

LOCAL GOVERNMENT ACT 1995

SHIRE OF PLANTAGENET

EXTRACTIVE INDUSTRIES LOCAL LAW 2020

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SCHEDULE 1—PRESCRIBED OFFENCES

LOCAL GOVERNMENT ACT 1995

SHIRE OF PLANTAGENET

EXTRACTIVE INDUSTRIES LOCAL LAW 2020

Under the powers conferred by the *Local Government Act 1995* and by all other powers, the local government of the Shire of Plantagenet resolved on 28 January 2020 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Plantagenet Extractive Industries Local Law 2020*.

1.2 Commencement

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

1.3 Definitions

In this local law, unless the context otherwise requires—

Act means the *Local Government Act 1995*;

AS means an Australian Standard published by Standards Australia and available for viewing free of charge at the Shire of Plantagenet Administration offices;

Carry on an extractive industry means quarrying and excavating for stone, gravel, sand, and other material;

CEO means the Chief Executive Officer of the local government;

district means the district of the local government;

excavation includes quarry;

land unless the context otherwise requires, means the land on which the applicant proposes carrying on the extractive industry to which the licence application relates;

licence means a licence issued under this local law;

licensee means the person named in the licence as the licensee;

local government means the Shire of Plantagenet;

occupier has the meaning given to it in the Act;

owner has the meaning given to it in the Act;

person does not include the local government;

planning approval means an approval for a development and/or a land use that is issued under a local planning scheme administered by the local government;

secured sum means the sum required to be paid or the amount of a bond, guarantee or other security under clause 5.1;

Schedule means a schedule to this local law; and

site means the land specified by the local government in a licence.

1.4 Application

(1) The provisions of this local law—

(a) Subject to paragraphs (b), (c), (d) and (e)—

(i) apply and have force and effect throughout the whole of the district; and

(ii) apply to every excavation whether commenced prior to or following the coming into operation of this local law;

(b) do not apply to the extraction of minerals under the *Mining Act 1978*;

(c) do not apply to the carrying on of an extractive industry on Crown land;

(d) do not apply to the carrying on of an extractive industry on land by the owner or occupier of that land for use on that land; and

- (e) do not affect the validity of any licence issued under the local law repealed by clause 1.6 of this local law if that licence is currently in force at the date of gazettal of this local law.
- (2) In subclause (1)(d), land includes adjoining lots or locations in the same occupation or ownership of the owner or occupier referred to in subclause (1)(d).

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 3.2), 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 3.1(5).
- (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 Repeal

This local law repeals the *Shire of Plantagenet Extractive Industries Local Law 2008* as published in the *Government Gazette* on 11 April 2008.

PART 2—LICENSING REQUIREMENTS FOR AN EXTRACTIVE INDUSTRY

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.

2.2 Applicant to advertise proposal

- (1) Unless the local government first approves otherwise, a person seeking the issue of a licence shall, before applying to the local government for a licence—
 - (a) forward by registered mail a notice in the form determined by the local government from time to time 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, advising of the application and specifying that they may, within 21 days from the date of service of the letter, object to or make representations in writing in respect of the issue of a licence by the local government;
 - (ii) every authority or person having control or jurisdiction over any of the things referred to in clause 2.3(1)(a)(vii) and (viii) 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 local government may, within 14 days after receiving a copy of a notice referred to in subclause (1), cause to be displayed, or require the proposed applicant to display, in a prominent position on the land one or more notices—
 - (a) in the form determined by the local government from time to time;
 - (b) the content, size and construction of which have been approved by the CEO;
 - (c) specifying particulars of the proposed excavation; and
 - (d) inviting objections or comments within 21 days from the placement of the notice.

2.3 Application for licence

- (1) Subject to subclause (3), a person seeking the issue of a licence in respect of any land shall apply in the form determined by the local government from time to time and must forward the application duly completed and signed by each of the applicant, the owner of the land and any occupier of the land to the CEO together with—
 - (a) Three (3) copies of a plan of the excavation site to a scale of between 1:500 and 1:2000 showing—
 - (i) the existing and proposed land contours based on the Australian Height Datum and plotted at 1 metre contour intervals;
 - (ii) the land on which the excavation site is to be located;
 - (iii) the external surface dimensions of the land;
 - (iv) the location and depth of the existing and proposed excavation of the land;
 - (v) the location of existing and proposed thoroughfares or other means of vehicle access to and egress from the land and to public thoroughfares in the vicinity of the land;

- (vi) the location of buildings, treatment plant, tanks and other improvements and developments existing on, approved for or proposed in respect of the land;
 - (vii) the location of existing power lines, telephone cables and any associated poles or pylons, sewers, pipelines, reserves, bridges, railway lines and registered grants of easement or other encumbrances over, on, under or adjacent to or in the vicinity of the land;
 - (viii) the location of all existing dams, watercourses, drains or sumps on or adjacent to the land;
 - (ix) the location and description of existing and proposed fences, gates and warning signs around the land; and
 - (x) the location of the areas proposed to be used for stockpiling excavated material, treated material, overburden and soil storage on the land and elsewhere;
- (b) Three (3) copies of a works and excavation programme containing—
- (i) the nature and estimated duration of the proposed excavation for which the licence is applied;
 - (ii) the stages and the timing of the stages in which it is proposed to carry out the excavation;
 - (iii) details of the methods to be employed in the proposed excavation and a description of any on-site processing works;
 - (iv) details of the depth and extent of the existing and proposed excavation of the site;
 - (v) an estimate of the depth of and description of the nature and quantity of the overburden to be removed;
 - (vi) a description of the methods by which existing vegetation is to be cleared and topsoil and overburden removed or stockpiled;
 - (vii) a description of the means of access to the excavation site and the types of thoroughfares to be constructed;
 - (viii) details of the proposed number and size of trucks entering and leaving the site each day and the route or routes to be taken by those vehicles;
 - (ix) a description of any proposed buildings, water supply, treatment plant, tanks and other improvements;
 - (x) details of drainage conditions applicable to the land and methods by which the excavation site is to be kept drained;
 - (xi) a description of the measures to be taken to minimise sand drift, dust nuisance, erosion, watercourse siltation and dangers to the general public;
 - (xii) a description of the measures to be taken to comply with the *Environmental Protection (Noise) Regulations 1997*;
 - (xiii) a description of the existing site environment and a report on the anticipated effect that the proposed excavation will have on the environment in the vicinity of the land;
 - (xiv) details of the nature of existing vegetation, shrubs and trees and a description of measures to be taken to minimise the destruction of existing vegetation; and
 - (xv) a description of the measures to be taken in screening the excavation site, or otherwise minimising adverse visual impacts, from nearby thoroughfares or other areas;
- (c) Three (3) copies of a rehabilitation and decommissioning programme indicating—
- (i) the objectives of the programme, having due regard to the nature of the surrounding area and the proposed end-use of the excavation site;
 - (ii) whether restoration and reinstatement of the excavation site is to be undertaken progressively or upon completion of excavation operations;
 - (iii) how any face is to be made safe and batters sloped;
 - (iv) the method by which topsoil is to be replaced and revegetated;
 - (v) the numbers and types of trees and shrubs to be planted and other landscaping features to be developed;
 - (vi) how rehabilitated areas are to be maintained; and
 - (vii) the programme for the removal of buildings, plant, waste and final site clean-up;
- (d) evidence that a datum peg has been established on the land related to a point approved by the local government on the surface of a constructed public thoroughfare or such other land in the vicinity;
- (e) certificate from a licensed surveyor certifying the correctness of—
- (i) the plan referred to in paragraph (a); and
 - (ii) the datum peg and related point referred to in paragraph (d);
- (f) where the applicant is required to display a notice, evidence that the requirements of clause 2.2 (2) have been carried out;
- (g) copies of all land use planning approvals required under any planning legislation;
- (h) copies of any environmental approval required under any environmental legislation;
- (i) copies of any geotechnical information relating to the excavation site;

- (j) the consent in writing to the application from the owner of the excavation site;
 - (k) the licence application fee specified by the local government from time to time; and
 - (l) any other information that the local government may reasonably require.
- (2) All survey data supplied by an applicant for the purpose of subclause (1) shall comply with Australian Height Datum and Australian Map Grid standards.
- (3) Where in relation to a proposed excavation—
- (a) the surface area is not to exceed 5000 square metres; and
 - (b) the extracted material is not to exceed 5000 cubic metres;
- the local government may exempt a person making application for a licence under subclause (1) from supplying any of the data specified in paragraphs (b), (d), (e) and (i) of subclause (1).

PART 3—DETERMINATION OF APPLICATION

3.1 Determination of application

- (1) The local government may refuse to consider an application for a licence that does not comply with the requirements of clause 2.3, and in any event shall refuse an application for a licence where planning approval for an extractive industry use of the land has not first been obtained.
- (2) The local government may, in respect of an application for a licence—
- (a) refuse the application; or
 - (b) 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.
- (3) Where the local government approves an application for a licence, it shall—
- (a) determine the licence period, not exceeding 5 years from the date of issue; and
 - (b) approve the issue of a licence in the form determined by the local government from time to time.
- (4) Where the local government approves the issue of a licence, the CEO upon receipt by the local government of—
- (a) payment of the annual licence fee, or the relevant proportion of the annual licence fee to 30 June, determined by the local government under and in accordance with sections 6.16 to 6.19 of the *Local Government Act 1995*;
 - (b) payment of the secured sum if any, imposed under clause 5.1;
 - (c) the documents, if any, executed to the satisfaction of the CEO, under clause 5.1; and
 - (d) a copy of the public liability insurance policy required under clause 7.1(1),
- shall issue the licence to the applicant.
- (5) Without limiting subclause (2), the local government may impose conditions in respect of the following matters—
- (a) the orientation of the excavation to reduce visibility from other land;
 - (b) the appropriate siting of access thoroughfares, buildings and plant;
 - (c) the stockpiling of material;
 - (d) the hours during which any excavation work may be carried out;
 - (e) the hours during which any processing plant associated with, or located on, the site may be operated;
 - (f) requiring all crushing and treatment plant to be enclosed within suitable buildings to minimise the emission of noise, dust, vapour and general nuisance to the satisfaction of the local government;
 - (g) the depths below which a person shall not excavate;
 - (h) distances from adjoining land or thoroughfares within which a person must not excavate;
 - (i) the safety of persons employed at or visiting the excavation site;
 - (j) the control of dust and wind-blown material;
 - (k) the planting, care and maintenance of trees, shrubs and other landscaping features during the time in which the extractive industry is carried out in order to effectively screen the area to be excavated and to provide for progressive rehabilitation;
 - (l) the prevention of the spread of dieback or other disease;
 - (m) the drainage of the excavation site and the disposal of water;
 - (n) the restoration and reinstatement of the excavation site, the staging of such works, and the minimising of the destruction of vegetation;
 - (o) the provision of retaining walls to prevent subsidence of any portion of the excavation or of land abutting the excavation;
 - (p) requiring the licensee to furnish to the local government a surveyor's certificate each year, prior to the renewal fee being payable, to certify the quantity of material extracted and that material has not been excavated below the final contour levels outlined within the approved excavation programme;

- (q) requiring the licensee to enter into an agreement with the local government by which it agrees to pay any extraordinary expenses incurred by the local government in repairing damage caused to thoroughfares in the district by heavy or extraordinary traffic conducted by or on behalf of the licensee under the licence;
- (r) requiring the licensee to enter into an agreement with the local government in respect of any condition or conditions imposed under this local law; and
- (s) any other matter for properly regulating the carrying on of an extractive industry.

3.2 Payment of annual licence fee

On or before 30 June in each year, a licensee shall pay to the local government the annual licence fee determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.

PART 4—TRANSFER, CANCELLATION AND RENEWAL OF LICENCE

4.1 Transfer of licence

- (1) An application for the transfer of a licence shall—
 - (a) be made in writing;
 - (b) be signed by the licensee and the proposed transferee of the licence;
 - (c) be accompanied by the current licence;
 - (d) be accompanied by the consent in writing to the transfer from the owner of the excavation site;
 - (e) include any information that the local government may reasonably require; and
 - (f) be forwarded to the CEO together with the fee determined by the local government from time to time.
- (2) Upon receipt of any application for the transfer of a licence, the local government may—
 - (a) refuse the application; or
 - (b) approve the application on such terms and conditions, if any, as it sees fit.
- (3) Where the local government approves an application for the transfer of a licence, the local government shall transfer the licence by an endorsement on the licence in the form determined by the local government from time to time, signed by the CEO.
- (4) Where the local government approves the transfer of a licence it shall not be required to refund any part of the fees paid by the former licensee in respect of the transferred licence.

4.2 Cancellation of licence

- (1) The local government may cancel a licence where the licensee has—
 - (a) been convicted of an offence against—
 - (i) this local law; or
 - (ii) any other law relating to carrying on an extractive industry;
 - (b) transferred or assigned or attempted to transfer or assign the licence without the consent of the local government;
 - (c) permitted another person to carry on an extractive industry otherwise than in accordance with the terms and conditions of the licence and of the provisions of this local law;
 - (d) failed to pay the annual licence fee under clause 3.2; or
 - (e) failed to have a current public liability insurance policy under clause 7.1 (1) or failed to provide a copy of the policy or evidence of its renewal as the case may be, under clause 7.1 (2).
- (2) Where the local government cancels a licence under this clause—
 - (a) the local government shall advise the licensee in writing of the cancellation;
 - (b) the cancellation takes effect on and from the day on which the licensee is served with the cancellation advice; and
 - (c) the local government shall not be required to refund any part of the fees paid by the licensee in respect of the cancelled licence.

4.3 Renewal of licence

- (1) A licensee who wishes to renew a licence must apply in writing to the local government at least 45 days before the date of expiry of the licence and shall submit with the application for renewal—
 - (a) the fee determined by the local government from time to time;
 - (b) a copy of the current licence;
 - (c) a plan showing the contours of the excavation carried out to the date of that application;
 - (d) details of the works, excavation and rehabilitation stages reached and of any changes or proposed changes with respect to any of the things referred to in clauses 2.3 (1) (b) and (c); and
 - (e) any other things referred to in clauses 2.3 and 3.1.
- (2) The local government may waive any of the requirements specified in clause 4.3 (1) (d) or (e).
- (3) If—
 - (a) an application to renew a licence is in relation to land in respect of which the current licence was issued less than 12 months 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,

then 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 2.3 and 3.1.

- (4) Upon receipt of an application for the renewal of a licence, the local government may—
 - (a) refuse the application; or
 - (b) approve the application on such terms and conditions, if any, as it sees fit.

4.4 Notice of outcome

The local government will provide written notice to an applicant whenever it makes a decision regarding the issue, renewal, transfer or cancellation of a licence.

PART 5—SECURED SUM AND APPLICATION THEREOF

5.1 Security for restoration and reinstatement

(1) For the purpose of ensuring that an excavation site is properly restored or reinstated, the local government may require that—

- (a) as a condition of a licence; or
- (b) before the issue of a licence, the licensee shall give to the local government a bond, bank guarantee or other security, of a kind and in a form acceptable to the local government, in or for a sum determined by the local government from time to time.

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

(3) Subject to clause 5.2, any interest accrued in respect of the bond paid into the fund under subclause (2) is to be returned to the licensee at the completion of the restoration and reinstatement works required by the licence conditions or otherwise under this local law.

5.2 Use by the local government of secured sum

(1) If a licensee fails to carry out or complete the restoration and reinstatement works required by the licence conditions either—

- (a) within the time specified in those conditions; or
- (b) where no such time has been specified, within 60 days of the completion of the excavation or portion of the excavation specified in the licence conditions,

then, subject to the local government giving the licensee 14 days notice of its intention to do so—

- (c) the local government may carry out or cause to be carried out the required restoration and reinstatement work or so much of that work as remains undone; and
- (d) the licensee shall pay to the local government on demand all costs incurred by the local government or which the local government may be required to pay under this clause.

(2) The local government may apply the proceeds of any bond, bank guarantee or other security provided by the licensee under clause 5.1 towards its costs under this clause.

(3) The liability of a licensee to pay the local government's costs under this clause is not limited to the amount, if any, secured under clause 5.1.

PART 6—LIMITATIONS, OBLIGATIONS OF THE LICENSEE AND PROHIBITIONS

6.1 Limits on excavations near boundary

Subject to any licence conditions imposed by the local government, a person shall not, without the written approval of the local government, excavate within—

- (a) 20 metres of the boundary of any land on which the excavation site is located;
- (b) 20 metres of any land affected by a registered grant of easement;
- (c) 40 metres of any thoroughfare; or
- (d) 40 metres of any watercourse.

6.2 Obligations of the licensee

A licensee shall—

- (a) where the local government so requires, securely fence the excavation to a standard determined by the local government and keep the gateways locked when not actually in use in order to prevent unauthorised entry;
- (b) erect and maintain warning signs along each of the boundaries of the area excavated under the licence so that each sign—
 - (i) is not more than 200 metres apart;
 - (ii) is not less than 1.8 metres high and not less than 1 metre wide; and
 - (iii) bears the words 'DANGER EXCAVATIONS KEEP OUT';
- (c) except where the local government approves otherwise, drain and keep drained to the local government's satisfaction any excavation to which the licence applies so as to prevent the accumulation of water;

- (d) restore and reinstate the excavation site in accordance with the terms and conditions of the licence, the site plans and the works and excavation programme approved by the local government;
- (e) take all reasonable steps to prevent the emission of dust, noise, vibration and other forms of nuisance from the excavation site; and
- (f) otherwise comply with the conditions imposed by the local government in accordance with clause 3.1.

6.3 Prohibitions

A licensee shall not—

- (a) remove any trees or shrubs within 40 metres (or such lesser distance as may be allowed, in writing, by the local government) of the boundary of any thoroughfare on land in respect of which a licence has been granted, except for the purpose of constructing access thoroughfares, erecting buildings or installing plant for use in connection with the excavation and then only with the express approval of the local government and subject to any conditions which the local government may impose in accordance with clause 3.1;
- (b) store, or permit to be stored, any explosives or explosive devices on the site to which the licence applies other than with the approval of the local government and the Department of Mines, 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 programme approved by the local government.

6.4 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 AS2187 SAA Explosives Code as amended from time to time, the *Mines Safety and Inspection Act 1994*, the *Environmental Protection Act 1986*, and all relevant local laws of the local government; and
- (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 7—MISCELLANEOUS PROVISIONS

7.1 Public liability

(1) A licensee shall have at all times a current public liability insurance policy taken out in the joint names of the licensee and the local government indemnifying the licensee and the local government for a sum of not less than \$20,000,000 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 renewal within 14 days of each renewal date.

7.2 Mines Safety and Inspection Act and Environmental Protection Act

(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 Notice of cessation of operations

(1) Where a licensee intends to cease carrying on an extractive industry—

- (a) temporarily for a period in excess of 12 months; or
- (b) permanently,

the licensee shall, as well as complying with clause 7.4, give the local government written notice of the cessation not later than 1 week after those operations have ceased.

(2) 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.

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

7.4 Works to be carried out on cessation of operations

Where the carrying on of an extractive industry on the site permanently ceases or on the expiration or cancellation of the licence applicable to the site, whichever first occurs, the licensee shall, as well as complying with the provisions of clause 7.3—

- (a) restore and reinstate the excavated 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 programme approved by the local government;
- (d) ensure that all stockpiles or dumps of stone, sand or other materials are left so that no portion of that material can escape onto land not owned or occupied by the licensee nor into any stream, watercourse or drain that is not wholly situated within the land owned or occupied by the licensee;
- (e) erect retaining walls where necessary to prevent subsidence of land in the vicinity of any excavation;
- (f) remove from the site all buildings, plant and equipment erected, installed or used for or in relation to the carrying on of an extractive industry on the site and fill all holes remaining after such removal to the level of the surrounding ground and compact such filled holes sufficiently to prevent settling; and
- (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 8—OBJECTIONS AND REVIEW

8.1 Objection and review rights

(1) 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.

(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*.

PART 9—OFFENCES, PENALTIES AND FORMS

9.1 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.

9.2 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 no exceeding \$500 for each day or part of the day during which the offence has occurred.

9.3 Modified penalty

(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 Schedule 1.

9.4 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 1
PRESCRIBED OFFENCES**

(clause 9.3)

Item	Clause	Description	Modified Penalty \$
1	2.1	Carry on extractive industry without licence or in breach of terms and conditions	500
2	6.1	Excavate near boundary	500
3	6.2(a)	Gateways not kept locked where required	500
4	6.2(b)	Warning signs not erected or maintained as required	500
5	6.2(c)	Excavation not drained as required	500
6	6.3(a)	Remove trees or shrubs near boundary without approval	500
7	6.3(b)	Store without required approval explosives or explosive devices	500
8	6.3(c)	Fill or excavate in breach of licence	500
9	6.4(1)(a)	Blasting without approval of the local government	500
10	6.4(1)(b)	Blasting outside times authorised	500
11	6.4(1)(d)	Blasting in breach of conditions imposed by the local government	500
12	6.4(2)	Blasting without approval on Saturday, Sunday or public holiday	500

Dated: 28 January 2020.

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

CHRIS PAVLOVICH, Shire President.
ROB STEWART, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995

SHIRE OF PLANTAGENET

STANDING ORDERS LOCAL LAW 2020

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SCHEDULE 1—PETITION OF ELECTORS OF THE SHIRE OF PLANTAGENET

LOCAL GOVERNMENT ACT 1995

SHIRE OF PLANTAGENET

STANDING ORDERS LOCAL LAW 2020

Under the powers conferred by the *Local Government Act 1955* and under all other powers enabling it, the Council of the Shire of Plantagenet resolved on 28 January 2020 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Plantagenet Standing Orders Local Law 2020*.

1.2 Commencement

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

1.3 Purpose and intent

- (1) The purpose of the local law is to provide for the conduct of meetings of the Council, Committees and electors.
- (2) This local law is intended to result in—
 - (a) better decision-making at meetings;
 - (b) the orderly and efficient conduct of meetings;
 - (c) greater community participation and understanding of the business of the Council; and
 - (d) more open and accountable local government.

1.4 Application

All meetings of the Council, committees and the electors are to be conducted in accordance with the Act, the Regulations and this local law.

1.5 Repeal

This local law repeals the *Shire of Plantagenet Local Law Relating to Standing Orders* as published in the *Government Gazette* on 11 September 2000 and as amended in the *Government Gazette* on 11 April 2008.

1.6 Interpretation

In this local law, unless the contrary intention appears—

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

Act means the *Local Government Act 1995*;

CEO means the Chief Executive Officer of the Shire;

committee means a committee of the council (established under section 5.8 of the Act);

Council means the Council of the Shire;

Councillor has the same meaning as is given to it in the Act;

Deputy President means the deputy president of the Shire;

district means the district of the local government;

employee has the same meaning as is given to it in the Act;

Local Government means the Shire;

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

member has the same meaning as given to it in the Act;

Minister means the Minister responsible for administering the Act;

minor amendment in relation to a motion, means an amendment which does not alter the basic intent of the motion to which the amendment applies;

President means the president of the Shire;

presiding person means the person presiding at a meeting;

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

Rules of Conduct Regulations means the *Local Government (Rules of Conduct) Regulations 2007*;

Shire means the Shire of Plantagenet;

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

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

PART 2—ESTABLISHMENT AND MEMBERSHIP OF COMMITTEES

2.1 Establishment of committees

(1) The establishment of committees is dealt with in the Act.

(2) A Council resolution to establish a committee under section 5.8 of the Act is to include—

- (a) the terms of reference of the committee;
- (b) the number of Council members, employees and other persons to be appointed to the committee;
- (c) the names or titles of the Council members and employees to be appointed to the committee;
- (d) the names of other persons to be appointed to the committee or an explanation of the procedure to be followed to determine the appointments; and
- (e) details of the delegation of any powers or duties to the committee under section 5.16 of the Act.

(3) This local law is to apply to the conduct of committee meetings.

2.2 Types of committees

The types of committees are dealt with in the Act.

2.3 Delegation of some powers and duties to certain committees

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

2.4 Limits on delegation of powers and duties to certain committees

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

2.5 Appointment of committee members

The appointment of committee members is dealt with in the Act.

2.6 Tenure of committee membership

Tenure of committee membership is dealt with in the Act.

2.7 Resignation of committee members

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

2.8 Register of delegations to committees

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

2.9 Committees to report

A committee—

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

PART 3—CALLING AND CONVENING MEETINGS

3.1 Ordinary and special Council meetings

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

(2) An ordinary meeting of the Council, held on a monthly basis or otherwise as determined by the Council, is for the purpose of considering and dealing with the ordinary business of the Council.

(3) A special meeting of the Council is held for the purpose of considering and dealing with Council business that is urgent, complex in nature, for a particular purpose or confidential.

3.2 Calling Council meetings

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

3.3 Convening Council meetings

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

(2) Subject to subclause (3), the CEO is to give at least 72 hours' notice, for the purposes of section 5.5 of the Act, in convening a special meeting of the Council.

(3) Where, in the opinion of the President or at least one-third of the members, there is a need to meet urgently, the CEO may give a lesser period of notice of a special Council meeting.

3.4 Calling committee meetings

A meeting of a committee is to be held—

- (1) If called for in a verbal or written request to the CEO by the President or the presiding member of the committee, advising the date and purpose of the proposed meeting;
- (2) If called for by at least one-third of the members of the committee in a notice to the CEO, setting out the date and purpose of the proposed meeting; or
- (3) In accordance with a decision of the Council or the committee.

3.5 Convening committee meetings

- (1) The CEO is to convene a committee meeting by giving each member of the committee notice of the date, time and place of the meeting and an agenda for the meeting.
- (2) Subject to subclause (3), the CEO is to give at least 72 hours' notice, for the purposes of subclause (1), in convening a meeting of a committee.
- (3) Where, in the opinion of the President, the presiding member of the committee or at least one-third of the members of the committee, there is a need to meet urgently, the CEO may give a lesser period of notice of a committee meeting.

3.6 Public notice of meetings

Public notice of meetings is dealt with in the Regulations.

PART 4—PRESIDING MEMBER AND QUORUM

Division 1—Who presides

4.1 Who presides

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

4.2 When the Deputy President can act

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

4.3 Who acts if no President

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

4.4 Election of presiding members of committees

The election of presiding members of committees and their deputies is dealt with in the Act.

4.5 Election of deputy presiding members of committees

The election of deputy presiding members of committees is dealt with in the Act.

4.6 Functions of deputy presiding members

The functions of deputy presiding members are dealt with in the Act.

4.7 Who acts if no presiding member

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

Division 2—Quorum

4.8 Quorum for meetings

The quorum for meetings is dealt with in the Act.

4.9 Reduction of quorum for Council meetings

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

4.10 Reduction of quorum for committee meetings

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

4.11 Procedure where no quorum to begin a meeting

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

4.12 Procedure where quorum not present during a meeting

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

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

4.13 Names to be recorded

At any meeting—

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

the names of the members then present are to be recorded in the minutes.

PART 5—BUSINESS OF A MEETING

5.1 Business to be specified

- (1) No business is to be transacted at any ordinary meeting of the Council other than that specified in the agenda, without the approval of the presiding member or the Council.
- (2) No business is to be transacted at a special meeting of the Council other than that given in the notice as the purpose of the meeting.
- (3) No business is to be transacted at a committee meeting other than that specified in the agenda or in the notice of the meeting as the purpose of the meeting, without the approval of the presiding member or the committee.
- (4) Where a Council meeting is adjourned to the next ordinary meeting of the Council, the business unresolved at the meeting that is adjourned is to be dealt with as soon as practicable after the confirmation of the minutes of the previous meeting.
- (5) Where a committee meeting is adjourned to the next ordinary committee meeting, the business unresolved at the meeting that is adjourned is to be dealt with as soon as practicable after the confirmation of the minutes of the previous meeting.
- (6) Where a Council or committee meeting is adjourned to a meeting not described in subclauses (4) or (5), no business is to be transacted at that later meeting other than that—
 - (a) is specified in the notice of the meeting that is adjourned; and
 - (b) which remains unresolved.

5.2 Order of business

- (1) The order of business of an ordinary meeting of the Council or a committee must be determined by the Council from time to time.
- (2) Unless otherwise decided by the Council, the order of business at any special meeting of the Council is to be the order in which that business stands in the agenda of the meeting.
- (3) In determining the order of business for any meeting of the Council or a committee, the provisions of the Act and Regulations relating to the time at which public question time is to be held are to be observed.

5.3 Motions of which previous notice has been given

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

5.4 New business of an urgent nature

- (1) In cases of extreme urgency or other special circumstances, matters may, on a motion by the presiding member that is carried by the meeting, be raised without notice and decided by the meeting.
- (2) In subclause (1), 'cases of extreme urgency or other special circumstances' means matters—
 - (a) that have arisen after the preparation of the agenda that are considered by the presiding member to be of such importance and urgency that they are unable to be dealt with administratively by the Local Government and must be considered and dealt with by the Council or committee before the next meeting; and
 - (b) that, if not dealt with at the meeting, are likely to—
 - (i) have a significant adverse effect (financially or otherwise) on the Local Government; or
 - (ii) result in a contravention of a written law.

(3) Before debate begins on a matter under this clause that is not the subject of a written employee report to the meeting—

- (a) the presiding member is to ask the CEO to give; and
- (b) the CEO, or the CEO's nominee, is to give,

a verbal report to the meeting.

(4) The minutes of the meeting are to include—

- (a) a summary of the verbal report and any recommendations of the CEO or the CEO's nominee; and
- (b) the reasons for any decision made at the meeting that is significantly different from any advice or recommendations of the CEO or the CEO's nominee.

5.5 Motions without notice

A motion moved without notice, must be worded so as to refer to a particular matter for investigation and report to a committee for consideration of the Council at a later date, or directly to Council.

5.6 Adoption by exception resolution

(1) In this clause 'adoption by exception resolution' means a resolution of the Council that has the effect of adopting, recommendations from any committee or, for a number of specifically identified reports, the employee recommendation as the Council resolution.

(2) Subject to subclause (3), the Council may pass an adoption by exception resolution.

(3) An adoption by exception resolution may not be used for a matter—

- (a) that requires an absolute majority;
- (b) in which an interest has been disclosed;
- (c) that has been the subject of a petition or deputation;
- (d) that is a matter on which a member wishes to make a statement; or
- (e) that is a matter on which a member wishes to move a motion that is different to the recommendation.

PART 6—PUBLIC PARTICIPATION

6.1 Meetings generally open to the public

Meetings being generally open to the public is dealt with in the Act.

6.2 Meetings not open to the public

(1) The CEO may, at any time, recommend that a meeting or part of a meeting be closed to members of the public.

(2) The Council or a committee, in one or more of the circumstances dealt with in the Act, may at any time, by resolution, decide to close a meeting or part of a meeting.

(3) If a resolution under subclause (2) is carried—

- (a) the presiding member is to direct everyone to leave the meeting except—
 - (i) the members;
 - (ii) the CEO;
 - (iii) any employee specified by the presiding member; and
- (b) the meeting is to be closed to the public until, at the conclusion of the matter justifying the closure of the meeting to the public, the Council or the committee, by resolution, decides otherwise.

(4) A person who fails to comply with a direction under subclause (3)(a) may, by order of the presiding member, be removed from the meeting.

(5) While the resolution under subclause (2) remains in force, the operation of clause 8.9 is to be suspended until the Council or the committee, by resolution, decides otherwise.

(6) A resolution under this clause may be made without notice.

(7) Unless the Council resolves otherwise, once the meeting is reopened to members of the public, the presiding member is to ensure that any resolution of the Council made while the meeting was closed is to be read out including the vote of a member or members that is required under clause 13.4(3) to be included in the minutes.

6.3 Question time for the public

Question time for the public is dealt with in the Act.

6.4 Question time for the public at certain meetings

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

6.5 Minimum question time for the public

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

6.6 Procedures for question time for the public

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

6.7 Other procedures for question time for the public

- (1) A member of the public who raises a question during question time, is to state his or her name and address.
- (2) A question may be taken on notice by the Council or a committee for later response.
- (3) When a question is taken on notice the CEO is to ensure that—
 - (a) a response is given to the member of the public in writing; and
 - (b) a summary of the response is included in the agenda of the next meeting of the Council or the committee.
- (4) Where a question relating to a matter in which a relevant person has an interest is directed to the relevant person, the relevant person is to—
 - (a) declare that he or she has an interest in the matter; and
 - (b) allow another person to respond to the question.
- (5) Where a member of the public provides written questions then the presiding member may elect for the questions to be responded to as normal business correspondence.
- (6) The presiding member may decide that a public question must not be responded to where—
 - (a) the same or similar question was asked at a previous meeting, a response was provided and the member of the public is directed to the minutes of the meeting at which the response was provided;
 - (b) the member of the public uses public question time to make a statement, provided that the presiding member has taken reasonable steps to assist the member of the public to phrase the statement as a question; or
 - (c) the member of the public asks a question that is offensive or defamatory in nature, provided that the presiding member has taken reasonable steps to assist the member of the public to phrase the question in a manner that is not offensive or defamatory.
- (7) The presiding member may agree to extend public question time.
- (8) Where an answer to a question is given at a meeting, a summary of the question and the answer is to be included in the minutes.
- (9) In this clause: “**relevant person**” has the same meaning as in section 5.59 of the Act.

6.8 Distinguished visitors

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

6.9 Deputations

- (1) Any person or group wishing to be received as a deputation by the Council or a committee, is to either—
 - (a) apply, before the meeting, to the President for approval; or
 - (b) with the approval of the presiding member, at the meeting, address the Council or a committee.
- (2) Any application for a deputation is to include details of the topic on which the deputation is to be made and a brief outline of the contents of the proposed submission which will be made during the deputation.
- (3) The President may either—
 - (a) approve the request and invite the deputation to attend a meeting of the Council or committee; or
 - (b) refer the request to the Council or the committee to decide by simple majority whether or not to receive the deputation.
- (4) Unless the Council or committee resolves otherwise, a deputation invited to attend a Council or committee meeting—
 - (a) is not to exceed 5 persons, only 2 of whom may address the Council or a committee, although others may respond to specific questions from members;
 - (b) is not to address the Council or a committee for a period exceeding 10 minutes without the agreement of the Council; and
 - (c) an extension of time and the increase in number of speaking members of the deputation may be allowed with the leave of the presiding member.
- (5) Unless decided otherwise by the President or presiding member of a committee, the number of deputations approved for any meeting must not exceed four.
- (6) Any matter which is the subject of a deputation to the Council or a committee is not to be decided by the Council or the committee until the deputation has completed its presentation.

6.10 Petitions

- (1) Where a member or the CEO receives a petition conforming to the requirements of clause 6.10 (2), that petition is to be presented to the next Council meeting.
- (2) Except where required by the Act, the Regulations or any other written law, any petition to the Council—
 - (a) must be addressed to the Council;

- (b) state the name and address of the person to whom correspondence in respect of the petition may be served; and
 - (c) be in the form detailed in Schedule 1 of this local law.
- (3) Once a petition is presented to the Council, a motion may be moved to receive the petition and refer it to the CEO for action.

6.11 Presentations

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

6.12 Participation at committee meetings

- (1) In this clause a reference to a *person* is to a person who—
- (a) is entitled to attend a committee meeting;
 - (b) attends a committee meeting; and
 - (c) is not a member of that committee.
- (2) Without the consent of the presiding member, no person is to address a committee meeting.
- (3) The presiding member of a committee may allow a person to make an oral submission to the committee for up to 3 minutes on a recommendation contained in a report to the committee, with a maximum of 3 speakers for the recommendation and 3 speakers against the recommendation.
- (4) A person addressing the committee with the consent of the presiding member is to cease that address immediately after being directed to do so by the presiding member.
- (5) A person who fails to comply with a direction of the presiding member under subclause (4) may, by order of the presiding member, be removed from the committee room.
- (6) The Council may make a policy dealing with the circumstances in which a person may be given consent to address a committee meeting.

6.13 Council may meet to hear public submissions

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

6.14 Public Inspection of agenda materials

The right of the public to inspect the documents referred to, and in accordance with, regulation 14 of the Regulations may be exercised at the Shire's administration office, any Shire library or on the Local Government's website.

6.15 Confidentiality of information withheld

- (1) Information withheld by the CEO from the public under regulation 14(2) of the Regulations is to be—
- (a) identified in the agenda of a Council meeting under the item "Matters for which meeting may be closed"; and
 - (b) marked "*Confidential*" in the agenda.

- (2) A member or an employee who has—
- (a) confidential information under subclause (1); or
 - (b) information that is provided or disclosed during a meeting or part of a meeting that is closed to the public,

is not to disclose any of that information to any person other than a member or employee to the extent necessary for the purpose of carrying out his or her functions.

- (3) Subclause (2) does not prevent a member or employee from disclosing the information—
- (a) at a closed meeting;
 - (b) to the extent specified by the Council and subject to such other conditions as the Council determines;
 - (c) that is already in the public domain;
 - (d) to an officer of the Department;
 - (e) to the Minister;
 - (f) to a legal practitioner for the purpose of obtaining legal advice; or
 - (g) if the disclosure is required or permitted by law.
- (4) The Council may by resolution declare that any information withheld under clause 6.15 (1) must remain confidential for a specified period or indefinitely.

6.16 Recording of proceedings

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

6.17 Standard of conduct

- (1) A reference in this clause to a person is to a person other than a member.
- (2) A person at a meeting—
- (a) addressing the Council or a committee must, when invited to speak, extend due courtesy and respect to the person presiding and others at the meeting;
 - (b) must not reflect adversely on the character or actions of any member or employee;
 - (c) must not impute any motive to a member or employee;
 - (d) must not use offensive or objectionable expressions;
 - (e) must not create a disturbance, by interrupting or interfering with the orderly conduct of the proceedings, whether expressing approval or dissent, by conversing or by any other means;
 - (f) must ensure that his or her mobile telephone or audible pager is not switched on or used; and
 - (g) must not behave in a manner that is contrary to section 75 of the Criminal Code.
- (3) The presiding person may warn a person who fails to comply with this clause.
- (4) If a person—
- (a) after being warned, acts contrary to this clause, or to this local law; or
 - (b) refuses or fails to comply with a direction by the presiding member,

the presiding member may expel the person from the meeting by ordering him or her to leave the meeting room.

- (5) A person who is ordered to leave the meeting room and fails to do so may, by order of the presiding person, be removed from the meeting room and, if the presiding person orders, from the premises.

6.18 Right of reply

- (1) A member who is aggrieved by a statement made (including a question asked) by a member of the public at a meeting may, with the leave of the presiding member, reply to that statement.
- (2) A reply under this clause is to be confined to a succinct response to the specific part of the statement in respect of which the member is aggrieved.

PART 7—QUESTIONS BY MEMBERS

7.1 With due notice

- (1) A question on notice is to be given by a member in writing to the CEO at least four (4) clear business days before the meeting at which it is raised.
- (2) If the question referred to in subclause (1) is in order, the answer is, so far as practicable, to be included in written form in the agenda of the meeting, or otherwise tabled at that meeting.
- (3) Every question and answer is to be submitted as briefly and concisely as possible and no discussion is to be allowed thereon, unless with the consent of the presiding member.

7.2 Without due notice

- (1) Members may ask questions relating to an item on the notice paper or on matters related to the good government of persons in the district.

- (2) A member requesting general information from an employee at a Council or committee meeting may ask a question without notice and with the consent of the presiding member, may ask one or more further questions of that employee or another employee present at the meeting.
- (3) Where possible the employee must endeavour to answer the question to the best of his or her knowledge and ability, however, if the information is unavailable or the answer requires research or investigation, the employee may ask that—
- (a) the question be placed on notice for the next meeting of Council or committee; and
 - (b) the answer to the question be given to the member who asked it within 14 days.
- (4) Every question and answer—
- (a) is to be brief and concise; and
 - (b) is not to be accompanied by argument, expression of opinion or statement of facts, except to the extent necessary to explain the question or answer.
- (5) In answering any question, an employee may qualify his or her answer and may at a later time in the meeting or at a subsequent meeting alter, correct, add to or otherwise amend the original answer.

PART 8—CONDUCT OF MEMBERS

8.1 Members to be in their proper places

- (1) At the first meeting held after each election day, or at any other time considered necessary, each member is to be allocated a seat at the Council table by the Council.
- (2) Each member is to occupy his or her allotted position at each Council or committee meeting.

8.2 Respect to the presiding member

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

8.3 Titles to be used

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

8.4 Advice of entry or departure

A member is not to enter or leave the meeting without first advising the presiding member, in order to facilitate the recording in the minutes of the time of entry or departure.

8.5 Members to indicate their intention to speak

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

8.6 Priority of speaking

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

8.7 Presiding member may take part in debates

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

8.8 Relevance

A member is to restrict his or her remarks to the motion or amendment under discussion, or to a personal explanation or point of order.

8.9 Speaking twice

A member is not to address the Council or a committee more than once on any motion or amendment except—

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

8.10 Duration of speeches

- (1) A member is not to speak on any matter for more than 5 minutes without the consent of the Council or a committee which, if given, is to be given without debate.
- (2) An extension under this clause cannot be given to allow a member's total speaking time to exceed 10 minutes.

8.11 No speaking after conclusion of debate

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

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

8.12 No interruption

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

- (a) to raise a point of order;
- (b) to call attention to the absence of a quorum;
- (c) to make a personal explanation under clause 8.13; or
- (d) to move a procedural motion that the member be no longer heard (see clause 11(1)(e)).

8.13 Personal explanations

(1) A member who wishes to make a personal explanation relating to a matter referred to by another member who is then speaking is to indicate to the presiding member his or her intention to make a personal explanation.

(2) The presiding member is to determine whether the personal explanation is to be heard immediately or at the conclusion of the speech by the other member.

(3) A member making a personal explanation is to confine his or her observations to a succinct statement relating to a specific part of the speech at which he or she may have been misunderstood.

8.14 No reopening of discussion

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

8.15 Adverse reflection

(1) A member is not to reflect adversely on a decision of the Council or committee except—

- (a) on a motion that the decision be revoked or changed; or
- (b) where the meeting resolves, without debate, that the question then before the meeting cannot otherwise be adequately considered.

(2) A member is not—

- (a) to reflect adversely on the character or actions of another member or employee; or
- (b) to impute any motive to a member or employee, unless the meeting resolves, without debate, that the question then before the meeting cannot otherwise be adequately considered.

(3) A member is not to use offensive expressions in reference to any member, employee or other person.

(4) If a member specifically requests, immediately after their use, that any particular words used by a member be recorded in the minutes—

- (a) the presiding member is to cause the words used to be taken down and read to the meeting for verification; and
- (b) the Council or committee may, by resolution, decide to record those words in the minutes.

8.16 Withdrawal of offensive language

(1) A member who, in the opinion of the presiding member, uses an expression which—

- (a) in the absence of a resolution under clause 8.15(4)—
 - (i) reflects adversely on the character or actions of another member or employee; or
 - (ii) imputes any motive to a member or employee; or
- (b) is offensive or insulting,

must, when directed by the presiding member, withdraw the expression and make a satisfactory apology.

(2) If a member fails to comply with a direction of the presiding member under subclause (1), the presiding member may direct the member to refrain from taking any further part in the debate of that item, other than by voting, and the member must comply with that direction.

PART 9—PRESERVING ORDER

9.1 Presiding member to preserve order

(1) The presiding member is to preserve order, and, whenever he or she considers necessary, may call any member to order.

(2) When the presiding member speaks during a debate, any member then speaking, or indicating that he or she wishes to speak, is to preserve strict silence so that the presiding member may be heard without interruption.

(3) Subclause (2) is not to be used by the presiding member to exercise the right provided in clause 8.7, but to preserve order.

9.2 Point of order

(1) A member may object, by way of a point of order, only to a breach of—

- (a) any of this local law; or
- (b) any other written law.

(2) Despite anything in this local law to the contrary, a point of order—

- (a) takes precedence over any discussion; and
- (b) until determined, suspends the consideration or discussion of any other matter.

9.3 Procedures on a point of order

- (1) A member who is addressing the presiding member is not to be interrupted except on a point of order.
- (2) A member interrupted on a point of order is to resume his or her seat until—
 - (a) the member raising the point of order has been heard; and
 - (b) the presiding member has ruled on the point of order,and, if permitted, the member who has been interrupted may then proceed.

9.4 Calling attention to breach

A member may, at any time, draw the attention of the Presiding Member to any breach of this local law.

9.5 Ruling by the presiding member

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

9.6 Continued breach of order

If a member—

- (a) persists in any conduct that the presiding member had ruled is out of order; or
- (b) refuses to make an explanation, retraction or apology required by the presiding member under clause 9.5(3),

the presiding member may direct the member to refrain from taking any further part in the debate of that item, other than by voting, and the member is to comply with that direction.

9.7 Right of presiding member to adjourn

- (1) For the purpose of preserving or regaining order, the presiding member may adjourn the meeting for a period of up to 15 minutes.
- (2) On resumption, the debate is to continue at the point at which the meeting was adjourned.
- (3) If, at any one meeting, the presiding member adjourns the meeting more than once for the purpose of preserving or regaining order, the second or subsequent adjournment may be to a later time on the same day or to another day.

PART 10—DEBATE OF MEMBERS

10.1 Recommendations in reports

- (1) Recommendations contained in a committee or employee's report are to be given first priority consideration for adoption by the Council.
- (2) Any proposed amendment to a recommendation in a committee or employees' report that is significantly different to the recommendation, is not to be accepted unless a notice of motion in accordance with clause 5.3 has been given by the mover of the proposed amendment.
- (3) The Council may by majority decision dispense with requirements of clause 5.1 (2) where the Council is satisfied that the reason for the proposed amendment meets the criteria of "*extreme urgency or other special circumstances*" in clause 5.4 (2).
- (4) The requirements for recording of written reasons in the minutes of a meeting for each decision made at the meeting that is significantly different from the relevant written recommendation of a committee or an employee are dealt with in the regulations.

10.2 Alternative motion

- (1) A member may submit an alternative motion for consideration by the Council that differs from a committee or employee's recommendation contained in the meeting agenda.
- (2) A member may submit an alternative motion for consideration by a committee that differs from an employee's recommendation contained in a meeting agenda.
- (3) A request for an alternative motion must be received by the CEO or their delegate no later than 9.00am on the day of the meeting.
- (4) The meeting may by absolute majority dispense with the requirement of clause 10.2 (3) where the meeting is satisfied that that the alternative motion does not—
 - (a) reflect a significant departure from the intent of the recommendation; or
 - (b) involve a determination of a matter or the exercise of a discretion under the Local Planning Scheme.

10.3 Motions to be stated and in writing

Any member who wishes to move a substantive motion or an amendment to a substantive motion—

- (a) is to state the substance of the motion before speaking to it;
- (b) if required by the presiding member, is to put the motion or amendment in writing; and
- (c) is to put any complex amendments in writing.

10.4 Motions to be supported

(1) A substantive motion or an amendment to a substantive motion is not open to debate until it has been seconded.

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

10.5 Unopposed business

(1) Immediately after a substantive motion has been moved and seconded, the presiding member may ask the meeting—

- (a) if any member opposes it; or
- (b) if any member wishes the mover to speak to the motion before deciding whether to oppose it.

(2) If any member wishes the mover to speak to the motion, the presiding member may—

- (a) call on the mover to speak to the motion; and
- (b) after the mover has spoken to the motion, again ask the meeting if any member opposes it.

(3) If no member opposes the motion, the presiding member may declare it carried without debate and without taking a vote.

(4) A motion declared carried under this clause is to be recorded in the minutes as a “carried without dissent” decision of the Council.

(5) If a member opposes a motion, the motion is to be dealt with under this Part.

(6) This clause does not apply to a motion to revoke or change a decision which has been made at a Council meeting.

10.6 Only one substantive motion at a time

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

10.7 Order of call in debate

The presiding member is to call speakers to a substantive motion in the following order—

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

10.8 Limit of debate

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

10.9 Member may require question to be read

A member may require the question or matter under discussion to be read at any time during a debate, but not so as to interrupt any other member who is speaking.

10.10 Consent of seconder required for alteration

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

10.11 Order of amendments

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

10.12 Form of an amendment

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

10.13 Amendment must not negate original motion

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

10.14 Relevance of amendments

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

10.15 Mover of motion may speak on amendment

Any member may speak during debate on an amendment in reference to the order set out in clause 10.7.

10.16 Effect of an amendment

If an amendment to a substantive motion is carried, the motion as amended then becomes the substantive motion, on which any member may speak and any further amendment may be moved.

10.17 Withdrawal of motion or amendment

(1) Subject to subclause (2), the Council may, without debate, grant leave to withdraw a motion or amendment on the request of the mover of the motion or amendment and with the approval of the seconder.

(2) Where an amendment has been proposed to a substantive motion, the substantive motion is not to be withdrawn, except by consent of the majority of members present, until the amendment proposed has been withdrawn or lost.

10.18 Right of reply

(1) The mover of a substantive motion has the right of reply.

(2) The mover of any amendment to a substantive motion has a right of reply.

(3) The right of the reply may only be exercised—

(a) where no amendment is moved to the substantive motion—at the conclusion of the discussion on the motion; or

(b) where one or more amendments have been moved to the substantive motion—at the conclusion of the discussion on the substantive motion and any amendments.

(4) After the mover of the substantive motion has commenced the reply—

(a) no other member is to speak on the question; and

(b) there is to be no further discussion on, or any further amendment to, the motion.

(5) The right of the reply is to be confined to rebutting arguments raised by previous speakers and no new matter is to be introduced.

(6) At the conclusion of the right of reply, the substantive motion, or the substantive motion as amended, is immediately to be put to the vote.

10.19 Foreshadowing alternative motions

(1) Should a member wish to negate a substantive motion and have a meeting consider a new substantive motion on the matter with different intent, the member is to foreshadow the new substantive motion prior to the right of reply.

(2) Should a substantive motion be lost, the presiding member is to call upon the member who foreshadowed the new substantive motion to move the proposed motion.

(3) Once moved and seconded, the foreshadowed motion becomes the substantive motion and the same procedures and rules of debate apply to this motion as any other motion.

(4) If more than one foreshadowed motion is proposed for any item before a meeting, the presiding member is to deal with them in the order in which they were presented.

PART 11—PROCEDURAL MOTION

11.1 Permissible procedural motions

In addition to the right to move an amendment to a substantive motion, a member may move the following procedural motions—

(a) that the meeting proceed to the next item of business;

(b) that the debate be adjourned;

(c) that the meeting now adjourn;

(d) that the question be now put;

(e) that the member be no longer heard;

(f) that the ruling of the presiding member be disagreed with; and

(g) that the meeting be closed to the public.

11.2 No debate

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

(2) The mover of a motion specified in paragraph (d) or (e) of clause 11.1 may not speak to the motion, the seconder is not to speak other than to formally second the motion, and there is to be no debate on the motion.

11.3 Who may move

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

11.4 Procedural motions—right of reply on substantive motion

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

11.5 Meeting to proceed to the next business

The motion “that the meeting proceed to the next business”, if carried, has the effect that—

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

11.6 Debate to be adjourned

A motion “that the debate be adjourned”—

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

11.7 Meeting now adjourn

(1) A member is not to move or second more than one motion of adjournment during the same sitting of the Council.

(2) Before putting the motion for the adjournment of the Council, the presiding member may seek leave of the Council to deal first with matters that may be the subject of an adoption by exception resolution (see clause 5.6).

(3) A motion “that the meeting now adjourn”—

- (a) is to state the time and date to which the meeting is to be adjourned; and
- (b) if carried, has the effect that the meeting is adjourned to the time and date specified in the motion.

(4) A meeting adjourned under subclause (3) is to continue from the point at which it was adjourned, unless the presiding member or the Council determines otherwise.

11.8 Question to be put

(1) If the motion “that the question be now put”, is carried during debate on a substantive motion without amendment, the presiding member is to offer the right of reply and then put the motion to the vote without further debate.

(2) If the motion “that the question be now put” is carried during discussion of an amendment, the presiding member is to put the amendment to the vote without further debate.

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

11.9 Member to be no longer heard

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

11.10 Ruling of the presiding member to be disagreed with

If the motion “that the ruling of the presiding member be disagreed with”, is carried, that ruling is to have no effect and the meeting is to proceed accordingly.

PART 12—DISCLOSURE OF INTERESTS

12.1 Disclosure of interests

Disclosure of interests is dealt with in the Act.

PART 13—VOTING

13.1 Question—when put

(1) Immediately after the debate on any question is concluded and the right of reply has been exercised, the presiding member—

- (a) is to put the question to the Council; and
- (b) if requested by any member, is to again state the terms of the question.

(2) A member is not to leave the meeting when the presiding member is putting any question.

13.2 Voting

Voting is dealt with in the Act and the Regulations.

13.3 Majorities required for decisions

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

13.4 Method of taking vote

(1) In taking the vote on any motion or amendment the presiding member—

- (a) is to put the question, first in the affirmative, and then in the negative;

- (b) may put the question in this way as often as may be necessary to enable him or her to determine whether the affirmative or the negative has the majority of votes;
 - (c) may accept a vote on the voices or may require a show of hands; and
 - (d) is, subject to this clause, to declare the result.
- (2) If a member calls for a show of hands, the result of the vote is to be determined on the count of raised hands.
- (3) Unless decided otherwise by a decision of Council or a committee the details of the members vote or votes for or against, a matter, as the case may be, is to be recorded in the minutes.

PART 14—MINUTES OF MEETINGS

14.1 Keeping of minutes

The keeping and confirmation of minutes are dealt with in the Act.

14.2 Content of minutes

- (1) The content of minutes is dealt with in the Regulations.
- (2) In addition to the matters required by regulation 11 of the Regulations, the minutes of a Council meeting is to include, where an application for approval is refused or the authorisation of a licence, permit or certificate is withheld or cancelled, the reasons for the decision.

14.3 Public inspection of unconfirmed minutes

The public inspection of unconfirmed minutes is dealt with in Regulations.

14.4 Confirmation of minutes

- (1) When minutes of an ordinary meeting of the Council are distributed for consideration prior to their confirmation at the next meeting, if a member is dissatisfied with the accuracy of the minutes, the member may provide the Local Government with a written copy of the alternative wording to amend the minutes no later than 7 clear working days before the next ordinary meeting of the Council.
- (2) At the next ordinary meeting of the Council, the member who provided the alternative wording must, at the time for confirmation of minutes—
- (a) state the item or items with which he or she is dissatisfied; and
 - (b) propose a motion clearly outlining the alternative wording to amend the minutes.
- (3) Members must not discuss items of business contained in the minutes, other than discussion as to their accuracy as a record of the proceedings.

PART 15—ADJOURNMENT OF MEETING

15.1 Meeting may be adjourned

The Council or a committee may adjourn any meeting—

- (a) to a later time on the same day; or
- (b) to any other time on any other day, including a time which coincides with the conclusion of another meeting or event.

15.2 Effect of adjournment

Where any matter, motion, debate or meeting is adjourned under this local law—

- (a) the names of members who have spoken on the matter prior to the adjournment are to be recorded in the minutes;
- (b) debate is to be resumed at the next meeting at the point where it was interrupted; and
- (c) the provisions of clause 8.9 apply when the debate is resumed.

PART 16—REVOKING OR CHANGING DECISIONS

16.1 Requirements to revoke or change decisions

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

16.2 Limitations on powers to revoke or change decisions

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

16.3 Implementing a decision

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

PART 17—SUSPENSION OF LOCAL LAW

17.1 Suspension of local law

- (1) A member may at any time move that the operation of one or more of the provisions of this local law be suspended.
- (2) A member moving a motion under subclause (1) is to state the reasons for the motion but no other discussion is to take place.
- (3) A motion under subclause (1) which is—
 - (a) seconded; and
 - (b) carried by an absolute majority,

is to suspend the operation of the clause or clauses to which the motion relates for the duration of the meeting, unless the meeting earlier resolves otherwise.

17.2 Where local law does not apply

- (1) In situations where—
 - (a) one or more provisions of this local law have been suspended; or
 - (b) a matter is not regulated by the Act, the Regulations or this local law,the presiding member is to decide questions relating to the conduct of the meeting.
- (2) The decision of the presiding member under subclause (1) is final, except where a motion is moved and carried under clause 11.10.

PART 18—MEETINGS OF ELECTORS

18.1 Electors' general meetings

Electors' general meetings are dealt with in the Act.

18.2 Matters for discussion at electors' general meetings

The matters to be discussed at electors' general meetings are dealt with in the Regulations.

18.3 Electors' special meetings

Electors' special meetings are dealt with in the Act.

18.4 Requests for electors' special meetings

Requests for electors' special meetings are dealt with in the Regulations.

18.5 Convening electors' meetings

Convening electors' meetings is dealt with in the Act.

18.6 Who presides at electors' meetings

Who presides at electors' meetings is dealt with in the Act.

LOCAL GOVERNMENT ACT 1995

SHIRE OF PLANTAGENET

REPEAL LOCAL LAW 2020

Under the powers conferred by the *Local Government Act 1995* and all other powers enabling it, the Council of the Shire of Plantagenet resolved on 28 January 2020 to make the following local law.

1. Citation

This local law is cited as the *Shire of Plantagenet Repeal Local Law 2020*.

2. Commencement

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

3. Repeal

This local law repeals the *Shire of Plantagenet Pest Plants By-laws 1987*, published in the *Government Gazette* on 7 August 1987.

Dated: 28 January 2020.

The Common Seal of the Shire of Plantagenet was affixed in the presence of—

CHRIS PAVLOVICH, Shire President.
ROB STEWART, Chief Executive Officer.

LG301

LOCAL GOVERNMENT ACT 1995

City of Perth

OUTDOOR DINING AMENDMENT LOCAL LAW 2019

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the City of Perth resolved on 26 November 2019 to make this local law.

Part 1—Preliminary

1.1 Title

This is the *City of Perth Outdoor Dining Amendment Local Law 2019*.

1.2 Commencement

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

1.3 Principal local law amended.

This local law amends the *City of Perth Outdoor Dining Local Law 2019* as published in the *Government Gazette* on 27 May 2019.

1.4 Clause 2.5 amended

Delete clause 2.5(2)(c).

Dated this 4th day of December, 2019.

The Common Seal of the City of Perth was affixed by authority of a resolution of the Council in the presence of—

ANDREW HAMMOND, Chair of Commissioners.
MURRAY JORGENSEN, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995

TOWN OF BASSENDEAN

**ANIMALS, ENVIRONMENT, NUISANCE AND PESTS
LOCAL LAW 2019**

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LOCAL GOVERNMENT ACT 1995

TOWN OF BASSENDEAN

ANIMALS, ENVIRONMENT, NUISANCE AND PESTS LOCAL LAW 2019

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Town of Bassendean resolved on 31 March 2020 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *Town of Bassendean Animals, Environment, Nuisance and Pests Local Law 2019*.

1.2 Commencement

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

1.3 Application

This local law applies throughout the district.

1.4 Repeal

The *Town of Bassendean Health Local Law 2001*, published in the *Government Gazette* on 24 August 2001 is amended as follows:

- (a) delete Part 4, Division 1;
- (b) delete Part 4, Division 2; clauses 4.15 and 4.16;
- (c) delete Part 4, Division 3;
- (d) delete Part 5, Division 1;
- (e) delete Part 5, Division 2;
- (f) delete Part 5, Division 3;
- (g) delete Part 5, Division 4; and
- (h) delete Part 6.

1.5 Interpretation

(1) In this local law, unless the context specifies otherwise—

Act means the *Local Government Act 1995*;

affiliated person means a person who is a member of a poultry or pigeon club incorporated under the *Associations Incorporation Act 2015*;

authorised person means a person appointed by the local government under section 9.10 of the LG Act to perform any of the functions of an authorised person under this local law caged;

birds includes budgerigars, canaries, finches, quail, doves and other small birds;

Code of Practice—Pigeon Keeping means the Code of Practice for Pigeon Keeping and Racing in Western Australia as prescribed by the *Animal Welfare (General) Regulations 2003* as amended from time to time;

commercial vehicle means a motor vehicle having a tare weight in excess of 3000 kilograms;

commercial wrecking means the activity of wrecking vehicles or machinery for the purpose of conducting a business by offering vehicles, machinery or parts thereof for purchase, trade, sale or gain;

district means the district of the local government;

land includes any building or structure on the land;

local government means the Town of Bassendean;

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

nuisance means—

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

occupier means any person who is in control of any land or part of any land or authorised by the owner, lessee, licensee or any other person empowered to exercise control in relation to land to perform any work in relation to any land and includes a builder or contractor;

other caged birds includes parrots, galahs, corellas and the like;

owner where used in relation to land, has the meaning given by the *Local Government Act 1995*;

permit means a permit issued under this local law;

pigeon includes homing pigeons and other domesticated breeds of the species *Columba livia*, but does not include native pigeons or doves whether or not the keeping of such birds is subject to the approval of the Department of Biodiversity, Conservation and Attractions;

poultry includes fowls, peafowl, turkeys, geese, ducks, bantams and other domestic fowls;

refuse means any waste material including bricks, lime, cement, concrete, rubble, stones, iron, timber, tiles, bags, plastics, ashes, vegetation, timber, wood or metal shavings, sawdust, and waste food, and includes any broken, used, derelict or discarded matter;

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

Schedule means a schedule to this local law;

thoroughfare means any highway or thoroughfare which the public are entitled to use, including the verge and other things including bridges and culverts appurtenant to it;

vehicle means any motor vehicle, part of a motor vehicle in a state of disrepair or in the process of being wrecked whether licensed or not; and

wreck includes the dismantling, breaking up, storage and disposal of vehicles.

(2) Any other expression used in this local law and not defined herein shall have the meaning given to it in the Act.

(3) Where in this local law a duty, obligation or liability is imposed on an owner or occupier the duty shall be deemed to be imposed jointly and severally on each owner and occupier.

(4) This local law is subject to sections 3.25, 3.27 and Schedules 3.1 and 3.2 of the *Local Government Act 1995* and any powers of entry exercised by this local government under this local law is subject to Part 3, Division 3, Subdivision 3 of the Act.

PART 2—KEEPING OF ANIMALS

Division 1—Keeping of animals and birds

2.1 Interpretation

In this division, unless the context otherwise requires—

animal includes cats, dogs, rabbits, ferrets or the like; and

bird includes but is not limited to poultry, galahs, parrots, corellas, cockatoos and other Australian native birds, budgerigars, finches, pigeons and doves or the like.

2.2 Cleanliness

An owner or occupier of a premises, in or on which an animal or bird is kept shall—

- (a) keep the premises free from excrement, filth, food waste and all other matter which is, or is likely to become offensive or attract rats or other vectors of disease;
- (b) when so directed by local government, clean and disinfect the premises;
- (c) keep the premises, so far as possible free from flies or other vectors of disease, by spraying with a residual insecticide or other effective means; and
- (d) ensure the keeping of the animal or bird does not cause a nuisance and is not offensive or dangerous to health.

2.3 Animal enclosures

(1) A person shall not keep or cause, or permit to be kept, any animal enclosure on premises which are not effectively drained or of which the drainage flows to the walls or foundations of any building.

(2) The local government may by notice in writing direct the owner or occupier require the surface of the ground of all enclosures used for the keeping of animals to be paved, graded and drained.

2.4 Disposal of dead animals

An owner or occupier of land on which there is a dead animal shall immediately dispose of the dead animal in such a manner as not to cause or be a nuisance to any person.

Division 2—Keeping of large animals

2.5 Interpretation

In this Division, unless the context otherwise requires—

cow includes an ox, calf, or bull;

horse includes an ass, mule, donkey or pony; and

large animal includes a pig, sheep, goat, deer, llama, alpaca or camel.

2.6 Conditions for keeping of an animal

- (1) Subject to subclause (2) an owner or occupier of premises shall not keep or allow to be kept any horse, cow or large animal on those premises.
- (2) An owner or occupier of premises may upon written application to the local government, request permission to keep one or more sheep or horse. The number of sheep or horses permitted by the local government shall be at a rate not greater than one horse or sheep per 2000 square metres of land set aside for the exclusive use of the sheep or horse.
- (3) The owner or occupier of premises with approval to keep sheep or horses, shall provide for their use a stable or enclosure which shall—
 - (a) not be situated within 30 metres of a dwelling;
 - (b) be constructed of an impervious material; and
 - (c) have a floor, constructed of cement, concrete or other similar impervious material with the upper surface of which at least 75mm above the surface of the ground.
- (4) The owner or occupier of any premises on which a stable is located shall—
 - (a) maintain the stable in a clean condition, free of insect pests, rodents and offensive odour;
 - (b) when so directed in writing by an authorised person, clean, wash and disinfect the stable; and
 - (c) when so directed in writing by an authorised person, spray the stable or such parts as may be directed, with a residual insecticide.

Division 3—Keeping of poultry, pigeons and caged birds

2.7 Limitation on numbers of poultry and pigeons and caged birds

- (1) An owner or occupier of premises shall—
 - (a) subject to paragraph 1(b), not keep a combined total of more than 12 poultry or caged birds or 6 ducks without the written approval of the local government, on any one lot of land;
 - (b) not keep more than 12 pigeons unless the owner or occupier is an affiliated person in which case the maximum number of pigeons may be increased to 75;
 - (c) subject to subclause (3), not keep any of the following—
 - (i) geese;
 - (ii) a turkey;
 - (iii) peafowl;
 - (iv) rooster; and
 - (v) other caged birds,on any land within the district.
- (2) The local government may either reduce the approved number of poultry, pigeons or caged birds kept by an owner or occupier, or ban the keeping of poultry, pigeons or caged birds by an owner or occupier, if the conditions of this Division are not complied with or if excessive noise is evident.
- (3) The local government may, upon written application to it, grant approval to a person who is the owner or occupier of premises to keep on those premises, either a goose, gander, turkey, peafowl, rooster or other caged birds.
- (4) A person who has been granted approval under subclause (3) hereof, to keep a goose, gander, turkey, peafowl, rooster or other caged birds, on the premises may do so only while he/she is the occupier thereof.
- (5) The local government may cancel the approval granted to an occupier under subclause (3) hereof, upon receipt of a justified complaint relating to the keeping of either a goose, gander, turkey, peafowl, rooster or other caged birds.

2.8 Conditions for keeping poultry in limited numbers

- (1) A person who keeps poultry or permits poultry to be kept shall ensure that—
 - (a) no poultry are kept within 9 metres of a neighbouring dwelling and 5 metres from an opening to a dwelling;
 - (b) no poultry approach within 9 metres of a public street, public building, commercial premises or food premises;
 - (c) all poultry are kept in an enclosure not closer than 1.2 metres to any property boundary, within which is a properly constructed, weatherproof structure for roosting, which shall:
 - (i) allow a minimum of 0.3 square metres of floor area per fowl;
 - (ii) have an impervious floor of 50 millimetre minimum thickness, graded to the front to facilitate easy cleaning;

- (iii) be designed to allow easy access for cleaning; and
 - (iv) have the walls and roof constructed of an impervious material.
- (d) all structures or enclosures within which poultry are kept are maintained at all times in a clean condition;
- (e) the enclosures have an otherwise unobstructed area of at least 2 square metres per poultry; and
- (f) the occupier shall clean and disinfect the enclosure, structure and surrounds, and trap or bait flies, rodents and other vectors of disease when so directed by an authorised person.
- (2) An owner or occupier of a premises, may upon written application to the local government, request permission to vary the provisions contained within 2.8(1) (a), (b), (c) and/or (e).
- (3) Local government may cancel the approval granted to an owner/occupier under subclause (2) hereof, upon receipt of a justified complaint relating to the conditions for keeping of poultry in limited numbers.

2.9 Conditions for keeping of pigeons in limited numbers

- (1) A person who keeps, or permits to be kept, pigeons shall ensure that—
- (a) no opening to a pigeon loft, including openings for ventilation, is within 15 metres of a public street, public building, commercial premises or food premises;
 - (b) no opening to a pigeon loft, including openings for ventilation, is within 9 metres of any residential dwelling;
 - (c) no pigeon loft is located within 1.2 metres of a boundary of an adjoining property;
 - (d) all structures used to house pigeons shall be of sound, weatherproof construction, the framework and roost being of smooth sealed timber or metal, the walls and roof to be constructed of galvanised iron or other approved material, and the floor to be constructed in a manner and of a material which will facilitate the hygienic removal of waste matter, husks, seed, feathers, dead birds and faecal matter;
 - (e) bird cages, aviaries, lofts and surrounds shall be kept in a clean condition to the satisfaction of an authorised person;
 - (f) the occupier shall clean and disinfect cages, aviaries, lofts and surrounds, and trap or bait flies, rodents and other vectors of disease when so directed by an authorised person;
 - (g) the local government may, at its discretion, prohibit an owner or occupier exercising homing pigeons between specified hours of the day, if health or nuisance related problems become evident; and
 - (h) where there is any discrepancy between this clause relating to the Keeping of Pigeons, cage-birds and other cage-birds and the Code of Practice—Pidgeon Keeping the higher standard of construction and hygiene shall prevail.

2.10 Removal of non-conforming structure or enclosure

- (1) If a structure or enclosure is used for the keeping of poultry or pigeons contrary to the provisions of sections 2.8 and 2.9 respectively, the local government may by notice in writing direct the owner or occupier to take such actions as the authorised person considers necessary within the time specified in the notice.
- (2) Where a notice is issued under subclause (1), the requirements set out in the notice must be complied with within the period specified in the notice.

2.11 Restrictions on pigeon nesting or perching

- (1) The local government may by notice in writing direct the owner or occupier of a premises in which pigeons are in a habit of nesting or perching, to take such actions as the authorised person considers necessary to prevent them from continuing to do so.
- (2) Where a notice is issued under subclause (1), the requirements set out in the notice must be complied with within the period specified in the notice.

PART 3— LANDCARE

Division 1—Liquid waste

3.1 Interpretation

In this division, unless the context otherwise requires—

liquid refuse includes all washings from windows and vehicles; overflow, bleed off, condensate and drainage from air conditioning equipment including cooling towers and evaporative coolers and any other liquid used for cooling purposes; and

liquid waste means bathroom, kitchen, scullery and laundry wastes, the contents of septic tanks, all washings from animal and poultry pens and any other domestic or trade wastes that are discharged by means of a drain to a receptacle for drainage.

3.2 Deposit of liquid refuse

An owner and/or occupier of land shall take reasonable steps to—

- (a) contain all liquid refuse on the land; and
- (b) ensure no liquid refuse is released or escapes from the land, whether by means of wind, water or any other cause.

3.3 Disposal of liquid waste

- (1) The owner or occupier of premises shall—
 - (a) provide one or more of the methods prescribed in this clause, for the disposal of all liquid waste produced on the premises; and
 - (b) at all times maintain in good working order and condition any apparatus used for the disposal of liquid waste.
- (2) Liquid waste shall be disposed of by one or more of the following methods—
 - (a) discharging it into the sewerage system of a licensed water service operator in a manner approved by the licensed water service operator;
 - (b) discharging it into an apparatus for the treatment of sewage and disposal of effluent and liquid waste approved by the Chief Health Officer or the local government; or
 - (c) collection and disposal at an approved liquid waste disposal site in a manner approved by the Chief Health Officer.

Division 2—Unightly land and disused materials

3.4 Removal of refuse and disused material

- (1) The owner or occupier of a lot shall not keep, or permit to remain on the lot, any refuse, rubbish or disused material of any nature or kind which in the opinion of authorised person is likely to give the lot an untidy appearance and, or does not conform with the general appearance of other land in that part of the district.
- (2) The local government may by notice in writing direct the owner or occupier to take such actions as the authorised person considers necessary to remove of refuse, rubbish or disused material from the lot within the time frame specified in the notice.

3.5 Removal of unsightly overgrowth of vegetation

- (1) The owner or occupier of a lot shall not permit to remain on a lot any unsightly overgrowth of vegetation that gives the lot an untidy appearance and does not conform with the general appearance of other land in that part of the district.
- (2) The local government may give notice in writing to the owner or occupier of a lot to take such actions as the authorised person considers necessary to remove the overgrowth of vegetation within the time specified in the notice.

3.6 Storage of vehicles and machinery

The owner or occupier of a residential lot shall not—

- (a) store any vehicle, part or body of a vehicle, vessel or machinery in a state of disrepair;
- (b) allow to remain on any land, a vehicle, part or body of a vehicle, vessel, or machinery in a state of disrepair;
- (c) wreck, dismantle or break up any vehicle, part or body of a vehicle, vessel or machinery; unless—
 - (i) inside a building; or
 - (ii) within an area enclosed by a fence or wall not less than 1.8 metres in height and of such a nature as to screen all vehicles, parts of bodies of vehicles or machinery from the street and from adjoining properties; or
- (d) wreck, dismantle or break up a vehicle, vessel or machinery so as to cause a nuisance.

3.7 Commercial wrecking of vehicles

An owner or occupier of land in the district must not undertake, permit or suffer the commercial wrecking of vehicles on that land, without first having obtained written approval from the local government.

3.8 Disposing of disused refrigerators or similar containers

A person shall not place, leave or dispose of a disused refrigerator, ice-chest, ice-box, trunk, chest or other similar article having a compartment which has a capacity of 0.04 cubic metres or more on any land without first removing every door and lid and every lock, catch and hinge attached to a door or lid or otherwise rendering every door and lid incapable of being fastened.

Division 3—Swimming pool backwash management

3.9 Disposal of swimming pool backwash

The owner or occupier of land on which a swimming pool is constructed shall ensure that backwash is not permitted to discharge onto or run-off onto adjacent land.

PART 4—NUISANCES

Division 1—Light

4.1 Use of exterior lights

An owner or occupier of land on which floodlights or other exterior lights are erected or used shall not allow the floodlights or other exterior lights to shine directly onto any other premises.

4.2 Emission or reflection of light

An owner or occupier of land shall ensure that—

- (a) artificial light is not emitted or reflected from anything on the land so as to illuminate premises outside that land at a level that interferes unreasonably with normal daily activities; and
- (b) natural light is not reflected from anything on the land so as to create or cause a nuisance to the occupier of any other premises or to a person lawfully using a thoroughfare.

4.3 Notice may require specified action to prevent emission or reflection of light

(1) Where—

- (a) floodlights or other exterior lights shine directly onto any other premises;
- (b) artificial light is emitted or reflected from anything on the land so as to illuminate premises outside the land that interferes unreasonably with normal daily activities; or
- (c) natural light is reflected from anything on the land so as to create or cause a nuisance to the occupier of any other premises or to a person lawfully using a thoroughfare,

the local government may by notice in writing direct the owner or occupier to take such actions as the authorised person considers necessary within the time specified in the notice.

(2) The notice referred to in subclause (1) may direct that—

- (a) floodlights or other exterior lights are used only during the hours specified in the notice;
- (b) the direction in which the lights shine be altered as specified in the notice;
- (c) any reflective surfaces be painted or otherwise treated so as to abate the nuisance; or
- (d) any combination of these measures that the local government believes to be appropriate to the circumstances.

Division 2—Smoke, fumes, odours and other emissions

4.4 Escape of smoke, fumes, odours and other emissions

(1) An owner or occupier of land or premises shall take all reasonable steps not to cause or permit the escape of smoke, fumes or odours from the land or premises in such quantity or of such a nature as to cause or to be a nuisance to any person.

(2) Subclause (1) does not apply to odour from the use of organic fertilisers applied in accordance with the product label or in the case of bulk fertiliser in a manner as to minimise nuisance.

Division 3—Commercial vehicle noise

4.5 Commercial vehicle noise from residential land

A person shall not start or drive a truck on land or adjacent to land which is zoned, approved or used for residential purposes between the hours of 10.00 pm and 7.00 am on the following day without first obtaining the written approval of the local government.

Division 4—Bird nuisance

4.6 Restrictions on feeding of birds

(1) A person shall not feed a pigeon, dove, ibis, raven, corella, lorikeet or other wild bird so as to cause a nuisance.

(2) Where an authorised person forms the opinion that a person has not complied with subclause (1) the local government may give notice to a person requiring the person to clean up and properly dispose of any feed or waste products specified in the notice.

PART 5— PEST CONTROL

Division 1—Flies

5.1 Interpretation

In this Division, unless the context otherwise requires—

flies means any of the two-winged insects constituting the order *Diptera* commonly known as flies.

5.2 Fly breeding matter not to be left on premises unless covered or treated

An owner or occupier of premises shall not place, throw or leave, or permit or cause to be placed, thrown or left, in, on, or about the premises any matter or thing which is liable to attract, or be a breeding place for flies unless that matter or thing is covered, protected, treated or dealt with in such a manner as to effectively prevent it from attracting or being a breeding place for flies.

5.3 Measures to be taken by an occupier

An occupier of premises shall ensure that—

- (a) rubbish receptacles are kept clean and tightly sealed at all times except when refuse is being deposited or emptied;
- (b) food scraps and uneaten animal and bird food are wrapped tightly and deposited in a rubbish receptacle without delay;

- (c) lawn clippings used on gardens as mulch are raked out thinly;
- (d) fertilisers are dug well into the soil;
- (e) compost heaps are kept well covered;
- (f) barbecues are kept clean and free from food scraps;
- (g) anything that is buried and may attract or be a breeding place for flies is covered with at least 200 millimetres of soil and compacted; and
- (h) excrement from pets is collected and properly disposed of without delay.

5.4 Local government may give notice directing measures to be taken

Where in the opinion of an authorised person flies are prevalent or are breeding on any premises, the local government may give to the owner or occupier of the premises a notice in writing directing him or her to take, within the time specified in the notice, such measures as in the opinion of the authorised person are necessary to—

- (a) control the prevalence of flies;
- (b) effect the eradication of flies; and
- (c) effectively prevent the breeding of flies.

Division 2—Mosquitoes

5.5 Interpretation

In this Division, unless the context otherwise requires—

mosquitoes means any of the two-winged insects constituting the family *Diptera Culicidae* commonly known as mosquitoes.

5.6 Premises to be kept free of mosquito breeding matter

An owner or occupier of premises shall keep the premises free of—

- (a) refuse; and
- (b) water located so as to be, liable to become the breeding place of mosquitoes.

5.7 Measures to be taken by an owner or occupier

An owner or occupier of premises—

- (a) where there is a fountain, pool, pond or excavation of any kind which contains water suitable for the breeding of mosquitoes, shall keep the water—
 - (i) stocked with mosquito predatory fish; or
 - (ii) covered with a film of petroleum oil or other larvicide; and
- (b) where there is a water tank, well, cistern, vat or barrel, shall—
 - (i) keep it protected with a mosquito-proof cover; and
 - (ii) screen all openings, other than the delivery exit, with wire mesh having openings no larger than 1.2 millimetres.

5.8 Drains, channels, compensating basins and septic tanks

An owner or occupier of land shall—

- (a) cause all drains, channels and compensating basins in or on the land to be kept in good order and free of mosquito larvae; and or
- (b) where a septic tank is installed on the land—
 - (i) apply an approved larvicide according to the directions on the container, into the septic tank system, whenever directed to do so by the local government.
 - (ii) provide, and keep in sound condition at all times, wire mesh having openings no larger than 1.2 millimetres covering any inlet vent to the tank.

5.9 Drainage of land

An owner or occupier of land upon which there is water liable to become a breeding place for mosquitoes shall, when required by the local government, effectively drain the land and, for that purpose, shall—

- (a) make or provide drains on the land;
- (b) remove all irregularities in the surface of the land;
- (c) if necessary, adjust the surface of the land or raise the level of the surface in such a manner that—
 - (i) the water on the land may flow into the drains without obstruction; and
 - (ii) no water shall remain on any portion of the land other than the drains; and
- (d) keep all drains in good order and free from obstruction.

5.10 Swimming pools

Where there is a swimming pool on any premises where the circulation system does not function, or has not been used such that the pool water is green or stagnant and suitable for the breeding of mosquitoes, the owner or occupier shall when required by a notice issued by the local government—

- (a) re-activate the pool circulation system within a time specified and operate it so that the water is filtered for as many hours as may be specified; and/or

- (b) chlorinate and adjust pH of the pool to—
 - (i) 4 milligrams per litre free chlorine; and
 - (ii) pH within the range 7.2 to 7.6; or
- (c) empty or drain the pool; or
- (d) pour up to 1 litre of paraffin oil or kerosene onto the water surface of the pool; and
- (e) maintain the pool water free of mosquito breeding.

Division 3—Rodents

5.11 Interpretation

In this Division, unless the context otherwise requires—

rodents means those animals belonging to the order *Rodentia* and includes rats and mice but does not include animals (other than rats) kept as pets in an enclosure designed for the purpose of keeping as pets animals of that kind.

5.12 Measures to be taken to eradicate rodents

- (1) An owner or occupier of premises shall at all times take effective measures to eradicate any rodents in or on the premises.
- (2) Without limiting the generality of subclause (1), an owner or occupier of premises, whenever there are indications of the presence of rodents in, on or about the premises, and while such indications continue, shall—
 - (a) take effective measures to keep the premises free from rodents including—
 - (i) protecting food stuffs;
 - (ii) using a rodenticide bait or a properly baited trap; and
 - (iii) preventing rodents having access to water on the premises;
 - (b) inspect daily each rodenticide bait or trap used and, whenever a rodent is found, shall—
 - (i) if it is not already dead, kill it immediately; and
 - (ii) dispose of the carcass in such a manner as will not create a nuisance; and
 - (c) take whatever measures for the eradication of rodents as an authorised person may from time to time direct.

5.13 Waste food etc.

An owner or occupier of premises shall—

- (a) not store, or allow to be stored, on any premises, any food, refuse or other waste matter unless it is contained in a rodent proof receptacle or compartment; and
- (b) follow any direction of the authorised person to dispose of fallen fruit, nuts or seed.

5.14 Restrictions on materials affording harborage for rodents

- (1) An owner or occupier of premises shall cause—
 - (a) any part of the premises; or
 - (b) any material, sewer, pipe or other thing in or on the premises, that might afford access or harborage to rodents to be altered, repaired, protected, removed or otherwise dealt with so as to prevent it being used as access for or harborage of rodents.
- (2) The local government may by notice direct, an owner or occupier of premises to take whatever action that, in the opinion of an authorised person, is necessary or desirable to prevent or deter the presence of rodents in or on the premises.
- (3) An owner or occupier of premises shall comply with a notice from, and within the time allowed by local government under this clause.

Division 4—Cockroaches

5.15 Interpretation

In this Division, unless the context otherwise requires—

cockroach means any of the various *orthopterous* insects commonly known as cockroaches.

5.16 Measures to be taken to eradicate cockroaches

- (1) An owner or occupier of premises shall take effective measures to eradicate any cockroaches in or on the premises.
- (2) Without limiting the generality of sub-clause (1), an owner or occupier of premises, whenever there are any indications of the presence of cockroaches in, on or about the premises, and while such indications continue, shall take effective measures to keep the premises free from cockroaches including—
 - (a) washing and storing, immediately after use, cooking and eating utensils;
 - (b) wrapping and depositing in a rubbish receptacle without delay all food scraps, uneaten pet food and garbage; and
 - (c) whenever required by local government, treating any area with baits or other methods to eradicate cockroaches.

Division 5—European Wasps

5.17 Interpretation

In this Division, unless the context otherwise requires—

European Wasp means a wasp *Vespula germanica*.

5.18 Measures to be taken to keep premises free from European wasp nests

An owner or occupier of premises shall ensure that the premises are kept free from European Wasp nests and shall—

- (a) immediately notify the local government of any wasp nest in, on or about the premises that is suspected to be a European Wasp nest;
- (b) follow any direction of an authorised person for the purpose of destroying the wasps and their nest; and
- (c) assist an authorised person to trace any nest that may be present in, on or about the premises.

PART 6—OBJECTIONS AND APPEALS

6.1 Objections and appeals

When the local government makes a decision under this local law as to whether it will—

- (a) grant a person a permit or authorisation;
- (b) vary or cancel a permit or authorisation; or
- (c) give a person a notice,

the provisions of Division 1 of Part 9 of the Act and regulation 33 of the Regulations shall apply to that decision.

PART 7—ENFORCEMENT

Division 1—Notices given under this local law

7.1 Notice of breach

(1) Where a breach of any provision of this local law has occurred, the local government may give a notice in writing to the person alleged to be responsible for such a breach.

(2) A notice issued pursuant to subclause (1) shall—

- (a) specify the provision of this local law which has been breached;
- (b) specify the particulars of the breach; and
- (c) state the manner in which the recipient is required to remedy the breach to the satisfaction of the local government within a time period stipulated in the notice which shall be not less than 7 days from the giving of the notice.

(3) It is an offence to fail to comply with a notice issued by the local government pursuant to subclause (1).

7.2 Form of notices

Where this local law refers to the giving of a notice other than the giving of an infringement notice and no particular form is prescribed, it will be sufficient that the notice be in writing giving sufficient details to enable the owner, occupier or other person to whom the notice is issued to know the offence committed and the measures required to be taken or conditions with which compliance is required, as the case may be.

Division 2—Offences and Penalties

7.3 Offences and penalties

(1) A person who—

- (a) fails to do anything required or directed to be done under this local law;
- (b) fails to comply with the requirements of a notice issued under this local law by the local government; or
- (c) does anything which under this local law that person is prohibited from doing,

commits an offence.

(2) Where, under this local law, an act is required to be done or forbidden to be done in relation to any land or premises, the owner or occupier of the land or premises has the duty of causing to be done the act so required to be done, or of preventing from being done the act forbidden to be done.

(3) A person who commits an offence under this local law is liable to a maximum penalty of \$5000 and where the offence is of a continuing nature a maximum daily penalty of \$500 in respect of each day or part of a day during which the offence has continued.

Division 3—Infringement Notices and Modified Penalties

7.4 Prescribed offences

(1) An offence against a clause specified in Schedule 1 is a prescribed offence for the purposes of section 9.16(1) of the Act.

(2) The amount of the modified penalty for a prescribed offence is that specified adjacent to the clause in Schedule 1—

- (a) in the case of a first offence the modified penalty will be that prescribed in column 4 of Schedule 1; and
- (b) in the case of a subsequent offence the modified penalty will be that prescribed in column 5 of Schedule 1.

7.5 Form of infringement 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 Regulations;
- (b) the form of the infringement notice given under section 9.16 of the Act is that of Form 2 in Schedule 1 of the Regulations; and
- (c) the form of the notice given under section 9.20 of the Act withdrawing an infringement notice is that of Form 3 in Schedule 1 of the Regulations.

Schedule 1
PRESCRIBED OFFENCES

[Clause 7.4]

Item	Clause	Description of offence	Modified penalty— first offence	Modified penalty— subsequent offence
1.	2.2	Failing to keep an animal or bird in accordance with a condition of this local law	\$250	\$500
2.	2.3(1)	Failing to maintain an animal enclosure	\$250	\$500
3.	2.4	Failing to immediately dispose of a dead animal in a manner as not to cause a nuisance	\$250	\$500
4.	2.6	Failing to keep an animal in accordance with conditions of this local law	\$250	\$500
5.	2.7(1)(a)	Keeping more than 12 poultry or caged birds	\$250	\$500
6.	2.7(1)(c)	Keeping of a goose or gander, turkey, peafowl, rooster or other caged bird without written permission of the local government	\$250	\$500
7.	2.8	Failing to keep poultry in accordance with conditions of this local laws	\$250	\$500
8.	2.9	Failing to keep pigeons in accordance with conditions of this local laws	\$250	\$500
9.	2.10(2)	Failing to comply with a notice to remove non-conforming structure or enclosure	\$250	\$500
10.	2.11(2)	Failing to comply with a notice issued to prevent pigeons nesting or perching	\$250	\$500
11.	3.2	Release of liquid refuse from the land	\$250	\$500
12.	3.3(2)	Failing to dispose of liquid waste in an approved manner	\$250	\$500
13.	3.4(1)	Keeping or allowing to be kept on a lot refuse, rubbish or disused material giving the land an untidy appearance	\$250	\$500
14.	3.5(1)	Keeping or allowing to be kept on a lot unsightly overgrowth of vegetation giving the land an untidy appearance	\$250	\$500
15.	3.6(a)	Storing on a lot a vehicle, part or body of a vehicle or machinery in a state of disrepair	\$250	\$500
16.	3.6(b)	Storing or allowing to remain on land, a vehicle, part or body of a vehicle or machinery in a state of disrepair	\$250	\$500
17.	3.6(c)(i)	Wreck, dismantle or break up any vehicle part or body, vessel or machinery not inside a building	\$250	\$500

Item	Clause	Description of offence	Modified penalty— first offence	Modified penalty— subsequent offence
18.	3.6(c)(ii)	Wreck, dismantle or break up any vehicle part or body, vessel or machinery not behind a sufficient fence or wall	\$250	\$500
19.	3.6(d)	Wrecking, dismantling or breaking up a vehicle, vessel or machinery so as to cause a nuisance	\$250	\$500
20.	3.7	Commercial wrecking of vehicles on land without local government approval	\$250	\$500
21.	3.8	Disposing of disused refrigerator or similar container with door or lid that can be fastened	\$250	\$500
22.	3.9	Discharging swimming pool backwash onto adjacent land	\$250	\$500
23.	4.1	Erection or use of lighting installations other than in accordance with this local law	\$250	\$500
24.	4.2(a) and (b)	Permit the emission or reflection of light	\$250	\$500
25.	4.4(1)	Allowed the escape of smoke, fumes, odour and other emissions so as to cause a nuisance	\$250	\$500
26.	4.5	Use of a commercial vehicle other than in accordance with this local law	\$250	\$500
27.	4.6(1)	Feeding a bird so as to cause or create a nuisance	\$250	\$500
28.	5.2	Failing to keep premises free of fly breeding matter	\$250	\$500
29.	5.3	Failing to comply with conditions of this local law preventing fly breeding	\$250	\$500
30.	5.6	Failing to keep premises free of mosquito breeding matter	\$250	\$500
31.	5.7	Failing to comply with a condition of this local law to prevent mosquito breeding	\$250	\$500
32.	5.8	Failing to maintain a drain, channel, compensating basin or septic tank in accordance with a condition of this local law	\$250	\$500
33.	5.9	Failing to drain land	\$250	\$500
34.	5.10	Failing to comply with a notice of the local government	\$250	\$500
35.	5.12(1)	Failing to take effective measures to eradicate rodents in or on the premises	\$250	\$500
36.	5.12(2)	Failing to take measures to eradicate rodents in accordance with this local law	\$250	\$500
37.	5.13(a)	Failing to prevent access by rodents to waste food, refuse or other waste	\$250	\$500
38.	5.13(b)	Failing to follow a direction to dispose of fallen fruit, nuts or seed	\$250	\$500
39.	5.14(1)	Failing to alter, repair, protect, remove or otherwise deal with part of a premises or other thing on the premises used as access for or harbourage of rodents	\$250	\$500
40.	5.16(1)	Failing to take effective measures to eradicate cockroaches	\$250	\$500
41.	5.18	Failing to ensure premises is free of European Wasp nests	\$250	\$500

Dated this 8th day of April 2020.

The Common Seal of the Town of Bassendean was affixed by authority of a resolution of the Council in the presence of—

RENEE McLENNAN, Mayor.

PETA MABBS, Chief Executive Officer.