LOCAL GOVERNMENT ACT 1995

SHIRE OF VICTORIA PLAINS

EXCLUSIVE INDUSTRIES LOCAL LAW 2018

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LOCAL GOVERNMENT ACT 1995

SHIRE OF VICTORIA PLAINS

EXTRACTIVE INDUSTRIES LOCAL LAW 2018

Under the powers conferred by the Local Government Act 1995 and under all other powers enabling it, the Council of the Shire of Victoria Plains resolved on 21 June 2018 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation
This local law may be cited as the Shire of Victoria Plains Extractive Industries Local Law 2018.

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

1.3 Application
The provisions of this local law—
(a) subject to paragraphs (b), (c) and (d)—
(i) apply and have force and effect throughout the whole of the district;
(ii) apply to every excavation whether commenced prior to or following the coming into operation of this local law; and
(iii) apply to a previous licence as if it was issued under this local law;
(b) do not apply to the extraction of minerals under the Mining Act 1978;
(c) do not apply to the carrying on of an extractive industry on Crown land; and
(d) do not apply to the carrying on of an extractive industry on land by the owner or occupier of that land for use on that land.

1.4 Repeal

1.5 Transitional provisions
(1) Within 90 days of commencement of this local law or within 90 days of the date of the annual licence fee of a previous licence becoming due and payable (under clause 7.3), the local government may in respect of the licence—
(a) vary or delete a condition; or
(b) impose one or more other conditions, as specified in clause 4.3(2).
(2) A condition that is varied, deleted or imposed under subclause (1) does not become effective until 90 days (or longer period that is specified by the local government) after written notice of the condition is given by the local government to the licensee.

1.6 Definitions
In this local law unless the context otherwise requires—
Act means the Local Government Act 1995;
application for licence includes application to renew, transfer, vary or cancel a licence as the context requires;
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;
carry on an extractive industry means quarrying and excavating for stone, gravel, sand and other material, and the transporting of the material off the site, but excludes extractive activities undertaken by statutory authorities;
CEO means the Chief Executive Officer of the local government;
cessation of operations means termination of activities associated with the extraction and transport of the materials, whether permanent or temporary, but does not include activities under clause 6.3 for the care and maintenance of the site, or clause 6.4;
district means the district of the Shire of Victoria Plains;
excavation includes quarry;
infringement notice means the notice referred to in clause 10.4(a);
land unless the context requires otherwise, means the land on which the applicant proposes carrying on the extractive industry to which the licence application relates, and includes adjoining lots or locations in the same occupation or ownership;
licence means a licence issued under this local law and a previous licence;
licensee means the person named in the licence as the licensee;
local government means the Shire of Victoria Plains;
local planning scheme means a planning scheme of the local government made under the Planning and Development Act 2005;
owner has the meaning given to it in section 1.4 of the Act;
occupier has the meaning given to it in section 1.4 of the Act;
person does not include the local government;
planning approval means an approval for a development or a land use that is issued under a local planning scheme administered by the local government;
previous licence means a licence that is in force at the date of commencement of this local law;
Schedule means a Schedule to this local law;
secured sum means the sum required to be paid or the amount of a bond, bank guarantee or other security under clause 3.7;
set fee means a fee determined by the local government in accordance with sections 6.16 to 6.19 of the Act;
site means the land specified by the local government in a licence;
thoroughfare has the meaning given to it in section 1.4 of the Act; and
transferee means a person who applies for the transfer of a licence to her or him under clause 4.8.

PART 2—REQUIREMENT FOR LICENCE

2.1 Extractive industries prohibited without licence
A person must not carry on an extractive industry—
(a) unless the person is the holder of a valid and current licence; and
(b) otherwise than in accordance with any terms and conditions set out in, or applying in respect of, the licence.

PART 3—APPLICATION REQUIREMENTS

3.1 Applicant to advertise proposal
(1) Unless the local government first approves otherwise, a person seeking the issue of a licence shall, before making an application for a licence—
(a) forward a notice to—
(i) the owners and occupiers of all land adjoining the land upon which it is proposed to excavate, or within an area determined by the local government as likely to be affected by the granting of a licence; and
(ii) every authority or person having control or jurisdiction over any of the things referred to in clause 3.3(1)(g) and (h) within 500 metres from the boundaries of the land, or within an area determined by the local government as likely to be affected by the granting of a licence; and
(b) as soon as practicable after complying with the requirements of paragraph (a)—
(i) forward a copy of the notice to the CEO; and
(ii) publish the notice in a newspaper circulating in the area in which the proposed excavation is located.
(2) The information contained in the notice referred to in subclause (1) shall include but is not limited to—
(a) particulars of the proposed excavation; and
(b) inviting objections or comments to be made to the CEO within 21 days of date of receipt of the notice.
(3) The local government may undertake a public consultation process including but not limited to—
(a) provision of information by mail or similar;
(b) electronically through a website or similar; and
(c) public meetings.
(4) The local government may, within 14 days after receiving a copy of a notice referred to in subclause (1), cause to be displayed, or require the proposed applicant to display, in a prominent position on the land one or more notices—
   (a) in a form approved by the local government;
   (b) the content, size, construction and position of which have been approved by the local government;
   (c) specifying particulars of the proposed excavation; and
   (d) inviting objections or comments within 21 days from the placement of the notice.

3.2 Application for licence
(1) An application for a licence shall—
   (a) be made in writing;
   (b) state—
      (i) name of person or company for whom the application is being lodged;
      (ii) name of primary contact person for the company and in relation to the application;
      (iii) telephone, mobile phone and email contact details; and
      (iv) postal and street address;
   (c) be accompanied by—
      (i) the set fee;
      (ii) a current certificate of currency for public liability policy in accordance with clause 7.1;
      (iii) the consent in writing to the application from the owner of the excavation site; and
      (iv) a copy of the planning approval for an extractive industry to be conducted on the land;
   (d) include any information that the local government may reasonably require; and
   (e) be signed by the applicant.
(2) An application for a licence must be lodged with the local government together with details of the proposed excavation, including but not limited to—
   (a) a plan of the excavation site in accordance with clause 3.3;
   (b) a works and excavation program in accordance with clause 3.4;
   (c) a rehabilitation and decommissioning program in accordance with clause 3.5;
   (d) evidence that a datum peg has been established on the land related to a point approved by the local government on the surface of a constructed public thoroughfare or such other land in the vicinity;
   (e) a certificate from a licensed surveyor;
   (f) evidence that the requirements of clause 3.1(1), (3) and (4) have been carried out;
   (g) copies of all land use planning approvals required under any planning legislation;
   (h) copies of any environmental approval required under any environmental legislation;
   (i) copies of any geotechnical information relating to the excavation site;
   (j) evidence that an application for a clearing permit has been lodged with the Department of Water and Environmental Regulation if that is required under regulation 5 of the Environmental Protection (Clearing of Native Vegetation) Regulations 2004; and
   (k) any other information that the local government may reasonably require.
(3) The application under subclause (1) and detailed information under subclause (2) shall consist of one signed paper copy, and an electronic copy.
(4) The local government may exempt a person making an application for a licence from supplying any of the data specified in subclause (2)(c), (d), (e) or (i), where—
   (a) the surface area does not exceed 2000 square metres; and
   (b) the material to be extracted from the proposed excavation does not exceed 2000 cubic metres.

3.3 Plan of excavation site
(1) The plan referred to in clause 3.2(2)(a) shall be in a scale of between 1:500 and 1:2000 showing—
   (a) the existing and proposed land contours based on the Australian Height Datum and plotted at one metre contour intervals;
   (b) the land on which the excavation site is to be located;
   (c) the external surface dimensions of the land;
   (d) the location and depth of the existing and proposed excavation of the land;
   (e) the location of existing and proposed thoroughfares or other means of vehicle access to and egress from the land and to public thoroughfares in the vicinity of the land;
   (f) the location of buildings, treatment plant, tanks and other improvements and developments existing on, approved for or proposed in respect of the land;
   (g) the location of existing infrastructure services including but not limited to powerlines and communication cables, and any associated poles or pylons, sewers, pipelines, reserves, bridges, railway lines and registered grants of easement or other encumbrances over, on, under or adjacent to or in the vicinity of the land;
(h) the location of all existing bores, dams, watercourses, drains or sumps on or adjacent to the land;
(i) the location and description of existing and proposed fences, gates and warning signs around the land; and
(j) the location of the areas proposed to be used for stockpiling excavated material, treated material, overburden and soil storage on the land and elsewhere.

(2) All survey data supplied by an applicant for the purpose of subclause (1) shall comply with Australian Height Datum and Australian Map Grid standards.

3.4 Works and excavation program
The works and excavation program referred to in clause 3.2(2)(b) shall contain—
(a) the nature and estimated duration of the proposed excavation for which the licence is applied;
(b) the stages and the timing of the stages in which it is proposed to carry out the excavation;
(c) details of the methods to be employed in the proposed excavation and a description of any on-site processing works;
(d) details of the depth and extent of the existing and proposed excavation of the site;
(e) an estimate of the depth of and description of the nature and quantity of the overburden to be removed;
(f) a description of the methods by which existing vegetation is to be cleared and topsoil and overburden removed or stockpiled;
(g) a description of the means of access to the excavation site and the types of thoroughfares to be constructed;
(h) details of the proposed number and size of trucks entering and leaving the site each day and the route or routes to be taken by those vehicles;
(i) a description of any proposed buildings, water supply, treatment plant, tanks and other improvements;
(j) details of the existing site environment and a report on the anticipated effect that the proposed excavation will have on the environment in the vicinity of the land;
(k) a description of the measures to be taken to minimise the destruction of existing vegetation;
(l) a description of the means of access to the excavation site and the types of thoroughfares to be constructed;
(m) a description of the means of access to the excavation site and the types of thoroughfares to be constructed;
(n) details of any proposed buildings, water supply, treatment plant, tanks and other improvements;
(o) a noise management plan, including a description of the measures to be taken to comply with the Environmental Protection Act 1986 and the Environmental Protection (Noise) Regulations 1997;
(p) a description of the existing site environment and a report on the anticipated effect that the proposed excavation will have on the environment in the vicinity of the land;
(q) details of the nature of existing vegetation, shrubs and trees and a description of measures to be taken to minimise the destruction of existing vegetation;
(r) a description of the measures to be taken in screening the excavation site, or otherwise minimising adverse visual impacts, from nearby thoroughfares or other areas; and
(s) details of measures to reduce impact on the adjoining owners and occupiers, and the wider community.

3.5 Rehabilitation and decommissioning program
The rehabilitation and decommissioning program referred to in clause 3.2(2)(c) shall indicate—
(a) the objectives of the program, having due regard to the nature of the surrounding area and the proposed end-use of the excavation site;
(b) whether restoration and reinstatement of the excavation site is to be undertaken progressively or upon completion of excavation operations;
(c) how any face is to be made safe and batters sloped;
(d) the method by which topsoil is to be replaced and revegetated;
(e) the numbers and types of trees and shrubs to be planted and other landscaping features to be developed;
(f) how rehabilitated areas are to be maintained; and
(g) the program for the removal of buildings, plant, waste and final site clean up.

3.6 Certificate of a licensed surveyor
The certificate in subclause 3.2(2)(e) shall certify the correctness of—
(a) the datum peg and related point referred to in subclause 3.2(2)(d); and
(b) the plan referred to in subclause 3.2(2)(a).

3.7 Security for restoration and reinstatement
(1) The local government may require that the licensee shall give to the local government a bond, bank guarantee or other security, of a kind and in a form acceptable to the local government, in or for a sum determined by the local government, for the purposes of—
(a) ensuring that an excavation site is properly restored or reinstated, and
(b) ensuring that road infrastructure is repaired and maintained to the standard agreed in accordance with subclauses 4.5(2) and (3).
(2) The security required under subclause (1) may be required to be provided by the applicant to the local government—
   (a) as a condition of a licence; or
   (b) before the issue of a licence.

(3) A bond required under subclause (1) is to be paid into a fund established by the local government for the purposes of this clause.

(4) If a bank guarantee or other security required under subclause (1) ceases to be current, excavation is to cease until a further security in a form acceptable to the local government has been provided.

(5) Subject to clause 7.4, any interest accrued in respect of the bond paid into the fund under subclause (3) is to be returned to the licensee at the completion of the restoration and reinstatement works required by the licence conditions or otherwise under this local law.

PART 4—LICENCING

4.1 When an application may be determined
An application for a licence is not to be determined by the local government until—
   (a) the applicant submits proof that the requirements for notices, public information and consultation have been undertaken in accordance with subclauses 3.1(1) and (2);
   (b) the applicant has made an application for licence in accordance with subclause 3.2(1) and (2);
   (c) the local government has considered any written submissions received within the time specified in subclauses 3.1(2)(b) and 3.1(4), and
   (d) planning approval for an extractive industry use of the land has been obtained.

4.2 Determination of application
(1) Upon receipt of an application, the local government may—
   (a) refuse the application; or
   (b) approve the application—
      (i) over the whole or part of the land in respect of which the application is made; and
      (ii) on such terms and conditions, if any, as it sees fit.

(2) The local government may refuse to consider an application for a licence that does not comply with the requirements of clause 3.2.

(3) Where the local government approves an application for a licence, it shall—
   (a) determine the licence period, not exceeding 21 years from the date of issue; and
   (b) approve the issue of a licence in the form determined by the local government from time to time.

(4) Where the local government approves the issue of a licence, the CEO shall issue the licence to the applicant upon receipt by the local government of—
   (a) payment of the annual set fee;
   (b) payment of the secured sum if any, imposed under clause 3.7;
   (c) the documents, if any, executed to the satisfaction of the CEO, under clause 3.7; and
   (d) a copy of the public liability insurance policy required under clause 7.1.(1).

4.3 Conditions which may be imposed
(1) Clause 4.5 applies as a condition to all licences.
(2) Without limiting subclause 4.2(1), the local government may impose conditions in respect of the following matters, including but not limited to—
   (a) the orientation of the excavation to reduce visibility from other land;
   (b) the appropriate siting of access thoroughfares, buildings and plant;
   (c) the stockpiling of material;
   (d) the hours during which any excavation work may be carried out;
   (e) the hours during which any processing plant associated with, or located on, the site may be operated;
   (f) requiring all crushing and treatment plant to be enclosed within suitable buildings to minimise the emission of noise, dust, vapour and general nuisance to the satisfaction of the local government;
   (g) the depths below which a person shall not excavate;
   (h) distances from adjoining land or roads within which a person must not excavate;
   (i) the safety of persons employed at or visiting the excavation site;
   (j) the control of dust and wind-blown material;
   (k) the planting, care and maintenance of trees, shrubs and other landscaping features during the time in which the extractive industry is carried out in order to effectively screen the area to be excavated and to provide for progressive rehabilitation;
   (l) the prevention of the spread of dieback or other disease;
   (m) the drainage of the excavation site and the disposal of water;
(n) the restoration and reinstatement of the excavation site, the staging of such works, and the
minimising of the destruction of vegetation;
(o) the provision of retaining walls to prevent subsidence of any portion of the excavation or of
land abutting the excavation;
(p) requiring the licensee to furnish to the local government a surveyor’s certificate each year,
prior to the renewal fee being payable, to certify the quantity of material extracted and that
material has not been excavated below the final contour levels outlined within the approved
excavation program;
(q) requiring the licensee to enter into an agreement with the local government to pay a
contribution in respect of thoroughfares in the district used by heavy or extraordinary
traffic conducted by or on behalf of the licensee under the licence, in accordance with
subclauses 4.5(2) and (3)—
   (i) any extraordinary expenses incurred by the local government;
   (ii) requirement for increased maintenance; and
   (iii) repair of damage caused;
(r) requiring the licensee to enter into an agreement with the local government in respect of any
condition or conditions imposed under this local law; and
(s) any other matter for properly regulating the carrying on of an extractive industry.

4.4 Variation of conditions
(1) Within 30 days of the date of the annual licence fee becoming due and payable (under clause 7.3),
the local government may, in respect of the licence—
   (a) vary or delete a condition; and
   (b) may impose one or more other conditions, as specified in clause 4.3(2).
(2) A condition that is varied, deleted or imposed under subclause (1) does not become effective until
90 days (or such longer period as is specified by the local government) after written notice of the
condition is given by the local government to the licensee.

4.5 Transport of materials
(1) The local government may, from time to time, prescribe by giving written notice to the licensee—
   (a) determine routes to be taken by the licensee for the transport of materials from the site
through the roads within the district, if the proposed routes are not suitable for the proposed
haulage;
   (b) the tonnage limits to be transported along a particular route; and
   (c) the times during which materials from the site may be transported through the roads within
the district.
(2) If a road on a route prescribed under subclause (1) is inadequate for the transport of materials
from the site, the local government may require the licensee to pay all or part of the costs or
estimated costs, as determined by the local government, of upgrading the road to the standard
required by the local government for these purposes.
(3) The licensee must pay to the local government, as and when required by the local government, the
costs or estimated costs, as determined by the local government, of repairs and maintenance to any
road that are required as a result of the transport of materials from the site.
(4) Each licence is to be taken to be subject to a condition requiring the licensee to comply with this
clause.

4.6 Renewal of licence
(1) An application to renew a licence is not to be determined by the local government until the
applicant has complied with subclause (2).
(2) An application to renew a licence shall—
   (a) be made in writing;
   (b) state—
      (i) name of person or company for whom the application is being lodged;
      (ii) name of primary contact person for the company and in relation to the application;
      (iii) telephone, mobile phone and email contact details; and
      (iv) postal and street address;
   (c) be accompanied by—
      (i) the set fee;
      (ii) by a copy of the current licence; and
      (iii) a current certificate of currency for public liability policy in accordance with clause 7.1;
   (d) be lodged by the licensee at least 90 days before the date of expiry of the licence;
   (e) include a plan showing the contours of the excavation carried out to the date of that
application;
   (f) detail the works, excavation and rehabilitation stages reached and of any changes or
proposed changes with respect to any of the things referred to in subclauses 3.2(2)(b) and (c); and
   (g) submit any other things referred to in clauses 3.2 and 4.2.
(3) The local government may waive any of the requirements specified in subclause (2)(f) or (g).

(4) The applicant shall not be obliged, unless otherwise required by the local government to submit details of any of the things referred to in clauses 3.2 and 4.2 if—

(a) an application to renew a licence is in relation to land in respect of which the current licence was issued less than 12 months prior to the date from which the new licence if granted would apply; and

(b) the methods to be employed in the proposed land excavation are identical to those being employed at the date of the application.

(5) Upon receipt of an application for renewal of a licence, the local government may—

(a) refuse the application; or

(b) approve the application on such terms and conditions as it sees fit.

(6) Where the local government renews a licence under subclause (5), it shall notify the licensee in writing.

4.7 Variation of licence

(1) An application to vary a licence by a licensee—

(a) may be made at any time; and

(b) is not to be determined by the local government until the applicant has complied with subclause (2).

(2) An application to vary a licence shall—

(a) be made in writing;

(b) state—

(i) name of person or company for whom the application is being lodged;

(ii) name of primary contact person for the company and in relation to the application;

(iii) telephone, mobile phone and email contact details; and

(iv) postal and street address;

(c) be accompanied by—

(i) the set fee;

(ii) by a copy of the current licence; and

(iii) a current certificate of currency for public liability policy in accordance with clause 7.1;

(d) be lodged by the licensee at least 90 days before the date of expiry of the licence;

(e) include a plan showing the contours of the excavation carried out to the date of that application;

(f) detail the works, excavation and rehabilitation stages reached and of any changes or proposed changes with respect to any of the things referred to in clauses 3.2(2)(b) and (c);

(g) any other things referred to in clauses 3.2 and 4.2;

(h) include any information that the local government may reasonably require; and

(i) be signed by the licensee and the owner of the excavation site (if different to the licensee).

(3) The local government may waive any of the requirements specified in subclause (2)(f) or (g).

(4) The applicant shall not be obliged, unless otherwise required by the local government to submit details of any of the things referred to in clauses 3.2 and 4.2 if—

(a) an application to transfer a licence is in relation to land in respect of which the current licence was issued less than 12 months prior to the date from which the new licence if granted would apply; and

(b) the methods to be employed in the proposed land excavation are identical to those being employed at the date of the application.

(5) Upon receipt of an application to vary a licence, the local government may—

(a) refuse the application; or

(b) approve the application on such terms and conditions as it sees fit.

(6) Where the local government approves a licence variation under subclause (5), it shall notify the licensee in writing.

4.8 Transfer of licence

(1) An application to transfer a licence is not to be determined by the local government until the applicant has complied with subclause (2).

(2) An application to transfer a licence shall—

(a) be made in writing;

(b) state—

(i) name of person or company for whom the application is being lodged;

(ii) name of primary contact person for the company and in relation to the application;

(iii) telephone, mobile phone and email contact details; and

(iv) postal and street address;
(c) be accompanied by—
   (i) the set fee;
   (ii) a copy of the current licence;
   (iii) a certificate of currency in the name of the proposed transferee for a public liability
        insurance policy in accordance with clause 7.1; and
   (iv) the consent in writing to the transfer from the owner of the excavation site;
(d) be lodged by the licensee at least 90 days before the date of proposed transfer of the licence;
(e) comply with and satisfy all conditions and requirements of the current licence;
(f) provide equivalent security under clause 3.7 as is required by the current licence;
(g) include any information that the local government may reasonably require; and
(h) be signed by the licensee and the proposed transferee.

(3) Upon receipt of an application to transfer a licence, the local government may—
   (a) refuse the application; or
   (b) approve the application on such terms and conditions as it sees fit.

(4) Where the local government approves the transfer of a licence under subclause (3), it shall notify
the licensee and owner of the excavation site in writing.

(5) Where the local government approves the transfer of a licence it shall not be required to refund
any part of the fees and charges paid by the former licensee in respect of the transferred licence.

(6) Where the local government does not approve the transfer of a licence—
   (a) the local government may cancel the licence in accordance with clause 4.9; or
   (b) the licensee may—
      (i) continue operations in accordance with the licence issued;
      (ii) give notice of cessation of operations in accordance with clauses 6.1; or
      (iii) give notice of temporary cessation of operations in accordance with clause 6.3.

4.9 Cancellation of licence by the local government

(1) The local government may cancel a licence where the licensee has—
   (a) ceased to substantially carry on the extractive industry for a period in excess of 12 months or
       has not advised the local government of cessation of operations under clause 6.1;
   (b) been convicted of an offence against—
       (i) this local law; or
       (ii) any other law relating to carrying on an extractive industry;
   (c) failed to comply with—
       (i) any of the conditions of the licence;
       (ii) any provisions of this local law; or
       (iii) any term of an agreement made with the local government in accordance with this local
            law and default continues for a period of 14 days from service on the licensee of written
            notice of default;
   (d) transferred or assigned or attempted to transfer or assign the licence without the consent of
       the local government;
   (e) permitted another person to carry on an extractive industry otherwise than in accordance
       with the terms and conditions of the licence and of the provisions of this local law;
   (f) failed to pay the annual licence fee under clause 7.3;
   (g) failed to have a current public liability insurance policy under clause 7.1(1); or
   (h) failed to provide a copy of the policy or evidence of its renewal as the case may be, under
       clause 7.1(2).

(2) Where the local government cancels a licence under this clause—
   (a) the cancellation takes effect on and from the day on which the licensee is served with the
       notice; and
   (b) the local government shall advise the licensee and owner of the excavation site in writing.

(3) Where a local government cancels a licence under subclause (1), the local government shall not be
required to refund any part of the fees and charges paid by the licensee in respect of the cancelled
licence.

(4) Where the local government cancels a licence under subclause (1), the licensee shall comply with
clause 6.4, unless otherwise approved by the local government.

PART 5—LIMITATIONS, OBLIGATIONS AND PROHIBITIONS ON LICENSEE

5.1 Obligations of the licensee

A licensee shall—

(a) where the local government so requires, securely fence the excavation to a standard
determined by the local government and keep the gateways locked when not actually in use
in order to prevent unauthorised entry;
(b) erect and maintain warning signs along each of the boundaries of the area excavated under the licence so that each sign—
   (i) is not more than 200 metres apart;
   (ii) is not less than 300 mm high and not less than 450 mm wide;
   (iii) the top of the sign is between 1 metre and 1.8 metres above ground level; and
   (iv) bears the words “DANGER EXCAVATIONS—KEEP OUT”;
(c) except where the local government approves otherwise, drain and keep drained to the local government’s satisfaction any excavation to which the licence applies so as to prevent the accumulation of water;
(d) restore and reinstate the excavation site in accordance with the terms and conditions of the licence, the site plans and the works and excavation program approved by the local government;
(e) take all reasonable steps to prevent the emission of dust, noise, vibration and other forms of nuisance from the excavation site; and
(f) comply with the conditions imposed by the local government in accordance with clause 4.3.

5.2 Limits on excavation near boundary
Subject to any licence conditions imposed by the local government, a person shall not, without the written approval of the local government, excavate within—
(a) 500 metres of any residence unless with the consent of the adjoining neighbours;
(b) 50 metres of any bore, watercourse, wetland, swamp or other water reserve;
(c) 50 metres of any thoroughfare;
(d) 20 metres of the boundary of any land on which the excavation site is located;
(e) 20 metres of any land affected by a registered grant of easement; or
(f) 2 metres of the estimated maximum groundwater level as determined from time to time by the Department of Water and Environmental Regulation or otherwise as adopted by the local government.

5.3 Prohibitions
A licensee shall not—
(a) remove any trees or shrubs within 40 metres of the boundary of any thoroughfare on land in respect of which a licence has been granted without written permission from the local government and if required, the Department of Water and Environmental Regulation, except for the purpose of constructing access thoroughfares, erecting buildings or installing plant for use in connection with the excavation and then only with the express approval of the local government and subject to any conditions which the local government may impose in accordance with clause 4.3;
(b) store, or permit to be stored, except in the case of approved rock quarry sites, any explosives or explosive devices on the site to which the licence applies other than with the approval of the local government and the Department of Mines, Industry Regulation and Safety; or
(c) fill or excavate, other than in accordance with the terms and conditions of the licence, the site plans and the works and excavation program approved by the local government.

5.4 Blasting
(1) A person shall not carry out or permit to be carried out any blasting in the course of excavating unless—
   (a) the local government has otherwise given approval in respect of blasting generally or in the case of each blast;
   (b) subject to subclause (2), the blasting takes place only between the hours of 8.00am and 5.00pm, or as determined by the local government, on Mondays to Fridays inclusive;
   (c) the blasting is carried out in strict accordance with the Mines Safety and Inspection Act 1994, the Environmental Protection Act 1986, and all relevant local laws of the local government; and
   (d) in compliance with any other conditions imposed by the local government concerning—
      (i) the time and duration of blasting;
      (ii) the purposes for which the blasting may be used; and
      (iii) such other matters as the local government may reasonably require in the interests of the safety and protection of members of the public and of property within the district.
(2) A person shall not carry out or permit to be carried out any blasting on a Saturday, Sunday or public holiday except with the prior approval of the local government.

PART 6—CESSATION OF OPERATIONS

6.1 Notice of cessation of operations by licensee
(1) A notice of cessation shall—
   (a) be made in writing:
(b) state—
   (i) name of person or company for whom the application is being lodged;
   (ii) name of primary contact person for the company and in relation to the application;
   (iii) telephone, mobile phone and email contact details; and
   (iv) postal and street address;

(c) be accompanied by—
   (i) a copy of the current licence; and
   (ii) a current certificate of currency for public liability policy in accordance with clause 7.1;

(d) advise if the cessation is to be—
   (i) temporary and the expected duration or circumstances for re-commencement; or
   (ii) permanent;

(e) detail arrangements for meeting any ongoing liabilities or environmental obligations—
   (i) name of person or company to whom matters are to be referred;
   (ii) name of primary contact person for the company;
   (iii) telephone, mobile phone and email contact details; and
   (iv) postal and street address;

(f) be lodged by the licensee as soon as cessation of operations has been determined by the
   licensee and not more than seven days after the operations have ceased in any event;

(g) include a plan showing the contours of the excavation carried out to the date of that
   application;

(h) detail the works, excavation and rehabilitation stages reached and of any changes or
   proposed changes with respect to any of the things referred to in clauses 3.2(2)(b) and (c);

(i) any other things referred to in clauses 3.2 and 4.2;

(j) include any information that the local government may reasonably require; and

(k) be signed by the licensee.

(2) Upon notice of cessation of operations, the local government shall—
   (a) acknowledge the notice of cessation of operations; and
   (b) confirm the acceptability or otherwise of the arrangements for the cessation of operation.

6.2 Cessation of operations—permanent

(1) Where a licensee has given written notice to the local government of the intention to permanently
   cease carrying on an extractive industry on the site to which the licence applies the licence is deemed
   to have expired on the date such cessation is so notified.

(2) The permanent cessation of the carrying on of an extractive industry on a site or the deemed
   expiration or cancellation of a licence does not entitle the licensee to any refund of any licence fee.

6.3 Cessation of operation—temporary

(1) Where a licensee has given written notice of temporary cessation of operations, then on or before
   the annual licence date each year, the licensee shall—
   (a) confirm to the local government the matters in subclauses 6.1(1)(d) and (e); and
   (b) provide a copy of the current public liability insurance policy required under clause 7.1.

(2) For the duration of the cessation—
   (a) contributions or payments agreed under subclauses 4.3(2)(q) or (r) are suspended until such
       time as operations are resumed, but all other conditions and obligations remain in place; and
   (b) the annual licence fee under clause 7.3 is suspended.

(3) The licence granted under clause 4.2 shall remain valid for the term of the licence and shall not be
   extended by the duration of cessation of operations.

(4) The temporary cessation of the carrying on of an extractive industry on a site or the deemed
   expiration or cancellation of a licence does not entitle the licensee to any refund of any licence fee.

6.4 Works to be carried out on cessation of operations

Where the carrying on of an extractive industry on the site permanently ceases or on the expiration
or cancellation of the licence applicable to the site, whichever first occurs, the licensee shall, as well as
complying with the provisions of clause 6.1—

(a) restore and reinstate the excavated site in accordance with the proposals approved by the
    local government or in such other manner as the local government may subsequently agree in
    writing with the licensee;

(b) ensure that any face permitted to remain upon the excavation site is left safe with all loose
    materials removed and where the excavation site is—
    (i) sand, the sides are sloped to a batter of not more than 1:3 (vertical : horizontal); and
    (ii) limestone or material other than sand, the sides are sloped to a batter which, in the
        opinion of the local government, would enable the site to be left in a stable condition;

(c) ensure that the agreed floor level of the excavation is graded to an even surface or is
    otherwise in accordance with the rehabilitation and decommissioning program approved by
    the local government;
(d) ensure that all stockpiles or dumps of stone, sand or other materials are left so that no portion of that material can escape onto land not owned or occupied by the licensee nor into any stream, watercourse or drain that is not wholly situated within the land owned or occupied by the licensee;

(e) erect retaining walls where necessary to prevent subsidence of land in the vicinity of any excavation;

(f) remove from the site all buildings, plant and equipment erected, installed or used for or in relation to the carrying on of an extractive industry on the site and fill all holes remaining after such removal to the level of the surrounding ground and compact such filled holes sufficiently to prevent settling; and

(g) break up, scarify, cover with topsoil and plant with grass, trees and shrubs all parts of the site where buildings, plant and equipment were erected or installed and all areas which were used for stockpiling unless otherwise specified under this local law.

PART 7—MISCELLANEOUS

7.1 Public liability
(1) A licensee shall have at all times a current public liability insurance policy naming the local government and indemnifying the licensee and the local government for a sum of not less than $20,000,000 in respect of any one claim relating to any of the excavation operations.

(2) The licensee shall provide to the local government a copy of the policy taken out under subclause (1), within 14 days after the issue of that policy and shall provide to the local government evidence of policy renewal within 14 days of each policy renewal date.

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

(2) In this clause, the Mines Safety and Inspection Act 1994 and the Environmental Protection Act 1986 include all subsidiary legislation made under those Acts.

7.3 Annual licence fee
On or before 30 June in each year, a licensee must pay to the local government the set fee for the annual licence.

7.4 Use of secured sum by the local government
(1) If a licensee fails to pay any fees and charges or carry out or complete the restoration and reinstatement works required by the licence conditions either—

(a) within the time specified in those conditions; or

(b) where no such time has been specified, within 60 days of the completion of the excavation or portion of the excavation specified in the licence conditions, then, subject to the local government giving the licensee 14 days notice of its intention to do so—

(i) the local government may carry out or cause to be carried out the required work or so much of that work as remains undone; and

(ii) the licensee shall pay to the local government on demand all costs incurred by the local government or which the local government may be required to pay under this clause.

(2) The local government may apply the proceeds of any bond, bank guarantee or other security provided by the licensee under clause 3.7 towards its costs under this clause.

(3) The liability of a licensee to pay the local government’s costs or any outstanding fees and charges under this clause is not limited to the amount, if any, secured under clause 3.7.

(4) For avoidance of doubt, the local government’s powers under this clause are in addition to its other enforcement powers under this local law.

PART 8—NOTICES

8.1 Notice to remedy non-compliance
Where any thing is required to be done or not permitted to be done by this local law, an authorised person may give the licensee a notice in writing requiring the licensee to comply with the requirements of this local law.

8.2 Notice requirements
A notice given must—

(a) be in writing;

(b) specify the reason for giving the notice, the work or action that is required to be undertaken; and

(c) the time within which the work or action is to be undertaken.
8.3 Local government may undertake requirements of notice
(1) If a person fails to comply with a notice referred to in clause 8.1, the local government may—
   (a) do the thing specified in the notice;
   (b) take whatever remedial action it considers appropriate and which would have been if the breach or failure had not occurred; and
   (c) recover all costs from the licensee, as a debt.
(2) The provisions of this clause are subject to section 3.25 and item 12 of Division 1 of Schedule 3.1 of the Local Government Act 1995 and any power of entry exercised by the local government under this local law is subject to Part 3, Division 3 of the Local Government Act 1995.

8.4 Offence to fail to comply with notice
A person who fails to comply with a notice given under this local law commits an offence.

PART 9—OBJECTIONS AND REVIEW
9.1 Objection and review rights
The provisions of Division 1 of Part 9 of the Act and regulation 33 of the Local Government (Functions and General) Regulations 1996 shall apply when the local government makes a decision as to whether it will—
   (a) grant a person a licence under this local law; or
   (b) renew, vary, or cancel a licence that a person has under this local law.

PART 10—OFFENCES AND PENALTIES
10.1 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.

10.2 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 $500 for each day or part of the day during which the offence has continued.

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

10.4 Forms
For the purposes of this local law—
   (a) the form of the infringement notice given under section 9.16 of the Act is that of Form 2 in Schedule 1 of the Local Government (Functions and General) Regulations 1996; and
   (b) the form of the notice sent under section 9.20 of the Act withdrawing an infringement notice is that of Form 3 in Schedule 1 of the Local Government (Functions and General) Regulations 1996.

SCHEDULE—PRESCRIBED OFFENCES

<table>
<thead>
<tr>
<th>Item</th>
<th>Clause</th>
<th>Nature of offence</th>
<th>Modified penalty</th>
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<tbody>
<tr>
<td>1</td>
<td>2.1(a)</td>
<td>Carry on an extractive industry without a valid and current licence</td>
<td>500</td>
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<td>2</td>
<td>2.1(b)</td>
<td>Carry on an extractive industry not in accordance with conditions of licence</td>
<td>500</td>
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<td>3</td>
<td>4.5(1)</td>
<td>Failure to comply with notice regarding transport of materials</td>
<td>500</td>
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<tr>
<td>4</td>
<td>5.1(a)</td>
<td>Failure to securely fence or keep gateways locked</td>
<td>500</td>
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<tr>
<td>5</td>
<td>5.1(b)</td>
<td>Failure to comply with boundary signage requirements</td>
<td>500</td>
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<tr>
<td>6</td>
<td>5.1(c)</td>
<td>Failure to provide adequate drainage</td>
<td>500</td>
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<tr>
<td>7</td>
<td>5.1(d)</td>
<td>Failure to restore and reinstate site in accordance with approved plan</td>
<td>500</td>
</tr>
<tr>
<td>Item</td>
<td>Clause</td>
<td>Nature of offence</td>
<td>Modified penalty $</td>
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<tr>
<td>------</td>
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<td>8</td>
<td>5.1(e)</td>
<td>Failure to control dust, noise, vibration and other nuisances</td>
<td>500</td>
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<td>9</td>
<td>5.1(f)</td>
<td>Failure to comply with conditions of licence</td>
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<td>5.2(a)</td>
<td>Excavate within 500 metres of a residence without approval</td>
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<tr>
<td>11</td>
<td>5.2(b)</td>
<td>Excavate within 50 metres of a bore, watercourse, wetland swamp or other water reserve without approval</td>
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<td>5.2(c)</td>
<td>Excavate within 50 metres of a thoroughfare without approval</td>
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<td>13</td>
<td>5.2(d)</td>
<td>Excavate within 20 metres of the boundary of any land on which the excavation is situated without approval</td>
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<td>5.2(e)</td>
<td>Excavate within 20 metres of land affected by a registered grant of easement without approval</td>
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<td>5.2(f)</td>
<td>Excavate within 2 metres of estimated maximum groundwater level without approval</td>
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<td>16</td>
<td>5.3(a)</td>
<td>Removal of trees or shrubs within 40 metres of any boundary with a thoroughfare reserve without approval</td>
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<td>17</td>
<td>5.3(b)</td>
<td>Store or permit to be stored explosives or explosive devices without approval</td>
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<td>18</td>
<td>5.3(c)</td>
<td>Fill or excavate other than in accordance with the conditions of licence</td>
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<td>5.4(1)(a)</td>
<td>Carry out or permit to be carried out blasting without approval</td>
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<td>5.4(1)(b)</td>
<td>Carry out or permit to be carried out blasting outside the hours approved by the local government</td>
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<td>5.4(1)(d)</td>
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<td>Carry out or permit to be carried out blasting on a Saturday, Sunday or public holiday without approval</td>
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<td>6.1(1)</td>
<td>Failure to provide notice of cessation of operations</td>
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<td>24</td>
<td>6.3(1)</td>
<td>Failure to provide annual confirmation of details during period of temporary cessation of operations</td>
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<td>25</td>
<td>6.4</td>
<td>Failure to undertake restoration and reinstatement as required on cessation of operations</td>
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<td>26</td>
<td>8.4</td>
<td>Failure to comply with requirements of notice</td>
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<tr>
<td>27</td>
<td>10.1</td>
<td>Other offences not specified</td>
<td>500</td>
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</tbody>
</table>

Dated: 3 July 2018.

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

D. S. LOVELOCK, President.
G. M. TEEDE, Chief Executive Officer.
LOCAL GOVERNMENT ACT 1995

SHIRE OF VICTORIA PLAINS

PUBLIC PLACES AND LOCAL GOVERNMENT PROPERTY
LOCAL LAW 2018

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SCHEDULE—PRESCRIBED OFFENCES
Under the powers conferred by the *Local Government Act 1995* and under all powers enabling it, the Council of the Shire of Victoria Plains resolved on 16 May 2018 to adopt the following local law.

**PART 1—PRELIMINARY**

1.1 Citation

This local law may be cited as the *Shire of Victoria Plains Public Places and Local Government Property Local Law 2018*.

1.2 Commencement

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

1.3 Application

This local law applies throughout the district.

1.4 Repeal

The following local laws are repealed—

(a) *Victoria Plains Road Board By-law—Pipes and Pipelines Beneath Roads and Footpaths* published in the *Government Gazette* on 12 December 1958;

(b) *The Municipality of the Shire of Victoria Plains Adoption of Draft Model By-law Relating to Prevention of Damage to Streets* published in the *Government Gazette* on 27 August 1969; and

(c) *The Municipality of the Shire of Victoria Plains Adoption of Draft Model By-laws Relating to Removal and Disposal of Obstructing Animals or Vehicles* published in the *Government Gazette* on 27 August 1969.

1.5 Transitional provisions

(1) An application for, or the renewal of a licence, permit or other authorisation made under a repealed local law that has not been finally determined before the commencement day is to be dealt with and determined as if it were an application under this local law.

(2) A licence, permit or other authorisation under a repealed local law that is in force before the commencement day is to be regarded on and after that day as a licence under this local law and may be dealt with accordingly.

1.6 Definitions

(1) In this local law—

- *Act* means the *Local Government Act 1995*;
- *animal* means any living thing that is not a human being or plant but excludes dogs and cats;
- *applicant* means a person who applies for a licence under this local law;
- *application* means an application for a licence under this local law;
- *authorised person* means a person appointed by the local government under section 9.10 of the Act to perform any of the functions of an authorised person under this local law;
- *building* means any building which is local government property and includes any—
  (a) hall or room; and
  (b) corridor, stairway or annexe of any hall or room;
- *building permit* means a permit granted under section 20 of the *Building Act 2011*;
- *built-up area* has the meaning given to it by the *Road Traffic Code 2000*;
- *carriageway* has the meaning given to it in the *Road Traffic Code 2000*;
- *CEO* means the Chief Executive Officer of the local government;
**children’s playground** means an area set aside for use by children and noted by the presence of any of the following—
(a) dedicated children’s playground equipment,
(b) the presence of either sand or other form of soft fall surface; or
(c) a sign indicating the area is a children’s playground;

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

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

**costs** means all expenses directly associated with reinstatement of replacement, and includes administrative expenses, associated with reinstatement or replacement;

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

**crossover** means an areas of the verge, constructed and used for the purpose of enabling a vehicle to access the adjacent property;

**district** means the district of the local government and includes any area placed under the jurisdiction of the local government under section 295 of the Public Health Act 2016;

**entertainment** means conduct any form of theatrical, artistic, musical, audio or visual performance and includes busk;

**firearm** has the same meaning as in section 4 of the Firearms Act 1973;

**food** has the meaning given by the Food Act 2008;

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

**function** means an event or activity characterised by all or any of the following—
(a) formal organisation and preparation;
(b) its occurrence is generally advertised or notified in writing to particular persons;
(c) organisation by or on behalf of a club;
(d) payment of a fee to attend it; and
(e) systematic recurrence in relation to the day, time and place;

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

**hire** includes offer to hire and expose for hire;

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

**kerb** includes the edge of a carriageway;

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

**licence** means a licence, permit or approval issued by the local government under this local law;

**licence document** means a licence document issued under this local law;

**licensed premises** has the same meaning as is given to it in section 3 of the Liquor Control Act;

**licensee** means a person who holds a licence;

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

**Liquor Control Act** means the Liquor Control Act 1988;

**local government** means the Shire of Victoria Plains;

**local government property** means anything except a thoroughfare—
(a) which belongs to the local government;
(b) of which the local government is the management body under the Land Administration Act 1997; or
(c) which is an otherwise unvested facility within section 3.53 of the Act;

**local public notice** has the meaning given to it in section 1.7 of the Act;

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

**manager** means the person for the time being employed or engaged by the local government to control and manage a facility which is local government property, and includes the person’s assistant or deputy;

**market** means a collection of stalls, stands or displays erected for the purpose of selling or hiring goods or services or carrying out any other transaction;

**missile** has the same meaning as in section 4 of the Firearms Act 1973;

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

**permitted verge treatment** means any one of the treatments described in clause 5.7(3), and includes any reticulation pipes and sprinklers;

**person** does not include the local government;

**prohibited drug** is given its meaning under section 3 of the Misuse of Drugs Act 1981;

**public place** means—
(a) a thoroughfare;
(b) any local government property; or
(c) a place to which the public have access;
repealed local law means a local law repealed under clause 1.4;

retailer means the owner or occupier of a shop in respect of which shopping trolleys are provided for the use of customers of the shop;

Schedule means a schedule to this local law;

sell includes—

(a) offer or attempt to sell;
(b) display for sale;
(c) send, forward or deliver for sale or on sale;
(d) barter or exchange;
(e) dispose, by lot or chance or by auction;
(f) supply, or offer, agree or attempt to supply—
   (i) in circumstances which the supplier derives or would be likely to derive a direct or indirect pecuniary benefit; or
   (ii) gratuitously, but with a view to gaining or maintaining custom or other commercial advantage; or

(g) authorise, direct, cause or permit to be done any act referred to in this definition;

set fee refers to fees and charges imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act;

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

stall means a movable or temporarily fixed structure, stand or table in, on or from which goods or services are sold and includes a vehicle;

street tree means any tree planted or self sown in a thoroughfare, of an appropriate species and in an appropriate location, for the purposes of contributing to the appearance of the thoroughfare;

thoroughfare means any highway, thoroughfare or land used for vehicular or pedestrian traffic, and includes all the land lying between property lines, including the verge and footpath;

trading means selling or hiring goods or services and includes the setting up of a stall and conducting business at a stall;

UAV means unmanned aircraft, other than a balloon or kite, as defined by the Civil Aviation Regulations 1998 (Commonwealth);

vehicle includes—

(a) every conveyance and every object capable of being propelled or drawn on wheels, tracks or otherwise; and

(b) where the context permits, an animal being ridden or driven, but excludes—
   (c) a wheelchair or any device designed for use by a physically impaired person on a footpath; and
   (d) a pram, stroller or similar device; and

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

1.7 Interpretation
In this local law, a reference to local government property includes a reference to any part of local government property.

1.8 Types of licences
For the purposes of this local law—

(a) a licence which authorises trading on any thoroughfare or local government property is to be referred to as a trading licence;

(b) a licence which authorises the conduct or setting up of a market on any thoroughfare or local government property is to be referred to as a market licence;

(c) a licence which authorises entertainment on any thoroughfare or local government property is to be referred to as an entertainment licence; and

(d) a licence which authorises the sale of food on any thoroughfare or local government property is to be referred to as a food sales licence.

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

1.10 Overriding power to hire and agree
Despite anything to the contrary in this local law, an authorised person, on behalf of the local government, may—

(a) hire local government property to any person; or

(b) enter into an agreement with any person regarding the use of any local government property.
PART 2—ACTIVITIES ON LOCAL GOVERNMENT PROPERTY
REQUIRING A LICENCE

2.1 Activities requiring a licence
(1) A person must not without a licence—
   (a) subject to subclause (3) hire local government property;
   (b) advertise anything by any means on local government property;
   (c) erect, on local government property a structure for public amusement or for any performance, whether for gain or otherwise;
   (d) teach, coach or train, for profit, any person in any facility which is local government property;
   (e) plant any plant or sow any seeds on local government property;
   (f) carry on any trading on local government property unless the trading is conducted—
      (i) with the consent of a person who holds a licence to conduct a function, and where the trading is carried on under and in accordance with the licence; or
      (ii) by a person who has a licence or permit to carry on trading on local government property under any written law;
   (g) conduct a function or entertainment event on local government property;
   (h) charge any person for entry to local government property, unless the charge is for entry to land or a building hired by a voluntary non-profit organisation;
   (i) light a fire on local government property except in a facility provided for that purpose;
   (j) light or set off any firework or conduct a fireworks display on local government property;
   (k) use a UAV on local government property;
   (l) parachute, hang glide, abseil or base jump from or on to local government property;
   (m) play or practise—
      (i) golf or archery; or
      (ii) pistol or rifle shooting, but subject to the compliance of that person with the Firearms Act 1973;
   (n) erect a building or a refuelling site on local government property;
   (o) make any excavation on or erect or remove any fence on local government property;
   (p) erect or install any structure above or below ground, which is local government property, for the purpose of supplying any water, power, sewer, communication, television or similar service to a person;
   (q) depasture any horse, sheep, cattle, goat, camel, ass or mule on local government property;
   (r) conduct or take part in any gambling game or contest or bet, or offer to bet, publicly; or
   (s) erect, install, operate or use any broadcasting, public address system, loudspeaker or other device for the amplification of sound on local government property.

(2) The local government may exempt a person from compliance with subclause (1) on the application of that person.

(3) The local government may exempt specified local government property or a class of local government property from the application of subclause (1)(a).

2.2 Licence to erect structures or camp
(1) This clause does not apply to a caravan park or camping ground operated by the local government.

(2) A person must not without a licence—
   (a) camp on, lodge at or occupy any structure at night for the purpose of sleeping on local government property;
   (b) erect any tent, camp, hut or similar structure on local government property other than a beach shade or windbreak erected for use during the hours of daylight and which is dismantled during those hours on the same day; or
   (c) park a vehicle on local government property, thoroughfare or public place for the purpose of sleeping in the vehicle.

(3) The maximum period for which the local government may approve an application for a licence in respect of subclause (2)(a) or (b) is that provided in regulation 11(2)(a) of the Caravan Parks and Camping Grounds Regulations 1997.

(4) Any tent, camp, hut or similar structure erected in contravention of subclause (2)(b) and any associated goods may be impounded, subject to Regulation 29 of the Local Government (Functions and General) Regulations 1996.

(5) A vehicle parked in contravention of subclause (2)(c) may, subject to the provisions of Regulation 29 of the Local Government (Functions and General) Regulations 1996, be impounded by immobilising the vehicle by the use of a wheel clamping device.

(6) An authorised person who impounds a vehicle under subclause (5) shall attach a notice to a vehicle advising the owner of the vehicle that the vehicle will be released upon payment of the costs of impounding by use of a wheel clamping device and the place where and hours during which the costs can be paid.
(7) The notice attached to the impounded vehicle under subclause (6) shall also advise the owner that if the impounding costs are not paid within 24 hours the vehicle may be removed to the local government pound.

(8) Notices issued under this clause shall be in the form determined from time to time by the local government.

2.3 Licence required for possession and consumption of liquor

(1) A person, on local government property, must not consume any liquor, have in her or his possession or under her or his control, or sell any liquor, unless—
   (a) permitted under the Liquor Control Act; and
   (b) a licence has been obtained for that purpose from the local government.

(2) Subclause (1) does not apply where the liquor is in a sealed container.

PART 3—BEHAVIOUR ON LOCAL GOVERNMENT PROPERTY AND THOROUGHFARES

3.1 Behaviour which interferes with others

In or on any local government property or thoroughfare, a person must not, behave in a manner which—
   (a) is likely to interfere with the enjoyment of a person who might use or who might be on the property or thoroughfare; or
   (b) interferes with the enjoyment of a person using the property or thoroughfare.

3.2 Behaviour detrimental to property

A person must not behave in or on local government property or thoroughfare in a way which is or might be detrimental to the property, including but not limited to—
   (a) removing any thing from the local government property or thoroughfare including a rock, a plant or a seat provided for the use of any person; and
   (b) destroying, defacing or damaging any thing on the local government property or thoroughfare, including a plant, a seat provided for the use of any person or a building.

3.3 No unauthorised entry to function

(1) A person must not enter local government property on such days or during such times as the property is set aside for a function, except—
   (a) through the proper entrance for that purpose; and
   (b) on payment of any fee chargeable for admission as determined by the hirer at the time.

(2) An authorised person may exempt a person from compliance with subclause (1)(b).

3.4 Taking or injuring fauna

(1) In this clause—
   fauna means any animal indigenous to or which periodically migrates to any State or Territory of the Commonwealth or the territorial waters of the Commonwealth and includes in relation to any such animal—
   (a) any class of animal or individual member;
   (b) the eggs or larvae; or
   (c) the carcass, skin, plumage or fur unless it has been shed or discarded by the fauna in a normal or natural manner.

(2) A person must not, take, injure or kill or attempt to take, injure or kill any fauna which is on or above any local government property or thoroughfare, unless that person is authorised under a written law to do so.

3.5 Flora

(1) In this clause—
   flora means all vascular plants, seeds and other flora, whether living or dead.

(2) On or above any local government property or thoroughfare, unless authorised to do so under a written law or with the written approval of an authorised person, a person must not—
   (a) remove, damage or interfere with any flora; or
   (b) plant or deposit any flora.

3.6 Vehicles on local government property

(1) Unless authorised by a licence, a person must not take or cause a vehicle to be taken onto or driven on local government property unless—
   (a) subject to subclause (3), the local government property is clearly designated as a road, access way, or car park;
   (b) the vehicle is driven by a local government employee, authorised person or contractor engaged by the local government, who is engaged in—
       (i) providing a service or making a delivery in connection with the local government property; or
       (ii) maintaining the local government property;
(c) the person is driving an emergency vehicle in the course of his or her duties;
(d) the vehicle is—
   (i) used in accordance with the conditions set down by the local government or an
       authorised person; and
   (ii) of a type allowed to be taken onto the local government property by the local
       government or an authorised person; or
(e) the vehicle is a motorised wheelchair, and the driver of that vehicle is a person with a
   disability.

(2) A person must not drive a vehicle or allow a vehicle to be driven on local government property at a
speed exceeding 20 kilometres per hour or as otherwise indicated by a sign, or in such a manner as to
cause danger to any person.
(3) Other than in accordance with subclause (1)(b),(c),(d) or (e), a person must not drive a vehicle on
local government property or part of it that is being used for a function for which a licence has been
obtained unless permitted to do so by the licence holder or an authorised person.

PART 4—MATTERS RELATING TO PARTICULAR LOCAL
GOVERNMENT PROPERTY

4.1 No entry to fenced or closed local government property
A person must not enter local government property which has been fenced off or closed to the public
by a sign or otherwise, unless that person is authorised to do so by an authorised person.

4.2 Only specified gender to use entry of toilet block or change room
(1) Where a sign on a toilet block or change room specifies that a particular entry of the toilet block or
change room is to be used by—
   (a) females—then a person of the male gender must not use that entry of the toilet block or
       change room;
   (b) males—then a person of the female gender must not use that entry of the toilet block or
       change room; or
   (c) families—then, where the toilet block or change room is being used by a family, only an
       immediate member of that family may use that entry of the toilet block or change room.
(2) Subclause (1)(a) and (b) does not apply to a child, when accompanied by a parent, guardian or
caregiver, where the child is—
   (a) under the age of 8 years; or
   (b) otherwise permitted by an authorised person to use the relevant entry.

4.3 Use of shower or bath facilities
A person may use a shower or bath facility in change rooms only on conditions that—
   (a) the facilities must be used by the person only for the purpose of cleansing, bathing and
       washing themselves; and
   (b) the facilities must not be used for the purpose of laundering of clothing or washing of other
       articles.

PART 5—ACTIVITIES IN THOROUGHFARES

Division 1—General

5.1 General prohibitions
A person must not—
   (a) plant, or allow to remain, in a thoroughfare a plant that by virtue of its height, position or
density obstructs a reasonable sight line for a driver of any vehicle negotiating or using the
thoroughfare;
   (b) damage a lawn or a garden, or remove any plant or part of a plant from a lawn or a garden, in
a thoroughfare unless—
      (i) the person is the owner or the occupier of the lot abutting that portion of the
          thoroughfare and the lawn or the garden or the particular plant has not been installed
          or planted by the local government; or
      (ii) the person is acting under the authority of a written law;
   (c) damage, or remove a street tree, or part of a street tree, irrespective of whether it was
planted by the owner or occupier of the lot abutting the thoroughfare or by the local
government, unless—
      (i) the damage to, or removal of, the street tree is authorised by an authorised person in
          writing; or
      (ii) the person is acting under authority of written law;
   (d) except as permitted by this local law place, or allow to be placed or remain, on a thoroughfare
any thing (except water) that—
      (i) obstructs the thoroughfare; or
      (ii) results in a hazard for any person using the thoroughfare;
(e) unless at the direction of an authorised person, damage, remove or interfere with any part of a thoroughfare, or any structure erected on a thoroughfare, by the local government or a person acting under the authority of a written law; or

(f) play or participate in any game or sport so as to cause danger to any person or thing or unreasonably impede the movement of vehicles or persons on a thoroughfare.

5.2 Activities allowed with a licence

(1) A person must not, without a licence—

(a) dig or otherwise create a trench through or under a kerb or footpath;

(b) cause any obstruction to a water channel or a water course in a thoroughfare;

(c) throw, place or drain offensive, noxious or dangerous fluid onto a thoroughfare;

(d) damage a thoroughfare;

(e) fell or damage any street tree;

(f) unless installing, or in order to maintain, a permitted verge treatment—

(i) lay pipes under or provide taps on any verge; or

(ii) place or install, on any part of a thoroughfare, any thing such as gravel, stone, flagstone, cement, concrete slabs, blocks, bricks, pebbles, plastic sheeting, kerbing, wood chips, bark or sawdust;

(g) cause any obstruction to a vehicle or a person using a thoroughfare;

(h) fell any tree onto a thoroughfare;

(i) light any fire or burn any thing on a thoroughfare other than in a stove or fireplace provided for that purpose;

(j) provide, erect, install or use in or on any building, structure or land abutting on a thoroughfare any hoist or other thing for use over the thoroughfare;

(k) on a thoroughfare use anything or do anything so as to create a nuisance;

(l) interfere with the soil of, or anything in, a thoroughfare or take anything from a thoroughfare;

(m) carry on any trading on a thoroughfare;

(n) conduct or set up a market on a thoroughfare; or

(o) conduct an entertainment event on a thoroughfare.

(2) An authorised person may exempt a person from compliance with subclause (1) on the application of that person.

5.3 Assignment of numbers

(1) In this clause—

-number means a number with or without an alphabetical suffix indicating the street address of land as assigned by the local government from time to time, in accordance with this local law.

(2) An authorised person may assign a number to a lot in the district and may assign another number to the lot instead of that previously assigned.

5.4 No driving on closed thoroughfare

A person must not drive or take a vehicle on a thoroughfare wholly or partially closed under section 3.50 or 3.50A of the Act unless—

(a) it is in accordance with any limit or exception specified in the order made under section 3.50 of the Act; or

(b) the person has first obtained a licence.

5.5 Fencing of public place—Item 4(1) of Division 1, Schedule 3.1 of Act

A public place, as that term is defined in clause 1.6, is specified as a public place for the purpose of item 4(1) of Division 1 of Schedule 3.1 of the Act.

5.6 Application

This Division only applies to within a built-up area.

5.7 Permitted verge treatments

(1) A person must not install or maintain a verge treatment which is not a permitted verge treatment.

(2) An owner or occupier of land which abuts on a verge may install a permitted verge treatment, on that part of the verge directly in front of her or his land.

(3) A permitted verge treatment is—

(a) the planting and maintenance of a lawn;

(b) the planting and maintenance of a garden provided that—

(i) clear sight visibility is maintained at all times for a person using the abutting thoroughfare in the vicinity of an intersection or bend in the thoroughfare or using a driveway on land adjacent to the thoroughfare for access to or from the thoroughfare;
(ii) where there is no footpath, a pedestrian has safe and clear access of a minimum width of 2m along that part of the verge immediately adjacent to the kerb;
(iii) it does not include a wall or built structure; and
(iv) is not of a thorny, poisonous or hazardous nature; and

(c) subject to subclause (4), the installation of material which do not detract from the amenity of the area, including but not limited to—
(i) bituminous surface or in-situ concrete, subject to reduction of the area shedding storm water or flooding;
(ii) use of paving bricks or concrete slabs; and
(iii) all forms of loose aggregate materials such as pebbles, stones and gravel, not larger than 50mm and contained within the verge area at all times; and

(d) other treatment approved by the local government.

(4) Where installation of material which would create a hard surface has been installed or is intended, an authorised person may by written notice, require—
(i) a reduction of area covered or to be covered, if shedding of storm water or flooding is likely to cause a nuisance to neighbours or users of a thoroughfare; and
(ii) an area of open space to a maximum of 1m from the edge of a street trees.

(5) The owner and occupier of the lot abutting a verge treatment referred to in subclause (1) are each to be taken to have installed and maintained that verge treatment for the purposes of this clause and clause 5.9.

5.8 Obligations of owner or occupier
An owner or occupier who installs or maintains a permitted verge treatment must—
(a) keep the permitted verge treatment in a good and tidy condition and, where the verge treatment is a garden or lawn, ensure that a footpath on the verge and a carriageway adjoining the verge is not obstructed by the verge treatment;
(b) not disturb a footpath on the verge;
(c) ensure that the verge treatment does not damage or obstruct a drain, manhole, gulley, inspection pit, channel, kerb or tree planted by the local government;
(d) ensure that clear sight visibility is maintained at all times for a person using the abutting thoroughfare in the vicinity of an intersection or bend in a carriageway, or using a driveway on land adjacent to the thoroughfare for access to or from the thoroughfare;
(e) not place any obstruction on or around the verge treatment; and
(f) ensure that any sprinklers or pipes installed to irrigate a verge treatment—
   (i) do not protrude above the level of the lawn or verge treatment when not in use;
   (ii) are not used at such times so as to cause unreasonable inconvenience to pedestrians or other persons; and
   (iii) do not otherwise present a hazard to pedestrians or other persons.

5.9 Transitional provision
(1) In this clause—
   former provisions means the provisions of the repealed local laws which permitted certain types of verge treatments, whether with or without the consent of the local government.

(2) A verge treatment is to be taken to be a permitted verge treatment for so long as the verge treatment remains of the same type and continues to comply with the former provisions which—
(a) was installed prior to the commencement day; and
(b) on the commencement day is a type of verge treatment which was permitted under and complied with the former provisions.

5.10 Power to carry out public works on verge
Where the local government or an authority empowered to do so under a written law disturbs a verge, the local government or the authority—
(a) is not liable to compensate any person for that disturbance;
(b) may backfill with sand, if necessary, any garden or lawn; and
(c) is not liable to replace or restore any—
   (i) verge treatment and, in particular, any plant or any material or other hard surface; or
   (ii) sprinklers, pipes or other reticulation equipment.

5.11 Temporary crossovers
(1) Where it is likely that works on a lot will involve vehicles leaving a thoroughfare and entering the lot, the person responsible for the works must obtain a licence for the construction of a temporary crossover to protect the existing carriageway, kerb, drains, footpath, existing materials and street trees, where—
(a) a crossover does not exist; or
(b) a crossover does exist, but the nature of the vehicles and their loads is such that they are likely to cause damage to the crossover.
The person responsible for the works in subclause (1) is to be taken to be—
(a) the builder named on the building permit issued under the Building Act 2011, if one has been issued in relation to the works; or
(b) the owner of the lot, if no building permit has been issued under the Building Act 2011 in relation to the works.

If an authorised person approves an application for a licence for the purpose of subclause (1), the licence is taken to be issued on the condition that until such time as the temporary crossover is removed, the licensee must keep the temporary crossover in good repair and in such a condition so as not to create any danger or obstruction to persons using the thoroughfare.

5.12 Removal of redundant crossover
(1) Where works on a lot will result in a crossover no longer giving access to a lot, the crossover is to be removed and the kerb, drain, footpath, verge and any other part of the thoroughfare affected by the removal are to be reinstated to the satisfaction of an authorised person.
(2) An authorised person may give written notice to the owner or occupier of a lot requiring her or him to—
(a) remove any part of or all of a crossover which does not give access to the lot; and
(b) reinstate the kerb, drain, footpath, verge and any other part of the thoroughfare, which may be affected by the removal, within the period of time stated in the notice, and the owner or occupier of the lot must comply with that notice.

5.13 Crossovers in unsafe locations
(1) Where a crossover is in an unsafe location, Council may give notice to the owner or occupier to—
(a) remove the crossover; or
(b) make the crossover safe.
(2) In determining whether the crossover is in an unsafe location, Council shall have regard to—
(a) any guidelines or advice of Main Roads Western Australia sought or published from time to time;
(b) the usage of the thoroughfare; and
(c) alternative treatments available to make the crossover safe.
(3) Any notice issued under subclause (1) is to give a minimum period of 28 days to remove or make the crossover safe, provided immediate measures are taken to advise users of the thoroughfare of the circumstances deemed unsafe.

PART 6—ACTIVITIES IN PUBLIC PLACES

6.1 Leaving animal or vehicle in public place
(1) A person must not leave an animal or a vehicle, or any part of a vehicle, in a public place so that it obstructs the use of any part of that public place, unless that person has first obtained a licence or is authorised to do so under a written law.
(2) A person does not contravene subclause (1) where the animal is secured or tethered for a period not exceeding 1 hour.
(3) A person does not contravene subclause (1) where the vehicle is left for a period not exceeding 24 hours.

6.2 Prohibitions relating to animals
(1) In this clause, owner in relation to an animal includes—
(a) an owner of it;
(b) a person in possession of it;
(c) a person who has control of it; and
(d) a person who ordinarily occupies the premises where the animal is permitted to stay and who has care and control of the animal.
(2) An owner of an animal must not—
(a) allow the animal to enter or remain for any time on any public place except for the use of the public place as a thoroughfare and unless it is led, ridden or driven;
(b) allow an animal which has a contagious or infectious disease to be led, ridden or driven in a public place; or
(c) train or race the animal in a public place.

PART 7—TEMPORARY SIGNS AND TRADE DISPLAYS

7.1 Definitions
In this Part, unless the context otherwise requires—

advertising sign means a temporary sign or poster which advertises a business, products or services for commercial gain;

election sign means a temporary sign or poster which advertises any aspect of a forthcoming Federal, State or local government election;
**event sign** means a temporary sign or poster which advertises an festival, function or activity;

**temporary sign** means a sign used for the purpose of advertisement or notification, whether free standing or requiring to be affixed to a structure of any type, and includes—

(a) a bill, poster and the like;
(b) an advertising sign;
(c) an event sign; and
(d) an election sign; and

**trade display** means the display for sale or as samples, the goods and services available in, or with the permission of the adjoining premises.

7.2 Application

(1) This Part applies—

(a) to temporary signs complying with clause 7.5; and

(b) to temporary trade displays complying with clause 7.10.

(2) Any advertising sign or trade display that is to be a permanent structure or fixture is to comply with—

(a) the Building Code as defined in section 3 of the Building Regulations 2012;

(b) any Local Planning Scheme; and

(c) any other written law regulating of signs within the district.

7.3 Temporary signs and trade displays

(1) A person shall not on local government property or in a thoroughfare, without a licence—

(a) place an temporary sign;

(b) place a trade display; or

(c) post any bill or paint, place or affix any advertisement.

(2) Notwithstanding subclause (1), a licence is not required for—

(a) the first and second advertising signs where each—

(i) does not exceed an area of 1 square metre;

(ii) does not exceed 750mm horizontally;

(iii) has a minimum height of 300mm;

(iv) is placed against the property boundary; and

(v) complies in all other respects with clauses 7.5, 7.6 and 7.7;

(b) not more than 5 free standing event signs where each—

(i) does not exceed an area of 1 square metre;

(ii) does not exceed 750mm horizontally;

(iii) has a minimum height of 300mm; and

(iv) complies in all other respects with clauses 7.5, 7.6 and 7.8;

(c) not more than 5 event signs requiring support where each—

(i) does not exceed an area of 5 square metres individually or an aggregate of 15 square metres;

(ii) has a maximum height of 1.2m above ground level;

(iii) is placed flat against a wall or constructed fence for the full length and height of the sign;

(iv) is for the purposes of a sporting, charitable or not for profit organisation; and

(v) complies in all other respects with clauses 7.5, 7.6 and 7.8;

(d) an election sign which—

(i) complies with the requirements of subclause (2)(b)(i) to (iii) or (2)(c)(i) to (iii); and

(ii) complies in all other respects with clauses 7.5, 7.6 and 7.9; and

(e) a trade display which—

(i) does not exceed 1m in width from the property boundary;

(ii) is placed against the property boundary, or if no adjoining business, does not exceed 5m in length;

(iii) does not extend beyond the frontage of the business; and

(iv) complies in all other respects with clause 7.10.

7.4 Matters to be considered in determining application for licence

In determining an application for a licence for the purpose of clause 7.3(1), matters the local government is to have regard to include—

(a) any other written law regulating the construction or placement of signs or trade displays within the district;

(b) the dimensions of the sign or trade display;

(c) whether or not the sign or trade display may create a hazard to persons using a thoroughfare;
7.5 Conditions for temporary signs
Temporary signs shall—
(a) be portable and free-standing or temporarily affixed so as there is no resulting damage to any thing;
(b) be secured in position in accordance with any requirements of the local government;
(c) be placed so as not to impede or obstruct either vehicle or pedestrian traffic, or access to a place by any person;
(d) be placed so as not to obstruct lines of sight for vehicle traffic;
(e) not be unduly distracting, in the opinion of an authorised person, if illuminated or incorporating reflective or fluorescent materials;
(f) not display only part of a message which is to be read with other separate signs in order to obtain the whole message;
(g) be maintained in good condition; and
(h) be in compliance with any limitation of the number of signs notified in writing by the local government.

7.6 Prohibition on placement of temporary signs
An temporary sign shall not be placed—
(a) over any footpath where the resulting vertical clearance between the sign and the footpath is less than 2.5 metres;
(b) on any natural feature, including a rock or tree, on a thoroughfare; or
(c) on any bridge or the structural approaches to a bridge.

7.7 Additional conditions for advertising signs
An advertising sign shall—
(a) relate only to the business activity, or placed with the consent of the owner or occupier of the adjoining premises; and
(b) be in place only during the hours of the business activity or the event being advertised.

7.8 Additional conditions for event signs
An event sign shall—
(a) relate only to the event, function or activity advertised;
(b) not be placed more than 28 days prior to the event, function or activity being advertised; and
(c) be removed within 48 hours of the conclusion of the event, function or activity advertised.

7.9 Additional conditions for election signs
An election sign shall—
(a) not be erected until the election to which it relates has been officially announced;
(b) be removed within 7 days of the close of polls; and
(c) be placed at least 2.5 metres from the trafficable surface of a thoroughfare.

7.10 Conditions for trade displays
A trade display shall—
(a) relate to the adjoining business activity;
(b) be in place only during the hours of the business activity;
(c) be constructed only to a such a height that it remains stable, in the opinion of an authorised person;
(d) be secured in position in accordance with any requirements of the local government;
(e) be placed so as not to impede or obstruct either vehicle or pedestrian traffic, or access to a place by any person;
(f) be placed so as not to obstruct lines of sight for vehicle traffic; and
(g) be maintained in a neat and tidy manner.

PART 8—LICENCING

Division 1—Applying for a licence

8.1 Application for licence
(1) Where a person is required to obtain a licence under this local law, that person must apply for the licence in accordance with subclause (2).
(2) An application for a licence under this local law must—
(a) be in the form determined from time to time by the local government;
(b) be signed by the applicant;
(c) provide the information required by the form; and
(d) be forwarded to the local government together with any set fee.

(3) An authorised person may require an applicant to provide additional information reasonably related to an application before determining an application for a licence.

(4) An authorised person may require an applicant to give local public notice of the application for a licence.

(5) An authorised person may refuse to consider an application for a licence which is not in accordance with subclause (2) or where the requirements of subclause (3) or (4) have not been satisfied.

8.2 Decision on application for licence

(1) An authorised person may—
   (a) approve an application for a licence unconditionally or subject to any conditions; or
   (b) refuse to approve an application for a licence.

(2) If an authorised person approves an application for a licence, the licence is to be issued to the applicant in the form determined from time to time by the local government.

(3) If an authorised person refuses to approve an application for a licence, written notice of that refusal is to be given to the applicant.

(4) An authorised person may, at any time, amend a condition of approval and the amended condition takes effect when written notice of it is given to the licensee.

8.3 General restrictions on grant of licence

(1) An authorised person must not grant a licence if there are reasonable grounds for believing that the provision of the activity to which the application relates would constitute an unacceptable risk to the safety of the public.

(2) An authorised person must not grant a licence unless an authorised person is satisfied that—
   (a) the applicant is capable of carrying on the activity in accordance with this local law and the terms and conditions of the licence;
   (b) the public place at which the activity is to be provided is suitable for that purpose;
   (c) a licence or similar authority granted or issued to the applicant has not been cancelled in the period of 5 years before the application is made; and
   (d) the applicant is a fit and proper person to carry on the activity.

8.4 Examples of conditions

(1) Examples of the conditions that an authorised person may impose on a licence under clause 8.2(1)(a) or 8.7(1)(a) are conditions relating to—
   (a) the payment of a set fee;
   (b) compliance with a standard or a policy adopted by the local government;
   (c) the duration and commencement of the licence;
   (d) the commencement of the licence being contingent on the happening of an event;
   (e) the rectification, remedying or restoration of a situation or circumstance reasonably related to the application;
   (f) the approval of another application for a licence which may be required by the local government under any written law;
   (g) the area of the district to which the licence applies;
   (h) where a licence is issued for an activity which will or may cause damage to local government property, the payment of a deposit or bond against such damage; and
   (i) the obtaining of public risk insurance in an amount and on terms reasonably required by an authorised person.

(2) Examples of the type and content of the conditions on which a licence to hire local government property may be issued include—
   (a) when set fees and charges are to be paid;
   (b) payment of a bond against possible damage or cleaning expenses or both;
   (c) restrictions on the erection of material or external decorations;
   (d) rules about the use of furniture, plant and effects;
   (e) limitations on the number of persons who may attend any function in or on local government property;
   (f) the duration of the hire;
   (g) the right of an authorised person to cancel a booking during the course of an annual or seasonal booking, if an authorised person sees fit;
   (h) a prohibition on the sale, supply or consumption of liquor unless a liquor licence is first obtained for that purpose under the Liquor Control Act;
   (i) whether or not the hire is for the exclusive use of the local government property;
   (j) the obtaining of a policy of insurance in the names of both the local government and the hirer, indemnifying the local government in respect of any injury to any person or any damage to
any property which may occur in connection with the hire of the local government property by the hirer; and

(k) the provision of an indemnity from the hirer, indemnifying the local government in respect of any injury to any person or any damage to any property which may occur in connection with the hire of the local government property by the hirer.

8.5 Imposing conditions under a policy
(1) In this clause—

policy means a local government policy adopted by the Council under section 2.7(2)(b) of the Act containing conditions subject to which an application for a licence may be approved under clause 8.2(1)(a).

(2) Under clause 8.2(1)(a) an authorised person may approve an application subject to conditions by reference to a policy.

(3) An authorised person must give to the licensee a copy of the policy or the part of the policy which is relevant to the application for a licence, with the form of licence referred to in clause 8.2(2).

(4) An application for a licence is not to be taken to have been approved subject to the conditions contained in a policy until an authorised person gives the licensee a copy of the policy or the part of the policy which is relevant to the application.

(5) Sections 5.94 and 5.95 of the Act apply to a policy and, for that purpose, a policy is deemed to be information within section 5.94(u)(i) of the Act.

8.6 Compliance with conditions
Where an application for a licence has been approved subject to conditions, the licensee must comply with each of those conditions, as amended.

8.7 Variation of licence
(1) The local government may, by written notice given to the licensee, vary a licence—

(a) imposing any new condition; or

(b) change or remove any existing condition.

(2) An amendment may be made on application by the licensee or on the local government’s initiative.

(3) An amendment will come into effect on the day that written notice is given to the licensee, or some other date as specified in the notice.

8.8 Duration of licence
A licence is valid for one year from the date on which it is issued, unless it is—

(a) otherwise stated in this local law or in the licence; or

(b) suspended or cancelled under this Division.

8.9 Renewal of licence
(1) A licensee may apply to the local government for the renewal of a licence.

(2) An application for renewal must—

(a) be in the form determined from time to time by the local government;

(b) be signed by the licensee;

(c) provide the information required by the form;

(d) be forwarded to the local government no later than 28 days before the expiry of the licence, or within a shorter period that the local government in a particular case permits; and

(e) be accompanied by any set fee.

(3) The provisions of this Part that apply to an application for a licence also apply to an application for the renewal of a licence as though it were an application for a licence.

8.10 Transfer of licence
(1) An application for the transfer of a valid licence is—

(a) to be made in writing;

(b) to be signed by the licensee and the proposed transferee of the licence;

(c) to include such information as an authorised person may require to enable the application to be determined; and

(d) to be forwarded to the local government together with any set fee.

(2) An authorised person may approve an application for the transfer of a licence, refuse to approve it or approve it subject to any conditions.

(3) Where an authorised person approves an application for the transfer of a licence, the transfer may be effected by an endorsement on the licence signed by an authorised person.

(4) Where an authorised person approves the transfer of a licence, the local government is not required to refund any part of any set fee paid by the former licensee.
8.11 Suspension of licence
(1) The local government may, subject to clause 8.12, by written notice given to the licensee, suspend a licence if there are reasonable grounds for believing that—
   (a) the licensee has contravened a term or condition of a licence;
   (b) the licensee has contravened a provision of this local law; or
   (c) the continued provision of the activity authorised by the licence constitutes or will constitute an unacceptable risk to the safety, health or welfare of the public.
(2) The suspension notice must—
   (a) state the day, or the day and time, on or at which the suspension takes effect;
   (b) state the reasons for the local government's decision to suspend the licence; and
   (c) where appropriate, indicate what steps need to be taken to ensure that there is compliance with the relevant provision, term or condition or that there is no longer a risk as described in subclause (1)(c); and
   (d) inform the licensee that the licensee has a right to apply under the Act for a review of the local government’s decision to suspend the licence.

8.12 Proposed suspension
(1) If the local government proposes to suspend a licence under clause 8.11(1)(a), the local government must give written notice to the licensee of the proposed suspension.
(2) The notice must—
   (a) state that the local government proposes to suspend the licence;
   (b) state the reasons for the proposed suspension; and
   (c) inform the licensee that the licensee is entitled to make representation to the local government in respect of the proposed suspension within 7 days after the day on which the licensee is given the notice.
(3) In considering whether to suspend the licence, the local government must have regard to any representations made by the licensee within the period referred to in subclause (2)(c).

8.13 Revocation of suspension
(1) The local government must, by written notice given to the licensee revoke the suspension of a licence if the local government is satisfied that the steps specified in the suspension notice have been taken.
(2) The local government may, by written notice given to the licensee, revoke the suspension of the licence if it is appropriate to do so in the circumstances of a particular case.

8.14 Period of suspension
The suspension of a licence has effect on the day, or the day and time, specified in the suspension notice until one of the following happens—
   (a) the suspension is revoked under clause 8.13;
   (b) the licence is cancelled under clause 8.15 or expires; or
   (c) the licence is surrendered in accordance with the provisions of this local law.

8.15 Cancellation of licence
A licence may be cancelled by the local government if—
   (a) the licence was obtained improperly;
   (b) the licensee has persistently or frequently contravened a term or condition of the licence, or a provision of this local law, whether or not the licence is or has been suspended on the grounds of a contravention; or
   (c) there are reasonable grounds for believing that the continued provision of the activity constitutes or would constitute an unacceptable risk to the safety of the public, whether or not the licence has been suspended on the grounds of that risk.

8.16 Surrender of licence
A licensee may, at any time by notice in writing to the local government, surrender the licence.

Division 3—Responsibilities of licensees and others

8.17 Production of licence
A licensee must produce to an authorised person her or his licence immediately after being required to do so by that authorised person.

8.18 Production of licence document for amendment
If the local government amends or renews a licence, the licensee must, if required by the local government, produce the licence document to the local government for amendment within the period specified by the local government.

8.19 Advertising
A person must not advertise, or otherwise hold out in any way, that the person conducts a commercial activity in any public place unless that person holds a licence authorising that commercial activity.
8.20 False or misleading statement
A person must not make a false or misleading statement in connection with an application in respect of a licence under this local law.

8.21 Other responsibilities of licensee
A licensee must, in respect of local government property to which the licence relates—
(a) ensure that an authorised person has unobstructed access to the local government property for the purpose of inspecting the property or enforcing any provision of this local law;
(b) comply with an instruction from an authorised person to take the action specified in the instruction for the purpose of maintaining public safety;
(c) leave the local government property in a clean and tidy condition after its use;
(d) report any damage or defacement of the local government property to an authorised person; and
(e) take all reasonable action to prevent the consumption of any liquor on the local government property unless the licence allows it and a licence has been obtained under the Liquor Control Act for that purpose.

PART 9—LOCAL GOVERNMENT SIGNS AND POWERS TO GIVE DIRECTIONS

9.1 Signs installed by the local government
(1) The local government may install a sign in public places, on local government property or in thoroughfares specifying any conditions of use which apply to that property or thoroughfare.
(2) A person must comply with a sign erected under subclause (1).
(3) A condition of use specified on a sign erected under subclause (1) is—
(a) not to be inconsistent with any provision of this local law; and
(b) to be for the purpose of giving notice of the effect of a provision of this local law.

9.2 Pre-existing signs
Where a sign in a public place, property or thoroughfare or has been erected under a repealed local law then, on and from the commencement day, it is to be taken to be a sign erected under clause 9.1 if—
(a) the sign specifies a condition of use relating to the thoroughfare which gives notice of the effect of a provision of this local law; and
(b) the condition of use specified is not inconsistent with any provision of this local law.

9.3 Authorised person to be obeyed
(1) A person on or in local government property that is given a lawful direction by an authorised person shall comply with that direction.
(2) A person shall not obstruct or hinder an authorised person in the performance of that person’s duties.

9.4 Refusal of entry and removal
(1) An authorised person may refuse to allow entry, or suspend admission, to a specific venue of local government property except for the venue where local government council meetings are held, by any person who he or she believes has behaved in a manner contrary to the provisions of this Part.
(2) If an authorised person considers that a person has behaved in a manner contrary to the provisions of this Part or reasonably suspects that a person has contravened a provision of a written law, the authorised person may direct the person to leave the local government property.
(3) A person who has been refused entry or who has been directed to leave under subclause (1) or (2) must immediately leave the local government property quickly and peaceably.
(4) If a person fails to comply with subclause (1) or (2), an authorised person may remove the person, or arrange for the person to be removed, from the local government property.
(5) This refusal or suspension of entry can be for any period of up to 12 months as decided by that authorised person.

9.5 Disposal of lost property
An article left on any local government property, and not claimed within a period of 2 months, may be disposed of by the local government in any manner it thinks fit.

PART 10—OBJECTIONS AND REVIEW

10.1 Objection and review rights
Division 1 of Part 9 of the Act applies to a decision under this local law in respect of the grant, renewal, transfer, amendment, suspension or cancellation of a licence, consent, approval or authorisation.
PART 11—NOTICES

11.1 Notice to remedy non-compliance
Where any thing is required to be done or not permitted to be done by this local law, an authorised person may give a notice in writing—
(a) to the owner or the occupier of the property which abuts that portion of the thoroughfare where the thing has been done or not done; or
(b) to any other person who may be responsible for the thing done or not done, requiring the person to comply with the requirements of this local law.

11.2 Notice regarding damage to local government property
If a person unlawfully removes, damages or interferes with local government property or portion of a thoroughfare, an authorised person may give the person a notice requiring that person to do any one or more of the following (at the local government's option)—
(a) reinstate the property to the state it was in before the removal, damage or interference;
(b) replace that property; or
(c) pay for the costs of reinstatement or replacement.

11.3 Notice requirements
A notice given must—
(a) be in writing;
(b) specify the reason for giving the notice;
(c) specify the work or action that is required to be undertaken; and
(d) the time within which the work or action is to be undertaken.

11.4 Local government may undertake requirements of notice
If a person fails to comply with a notice referred to in clauses 11.1 or 11.2, the local government may—
(a) do the thing specified in the notice, including replace the property, or reinstate the property to the state it was in before the removal, damage or interference;
(a) take whatever remedial action it considers appropriate to put the local government in the position it would have been in if the breach or failure had not occurred; and
(b) recover all costs from the person, as a debt.

11.5 Offence to fail to comply with notice
A person who fails to comply with a notice given to him or her under this local law commits an offence.

PART 12—OFFENCES AND PENALTIES

12.1 Offences and general penalty
(1) 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.
(2) 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 a day during which the offence has continued.

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

12.3 Form of notices
For the purposes of this local law—
(a) where a vehicle is involved in the commission of an offence, the form of the notice referred to in section 9.13 of the Act is that of Form 1 in Schedule 1 of the Local Government (Functions and General) Regulations 1996;
(b) the form of the infringement notice given under section 9.16 of the Act is that of Form 2 in Schedule 1 of the Local Government (Functions and General) Regulations 1996; and
(c) the form of the notice referred to in section 9.20 of the Act is that of Form 3 in Schedule 1 of the Local Government (Functions and General) Regulations 1996.
## SCHEDULE—PRESCRIBED OFFENCES

### Offences in respect of which a modified penalty applies

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<th>Nature of offence</th>
<th>Modified penalty $</th>
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<tr>
<td>1</td>
<td>2.1</td>
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<td>2</td>
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<td>3.6(2)</td>
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<tr>
<td>16</td>
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<td>17</td>
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<td>19</td>
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<tr>
<td>20</td>
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<td>Nature of offence</td>
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<td>32</td>
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<td>200</td>
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<td>5.13</td>
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<td>500</td>
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**Part 6—Activities in public places**

<table>
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<tr>
<th>Item</th>
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<th>Nature of offence</th>
<th>Modified penalty</th>
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</thead>
<tbody>
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<td>34</td>
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<td>Animal or vehicle obstructing public place without authorisation</td>
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<td>35</td>
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<td>Animal in a public place when not led, ridden or driven</td>
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<tr>
<td>36</td>
<td>6.2(2)(b)</td>
<td>Animal in a public place that is contagious or has an infectious disease</td>
<td>100</td>
</tr>
<tr>
<td>37</td>
<td>6.2(2)(c)</td>
<td>Animal in a public place being trained or raced</td>
<td>100</td>
</tr>
</tbody>
</table>

**Part 7—Temporary signs and trade displays**

<table>
<thead>
<tr>
<th>Item</th>
<th>Clause</th>
<th>Nature of offence</th>
<th>Modified penalty</th>
</tr>
</thead>
<tbody>
<tr>
<td>38</td>
<td>7.3(1)</td>
<td>Placement of non-compliant temporary sign or trade display, or posting a bill or painting, or placing an advertisement without authorisation</td>
<td>100</td>
</tr>
</tbody>
</table>

**Part 8—Licencing**

<table>
<thead>
<tr>
<th>Item</th>
<th>Clause</th>
<th>Nature of offence</th>
<th>Modified penalty</th>
</tr>
</thead>
<tbody>
<tr>
<td>39</td>
<td>8.1(1)</td>
<td>Failure to obtain a licence when required</td>
<td>100</td>
</tr>
<tr>
<td>40</td>
<td>8.6</td>
<td>Failure to comply with licence condition</td>
<td>100</td>
</tr>
<tr>
<td>41</td>
<td>8.17</td>
<td>Failure to produce licence for inspection when required</td>
<td>100</td>
</tr>
<tr>
<td>42</td>
<td>8.18</td>
<td>Failure to produce licence for amendment when required</td>
<td>100</td>
</tr>
<tr>
<td>43</td>
<td>8.19</td>
<td>Advertising of commercial activity in a public space without holding a licence</td>
<td>200</td>
</tr>
<tr>
<td>44</td>
<td>8.20</td>
<td>False or misleading statement in application for a licence</td>
<td>200</td>
</tr>
</tbody>
</table>

**Part 9—Signs and powers to give directions**

<table>
<thead>
<tr>
<th>Item</th>
<th>Clause</th>
<th>Nature of offence</th>
<th>Modified penalty</th>
</tr>
</thead>
<tbody>
<tr>
<td>45</td>
<td>9.1(2)</td>
<td>Failure to comply with condition of use indicated by a sign</td>
<td>100</td>
</tr>
<tr>
<td>46</td>
<td>9.3(1)</td>
<td>Failure to comply with direction of authorised person</td>
<td>100</td>
</tr>
<tr>
<td>47</td>
<td>9.3(2)</td>
<td>Obstruction or hindrance of an authorised person</td>
<td>100</td>
</tr>
<tr>
<td>48</td>
<td>9.4(3)</td>
<td>Failure to leave a venue when instructed by an authorised person</td>
<td>200</td>
</tr>
<tr>
<td>49</td>
<td>9.4(5)</td>
<td>Failure to comply with period of refusal or suspension</td>
<td>200</td>
</tr>
<tr>
<td>Item</td>
<td>Clause</td>
<td>Nature of offence</td>
<td>Modified penalty $</td>
</tr>
<tr>
<td>------</td>
<td>--------</td>
<td>------------------------------------</td>
<td>--------------------</td>
</tr>
<tr>
<td></td>
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<td></td>
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</tr>
<tr>
<td>Part 11—Notices</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>50</td>
<td>11.5</td>
<td>Failure to comply with notice</td>
<td>100</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Part 12—Offences and penalties</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>51</td>
<td>12.1</td>
<td>Offence not elsewhere specified</td>
<td>100</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Dated: 8 June 2018.

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

D. S. LOVELOCK, President.
G. M. TEEDE, Chief Executive Officer.