style-type: none"> <li>- s.31 – appointment of an environmental health officer</li> </ul>
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**Council context** None

**Primary delegation** Environmental Health Officer

**Secondary delegation** Not permitted by EHO  
Permitted by CEO to qualified person

**Permitted to** None  
(Refer Part C)

**Formal record of use** File copy of notice, record of inspection etc

**File number** 19.6.4 / 24.3.1 / 24.3.2 / Property file

**History** Adopted \_\_\_\_\_ 2016

**Functions to be performed**

The EHO is delegated authority to exercise and discharge the powers and functions of the local authority with regard to the Food Act 2008, including but not limited to –

- a) powers of entry to premises,
- b) taking of food samples for analysis,
- c) formal warnings;
- d) improvement notices;
- e) prohibition orders; and
- f) infringement notices.

The delegation excludes –

- (a) determination of any fee or charge;
- (b) dealing with an objection,

Commencement of prosecution is restricted to the CEO, who may instigate action where the offence –

- (a) is of such severity that the action is appropriate or
- (b) an infringement notice remains unpaid after reasonable attempts to obtain payment.

Any prosecution proposed is to be referred to Council for decision to proceed.



– End of Delegation

#### Notes

It should be noted that under the Act, the EHO may be required to prosecute, regardless of Council's direction or wishes.

Objections and review are those matters refused under delegated authority which the applicant requests Council to reconsider.

## Section 20 - Bush Fires Act 1954

**20.1 Issue of burning permits – Fire Control Officers**

<b>Statutory context</b>	<p>Bush Fires Act 1954 –</p> <ul style="list-style-type: none"> <li>• s.18 – Restricted burning times <ul style="list-style-type: none"> <li>(1) – nothing in this section permits burning in prohibited period</li> <li>(2) – prohibited &amp; restricted times to be published in Government Gazette</li> <li>(5) – Local government may vary burning periods after consultation</li> <li>(5B) – variation for maximum of 14 days</li> <li>(5C) – burning period restrictions apply to variation period</li> <li>(6) – permit required to set fire to bush from either FCO or CEO</li> <li>(7) – person issuing permit may apply requirements or conditions</li> <li>(8) – permit holder to comply with conditions</li> <li>(9) – permit may authorise burning of bush on adjoining road reserve</li> <li>(10A) – local government may adopt enforceable schedule for burning</li> <li>(11) – if fire escapes etc expenses up to \$10,000 may be recouped</li> <li>(12) – penalty on first breach \$4,500, subsequent breaches \$10,000</li> </ul> </li> </ul> <p>Bush Fire Regulations 1954 –</p> <ul style="list-style-type: none"> <li>• r.15(1) – Permit to burn as per section 18 of the Act</li> <li>• r.15(2) – If request to burn is conditional or refused, review is only by the local government or Chief BFCO</li> <li>• r.15A – BFCO to comply with directions of local government</li> <li>• r.15B – Permit holder to comply with permit conditions</li> <li>• r.15C – Local Government may prohibit burning on certain days</li> <li>• r.16 – only CEO or specifically authorised person may permit burning of clover in prohibited period</li> <li>• r.21B – FCO may postpone clover burn</li> </ul>
<b>Council context</b>	None
<b>Primary delegation</b>	Fire Control Officers
<b>Secondary delegation</b>	Not permitted
<b>Permitted to</b> (Refer Part C)	None
<b>Formal record of use</b>	Duplicate copy of permit issued
<b>File number</b>	9.2.1
<b>History</b>	Adopted _____ 2016

**Functions to be performed**

Fire Control Officers are delegated authority to issue, vary or prohibit burning permits in accordance with Bush Fires Act s.18 and Bush Fires Regulations r.15(1).

Fire Control Officers are delegated authority, in consultation with the Chief Bush Fire Control Officer, to issue instructions, restrictions or conditions relating to individual burning permits.

Fire Control Officers are delegated authority to approve an applications to burn a road verge vested in the care, control and management of the Shire, subject to –

- compliance with the Bush Fires Act 1954 s.18(9),
- prior consultation with the CEO, and
- the applicant obtaining the approval of the Dept of Parks and Wildlife.

– End of Delegation

#### Notes

This delegation does not extend to –

- clover burning permits,
- burning of roadside, road verges.

The Act s.16(6)(a) stipulates –

*...obtained a permit in writing to burn the bush from a bush fire control officer of the local government in whose district the land upon which the bush proposed to be burnt is situated, or from the chief executive officer ...*

Refer also Delegation 5.1 and specific matters restricted to CEO, and to 20.2,.



## 20.2 Issue of clover burning permits – Clover Burning Permit Officers

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<b>Statutory context</b>	<p>Bush Fires Act 1954 –</p> <ul style="list-style-type: none"> <li>• s.24 – clover may be burnt during prohibited burning times</li> </ul> <p>Bush Fire Regulations 1954 –</p> <ul style="list-style-type: none"> <li>• r.16 – CEO or specifically authorised person may permit burning of clover in prohibited period</li> <li>• r.17 – permit required to burn clover</li> <li>• r.18 – 7 days notice of clover burn required, under specified restrictions</li> <li>• r.19A – duties of clover burning permit holder</li> <li>• r.20 – local government may prohibit issue of clover burn permits</li> <li>• r.21A – permit holder may be required to advertise clover burn</li> <li>• r.21B – FCO may postpone clover burn</li> </ul>
<b>Council context</b>	None
<b>Primary delegation</b>	Chief Fire Control Officer Deputy Chief Fire Control Officer - Rural
<b>Secondary delegation</b>	Not permitted
<b>Permitted to</b> (Refer Part C)	None
<b>Formal record of use</b>	Duplicate copy of permit issued
<b>File number</b>	9.2.1
<b>History</b>	Adopted _____ 2016

### Functions to be performed

The following Bush Fire Control Officers are delegated authority to issue permits to burn clover in accordance with Bush Fires Act s.18 and Regulations r.16 and to apply such conditions or requirements as is considered appropriate –

- (a) Chief Bush Fire Control Officer
- (b) Deputy Chief Bush Fire Control Officer – Rural

– End of Delegation

### Notes

Specified officers may be delegated authority to issue clover burning permits in accordance with Bush Fires Act s.24 and Bush Fires Regulations r.16, and to apply such conditions or requirements as is considered appropriate.

Refer also Delegation 5.1 and specific matters restricted to CEO.

## 20.3 Prohibited and restricted burning periods – Variations

<b>Statutory context</b>	Bush Fires Act, 1954 – <ul style="list-style-type: none"> <li>- s.17(7) – authority to vary prohibited burning time</li> <li>- s.17(7B) – time may not be varied by more than 14 days</li> <li>- s.17(8) – requirements to give various notice, and Minister may rescind or modify the variation</li> <li>- s.17(9) – publication requirements</li> <li>- s.17(10) – local government may delegate to President and Chief BFCO jointly</li> <li>- s.17(11) – Local government may rescind delegation or vary any delegated decision</li> <li>- s.18(5) – authority to vary restricted burning time</li> <li>- s.18(5B) – time may not be varied by more than 14 days</li> <li>- s.18(5C) – compliance requirements as per s.17(8),(9),(10),(11)</li> </ul>
<b>Council context</b>	None
<b>Primary delegation</b>	Shire President and Chief Fire Control Officer, jointly
<b>Secondary delegation</b>	None
<b>Permitted to</b> (Refer Part C)	None
<b>Formal record of use</b>	Written advice to CEO
<b>File number</b>	9.2.1
<b>History</b>	Adopted _____ 2016

### Functions to be performed

The Shire President and Chief Fire Control Officer are delegated authority to jointly exercise the powers of Council under the Bush Fires Act 1954 s.17 (7) and (8), subject to –

(a) prior consultation with –

- Department of Fire and Emergency Services Authority;
- Department of Parks and Wildlife, and
- surrounding shires.

Should the Shire President be unavailable or hold joint office as Chief BFCO, the Deputy Shire President is deemed to be Acting Shire President in relation to this matter.

If the Chief BFCO is unavailable, a Deputy Chief BFCO is deemed to be Acting Chief BFCO.

In the absence of Deputy President or a Deputy Chief BFCO, the CEO is authorised to act for that person, but not for both.

The CEO is to be advised in order that public notification may be arranged.

– End of Delegation

Notes

## PART C – SECONDARY DELEGATIONS & AUTHORISED PERSONS

### Section 21 - As authorised by delegation to CEO

#### Officer abbreviations

BFCO	Bush Fire Control Officer
BO	Authorised Building Officer
CBFCO	Chief Bush Fire Control Officer
Cemetery	Officer responsible for cemetery administration
CEO	Chief Executive Officer
CSO	Customer Service Officers
	Includes all staff having duties or responsibilities, and is not limited to front counter
DCBFCO	Deputy Chief Bush Fire Control Officer
DCCS	Director Corporate & Community Services
D/Pres	Deputy President
EMDRS	Executive Manager Development & Technical Services
EMTRS	Executive Manager Technical & Rural Services
FCO	Fire Control Officer
MF	Manager Finance
MO	Manager Operations
RBS	Registered Building Surveyor

#### Secondary delegations by Officers other than CEO

No secondary delegations are permitted by Officers other than CEO.



## 21.1 Secondary delegations – by Delegation

Where a secondary delegation is made to a person in full, that person may exercise the full scope of the delegation as authorised by Council to the CEO or other person.

Reference to the principal delegation is essential.

Delegation Number	Delegation Title	Officer/s delegated to	Authority determined by CEO
<b>PART A</b>	<b>PRIMARY DELEGATIONS – to CEO</b>		
1.1	Appointment of authorised persons	None	n/a
1.2	Acting CEO	None	n/a
2.1	Execution of documents	None	n/a
2.2	Destruction of records	DCCS	In full
2.3	Confidential records	DCCS	In full
3.1	Tenders – Authority to set specifications, criteria, call, accept, vary	DCCS EMTRS EMDRS	Specifications, criteria, and calling, within their division only
3.2	Contracts – variations	DCCS EMTRS EMDRS	Maximum value of \$10,000 or 5% whichever is the greater, within their division only
3.3	Disposing of property, confiscated or uncollected goods	DCCS EMTRS EMDRS	Matters within their division only
3.4	Disposing of land – leases, rentals etc	DCCS	In full
3.5	Rates record, extensions and objections	DCCS	In full
3.6	Sundry & rate debtors – Recovery & agreements	DCCS	In full
		MF	In full, other than – - agreements over \$5,000, - notice to tenant to pay rent to Shire - court action over \$20,000
3.7	Write off of sundry debts	DCCS	In full
3.8	Municipal Fund – Incurring expenditure	DCCS	Store cards and fuel cards only
3.9	Municipal and Trust Funds – Payments from Bank Accounts	DCCS EMTRS EMDRS MF	In full
3.10	Investments	DCCS EMTRS EMDRS MF	Restricted, as specified in Delegation
4.1	Disposal of sick or injured animals	DCCS EMTRS EMDRS Rangers	In full
4.2	Cat Act 2011	DCCS EMDRS Rangers	In full

Delegation Number	Delegation Title	Officer/s delegated to	Authority determined by CEO
		CSOs	All matters relating to registration of cats
4.3	Cats Local Law 2016	DCCS EMDRS Rangers	In full
4.4	Dog Act 1976	DCCS EMDRS Rangers	In full
		CSOs	All matters relating to registration of dogs
4.5	Dogs Local Law 2016	DCCS EMDRS Rangers	In full
4.6	Impounding of vehicles and goods	DCCS EMDRS EMTRS Rangers	In full
4.7	Impounding of cattle etc	DCCS EMDRS EMTRS Rangers	In full
4.8	Local Law – Parking 2016	EMDRS Rangers	In full
5.1	Issue of burning permits – CEO	DCCS EMDRS EMTRS	In full
		Rangers	Burning permits under r.15
5.2	Fire fighting – Emergency plant hire	DCCS EMTRS EMDRS	In full
6.1	Health Local Law 2016 – Authorised person	EMDRS EHO	In full
6.2	Amenity Local Law 2016	EMDRS	To be determined
		EHO	To be determined
		RBS ABO	To be determined
		Rangers	To be determined
7.1	Cemetery Local Law 2016	DCCS EMDRS	In full
		Cemetery	All matters other than enforcement
		Rangers	Enforcement only
8.1	Designated senior employee – Vacancy	None	n/a
8.2	Long service leave	DCCS	All employees other than CEO or Director/Executive Managers
10.1	Building permits – Authorised person	EMDRS RBS ABO	In full
10.2	Illegal development	EMDRS	In full
10.3	Control of planning matters	EMDRS	In full
10.4	Application for subdivision or amalgamation	EMDRS	In full

Delegation Number	Delegation Title	Officer/s delegated to	Authority determined by CEO
10.5	Fencing Local Law 2016	EMDRS RBS ABO	In full
11.1	Liquor Control Act 1988	DCCS EMDRS EMTRS	In full
11.2	Discount/waiver/subsidy of facility hire fees	DCCS	In full
11.3	Public Places & Local Government Property Local Law 2016	DCCS EMDRS EMTRS	To be determined <i>In full</i>
		EHO	To be determined <i>Issue of stallholders licences</i> <i>Issue of trader permits</i> <i>Busking</i>
		Rangers	To be determined <i>Enforcement functions only - Activities on thoroughfares and reserves</i>
		CSOs	To be determined <i>Hire of facilities</i> <i>Permits for consumption/sale of alcohol</i> <i>Stallholders licences – less than 7 days</i> <i>Busking</i>
13.1	Reserves under control of the local government	DCCS EMDRS EMTRS	In full
13.2	Things to be done on land not local government property	DCCS EMDRS EMTRS	In full
		MO	Negotiations only for all matters prior to signing of agreement
13.3	Works on land outside the district	DCCS EMTRS	In full
		MO	Negotiations only for all matters prior to signing of agreement
13.4	Materials from land not under local government control	DCCS EMTRS	In full
		MO	Negotiations only for all matters prior to signing of agreement
13.5	Notices requiring certain things to be done	DCCS EMDRS EMTRS	In full
13.6	Notice of local government works	DCCS EMDRS EMTRS	In full
13.7	Private works/infrastructure on, over, under public land	EMTRS	In full
13.8	Event on roads	DCCS EMDRS EMTRS	In full
13.9	Temporary road closures	DCCS EMDRS EMTRS	In full



Delegation Number	Delegation Title	Officer/s delegated to	Authority determined by CEO
		MO	Period not exceeding 1 week
15.1	Control of Vehicles (Off-road Areas) Act 1978	DCCS EMDRS EMTRS	In full
		MO Rangers	Enforcement only
15.2	Native flora and fauna	EMTRS	In full
16.1	Heavy haulage vehicles – Permits	EMTRS	Negotiations for all matters prior to signing of agreement

Delegation Number	Delegation Title	Primary Delegation to	Secondary delegation
<b>PART B</b>	<b>PRIMARY DELEGATIONS – to other officers</b>		
17.1	Building certifications – Registered person	RBS	Not permitted
18.1	Control of environmental health matters – Qualified person	EHO	Not permitted
18.2	Local Law – Health 2016 – Qualified person	EHO	Not permitted
19.1	Control of food matters – Qualified person	EHO	Not permitted
20.1	Issue of burning permits – Fire Control Officers	FCOs	Not permitted
20.2	Issue of clover burning permits – Clover Burning Permit Officers	CBFCO DCBFCO	Not permitted
20.3	Prohibited and restricted burning periods – variation	President CBFCO	Restricted, as specified in Delegation

– End of Schedule

## 21.2 Secondary delegations – by Officer

Where a secondary delegation is made to a person in full, that person may exercise the full scope of the delegation as authorised by Council to the CEO or other person.

Reference to the principal delegation is essential.

Delegation Number	Delegation Title	OFFICER	Authority determined by CEO
6.2	Local Law – Amenity 2016	ABO	To be determined
10.1	Building permits – Authorised person	ABO	In full
10.5	Fencing Local Law 2016	ABO	In full
7.1	Cemetery Local Law 2016	Cemetery	All matters other than enforcement
4.2	Cat Act 2011	CSOs	All matters relating to registration of cats
4.4	Dog Act 1976	CSOs	All matters relating to registration of dogs
11.3	Public Places & Local Government Property Local Law 2016	CSOs	To be determined <i>Hire of facilities</i> <i>Permits for consumption/sale of alcohol</i> <i>Stallholders licences – less than 7 days</i> <i>Busking</i>
2.2	Destruction of records	DCCS	In full
2.3	Confidential records	DCCS	In full
3.1	Tenders – Authority to set criteria, specifications, call, accept, vary	DCCS	Criteria, specification and calling, within their division only
3.2	Contracts – variations	DCCS	Maximum value of \$10,000 or 5%, within their division only
3.3	Disposing of property, confiscated or uncollected goods	DCCS	Matters within their division only
3.4	Disposing of land – leases, rentals etc	DCCS	In full
3.5	Rates record, extensions and objections	DCCS	In full
3.6	Sundry & rate debtors – Recovery & agreements	DCCS	In full
3.7	Write off of sundry debts	DCCS	In full
3.8	Municipal Fund – Incurring expenditure	DCCS	Store cards and fuel cards only
3.9	Municipal and Trust Funds – Payments from Bank Accounts	DCCS	In full
3.10	Investments	DCCS	Restricted, as specified in Delegation
4.1	Disposal of sick or injured animals	DCCS	In full
4.2	Cat Act 2011	DCCS	In full
4.3	Cats Local Law 2016	DCCS	In full
4.4	Dog Act 1976	DCCS	In full
4.5	Dogs Local Law 2016	DCCS	In full
4.6	Impounding of vehicles and goods	DCCS	In full
4.7	Impounding of cattle etc	DCCS	In full
5.1	Issue of burning permits – CEO	DCCS	In full
5.2	Fire fighting – Emergency plant hire	DCCS	In full

Delegation Number	Delegation Title	OFFICER	Authority determined by CEO
7.1	Cemetery Local Law 2016	DCCS	In full
8.2	Long service leave	DCCS	All employees other than CEO or Director/Executive Managers
11.1	Liquor Control Act 1988	DCCS	In full
11.2	Discount/waiver/subsidy of facility hire fees	DCCS	In full
11.3	Public Places & Local Government Property Local Law 2016	DCCS	To be determined <i>In full</i>
13.1	Reserves under control of the local government	DCCS	In full
13.2	Things to be done on land not local government property	DCCS	In full
13.3	Works on land outside the district	DCCS	In full
13.4	Materials from land not under local government control	DCCS	In full
13.5	Notices requiring certain things to be done	DCCS	In full
13.6	Notice of local government works	DCCS	In full
13.8	Event on roads	DCCS	In full
13.9	Temporary road closures	DCCS	In full
15.1	Control of Vehicles (Off-road Areas) Act 1978	DCCS	In full
6.1	Health Local Lawn 2016 – Authorised person	EHO	To be determined
6.2	Amenity Local Law 2016	EHO	To be determined
11.3	Public Places & Local Government Property Local Law 2016	EHO	To be determined <i>Issue of stallholders licences</i> <i>Issue of trader permits</i> <i>Busking</i>
3.1	Tenders – Authority to set criteria, specifications, call, accept, vary	EMDRS	Specifications, criteria and calling, within their division only
3.2	Contracts – variations	EMDRS	Maximum value of \$10,000 or 5%, within their division only
3.3	Disposing of property, confiscated or uncollected goods	EMDRS	Matters within their division only
3.9	Municipal and Trust Funds – Payments from Bank accounts	EMDRS	In full
3.10	Investments	EMDRS	Restricted, as specified in Delegation
4.1	Disposal of sick or injured animals	EMDRS	In full
4.2	Cat Act 2011	EMDRS	In full
4.3	Cats Local Law 2016	EMDRS	In full
4.4	Dog Act 1976	EMDRS	In full
4.5	Dogs Local Law 2016	EMDRS	In full
4.6	Impounding of vehicles and goods	EMDRS	In full
4.7	Impounding of cattle etc	EMDRS	In full
4.8	Parking Local Law 2016	EMDRS	In full
5.1	Issue of burning permits – CEO	EMDRS	In full
5.2	Fire fighting – Emergency plant hire	EMDRS	In full



Delegation Number	Delegation Title	OFFICER	Authority determined by CEO
6.1	Health Local Law 2016 – Authorised person	EMDRS	In full
6.2	Amenity Local Law 2016	EMDRS	In full
7.1	Cemetery Local Law 2016	EMDRS	In full
10.1	Building permits – Authorised person	EMDRS	In full
10.2	Illegal development	EMDRS	In full
10.3	Local planning scheme	EMDRS	In full
10.4	Application for subdivision or amalgamation	EMDRS	In full
10.5	Fencing Local Law 2016	EMDRS	In full
11.1	Liquor Control Act 1988	EMDRS	In full
11.3	Public Places & Local Government Property Local Law 2016	EMDRS	To be determined <i>In full</i>
13.1	Reserves under control of the local government	EMDRS	In full
13.2	Things to be done on land not local government property	EMDRS	In full
13.5	Notices requiring certain things to be done	EMDRS	In full
13.6	Notice of local government works	EMDRS	In full
13.8	Event on roads	EMDRS	In full
13.9	Temporary road closures	EMDRS	In full
15.1	Control of Vehicles (Off-road Areas) Act 1978	EMDRS	In full
3.1	Tenders – Authority to set criteria, specifications, call, accept, vary	EMTRS	Specifications, criteria and calling, within their division only
3.2	Contracts – variations	EMTRS	Maximum value of \$10,000 or 5%, within their division only
3.3	Disposing of property, confiscated or uncollected goods	EMTRS	Matters within their division only
3.9	Municipal and Trust Funds – Payments from Bank Accounts	EMTRS	In full
3.10	Investments	EMTRS	Restricted, as specified in Delegation
4.1	Disposal of sick or injured animals	EMTRS	In full
4.6	Impounding of vehicles and goods	EMTRS	In full
4.7	Impounding of cattle etc	EMTRS	In full
5.1	Issue of burning permits – CEO	EMTRS	In full
5.2	Fire fighting – Emergency plant hire	EMTRS	In full
11.1	Liquor Control Act 1988	EMTRS	In full
11.3	Public Places & Local Government Property Local Law 2016	EMTRS	To be determined <i>In full</i>
13.1	Reserves under control of the local government	EMTRS	In full
13.2	Things to be done on land not local government property	EMTRS	In full

Delegation Number	Delegation Title	OFFICER	Authority determined by CEO
13.3	Works on land outside the district	EMTRS	In full
13.4	Materials from land not under local government control	EMTRS	In full
13.5	Notices requiring certain things to be done	EMTRS	In full
13.6	Notice of local government works	EMTRS	In full
13.7	Private works/infrastructure on, over, under public land	EMTRS	In full
13.8	Event on roads	EMTRS	In full
13.9	Temporary road closures	EMTRS	In full
15.1	Control of Vehicles (Off-road Areas) Act 1978	EMTRS	In full
15.2	Native flora and fauna	EMTRS	In full
16.1	Heavy haulage vehicles – Permits	EMTRS	Negotiations for all matters prior to signing of agreement
3.6	Sundry & rate debtors – Recovery & agreements	MF	In full, other than – - agreements over \$5,000, - notice to tenant to pay rent to Shire - court action over \$20,000
3.9	Payments from Municipal and Trust Funds	MF	In full
3.10	Investments	MF	Restricted, as specified in Delegation
13.2	Things to be done on land not local government property	MO	Negotiations for all matters prior to signing of agreement
13.3	Works on land outside the district	MO	Negotiations for all matters prior to signing of agreement
13.4	Materials from land not under local government control	MO	Negotiations for all matters prior to signing of agreement
13.9	Temporary road closures	MO	Period not exceeding 1 week
15.1	Control of Vehicles (Off-road Areas) Act 1978	MO	Enforcement only
1.1	Appointment of authorised persons	None	n/a
1.2	Acting CEO	None	n/a
2.1	Execution of documents	None	n/a
8.1	Designated senior employee – Vacancy	None	n/a
4.1	Disposal of sick or injured animals	Rangers	In full
4.2	Cat Act 2011	Rangers	In full
4.3	Cats Local Law 2016	Rangers	In full
4.4	Dog Act 1976	Rangers	In full
4.5	Dogs Local Law 2016	Rangers	In full
4.6	Impounding of vehicles and goods	Rangers	In full
4.7	Impounding of cattle etc	Rangers	In full
4.8	Parking Local Law 2016	Rangers	In full
5.1	Issue of burning permits – CEO	Rangers	Burning permits under r.15
6.2	Amenity Local Law 2016	Rangers	To be determined
7.1	Cemetery Local Law 2016	Rangers	Enforcement only

Delegation Number	Delegation Title	OFFICER	Authority determined by CEO
11.3	Public Places & Local Government Property Local Law 2016	Rangers	To be determined <i>Enforcement functions only - Activities on thoroughfares and reserves</i>
15.1	Control of Vehicles (Off-road Areas) Act 1978	Rangers	Enforcement only
6.2	Amenity Local Law 2016	RBS	To be determined
10.1	Building permits – Authorised person	RBS	In full
10.5	Fencing Local Law 2016	RBS	In full

– End of Schedule





## History Summary

Item	Meeting	Purpose	Applies	Delegations affected
1	12 July 2016	Revocation	From 1 July 2016	All previous delegations
2	12 July 2016	Adoption	From 1 July 2016	All delegation in this Register

## APPENDIX

This document records the compiled delegations made by Council and the CEO under the authority of the Local Government Act 1995 and other legislative instruments as specified.

This register is the formal written record by which a delegation is made and conferred. Therefore, committees, the CEO and officers are provided with this document as their record of delegation/s made to them.

### Statutory Context

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This Delegations Register has been prepared in accordance with –

Local Government Act 1995:

- s.5.16 – Delegation of some powers and duties to certain committees**
  - **Separate document as differing provisions apply**
- s.5.17 – Limits on delegations of powers and duties to certain committees
- s.5.18 – Register of delegations to committees
- s.5.42 – Delegation of some powers and duties to CEO**
- s.5.43 – Limits on delegations to CEO
- s.5.44 – CEO may delegate powers and duties to other employees
- s.7.1B – Delegation of some powers and duties to audit committees

Local Government (Administration) Regulations 1996 –  
r.19 – Record to be kept by delegates

Other legislation includes, but is not limited to –

- Building Act 2011
- Bushfires Act 1954
- Cat Act
- Dog Act 1976
- Food Act 2008
- Health Act 1911
- Local Government (Miscellaneous Provisions) Act 1960
- Planning and Development Act 2005

Local Government Local Laws, currently in statutory adoption processes or *planned for 2016* –

- Animals, Environment and Nuisance Local Law 2016*
- Cat Local Law 2016
- Cemetery Local Law 2016
- Dog Local Law 2016
- Fencing Local Law 2016
- Health Local Law 2016*
- Parking Local Law 2016
- Public Places and Local Government Property Local Law 2016*

Local Planning Scheme

Unless stated otherwise, the Local Government Act 1995 section 5.42 is the fundamental statutory context for Council to make the delegations in Parts 1 and 2.

#### **5.42. Delegation of some powers and duties to CEO**

- (1) A local government may delegate\* to the CEO the exercise of any of its powers or the discharge of any of its duties under –



- (a) this Act other than those referred to in section 5.43; or
- (b) the Planning and Development Act 2005 section 214(2), (3) or (5).

\* *Absolute majority required.*

- (2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.

**It is inadequate to quote this reference as the specific authority for the function delegated.**

Various other legislative instruments empower or require Council to make delegations. The legislative empowerment is stated within each delegation.

Council expects the CEO to apply the provisions of the Local Government Act s.5.44 and other legislation to delegate powers and duties to other employees, including s.5.44(3) powers and duties which have been delegated to the CEO under s5.42.

## Definitions

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The LG Act has not defined the term “delegation” or “delegated power”. However:

s.5.16 refers to “... the exercise of any of its powers and duties ...”

s.5.42 refers to “... the exercise of any of its powers or the discharge of any of its duties ...”

The following terms used in this document apply insofar as they are consistent with enabling legislation.

“authority” means the permission or requirement for Council, a Committee or a person to act in accordance with:

- the Local Government Act, Regulation or other legislation,
- a delegation made by Council,
- a policy made by Council, or
- a specific decision by Council, or
- Standard Procedural Direction given or authorised by the CEO.

“delegation” means the authority for a Committee, the CEO or other person to exercise a power, or discharge a duty, as conferred by absolute majority decision of council under the provisions of the relevant legislation.

“Council Policy” is the standing instruction resolved by Council as to how a particular matter is to be implemented:

“Executive Policy” means the requirement for a staff member to act in accordance with a direction given by the CEO.

“Planning Policy” is established under the Planning & Development Act 2005, and the local planning scheme, and has mandatory procedures to adopt, amend or revoke.

## Guidelines No.17 – Delegations (Department of Local Government)

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The Department of Local Government and Communities has published Guidelines for the formation of Delegations.

The Guidelines outline the concept of “delegation” and “acting through” in parts 3 and 4, particularly in paragraph 13 where it is stated –

*... the key difference between a delegation and “acting through” is that a delegate exercises the delegated decision making function in his or her own right. The principal issue is that where a person has no discretion in carrying out a function, then that function may be undertaken through the “acting through” concept. Alternatively, where the decision allows for discretion on the part of the decision maker, then that function needs to be delegated for another person to have that authority.*

In effect, "acting through" is an action that could reasonably be expected to be carried out as the result of a decision by Council (e.g. advertising of a tender), or as a function reasonably expected of the position that a person holds.

Not all matters which will be recorded in Policy are "acting through" matters. Similarly, not all "acting through" matters will be listed. Policy describes how that action or some other action is to be carried out.

## **Making delegations**

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Delegations from Council require approval by an absolute majority of Council.

Delegations from the CEO to other employees are at the discretion of the CEO and do not require a Council resolution. The CEO can delegate a power or duty, the exercise or discharge of which has been delegated by a local government to the CEO, subject to any conditions imposed by the local government on its delegation to the CEO (s5.44 (3)).

It is a requirement that the use of all delegated authority is recorded but it is not a requirement to report the use of delegated authority to Council.

Council may impose limitations on secondary delegation or the functions delegated as they see fit. The CEO is not obligated to delegate the whole or any delegation authorised by Council, but may choose not to place further limitations on the delegation.

## **New delegations**

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Council may make new delegations at any time, by absolute majority.

Where permitted by Council in the delegation, the CEO may authorise a sub-delegation at any time.

However, unless specifically resolved that the authority is to be included in the Delegations Register, the authority to act is for a specific matter, and is not a general or on-going delegation.

## **Use of delegations**

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Delegations are made to assist with the smooth operation of the organisations, and allow appropriate levels of authority to determine a wide range of matters.

There is no requirement for any authorised person to use a delegation. It is at the person's discretion whether or not to exercise a delegated authority, and they may refer the matter to a higher level at any time, should it appear in their judgement to be the best option.

## **Record of use of delegations**

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The Act requires that the use of each delegation is recorded, but does not require that the use is reported to Council, nor does it specify recording the use in a particular format. Such requirements would result in a completely unwieldy volume of unnecessary work that is totally unproductive.

However, in some instances, the use of the delegation is of sufficient importance that Council should be advised so as to be aware of the impact of the decision made.

In order to reduce the unnecessary paperwork burden as far as is possible, the formal record of use of a delegation is the document that is produced in the normal course of administration of the matter. This document may be a form approving or refusing an application, a letter, batch approval for payment of creditors, file note, email or similar.



All these satisfy the requirement of the State Records Office for recordkeeping.

## Review of delegations

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A delegation has effect for the period of time specified in the delegation or indefinitely if no period has been specified.

It is a requirement of the Local Government Act s5.18 and s.5.46 (1) that all delegations made under the authority of that Act be reviewed by the delegator at least once in each financial year.

Any decision to amend or revoke a delegation by a local government is to be by an absolute majority s.5.45 (1) (b).

Review of delegations from the Council to committees and the CEO will be carried out before the end of each financial year and preferably in conjunction with the annual review of Council policies.

The CEO will review delegations to staff as required on changeover of staff or change of staff functions and will review all delegations at least once in the financial year in accordance with the legislation.

## Primary delegation

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The primary delegation recipient includes the person acting in that position should the named recipient be absent from duty. This provision does not apply where the named person is on duty, but not present at the office at the time.

## Delegation by CEO

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The CEO is expected and encouraged to further delegate to appropriate officers, subject to the limitations imposed by the Local Government Act, other enabling legislation, or the conditions of the delegation made to the CEO –

- s.5.43 – limits on delegations to CEO
- s.5.44 (1) – does not permit the CEO to delegate the capacity to further delegate, and further stipulates that the delegation may only be to employees
  - o no such stipulation is made for delegations under other legislation
- s.5.46 – requires the CEO to review sub-delegations to other employees at least annually

The delegation by the CEO is to be –

- by signed document to the person,
- the recipient to return a signed acceptance, which is to be placed on file, and
- a copy to be retained by them.



**11. ELECTED MEMBER'S MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil

**12. NEW BUSINESS OF AN URGENT NATURE APPROVED BY THE PERSON PRESIDING OR BY DECISION OF THE MEETING**

Nil

**13. CLOSURE OF MEETING**

8.00 pm – Commissioner Yuryevich declared the meeting closed.