



**APPENDICES**

**CORPORATE  
GOVERNANCE  
DIRECTORATE**

**ORDINARY COUNCIL  
MEETING**

To Be Held

Wednesday, 23rd of November 2022  
Commencing at 5.00pm

At

Shire of Dardanup - Administration Centre Eaton  
1 Council Drive – EATON



## [Appendix ORD: 12.4.1A]

RISK ASSESSMENT TOOL								
<b>OVERALL RISK EVENT:</b> Annual Review of Delegations 2022 <b>RISK THEME PROFILE:</b> 3 - Failure to Fulfil Compliance Requirements (Statutory, Regulatory)      4 - Document Management Processes <b>RISK ASSESSMENT CONTEXT:</b> Operational								
CONSEQUENCE CATEGORY	RISK EVENT	PRIOR TO TREATMENT OR CONTROL			RISK ACTION PLAN (Treatment or controls proposed)	AFTER TREATMENT OR CONTROL		
		CONSEQUENCE	LIKELIHOOD	INHERENT RISK RATING		CONSEQUENCE	LIKELIHOOD	RESIDUAL RISK RATING
HEALTH	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.
FINANCIAL IMPACT	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.
SERVICE INTERRUPTION	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.
LEGAL AND COMPLIANCE	Local Government Act 1995 compliance requirement to review delegations annually	Major (4)	Rare (1)	Low (1 - 4)	Not required.	Not required.	Not required.	Not required.
REPUTATIONAL	Notification from Dept. Local Government Non Compliance.	Moderate (3)	Rare (1)	Low (1 - 4)	Not required.	Not required.	Not required.	Not required.
ENVIRONMENT	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.

**DRAFT** Shire of Dardanup  
Register of Delegated Authority **2022**  
**TRACKED CHANGES FOR REVIEW**



Delegation	<b>1.2.16 To purchase goods and services to a specified value. – SEE TRACKED CHANGES</b>
<b>REASON FOR AMENDMENT</b>	<p>Suggested increase to be \$250,000 – This may increase to \$300,000 following workshop on Council policy and following adoption of updated Procurement Policy.</p> <p>Deletion of second and third dot point as these limitation are not required for ‘Incurring Liabilities’.</p> <p>WALGA Information supplied below on ‘Incurring Liabilities’.</p> <p><u><i>The Difference between Incurring Liabilities and Making Payments</i></u></p> <p><i>The following information will assist in understanding the legislative framework that informs:</i></p> <ul style="list-style-type: none"> <li><i>• Incurring a Liability as a procedural matter subject to CEO authorisations; and</i></li> <li><i>• Making Payments as an <u>express (written) statutory power</u> which is capable of being delegated:</i></li> </ul> <p><u><i>Incurring Liabilities (Procedures and Administrative Authorities)</i></u></p> <p><i>Incurring liabilities is not described in the Local Government Act or Regulations as an <u>express power or duty</u>, rather it is only described as a requirement for the Local Government and the CEO to control by developing “<u>systems and procedures</u>” [see FM Regs 5 and 11].</i></p> <p><i>Incurring liabilities is therefore <u>not</u> an express (written) power or duty which is capable of being delegated.</i></p> <p><i>Therefore the CEO must establish systems and written procedures which give effect to compliance with legislation and purchasing policy and provide appropriate internal controls and risk mitigation for incurring liabilities.</i></p> <ul style="list-style-type: none"> <li><i>• Issuing a Requisition – the Requisition is only a <u>proposal to purchase</u> (FM Regs 5 &amp; 11), describing the goods or services required to enable a decision to issue a Purchase Order. It does not incur a liability as the goods / services may only be provided on the basis of an appropriately issued Purchase Order. Administrative Procedures should establish which positions are authorised to issue Requisitions.</i></li> </ul> <p><i>A decision to issue a requisition and therefore Purchase Order, is informed by other, previous Council decisions, for example – the Budget adopted by Council, Council decisions to approve projects or implement policies. If, the Act or Regulations were drafted to require a Council decision to issue a Requisition or Purchase Order (with potential for these decisions to be delegated), then it would open up the ability for those previous Council decisions to be circumvented by a decision to issue or not issue a Requisition or Purchase Order. The decision to incur a liability is in fact and in operation a method of implementing a Council decision and therefore accords with the CEO’s duties under s.5.41(c) to cause council decisions to be implemented.</i></p> <ul style="list-style-type: none"> <li><i>○ of the Purchase Order is within an appropriate and available budget allocation.</i></li> <li><i>○ The proposed goods / services are within the scope of implementing a Council decision either specific or generally.</i></li> </ul>

- *Issuing a Purchase Order – The Purchase Order, creates a contract between the supplier and the Local Government. It incurs a liability (FM Regs.5 & 11), provided that the goods or services are ultimately supplied in accordance with the requirements specified in the purchase order. Administrative procedures should establish which positions are authorised to issue Purchase Orders, with pre-requisite requirements for a Purchase Order to only be issued, where due diligence confirms:
 
  - Compliance with the Purchasing Policy
  - The committal value of the Purchase Order is within an appropriate and available budget allocation.
  - The proposed goods / services are within the scope of implementing a Council decision either specific or generally.*
- *Using a Credit or Transaction Card (store card, fuel card or corporate credit card) – Transaction Cards are a method of incurring a liability, with the goods or services received and a monthly statement provided to the Local Government for acquittal (verification of a liability) on a monthly basis. Procedures should prescribe the positions which are authorised to used Transaction Cards and the limits and obligations for use for their use when incurring liabilities and the requirements for acquittal of statements to enable payment.*
- *Verification of a Liability*
  - Goods / Services Received – A record that evidences that the goods or services have been received in accordance with the Purchase Order.
  - Verification of Invoice – the charges align with the accepted quote or the contracted schedule of rates as relevant, which have been checked against the record of goods / services received.
  - Verification of Transaction Card Statements – transactions accord with the card holder limits and conditions, transactions are for a proper purpose (not personal) and the goods / services obtained are within the scope of implementing a Council decision either specific or generally.

*An element of the Internal Controls is the requirement to separate roles between incurring liabilities and making payments. Meaning that a person who has responsibility for incurring a liability should not also be responsible for verifying the liability or approving the relevant payment.*

*In addition, Council through its Audit Committee, may form an opinion as to its satisfaction the procedures prepared in accordance with FM 11, when it undertakes the review of Internal Controls in accordance with Audit Reg. 17(1)(b).*

#### **Making Payments (Delegated Authority)**

*Financial Management Reg.12(1)(a) prescribes the ability for the Council to delegate to the CEO its power to make payments from the Municipal or the Trust Fund. Financial Management Reg.13 prescribes the procedural matters that the CEO must comply with **if** the power to make payments is delegated.*

*Making a Payment - A Payment can only be made, where an opinion has been formed (delegated authority decision FM Reg12(1)(a)) that the goods or services specified in the Purchase Order have been satisfactorily received.*

**Procedural Reviews** – Whilst the Audit Regulations [r.17(1)(b) & (2)] require the CEO to review procedures and report the outcomes of the review to the Audit Committee at least once in every 3-financial years. WALGA recommends in the conditions on this delegation that the review occur annually, as a method of ensuring rigorous oversight and in preparation for Performance Auditing.

<b>Category</b>	Administration/Business
<b>Head of power</b>	01. Local Government Act 1995
<b>Delegator</b>	Council
<b>Express power to delegate</b>	<b>Local Government Act 1995:</b> s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
<b>Express power or duty delegated</b>	<b>Local Government Act 1995:</b> s.5.44 CEO may delegate some powers and duties to other employees
<b>Function</b>	To purchase goods and services up to the value of \$250,000.  <ul style="list-style-type: none"> <li>• <del>Up to the value of \$200,000; and</del></li> <li>• <del>Up to the value of \$300,000 for the Tax Office and other Government Agencies; and</del></li> <li>• <del>Up to the value of \$300,000 for Creditors where an executed agreement or legal obligation exists which has prior Council endorsement.</del></li> </ul>
<b>Delegates</b>	CEO
<b>Conditions</b>	Nil
<b>Express power to subdelegate</b>	<b>Local Government Act 1995:</b> s.5.44 CEO may delegate some powers and duties to other employees

<b>Subdelegates</b>	Deputy CEO/Director Corporate & Governance Director Special Projects & Community Director Infrastructure Manager Governance & HR Manager Community Development Manager Information Services Manager Recreation Centre Manager Operations Executive Manager Development Services Manager Financial Services Manager Infrastructure Planning & Design Manager Assets IT Team Leader Principal Works Supervisor Principal Parks & Environment Supervisor Accountant Principal Environmental Health Officer Principal Building Surveyor Coordinator Emergency & Ranger Services ERC Team Leader Coordinator Library Services Senior Project Officer Governance Coordinator Maintenance Storeperson Building Property Management Officer Principal Planning Officer Project Development Engineer
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<b>Delegation</b>	<b>1.2.20 Local Laws - SEE TRACKED CHANGES</b>
<b>REASON FOR AMENDMENT</b>	Updating current and transitioning local laws as adopted by Council. Eg. Bush Fire Brigades Local Law has addition of '2021'.
<b>Category</b>	Administration/Business
<b>Head of power</b>	01. Local Government Act 1995
<b>Delegator</b>	Council
<b>Express power to delegate</b>	<b>Local Government Act 1995:</b> s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
<b>Express power or duty delegated</b>	Local Government Act 1995 Section 3.18  <ul style="list-style-type: none"> <li>• Bush Fire Act 1954 Section 48 (cannot be sub delegated)</li> <li>• Cat Act 2011 Section 44 and 45</li> <li>• Dog Act 1976 Section 10A.A</li> <li>• Public Health Act 2016 Section 21</li> </ul>
<b>Function</b>	Authority to administer the Shire's local laws and to do all other things that are necessary or convenient to be done for, or in connection with, performing the functions of the Shire under the Shire's local laws, and to delegate these functions further:  <ul style="list-style-type: none"> <li>• Bush Fire Brigades Local Law 2021;</li> <li>• Cemeteries Local Law 2014;</li> <li>• Cemeteries Local Law 2022;</li> <li>• Dust Control Local Law 2011;</li> <li>• Extractive Industries Local Law;</li> <li>• Extractive Industries Local Law 2022;</li> <li>• Health Local Laws 2000;</li> <li>• Local Government Property Local Law 2021;</li> <li>• Dogs Local Law 2014;</li> <li>• Parking and Parking Facilities Local Law 2009;</li> <li>• Parking Local Law 2023;</li> </ul>
<b>Delegates</b>	CEO
<b>Conditions</b>	Nil
<b>Express power to subdelegate</b>	<b>Local Government Act 1995:</b> s.5.44 CEO may delegate some powers and duties to other employees
<b>Subdelegates</b>	Deputy CEO/Director Corporate & Governance Director Infrastructure Director Special Projects & Community
<b>Subdelegate conditions</b>	Nil

<b>Delegation</b>	<b>1.3.11 Health (Public Buildings) Regulations 1992 – SEE TRACKED CHANGES</b>
<b>REASON FOR</b>	<b>Minor updates to wording in line with legislation.</b>
<b>Category</b>	Health
<b>Head of power</b>	01. Local Government Act 1995
<b>Delegator</b>	Council
<b>Express power to delegate</b>	<b>Local Government Act 1995:</b> s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
<b>Express power or duty delegated</b>	<b>Health (Public Buildings) Regulations 1992</b> Regulations 9A, 13 and 26A
<b>Function</b>	<p><b>1. Certificate of Approval</b></p> <p><del>Authority to vary a Certificate of Approval (upon receipt of an application under Reg. 9 to vary the Certificate). (R. 9A (1))</del> <b>Authority to determine an application to vary a Certificate of Approval (R. 9A).</b></p> <p><b>2. Certificate of Approval</b></p> <p>Authority to impose such conditions on a Certificate of Approval as the PEHO thinks proper in relation to variation of a Certificate of Approval. (R. 9A (3) (a))</p> <p><b>3. Written Notice</b></p> <p>Authority to vary or revoke a condition imposed under Reg 9A (3) (a) by Written Notice served on the occupier of the public building. (R. 9A (3) (b))</p> <p><b>4. Approval</b></p> <p><del>Authority to approval manually operating sliding exit doors for a public building. (R. 14 (2))</del> <b>Authority to determine an application for manually operating sliding doors for a public building (R. 14).</b></p> <p><b>5. Written Direction</b></p> <p>Authority to direct a person to amend an emergency management plan for a public building. (R. 26A (3))</p>
<b>Delegates</b>	CEO
<b>Conditions</b>	Nil
<b>Express power to subdelegate</b>	<b>Health (Miscellaneous Provisions) Act 1911</b> Part II, Div 1, s.13A CEO and Chief Health Officer may delegate

<b>Subdelegates</b>	Environmental Health Officer Principal Environmental Health Officer Building Property Management Officer
<b>Subdelegate conditions</b>	<del>Nil</del> All applications for permits (be it liquor or any other matter requiring a permit under the Local Government Property Local Law) where Environmental Health assessment is required, will continue to be assessed and determined by Environmental Health Services not the Building Property Management Officer.
<b>Statutory framework</b>	Health (Public Buildings) Regulations 1992
<b>Policy</b>	Nil

<b>Delegation</b>	<b>1.4.4 Shire of Dardanup Health Local Laws Delegations - SEE TRACKED CHANGES</b>
<b>REASON FOR AMENDMENT</b>	Wording was broadened to cover matters that are covered under the adopted Shire of Dardanup Health Local Laws and Council policies. Officer's to act in line with all council Policies in enacting the delegation. Matters that still require Council
<b>Category</b>	Health
<b>Head of power</b>	01. Local Government Act 1995
<b>Delegator</b>	Council
<b>Express power to delegate</b>	<b>Local Government Act 1995:</b> s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
<b>Express power or duty delegated</b>	Nil
<b>Function</b>	<p><b><del>Ventilation Written Notice</del></b></p> <p><del>Authority to issue a notice requiring an owner of a house to:</del></p> <ul style="list-style-type: none"> <li><del>• Provide a different, or additional method of ventilation; or</del></li> <li><del>• Cease using the house until it is properly ventilated. (Cl. 3.2.4.4)</del></li> </ul> <p><del>Authority to issue a notice requiring the occupier of a car park to:</del></p> <ul style="list-style-type: none"> <li><del>• Provide a different or additional method of ventilation; and</del></li> <li><del>• Cease using the car park until it is properly ventilated. (Cl. 5.7.2.2)</del></li> </ul> <p><b><del>Keeping of Birds</del></b></p> <ul style="list-style-type: none"> <li><del>• Authority to revoke the approval to keep cage birds. (Cl. 5.2.8.1)</del></li> <li><del>• Authority to issue written notice of revoke of approval to keep a cage bird. (Cl. 5.2.8.2)</del></li> </ul> <p><b><del>Receiving Depot</del></b></p> <p><del>Authority to issue a written notice permitting the use of a premises as a receiving depot for a laundry, dry cleaning establishment or dye works. (Cl. 9.4.2)</del></p> <p>Determine all applications (in accordance with relevant Council policies where applicable), and make any direction or requirement specified under the Shire of Dardanup Health Local Laws 2000 (As Amended).</p>
<b>Delegates</b>	CEO
<b>Conditions</b>	Nil
<b>Express power to subdelegate</b>	<b>Health (Miscellaneous Provisions) Act 1911</b> Part II, Div 1, s.13A CEO and Chief Health Officer may delegate



<b>Subdelegates</b>	Director Special Projects & Community Environmental Health Officer Executive Manager Development Services Principal Environmental Health Officer
<b>Subdelegate conditions</b>	Nil
<b>Statutory framework</b>	Shire of Dardanup Health Local Laws 2000
<b>Policy</b>	Nil
<b>Record keeping</b>	Delegates exercising powers given by delegation are to keep records of exercised delegation in the – ‘Executed Delegations Register’.
<b>Date adopted</b>	30 June 2021
<b>Adoption references</b>	Adopted by Council at the Shire of Dardanup OCM held 30 June 2021, by resolution 188-21

<b>Delegation</b>	<b>9.1.1 Powers or Duties Under The Local Planning Scheme. – SEE TRACKED CHANGES</b>
<b>REASON FOR AMENDMENT</b>	<p><b>Delegation broadened to include the submission of responsible authority reports to the Development Assessment Panel.</b></p> <p><b>Wording of Conditions to ensure Development Applications relating to Lot 2 Banksia Road, Crooked Brook are set by Council.</b></p>
<b>Category</b>	Planning
<b>Head of power</b>	09. Planning and Development Act 2005
<b>Delegator</b>	Council
<b>Express power to delegate</b>	<p><b><i>Shire of Dardanup Local Planning Scheme No 3</i></b> cl 7.12 Delegation of Functions</p> <p><b><i>Planning and Development (Local Planning Schemes) Regulations 2015</i></b> Schedule 2, Part 10, cl.82 – Local government may delegate powers to CEO</p>
<b>Express power or duty delegated</b>	<p><b><i>Planning and Development (Local Planning Schemes) Regulations 2015</i></b> Schedule 2, Parts 7, 8 and 9</p> <p><b><i>Shire of Dardanup Local Planning Scheme No 3</i></b> cl 7.3 Council Decisions</p>
<b>Function</b>	Authority to exercise any of the local government's powers or the discharge of any of the local government duties under the operative Local Planning Scheme, <b>including the submission of responsible authority reports to the Development Assessment Panel.</b>
<b>Delegates</b>	CEO

<b>Conditions</b>	<p>1. Delegation can only be exercised where if concerns raised through consultation are not relevant to planning considerations or where concerns can be addressed or mitigated by way of conditions or design modifications.</p> <p>2. Where concerns raised are relevant planning considerations that cannot be addressed or mitigated by way pf conditions or design modifications, the application shall be referred to Council for determination.</p> <p>3. Delegation can only be exercised to the extent that the Scheme, or Council policy allows for variations. Where variation to Council policy is not provided for, the application shall be referred to Council for determination.</p> <p>4. With the condition that Development Applications (other than those for incidental or ancillary development where the use has been approved) within the waste precinct identified in the Local Planning Strategy are brought back to Council for Council's consideration and determination.</p> <p>5. <del>Where submission of responsible authority reports are required to be provided to the Development Assessment Panels.</del> With the condition that all Development Applications for Lot 2 Banksia Road, Crooked Brook are brought back to Council for Council's consideration and determination.</p>
<b>Express power to subdelegate</b>	<p><b><i>Planning and Development (Local Planning Schemes) Regulations 2015</i></b></p> <p>Schedule 2, Part 10, cl.83 – Local government CEO may delegate powers</p>
<b>Subdelegates</b>	<p>Director Special Projects &amp; Community Executive Manager Development Services Principal Planning Officer</p>
<b>Subdelegate conditions</b>	<p>Delegation can only be exercised by a subdelegate if they are not responsible for assessing the application.</p>
<b>Statutory framework</b>	<p>Part 13 of the Planning and Development Act 2005</p>

<b>Delegation</b>	<b>10.1.1 Septic Installations – SEE TRACKED CHANGES</b>
<b>REASON FOR AMENDMENT</b>	<b>Change to wording gives greater clarity and direction to staff in accordance with legislation.</b>
<b>Category</b>	Health
<b>Head of power</b>	10. Health (Miscellaneous Provisions) Act 1911
<b>Delegator</b>	Council
<b>Express power to delegate</b>	<b>Local Government Act 1995:</b> s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
<b>Express power or duty delegated</b>	<b>Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974</b> Part2 Div 1 r.4 Approval of construction or installation of apparatus by local government
<b>Function</b>	<del>Authority to approve septic installations and issue “Permit to Use an Apparatus” and Serve notices requiring alteration or amendments to non-complying systems.</del>  <b>Authority to:</b>  <ol style="list-style-type: none"> <li>1. Determine applications to construct or install an apparatus for the treatment of sewage (R. 4)</li> <li>2. Issue “Permit to Use an Apparatus” for the treatment of sewage (R. 10)</li> <li>3. Submit a local government report for applications referred to the Department of Health</li> <li>4. Service notices requiring rectification for non-complying systems</li> </ol>
<b>Delegates</b>	CEO
<b>Conditions</b>	Nil
<b>Express power to subdelegate</b>	<b>Health (Miscellaneous Provisions) Act 1911</b> Part II, Div 1, s.13A CEO and Chief Health Officer may delegate
<b>Subdelegates</b>	Environmental Health Officer Principal Environmental Health Officer
<b>Subdelegate conditions</b>	Nil
<b>Statutory framework</b>	Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974
<b>Policy</b>	Nil
<b>Record keeping</b>	Delegates exercising powers given by delegation are to keep records of exercised delegation in the – ‘Executed Delegations Register’.

<b>Delegation</b>	<b>10.1.6 Public Buildings – SEE TRACKED CHANGES</b>
<b>REASON FOR AMENDMENT</b>	<b>Minor amendment to wording from ‘Approval’ to ‘Determination’.</b>
<b>Category</b>	Health
<b>Head of power</b>	10. Health (Miscellaneous Provisions) Act 1911
<b>Delegator</b>	Council
<b>Express power to delegate</b>	<b>Local Government Act 1995:</b> s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
<b>Express power or duty delegated</b>	<b>Health (Miscellaneous Provisions) Act 1911</b> Part VI, Public buildings
<b>Function</b>	<del><b>1. Approval</b></del>  <del>Authority to issue (written) approval (subject to conditions) for an application to construct, extend or alter a public building. (S. 177)</del>  <b>1. Determination</b>  Authority to determine (subject to conditions) applications to construct, extend or alter a public building (S. 177)  <b>2. Certificate of Approval</b>  Authority to open or use a public building. (S. 178)
<b>Delegates</b>	CEO
<b>Conditions</b>	Nil
<b>Express power to subdelegate</b>	<b>Health (Miscellaneous Provisions) Act 1911</b> Part II, Div 1, s.13A CEO and Chief Health Officer may delegate
<b>Subdelegates</b>	Environmental Health Officer Principal Environmental Health Officer
<b>Subdelegate conditions</b>	Nil
<b>Statutory framework</b>	Health (Miscellaneous Provisions) Act 1911 Health (Public Buildings) Regulations 1992
<b>Policy</b>	Nil

<b>Delegation</b>	<del>10.1.9 Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974</del> – <b>RECOMMEND DELETION</b>
<b>REASON FOR AMENDMENT</b>	<b>Recommend deleting as is covered by proposed changes to delegation 10.1.1 - Septic Installations.</b>
<b>Category</b>	Health
<b>Head of power</b>	10. Health (Miscellaneous Provisions) Act 1911
<b>Delegator</b>	Council
<b>Express power to delegate</b>	<b><del>Local Government Act 1995:</del></b> s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
<b>Express power or duty delegated</b>	<b><del>Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974</del></b> Part 2 Div 1 r.4 Approval of construction or installation of apparatus by local government r.10 Permit to use apparatus
<b>Function</b>	<p><b><del>1. Approval</del></b></p> <ul style="list-style-type: none"> <li>- Authority to grant written approval for the construction of a septic system serving a single dwelling or processing not more than 540L of sewage per day. (R. 4 (3) (a))</li> <li>-</li> </ul> <p><b><del>2. Refusal to grant Approval</del></b></p> <ul style="list-style-type: none"> <li>- Authority to refuse to grant approval for the construction of a septic system. (R. 4 (3) (b))</li> <li>-</li> </ul> <p><b><del>3. Permit</del></b></p> <ul style="list-style-type: none"> <li>- Authority to grant a permit permitting a septic system, or any other apparatus for the treatment of sewage. (R. 10 (2)).</li> </ul>
<b>Delegates</b>	CEO
<b>Conditions</b>	Nil
<b>Express power to subdelegate</b>	<b><del>Health (Miscellaneous Provisions) Act 1911</del></b> Part II, Div 1, s.13A CEO and Chief Health Officer may delegate
<b>Subdelegates</b>	Environmental Health Officer Principal Environmental Health Officer
<b>Subdelegate conditions</b>	Nil
<b>Statutory framework</b>	<del>Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974</del>
<b>Policy</b>	Nil

<b>Delegation</b>	<b>12.1.2 Liquor Control Act Delegations – RECOMMEND DELETION</b>
<b>REASON FOR AMENDMENT</b>	<b>Recommend deleting as is covered by delegation 12.1.1</b>
<b>Category</b>	Health
<b>Head of power</b>	12. Liquor Control Act 1988
<b>Delegator</b>	Council
<b>Express power to delegate</b>	<b><i>Local Government Act 1995:</i></b> <del>s.5.42 Delegation of some powers or duties to the CEO</del> <del>s.5.43 Limitations on delegations to the CEO</del>
<b>Express power or duty delegated</b>	Liquor Control Act 1988
<b>Function</b>	<b><i>Certificate of Local Government</i></b> - Authority to sign Section 39 certificate that a premises complies with all relevant requirements of the:  <ul style="list-style-type: none"> <li>• <del>Health (Miscellaneous Provisions) Act 1911 and Public Health Act 2016, Food Act 2008</del></li> <li>• <del>Any written law applying to the sewerage or drainage of those premises</del></li> <li>• <del>Local Government Act 1995</del></li> <li>• <del>Building Act 2011;</del></li> </ul> And - Where the premises do not so comply, the manner in which the premises could be made to comply or that the premises could not reasonably be made to comply (Section 39 (2))
<b>Delegates</b>	CEO
<b>Conditions</b>	Nil
<b>Express power to subdelegate</b>	<b><i>Health (Miscellaneous Provisions) Act 1911</i></b> <del>Part II, Div 1, s.13A CEO and Chief Health Officer may delegate</del>
<b>Subdelegates</b>	<del>Director Special Projects &amp; Community Executive Manager Development Services Environmental Health Officer Principal Environmental Health Officer</del>
<b>Subdelegate conditions</b>	Nil

<b>Statutory framework</b>	<del>Liquor Control Act 1988 Health (Miscellaneous Provisions) Act 1911 Food Act 2008 Health (Public Buildings) Regulations 1992</del>
<b>Policy</b>	Nil
<b>Record keeping</b>	<del>Delegates exercising powers given by delegation are to keep records of exercised delegation in the 'Executed Delegations Register'.</del>





## **Item 12.4.1**

### **Annual Review of Delegations 2022**

**e-Appendix ORD: 12.4.1C  
November 2022 – November  
2023 Delegations Register**

**Only available digitally**

## [Appendix ORD: 12.4.2A]

RISK ASSESSMENT TOOL								
<b>OVERALL RISK EVENT:</b> Cemeteries Local Law 2022 - Adoption <b>RISK THEME PROFILE:</b> 3 - Failure to Fulfil Compliance Requirements (Statutory, Regulatory)      4 - Document Management Processes <b>RISK ASSESSMENT CONTEXT:</b> Operational								
CONSEQUENCE CATEGORY	RISK EVENT	PRIOR TO TREATMENT OR CONTROL			RISK ACTION PLAN (Treatment or controls proposed)	AFTER TREATMENT OR CONTROL		
		CONSEQUENCE	LIKELIHOOD	INHERENT RISK RATING		CONSEQUENCE	LIKELIHOOD	RESIDUAL RISK RATING
HEALTH	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.
FINANCIAL IMPACT	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.
SERVICE INTERRUPTION	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.
LEGAL AND COMPLIANCE	Council has a statutory obligation to make laws which are clear and effective.	Moderate (3)	Rare (1)	Low (1 - 4)	Not required.	Not required.	Not required.	Not required.
REPUTATIONAL	Council would be seen in a negative light if we failed in our legislative requirements.	Minor (2)	Rare (1)	Low (1 - 4)	Not required.	Not required.	Not required.	Not required.
ENVIRONMENT	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.

**Cathy Lee**

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**Subject:** FW: Proposed Shire of Dardanup - Cemeteries Local Law 2022

**From:** Steven Elliott <steven.elliott@dlgsc.wa.gov.au>

**Sent:** Wednesday, 5 October 2022 5:22 PM

**To:** Cathy Lee <Cathy.Lee@dardanup.wa.gov.au>

**Subject:** RE: Proposed Shire of Dardanup - Cemeteries Local Law 2022

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Good afternoon,

The Department's comments on the Shire's proposed local law is provided below. Feel free to contact me if you had any questions.

**Cemeteries Local Law 2022**

**1. Determination device – memorials**

Part 7 Division 2 of the local law provides for the Board to make determinations in relation to what kind of monuments can be permitted in the cemetery. These determinations will presumably add to or overwrite the rules already provided in Schedule 3.

The Parliament's Delegated Legislation Committee generally disapproves of "determination devices" since it allows the local government to change parts of the local law in a manner other than the process provided by the Cemeteries Act.

While the Committee has permitted determination devices in parking laws and public places local laws, this has been subject to the condition that sufficient consultation occur, all submissions being duly considered and the determination power not being delegated to staff.

If the Shire retains these clauses, it is suggested that the following modifications occur:

- (a) In clause 1.13(1) after "Board may" insert "by resolution".
- (b) In clause 1.13 add a subclause stating that notwithstanding clause 2.1, any determination made under this clause must be made by the Board and not delegated.
- (c) Insert provisions which provide for a minimum submission period of at least 21 days and require all submissions to be duly considered.

**2. Clause 7.24 – Conduct of mason and mason's staff**

Clause (1)(b) provides that a licence may be cancelled if the mason or their staff act in a manner which is "inappropriate or unbecoming".

The Parliament's Delegated Legislation Committee has previously objected to this provision. Presumably this is because the phrase "inappropriate or unbecoming" is vague and can potentially interpreted in various ways.

It is suggested that paragraph (b) be deleted. If necessary, the Shire can impose similar controls via the conditions of the licence itself.

**3. Minor edits**

The following minor edits are suggested:

## (Appendix ORD: 12.4.2B)

- **Clause 1.2** – Change “cemeteries” to “Dardanup Cemetery and Ferguson Cemetery”.
- **Clause 1.6:** This clause is attempting to repeal a local law made by the Shire of Busselton. The references should be corrected to refer to the Shire’s current cemeteries local law.
- **Clause 6.4:** Amend the clause to account for the fact that a person may construct a vault or mausoleum if authorised by the Board, since this is likely to be done by either employees or independent contractors.

The Shire should also ensure that all references and cross references are accurate, particularly if any changes are made as a result of the Department’s comments

### **Minister’s Directions – pursuant to s 3.12(7) of the *Local Government Act 1995***

Please note: once the Shire has published a local law in the *Government Gazette*, the Shire must comply with the requirements of the Minister’s *Local Laws Explanatory Memoranda Directions 2010*.

The Shire must, within 10 working days of the Gazettal publication date, forward the signed Explanatory Memoranda material to the Committee at the current address:

Committee Clerk  
Joint Standing Committee on Delegated Legislation  
Legislative Council Committee Office  
GPO Box A11  
PERTH WA 6837  
Email: [delleg@parliament.wa.gov.au](mailto:delleg@parliament.wa.gov.au)  
Tel: 9222 7404  
Fax: 9222 7805

A copy of the Explanatory Memoranda forms can be downloaded from the Department of Local Government, Sport and Cultural Industries website at [www.dlgsc.wa.gov.au](http://www.dlgsc.wa.gov.au). Failure to comply with the Directions may render the local law inoperable.

Please note that my comments:

- have been provided to assist the Shire with drafting matters in relation to the local law;
- do not constitute legal advice;
- have been provided in good faith for the Shire’s consideration; and
- should not be taken as an approval of content.

The Shire should ensure that a detailed editorial analysis of the proposed local law has been undertaken and that the content of the local law is in accordance with the Shire policies and objectives.

Kind regards,

**Steven Elliott**  
Senior Legislation Officer

Department of Local Government, Sport and Cultural Industries  
140 William Street, Perth WA 6000  
GPO Box R1250, Perth WA 6844

# **EDITS TO LOCAL LAW**

**CEMETERIES ACT 1986  
LOCAL GOVERNMENT ACT 1995**

**SHIRE OF DARDANUP  
CEMETERIES LOCAL LAW 2022**

**CEMETERIES ACT 1986  
LOCAL GOVERNMENT ACT 1995**

**SHIRE OF DARDANUP**

**CEMETERIES LOCAL LAW 2022**

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CEMETERIES ACT 1986  
LOCAL GOVERNMENT ACT 1995

SHIRE OF DARDANUP CEMETERIES LOCAL LAW 2022

Under the powers conferred by the *Cemeteries Act 1986* and the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Dardanup resolved on *23 November 2022* to make the following local law.

PART 1 - PRELIMINARY

1.1 Citation

This local law is the *Shire of Dardanup Cemeteries Local Law 2022*.

1.2 Application

This local law applies to the ~~cemeteries~~: *Dardanup Cemetery and Ferguson Cemetery*.

1.3 Commencement

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

1.4 Terms used

In this local law unless the context otherwise requires-

*Act* means the *Cemeteries Act 1986*;

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

*assistance animal* has the same meaning as in the *Disability Discrimination Act 1992 (Cth)*;

*authorised person* means an employee of the Board -

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

- (b) authorised under section 64 of the Act to give infringement notices;

*Board* means the Shire of Dardanup;

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

*cemetery* means, depending on the context, any or all of the Dardanup Cemetery, or the Ferguson Cemetery;

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

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

*cremation urn* means a container used for holding the remains of a dead body after the due processes of cremation of which the volume does not exceeding .004m<sup>3</sup> (4,000 cubic centimetres), or such greater volume as approved by the CEO in writing;

*Dardanup Cemetery* means the Dardanup Cemetery located within Reserve 19722 which the Governor by order has vested under the care, control and management of the Board;

*disability* has the same meaning as in the *Disability Discrimination Act 1992 (Cth)*;

*district* means the district of the Shire of Dardanup;

*Ferguson Cemetery* means the Ferguson Cemetery located at Lot 3 Ferguson Road, Ferguson;

*funeral director* means a person holding a current funeral director's licence issued by the Board under section 17 of the Act;

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

*mausoleum* means a burial chamber wholly above or partially above and below ground level with one or more sealed compartments;

*memorial* has the meaning set out in the Act and includes a headstone, memorial plaque and monument;

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

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

## [Appendix ORD: 12.4.2C]

**monumental mason licence** means a licence issued under clause 7.21(1);

**natural stone** means –

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

**plant** includes trees, shrubs, annuals and perennials;

**personal representative** means the administrator or executor of an estate of a deceased person;

**set fee** means a fee or charge set by a resolution of the Board and published in the *Government Gazette*, under section 53 of the Act;

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

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

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

**vault** means a below ground lined grave or burial chamber with one or more sealed compartments; and

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

### 1.5 Interpretation

In this local law –

- (a) a reference to an application, approval, consent or permission means a written application, approval, consent or permission; and
- (b) a reference to a person does not include the Board.

### 1.6 Repeal

*The Shire of Dardanup Cemeteries Local Law 2014 published in the Government Gazette on 27 June 2014 is repealed.*

~~*The Busselton Cemeteries By-Law published in the Government Gazette on 14 October 1994 is repealed.*~~

## PART 2 - ADMINISTRATION

### 2.1 Powers and functions of CEO

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

### 2.2 Plans

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

**PART 3 – APPLICATION FOR FUNERALS**

**3.1 Application for burial**

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

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

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

**3.3 Certificate of identification**

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

**3.4 Minimum notice required**

An application to hold a funeral shall be made with the Board at least two business days prior to the day proposed for burial, otherwise an extra charge may be made.

**3.5 Fixing times for funerals**

- (1) On receipt of a properly completed application form and the satisfaction of all other requirements of the Act and this local law, the Board may—
  - (a) fix a time for the funeral; and
  - (b) dig or re-open any grave that is required.
- (2) The time fixed for a funeral is at the discretion of the Board but subject to this Part will be as near as possible to the time requested by the applicant.

**3.6 Times for burials**

A person shall not carry out a burial—

- (a) on a Saturday, a Sunday or a public holiday; or
- (b) at any time other than between the hours 9:00am to 3:00pm, except with the permission of the Board or an authorised person.

**PART 4 – FUNERAL DIRECTORS AND PERMIT HOLDERS**

**4.1 Funeral director's licence expiry**

A funeral director's licence shall expire on 30 June in each year.

**4.2 Single funeral permits**

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

### **4.3 Application refusal**

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

## **PART 5 - FUNERALS**

### *Division 1 - General*

#### **5.1 Requirements for funerals and coffins**

A person shall not bring a dead body into a cemetery unless –

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

#### **5.2 Funeral processions**

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

#### **5.3 Vehicle entry restricted**

(1) Subject to clause 5.3(2), a funeral procession shall enter by the principal entrance of the cemetery, and no vehicle shall enter the cemetery except –

- (a) the hearse;
- (b) official mourning coaches;
- (c) a vehicle carrying or transporting a person with a disability;
- (d) a device or equipment used to transport, carry or handle a coffin; and
- (e) a pram, baby carriage, stroller or a similar device.

(2) This clause does not apply to a vehicle approved by the CEO or an authorised person.

#### **5.4 Vehicle access and speed limitation**

(1) A person shall drive or ride a vehicle only on a vehicular access way or the constructed roadway or other areas designated for the use of vehicles within the cemetery, unless otherwise authorised by the CEO.

(2) A person driving or riding a vehicle in an area within a cemetery -

- (a) shall not exceed the speed limit designated by a sign applying to that area; and
- (b) shall comply with the signs and directions applying to that area.

#### **5.5 Offenders may be ordered to leave**

(1) A person committing an offence under clause 5.4 may be ordered to leave the cemetery by the CEO or an authorised person.

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

#### **5.6 Conduct of funeral by the Board**

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

- (a) require a written request for it to conduct a funeral to be lodged with it;
- (b) in its absolute discretion, charge any person requesting it to conduct a funeral the set fee for the conduct of that funeral by it;

- (c) where no fee or a reduced fee has been charged by it for the conduct of the funeral, determine the manner in which the funeral shall be conducted;
- (d) specify an area in the cemetery where the dead body is to be buried or the ashes placed;
- (e) bury the dead body;
- (f) conduct the funeral notwithstanding the failure of a person to make any application or to obtain any consent required under this local law; and
- (g) do or require anything which it considers is necessary or convenient for the conduct of the funeral by it.

*Division 2 - Placement of Ashes*

**5.7 Disposal of ashes**

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

**PART 6 – BURIALS**

**6.1 Dimensions of graves**

- (1) A person shall not bury a dead body in a cemetery other than in a standard grave, unless that person has the permission of an authorised person.
- (2) The permission of the authorised person in subclause (1) shall not be granted unless in the opinion of the authorised person, exceptional circumstances require granting of that permission.

**6.2 Preparation of graves**

A person shall not dig or prepare a grave or fill a grave, unless that person has the permission of an authorised person.

**6.3 Depth of graves**

- (1) A person shall not bury a dead body within a cemetery so that the distance from the top of the dead body to the original surface of the ground is –
  - (a) subject to paragraph (b), less than 1600 mm, unless that person has the permission of an authorised person; or
  - (b) in any circumstances less than 750 mm.
- (2) The permission of the authorised person in subclause (1)(a) shall not be granted unless, in the opinion of the authorised person, exceptional circumstances require granting of that permission.

#### 6.4 Vaults and Mausoleums

- (1) A person shall not construct a vault or mausoleum within a cemetery.
- (2) A person may request the Board to construct a vault or mausoleum within a cemetery.
- (3) **A person may construct a vault or mausoleum if authorised by the Board.**
- (4) ~~(3)~~ A vault or mausoleum within a cemetery shall at all times remain the property of the Board.
- (5) ~~(4)~~ An application under subclause (2) shall be in writing and shall be accompanied by payment of the set fee.
- (6) ~~(5)~~ The CEO or an authorised person may require a person making an application under subclause (2) to provide additional information reasonably related to the application before determining the application.
- (7) ~~(6)~~ The CEO or an authorised person may –
  - (a) approve an application under subclause (2) unconditionally or subject to any conditions; or
  - (b) refuse to approve an application under subclause (2).
- (8) ~~(7)~~ Where an application under subclause (2) has been approved subject to conditions, the applicant must comply with each of those conditions, as amended.
- (9) ~~(8)~~ If the CEO or an authorised person refuses to approve an application under subclause (2), he or she is to give written notice of that refusal to the applicant.
- (10) ~~(9)~~ A person shall not place a dead body in a vault or mausoleum except –
  - (a) in a closed coffin;
  - (b) in a soundly constructed and sealed chamber; and
  - (c) in accordance with subclause (11).
- (11) ~~(10)~~ The number of burials in a chamber must not exceed the number for which the chamber was designed.

### PART 7 – MEMORIALS AND OTHER WORK

#### *Division 1 - General*

#### 7.1 Application for memorial

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

#### 7.2 Placement of memorial

Subject to Division 3 of this Part, a memorial shall be placed on proper and substantial foundations.

#### 7.3 Removal of rubbish

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

#### 7.4 Operation of work

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

#### 7.5 Removal of sand, soil or loam

A person shall not, without the consent of the Board –

- (a) take sand, gravel, stone, timber, trees or other material from a cemetery for use in connection with the placement, erection or alteration of any memorial or other work; or
- (b) subject to clause 7.3, remove or cause to be removed from a cemetery any sand, gravel, stone, timber, trees, shrubs, grass or other material.

#### 7.6 Hours of work

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

- (a) during a funeral;

- (b) other than between the hours of 8.00am and 5.00pm on a business day; or
- (c) other than between the hours of 8.00am and 1.00pm on a Saturday.

#### **7.7 Unfinished work**

A mason or other person who does not complete any work before 5.00pm on a business day shall leave the work in a neat and safe condition to the satisfaction of the CEO or an authorised person.

#### **7.8 Use of wood**

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

#### **7.9 Plants and trees**

A plant or tree shall not be planted on any grave or within the cemetery except in accordance with an approval by the CEO.

#### **7.10 Supervision**

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

#### **7.11 Australian War Graves**

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

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

#### **7.12 Placing of glass domes and vases**

A person shall not place a glass dome, vase or other grave ornament –

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

#### *Division 2 – Types of memorials permitted in different areas of a cemetery*

#### **7.13 Determination of types of memorials permitted in different areas of a cemetery**

- (1) The Board may **by resolution** determine the types of memorials permitted in a cemetery and may impose different requirements for different areas of a cemetery.
- (2) **Prior to a proposed determination under this clause 7.13 being made –**
  - (a) **there will be a public submission period of at least 21 days; and**
  - (b) **all submissions will be duly considered.**
- (3) ~~(2)~~ Where the Board makes a determination under subclause (1), the CEO must give local public notice to give effect to the determination.
- (4) ~~(3)~~ A proposed determination is to have effect as a determination on and from the date of publication.
- (5) ~~(4)~~ A determination made under this clause 7.13 shall be recorded in a publicly accessible register of determinations that must be maintained by the Board.
- (6) ~~(5)~~ The determinations in Schedule 2 –
  - (a) are to be taken to have been made in accordance with clause 7.13;
  - (b) may be amended or revoked in accordance with clause 7.15; and
  - (c) have effect on the day on which this local law commences under clause 1.3.
- (7) **Notwithstanding clause 2.1, any determination made under this clause must be made by the Board and not delegated.**

#### **7.14 Memorials to be placed or erected in accordance with determination**

The Board may refuse an application under section 30 of the Act if the type or location of the memorial applied for is not in accordance with a determination.

**7.15 Amendment or revocation of determination**

- (1) The Board may amend or revoke a determination.
- (2) The provisions of clauses 7.13(3), (4) and (5) are to apply to an amendment of a determination as if the amendment were a proposed determination.
- (3) If the Board revokes a determination, the CEO is to give local public notice of the revocation and the determination is to cease to have effect on the date of publication.

*Division 3 – Specifications and materials for memorials*

**7.16 Specification of a monument**

- (1) A monument in a cemetery shall –
  - (a) be made of natural stone;
  - (b) be placed on a base of natural stone;
  - (c) comply with the following specifications:
    - (i) unless a greater height is approved by the CEO, the overall height of a monument above the original surface of the grave shall not exceed 1.2m;
    - (ii) the height of the base of the monument above the original surface of the grave shall not be less than 150 mm nor more than 450 mm;
    - (iii) the width of the base of the monument shall not exceed 1.2m;
    - (iv) the length of the base of the monument shall not exceed 2.4m; and
    - (v) the depth of the base of the monument shall not exceed 300 mm; and
  - (d) have foundations extending to the bottom of the grave unless concrete beam foundations are approved by the Board.
- (2) Subject to subclause (3) a memorial plaque may be attached to a monument that has been or is being erected.
- (3) The provisions of clause 7.18 apply to a memorial plaque that is attached to a monument.

**7.17 Specification of a headstone**

- (1) A headstone shall –
  - (a) be made of natural stone;
  - (b) be placed on a base of natural stone;
  - (c) comply with the following specifications:
    - (i) the height of the base of the headstone above the highest point of the original surface of the grave shall not be less than 150 mm nor more than 200 mm;
    - (ii) the overall height of the headstone, including the base, shall not exceed 1.2m;
    - (iii) the length of the base of the headstone measured across the width of the grave shall not exceed 1m;
    - (iv) the width of the base of the headstone shall not exceed 300mm; and
    - (v) that part of a headstone above its base shall not extend horizontally beyond that base.
  - (d) have foundations extending to the bottom of the grave unless concrete beam foundations are approved by the Board.
- (2) Subject to subclause (3) a memorial plaque may be attached to a headstone erected or being erected within a cemetery.
- (3) The provisions of clause 7.18 apply to a memorial plaque that is attached to a headstone.

**7.18 Specification of a memorial plaque**

- (1) A memorial plaque placed in a cemetery shall –
  - (a) be made of admiralty bronze or any other material approved by the Board;
  - (b) if placed on a monument or headstone - not be less than the dimensions 140 mm width x 117 mm height, nor more than 560 mm width x 305 mm height; and
  - (c) if placed on any other memorial or in any other section of a cemetery - comply with the relevant specification in Schedule 2 relating to that section of the cemetery.
- (2) A memorial plaque –
  - (a) made of admiralty bronze shall not exceed 20 mm in thickness;



- (b) made of stone shall not exceed 50 mm in thickness; and
- (c) shall be placed upon a standard concrete plinth with the relevant specification in Schedule 2 or a base mounting approved by the Board.

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

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

### *Division 4 – Licensing of Monumental Masons*

#### **7.20 Monumental mason's licence**

- (1) The Board may on receipt of an application by any person and on payment of the set fee issue to the applicant a monumental mason's licence.
- (2) A licence issued under subclause (1) authorises the holder to carry out monumental works within a cemetery subject to the provisions of this local law and such conditions as the Board specifies on the licence.

#### **7.21 Expiry date, non-transferability**

A monumental mason's licence –

- (a) is valid from the date specified on the licence until 30 June next following; and
- (b) is not transferable.

#### **7.22 Carrying out monumental work**

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

- (a) is the holder of a current monumental mason's licence;
- (b) is an employee of a person who holds such a licence; or
- (c) is authorised by the Board to do so.

#### **7.23 Responsibilities of the holder of a monumental mason's licence**

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

#### **7.24 Cancellation of a monumental mason's licence**

- (1) The Board may, by notice in writing to the holder of a monumental mason's licence, terminate the licence on any of the following grounds:
  - (a) that the holder of the licence has committed a breach of the requirements or conditions of the licence, this local law, the Act or any other written law which may affect the carrying out of monumental works; or
  - ~~(b) that, in the opinion of the Board, the conduct of the holder of the licence or any person in the employ of that holder in carrying out or attempting to carry out any works within the cemetery, is inappropriate or unbecoming; or~~
  - ~~(b)(e)~~ that the holder of the licence has purported to transfer the licence issued to that holder.
- (2) Upon the termination of a monumental mason's licence under this clause no part of any fee paid for the issue of that licence is refundable by the Board.

#### **7.25 Application for single monumental work permit**

- (1) The Board may on receipt of an application by a person in the form prescribed and on payment of a set fee, issue to an applicant a single monumental work permit authorising the holder to place a monument within a cemetery subject to such conditions as the Board specifies on the permit.
- (2) An application for a single monumental work permit under subclause (1) shall include an application for a monumental work in the form prescribed.

#### **7.26 Numbering of graves**

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

**PART 8 - GENERAL**

**8.1 Animals**

- (1) Subject to subclause (2), a person shall not bring an animal, or the carcass or remains of a deceased animal, into a cemetery or permit an animal to enter or remain in a cemetery, other than with the approval of the CEO or an authorised person.
- (2) Subclause (1) shall not apply to an assistance animal providing assistance to a person with a disability or alleviating the effect of a disability.

**8.2 Utility services**

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

**8.3 Damaging and removing of objects**

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

**8.4 Withered flowers**

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

**8.5 Littering**

A person shall not –

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

**8.6 Signs, advertising and vending**

- (1) A person shall not place or display any sign, advertisement or fixture of any nature, other than an approved memorial a cemetery, except with the permission of the Board.
- (2) A person shall not advertise or carry on any trade, business or profession in the cemetery without the approval of the Board.
- (3) The Board may consider and grant approval subject to such conditions as the Board thinks fit.

**8.7 Board may close a cemetery**

The Board may –

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

**8.8 Obeying signs and directions**

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

**8.9 Removal from the cemetery**

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

(2) A person whom an order under sub clause (1) is given by the CEO or an authorised person is to leave immediately in a peaceful manner and not cause a disruption or be a nuisance to the funeral congregation or ceremony or procession.

**8.10 Board may enter into an agreement for maintenance**

The Board may enter into an agreement with the holder of a right of burial for the maintenance of an area of a cemetery at the expense of the holder.

**PART 9 – OFFENCES AND MODIFIED PENALTIES**

**9.1 General**

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

**9.2 Modified penalties**

(1) The offences specified in Schedule 1 are offences which may be dealt with under section 63 of the Act.

(2) The modified penalty payable in respect of an offence specified in Schedule 1 is set out in the fourth column of Schedule 1.

(3) The prescribed form of the infringement notice referred to in section 63(1) of the Act is set out in Schedule 3.

(4) The prescribed form of the notice withdrawing an infringement notice referred to in section 63(3) of the Act is set out in Schedule 4.

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## [Appendix ORD: 12.4.2C]

SCHEDULE 1  
**MODIFIED PENALTIES**  
(Clause 9.2(1))

<b>Item No</b>	<b>Clause No</b>	<b>Nature of Offence</b>	<b>Penalty \$</b>
1	5.3	Unauthorised entrance of a vehicle	50.00
2	5.4(1)	Driving or riding a vehicle other than on a vehicular access way or the constructed roadway or other areas designated for the use of vehicles within the cemetery	50.00
3	5.4(2)	Excessive speed	50.00
4	5.7(1)	Bringing or disposing of the ashes of a deceased person in a cemetery	50.00
5	7.3	Failure to remove rubbish and surplus material from the cemetery	50.00
6	7.7	Leaving uncompleted works in an untidy or unsafe condition	50.00
7	7.9	Unauthorised planting of plants	50.00
8	7.12	Unauthorised placing of glass domes and vases	50.00
9	7.19	Displaying a trade name on a memorial	50.00
10	8.1	Unauthorised animal in cemetery	50.00
11	8.2(1)	Connect to or alter or interfere with utility services	50.00
12	8.3	Damage or removal of objects	50.00
13	8.5	Littering	50.00
14	8.6(1)	Place or display a sign or advertisement	50.00
15	8.6(2)	Unauthorised advertising, and/or trading	50.00
16	8.8	Disobeying sign or lawful direction	50.00

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## [Appendix ORD: 12.4.2C]

### SCHEDULE 2

#### TYPES OF MEMORIALS PERMITTED IN DIFFERENT AREAS OF A CEMETERY

The following determinations are to be taken to have been made by the Board under clause 7.13.

##### Dardanup Cemetery

Area of cemetery	Type of memorial	Dimensions
General section / Grave sites	Monument or	As specified in clause 7.16
	Headstone or	As specified in clause 7.17
	Memorial Plaque on concrete plinth	As specified in clause 7.18
		<p>Dimensions of Memorial Plaque: 140mm to 145mm wide x 115mm to 120 mm high</p> <p>Dimensions of concrete plinth face for placement of single memorial plaque: 145mm wide x 120mm high.</p>
Niche Wall	Memorial plaque	<p>As specified in clause 7.18</p> <p>Single: 140mm to 145mm wide x 115mm to 120 mm high</p> <p>Double: 275mm to 285mm wide x 120mm to 125mm high</p>
Rose Garden	Memorial plaque mounted on a concrete plinth	<p>As specified in clause 7.18</p> <p>Dimensions of Memorial Plaque: 140mm to 145mm wide x 115mm to 120 mm high</p> <p>Dimensions of concrete plinth face for placement of single memorial plaque: 145mm wide x 120mm high.</p>

## [Appendix ORD: 12.4.2C]

### Ferguson Cemetery

Area of cemetery	Type of memorial	Dimensions
General section / Grave sites	Monument or	As specified in clause 7.16
	Headstone or	As specified in clause 7.17
	Memorial Plaque on concrete plinth	As specified in clause 7.18
		Dimensions of Memorial Plaque: 140mm to 145mm wide x 115mm to 120 mm high  Dimensions of concrete plinth face for placement of single memorial plaque: 145mm wide x 120mm high.
Niche Wall	Memorial plaque	As specified in clause 7.18  Single: 140mm to 145mm wide x 115mm to 120 mm high Double: 275mm to 285mm wide x 120mm to 125mm high

# [Appendix ORD: 12.4.2C]

## SCHEDULE 3 INFRINGEMENT NOTICE (Clause 9.2(3))

TO: \_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Address)

It is alleged that at \_\_\_\_\_ : \_\_\_\_\_ hours on \_\_\_\_\_ day  
of \_\_\_\_\_ 20 \_\_\_\_\_ at \_\_\_\_\_

you committed the offence indicated below by an (x) in breach of clause ..... of the Shire of Dardanup  
Cemeteries Local Law 2022

\_\_\_\_\_  
(Authorised Person)

### Offence

	5.3	Unauthorised entrance of a vehicle	\$50.00
	5.4(1)	Driving or riding a vehicle other than on a vehicular access way or the constructed roadway or other areas designated for the use of vehicles within the cemetery	\$50.00
	5.4(2)	Excessive speed	\$50.00
	5.7(1)	Bringing or disposing of the ashes of a deceased person in a cemetery	\$50.00
	7.3	Failure to remove rubbish and surplus material from the cemetery	\$50.00
	7.7	Leaving uncompleted works in an untidy or unsafe condition	\$50.00
	7.9	Unauthorised planting of plants	\$50.00
	7.12	Unauthorised placing of glass domes and vases	\$50.00
	7.19	Displaying a trade name on a memorial	\$50.00
	8.1	Unauthorised animal in cemetery	\$50.00
	8.2(1)	Connect to or alter or interfere with utility services	\$50.00
	8.3	Damage or removal of objects	\$50.00
	8.5	Littering	\$50.00
	8.6(1)	Place or display a sign or advertisement	\$50.00
	8.6(2)	Unauthorised advertising, and/or trading	\$50.00
	8.8	Disobeying sign or lawful direction	\$50.00

Other Offence \_\_\_\_\_ \$ \_\_\_\_\_

you may dispose of this matter:

By payment of the penalty as shown within 21 days of the date of this notice (or the date of the giving of this notice if that is a different date) to the Chief Executive Officer of the Shire of Dardanup, 1 Council Drive, Eaton WA 6232 between the hours of 9am to 4.30pm Monday to Friday.

Please make cheques payable to Shire of Dardanup. Payments by mail should be addressed to:

The Chief Executive Officer  
***Shire of Dardanup***  
1 Council Drive, Eaton WA 6232

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

\_\_\_\_\_

SCHEDULE 4  
**WITHDRAWAL OF INFRINGEMENT NOTICE**  
(Clause 9.2(4))

No. \_\_\_\_\_

\_\_\_\_\_ Date \_\_\_\_/\_\_\_\_/\_\_\_\_

To (1) \_\_\_\_\_

Infringement Notice No \_\_\_\_\_ dated \_\_\_\_/\_\_\_\_/\_\_\_\_ for the alleged offence of (2)

\_\_\_\_\_

Penalty (3) \$ \_\_\_\_\_ is withdrawn.

(Delete whichever does not apply)

- \* No further action will be taken.
- \* It is proposed to institute court proceedings for the alleged offence.

-----

- (1) Insert name and address of alleged offender.
- (2) Insert short particulars of offence alleged.
- (3) Insert amount of penalty prescribed.

\_\_\_\_\_

(Authorised Person)

\_\_\_\_\_

Dated [insert date]

The Common Seal of the Shire of Dardanup was affixed under the authority of a resolution of Council in the presence of –

\_\_\_\_\_

CR. MICHAEL THEODORE BENNETT, Shire President

\_\_\_\_\_

MR ANDRIES STEFAN SCHÖNFELDT, Chief Executive Officer



# **FINAL LOCAL LAW FOR ADOPTION**

**CEMETERIES ACT 1986  
LOCAL GOVERNMENT ACT 1995**

**SHIRE OF DARDANUP  
CEMETERIES LOCAL LAW 2022**

**CEMETERIES ACT 1986  
LOCAL GOVERNMENT ACT 1995**

**SHIRE OF DARDANUP**

**CEMETERIES LOCAL LAW 2022**

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CEMETERIES ACT 1986  
LOCAL GOVERNMENT ACT 1995

SHIRE OF DARDANUP CEMETERIES LOCAL LAW 2022

Under the powers conferred by the *Cemeteries Act 1986* and the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Dardanup resolved on *23 November 2022* to make the following local law.

PART 1 - PRELIMINARY

1.1 Citation

This local law is the *Shire of Dardanup Cemeteries Local Law 2022*.

1.2 Application

This local law applies to the *Dardanup Cemetery and Ferguson Cemetery*.

1.3 Commencement

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

1.4 Terms used

In this local law unless the context otherwise requires-

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

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

**assistance animal** has the same meaning as in the *Disability Discrimination Act 1992 (Cth)*;

**authorised person** means an employee of the Board -

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

- (b) authorised under section 64 of the Act to give infringement notices;

**Board** means the Shire of Dardanup;

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

**cemetery** means, depending on the context, any or all of the Dardanup Cemetery, or the Ferguson Cemetery;

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

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

**cremation urn** means a container used for holding the remains of a dead body after the due processes of cremation of which the volume does not exceeding .004m<sup>3</sup> (4,000 cubic centimetres), or such greater volume as approved by the CEO in writing;

**Dardanup Cemetery** means the Dardanup Cemetery located within Reserve 19722 which the Governor by order has vested under the care, control and management of the Board;

**disability** has the same meaning as in the *Disability Discrimination Act 1992 (Cth)*;

**district** means the district of the Shire of Dardanup;

**Ferguson Cemetery** means the Ferguson Cemetery located at Lot 3 Ferguson Road, Ferguson;

**funeral director** means a person holding a current funeral director's licence issued by the Board under section 17 of the Act;

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

**mausoleum** means a burial chamber wholly above or partially above and below ground level with one or more sealed compartments;

**memorial** has the meaning set out in the Act and includes a headstone, memorial plaque and monument;

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

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

**monumental mason licence** means a licence issued under clause 7.21(1);

**natural stone** means –

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

**plant** includes trees, shrubs, annuals and perennials;

**personal representative** means the administrator or executor of an estate of a deceased person;

**set fee** means a fee or charge set by a resolution of the Board and published in the *Government Gazette*, under section 53 of the Act;

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

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

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

**vault** means a below ground lined grave or burial chamber with one or more sealed compartments; and

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

### 1.5 Interpretation

In this local law –

- (a) a reference to an application, approval, consent or permission means a written application, approval, consent or permission; and
- (b) a reference to a person does not include the Board.

### 1.6 Repeal

*The Shire of Dardanup Cemeteries Local Law 2014 published in the Government Gazette on 27 June 2014 is repealed.*

## PART 2 - ADMINISTRATION

### 2.1 Powers and functions of CEO

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

### 2.2 Plans

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

**PART 3 – APPLICATION FOR FUNERALS**

**3.1 Application for burial**

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

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

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

**3.3 Certificate of identification**

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

**3.4 Minimum notice required**

An application to hold a funeral shall be made with the Board at least two business days prior to the day proposed for burial, otherwise an extra charge may be made.

**3.5 Fixing times for funerals**

- (1) On receipt of a properly completed application form and the satisfaction of all other requirements of the Act and this local law, the Board may—
  - (a) fix a time for the funeral; and
  - (b) dig or re-open any grave that is required.
- (2) The time fixed for a funeral is at the discretion of the Board but subject to this Part will be as near as possible to the time requested by the applicant.

**3.6 Times for burials**

A person shall not carry out a burial—

- (a) on a Saturday, a Sunday or a public holiday; or
- (b) at any time other than between the hours 9:00am to 3:00pm, except with the permission of the Board or an authorised person.

**PART 4 – FUNERAL DIRECTORS AND PERMIT HOLDERS**

**4.1 Funeral director's licence expiry**

A funeral director's licence shall expire on 30 June in each year.

**4.2 Single funeral permits**

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

### **4.3 Application refusal**

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

## **PART 5 - FUNERALS**

### *Division 1 - General*

#### **5.1 Requirements for funerals and coffins**

A person shall not bring a dead body into a cemetery unless –

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

#### **5.2 Funeral processions**

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

#### **5.3 Vehicle entry restricted**

(1) Subject to clause 5.3(2), a funeral procession shall enter by the principal entrance of the cemetery, and no vehicle shall enter the cemetery except –

- (a) the hearse;
- (b) official mourning coaches;
- (c) a vehicle carrying or transporting a person with a disability;
- (d) a device or equipment used to transport, carry or handle a coffin; and
- (e) a pram, baby carriage, stroller or a similar device.

(2) This clause does not apply to a vehicle approved by the CEO or an authorised person.

#### **5.4 Vehicle access and speed limitation**

(1) A person shall drive or ride a vehicle only on a vehicular access way or the constructed roadway or other areas designated for the use of vehicles within the cemetery, unless otherwise authorised by the CEO.

(2) A person driving or riding a vehicle in an area within a cemetery -

- (a) shall not exceed the speed limit designated by a sign applying to that area; and
- (b) shall comply with the signs and directions applying to that area.

#### **5.5 Offenders may be ordered to leave**

(1) A person committing an offence under clause 5.4 may be ordered to leave the cemetery by the CEO or an authorised person.

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

#### **5.6 Conduct of funeral by the Board**

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

- (a) require a written request for it to conduct a funeral to be lodged with it;
- (b) in its absolute discretion, charge any person requesting it to conduct a funeral the set fee for the conduct of that funeral by it;

- (c) where no fee or a reduced fee has been charged by it for the conduct of the funeral, determine the manner in which the funeral shall be conducted;
- (d) specify an area in the cemetery where the dead body is to be buried or the ashes placed;
- (e) bury the dead body;
- (f) conduct the funeral notwithstanding the failure of a person to make any application or to obtain any consent required under this local law; and
- (g) do or require anything which it considers is necessary or convenient for the conduct of the funeral by it.

*Division 2 - Placement of Ashes*

**5.7 Disposal of ashes**

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

**PART 6 – BURIALS**

**6.1 Dimensions of graves**

- (1) A person shall not bury a dead body in a cemetery other than in a standard grave, unless that person has the permission of an authorised person.
- (2) The permission of the authorised person in subclause (1) shall not be granted unless in the opinion of the authorised person, exceptional circumstances require granting of that permission.

**6.2 Preparation of graves**

A person shall not dig or prepare a grave or fill a grave, unless that person has the permission of an authorised person.

**6.3 Depth of graves**

- (1) A person shall not bury a dead body within a cemetery so that the distance from the top of the dead body to the original surface of the ground is –
  - (a) subject to paragraph (b), less than 1600 mm, unless that person has the permission of an authorised person; or
  - (b) in any circumstances less than 750 mm.
- (2) The permission of the authorised person in subclause (1)(a) shall not be granted unless, in the opinion of the authorised person, exceptional circumstances require granting of that permission.



#### **6.4 Vaults and Mausoleums**

- (1) A person shall not construct a vault or mausoleum within a cemetery.
- (2) A person may request the Board to construct a vault or mausoleum within a cemetery.
- (3) A person may construct a vault or mausoleum if authorised by the Board.
- (4) A vault or mausoleum within a cemetery shall at all times remain the property of the Board.
- (5) An application under subclause (2) shall be in writing and shall be accompanied by payment of the set fee.
- (6) The CEO or an authorised person may require a person making an application under subclause (2) to provide additional information reasonably related to the application before determining the application.
- (7) The CEO or an authorised person may –
  - (a) approve an application under subclause (2) unconditionally or subject to any conditions; or
  - (b) refuse to approve an application under subclause (2).
- (8) Where an application under subclause (2) has been approved subject to conditions, the applicant must comply with each of those conditions, as amended.
- (9) If the CEO or an authorised person refuses to approve an application under subclause (2), he or she is to give written notice of that refusal to the applicant.
- (10) A person shall not place a dead body in a vault or mausoleum except –
  - (a) in a closed coffin;
  - (b) in a soundly constructed and sealed chamber; and
  - (c) in accordance with subclause (11).
- (11) The number of burials in a chamber must not exceed the number for which the chamber was designed.

### **PART 7 – MEMORIALS AND OTHER WORK**

#### *Division 1 - General*

#### **7.1 Application for memorial**

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

#### **7.2 Placement of memorial**

Subject to Division 3 of this Part, a memorial shall be placed on proper and substantial foundations.

#### **7.3 Removal of rubbish**

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

#### **7.4 Operation of work**

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

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

A person shall not, without the consent of the Board –

- (a) take sand, gravel, stone, timber, trees or other material from a cemetery for use in connection with the placement, erection or alteration of any memorial or other work; or
- (b) subject to clause 7.3, remove or cause to be removed from a cemetery any sand, gravel, stone, timber, trees, shrubs, grass or other material.

## **7.6 Hours of work**

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

- (a) during a funeral;
- (b) other than between the hours of 8.00am and 5.00pm on a business day; or
- (c) other than between the hours of 8.00am and 1.00pm on a Saturday.

## **7.7 Unfinished work**

A mason or other person who does not complete any work before 5.00pm on a business day shall leave the work in a neat and safe condition to the satisfaction of the CEO or an authorised person.

## **7.8 Use of wood**

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

## **7.9 Plants and trees**

A plant or tree shall not be planted on any grave or within the cemetery except in accordance with an approval by the CEO.

## **7.10 Supervision**

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

## **7.11 Australian War Graves**

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

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

## **7.12 Placing of glass domes and vases**

A person shall not place a glass dome, vase or other grave ornament –

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

### *Division 2 – Types of memorials permitted in different areas of a cemetery*

## **7.13 Determination of types of memorials permitted in different areas of a cemetery**

- (1) The Board may **by resolution** determine the types of memorials permitted in a cemetery and may impose different requirements for different areas of a cemetery.
- (2) **Prior to a proposed determination under this clause 7.13 being made –**
  - (a) **there will be a public submission period of at least 21 days; and**
  - (b) **all submissions will be duly considered.**
- (3) Where the Board makes a determination under subclause (1), the CEO must give local public notice to give effect to the determination.
- (4) A proposed determination is to have effect as a determination on and from the date of publication.
- (5) A determination made under this clause 7.13 shall be recorded in a publicly accessible register of determinations that must be maintained by the Board.
- (6) The determinations in Schedule 2 –
  - (a) are to be taken to have been made in accordance with clause 7.13;
  - (b) may be amended or revoked in accordance with clause 7.15; and
  - (c) have effect on the day on which this local law commences under clause 1.3.
- (7) **Notwithstanding clause 2.1, any determination made under this clause must be made by the Board and not delegated.**

**7.14 Memorials to be placed or erected in accordance with determination**

The Board may refuse an application under section 30 of the Act if the type or location of the memorial applied for is not in accordance with a determination.

**7.15 Amendment or revocation of determination**

- (1) The Board may amend or revoke a determination.
- (2) The provisions of clauses 7.13(3), (4) and (5) are to apply to an amendment of a determination as if the amendment were a proposed determination.
- (3) If the Board revokes a determination, the CEO is to give local public notice of the revocation and the determination is to cease to have effect on the date of publication.

*Division 3 – Specifications and materials for memorials*

**7.16 Specification of a monument**

- (1) A monument in a cemetery shall –
  - (a) be made of natural stone;
  - (b) be placed on a base of natural stone;
  - (c) comply with the following specifications:
    - (i) unless a greater height is approved by the CEO, the overall height of a monument above the original surface of the grave shall not exceed 1.2m;
    - (ii) the height of the base of the monument above the original surface of the grave shall not be less than 150 mm nor more than 450 mm;
    - (iii) the width of the base of the monument shall not exceed 1.2m;
    - (iv) the length of the base of the monument shall not exceed 2.4m; and
    - (v) the depth of the base of the monument shall not exceed 300 mm; and
  - (d) have foundations extending to the bottom of the grave unless concrete beam foundations are approved by the Board.
- (2) Subject to subclause (3) a memorial plaque may be attached to a monument that has been or is being erected.
- (3) The provisions of clause 7.18 apply to a memorial plaque that is attached to a monument.

**7.17 Specification of a headstone**

- (1) A headstone shall –
  - (a) be made of natural stone;
  - (b) be placed on a base of natural stone;
  - (c) comply with the following specifications:
    - (i) the height of the base of the headstone above the highest point of the original surface of the grave shall not be less than 150 mm nor more than 200 mm;
    - (ii) the overall height of the headstone, including the base, shall not exceed 1.2m;
    - (iii) the length of the base of the headstone measured across the width of the grave shall not exceed 1m;
    - (iv) the width of the base of the headstone shall not exceed 300mm; and
    - (v) that part of a headstone above its base shall not extend horizontally beyond that base.
  - (d) have foundations extending to the bottom of the grave unless concrete beam foundations are approved by the Board.
- (2) Subject to subclause (3) a memorial plaque may be attached to a headstone erected or being erected within a cemetery.
- (3) The provisions of clause 7.18 apply to a memorial plaque that is attached to a headstone.

**7.18 Specification of a memorial plaque**

- (1) A memorial plaque placed in a cemetery shall –
  - (a) be made of admiralty bronze or any other material approved by the Board;
  - (b) if placed on a monument or headstone - not be less than the dimensions 140 mm width x 117 mm height, nor more than 560 mm width x 305 mm height; and
  - (c) if placed on any other memorial or in any other section of a cemetery - comply with the relevant specification in Schedule 2 relating to that section of the cemetery.
- (2) A memorial plaque –
  - (a) made of admiralty bronze shall not exceed 20 mm in thickness;
  - (b) made of stone shall not exceed 50 mm in thickness; and
  - (c) shall be placed upon a standard concrete plinth with the relevant specification in Schedule 2 or a base mounting approved by the Board.

**7.19 Display of trade names on memorials not allowed**

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

*Division 4 – Licensing of Monumental Masons*

**7.20 Monumental mason’s licence**

- (1) The Board may on receipt of an application by any person and on payment of the set fee issue to the applicant a monumental mason’s licence.
- (2) A licence issued under subclause (1) authorises the holder to carry out monumental works within a cemetery subject to the provisions of this local law and such conditions as the Board specifies on the licence.

**7.21 Expiry date, non-transferability**

A monumental mason’s licence –

- (a) is valid from the date specified on the licence until 30 June next following; and
- (b) is not transferable.

**7.22 Carrying out monumental work**

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

- (a) is the holder of a current monumental mason’s licence;
- (b) is an employee of a person who holds such a licence; or
- (c) is authorised by the Board to do so.

**7.23 Responsibilities of the holder of a monumental mason’s licence**

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

**7.24 Cancellation of a monumental mason’s licence**

- (1) The Board may, by notice in writing to the holder of a monumental mason’s licence, terminate the licence on any of the following grounds:
  - (a) that the holder of the licence has committed a breach of the requirements or conditions of the licence, this local law, the Act or any other written law which may affect the carrying out of monumental works; **or**
  - (b)** that the holder of the licence has purported to transfer the licence issued to that holder.
- (2) Upon the termination of a monumental mason’s licence under this clause no part of any fee paid for the issue of that licence is refundable by the Board.

**7.25 Application for single monumental work permit**

- (1) The Board may on receipt of an application by a person in the form prescribed and on payment of a set fee, issue to an applicant a single monumental work permit authorising the holder to place a monument within a cemetery subject to such conditions as the Board specifies on the permit.
- (2) An application for a single monumental work permit under subclause (1) shall include an application for a monumental work in the form prescribed.

**7.26 Numbering of graves**

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

**PART 8 - GENERAL**

**8.1 Animals**

- (1) Subject to subclause (2), a person shall not bring an animal, or the carcass or remains of a deceased animal, into a cemetery or permit an animal to enter or remain in a cemetery, other than with the approval of the CEO or an authorised person.
- (2) Subclause (1) shall not apply to an assistance animal providing assistance to a person with a disability or alleviating the effect of a disability.

**8.2 Utility services**

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

**8.3 Damaging and removing of objects**

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

**8.4 Withered flowers**

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

**8.5 Littering**

A person shall not –

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

**8.6 Signs, advertising and vending**

- (1) A person shall not place or display any sign, advertisement or fixture of any nature, other than an approved memorial a cemetery, except with the permission of the Board.
- (2) A person shall not advertise or carry on any trade, business or profession in the cemetery without the approval of the Board.
- (3) The Board may consider and grant approval subject to such conditions as the Board thinks fit.

**8.7 Board may close a cemetery**

The Board may –

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

**8.8 Obeying signs and directions**

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

**8.9 Removal from the cemetery**

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

(2) A person whom an order under sub clause (1) is given by the CEO or an authorised person is to leave immediately in a peaceful manner and not cause a disruption or be a nuisance to the funeral congregation or ceremony or procession.

**8.10 Board may enter into an agreement for maintenance**

The Board may enter into an agreement with the holder of a right of burial for the maintenance of an area of a cemetery at the expense of the holder.

**PART 9 – OFFENCES AND MODIFIED PENALTIES**

**9.1 General**

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

**9.2 Modified penalties**

(1) The offences specified in Schedule 1 are offences which may be dealt with under section 63 of the Act.

(2) The modified penalty payable in respect of an offence specified in Schedule 1 is set out in the fourth column of Schedule 1.

(3) The prescribed form of the infringement notice referred to in section 63(1) of the Act is set out in Schedule 3.

(4) The prescribed form of the notice withdrawing an infringement notice referred to in section 63(3) of the Act is set out in Schedule 4.

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## [Appendix ORD: 12.4.2D]

SCHEDULE 1  
**MODIFIED PENALTIES**  
(Clause 9.2(1))

<b>Item No</b>	<b>Clause No</b>	<b>Nature of Offence</b>	<b>Penalty \$</b>
1	5.3	Unauthorised entrance of a vehicle	50.00
2	5.4(1)	Driving or riding a vehicle other than on a vehicular access way or the constructed roadway or other areas designated for the use of vehicles within the cemetery	50.00
3	5.4(2)	Excessive speed	50.00
4	5.7(1)	Bringing or disposing of the ashes of a deceased person in a cemetery	50.00
5	7.3	Failure to remove rubbish and surplus material from the cemetery	50.00
6	7.7	Leaving uncompleted works in an untidy or unsafe condition	50.00
7	7.9	Unauthorised planting of plants	50.00
8	7.12	Unauthorised placing of glass domes and vases	50.00
9	7.19	Displaying a trade name on a memorial	50.00
10	8.1	Unauthorised animal in cemetery	50.00
11	8.2(1)	Connect to or alter or interfere with utility services	50.00
12	8.3	Damage or removal of objects	50.00
13	8.5	Littering	50.00
14	8.6(1)	Place or display a sign or advertisement	50.00
15	8.6(2)	Unauthorised advertising, and/or trading	50.00
16	8.8	Disobeying sign or lawful direction	50.00

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## [Appendix ORD: 12.4.2D]

### SCHEDULE 2

#### TYPES OF MEMORIALS PERMITTED IN DIFFERENT AREAS OF A CEMETERY

The following determinations are to be taken to have been made by the Board under clause 7.13.

##### Dardanup Cemetery

Area of cemetery	Type of memorial	Dimensions
General section / Grave sites	Monument or	As specified in clause 7.16
	Headstone or	As specified in clause 7.17
	Memorial Plaque on concrete plinth	As specified in clause 7.18
		<p>Dimensions of Memorial Plaque: 140mm to 145mm wide x 115mm to 120 mm high</p> <p>Dimensions of concrete plinth face for placement of single memorial plaque: 145mm wide x 120mm high.</p>
Niche Wall	Memorial plaque	<p>As specified in clause 7.18</p> <p>Single: 140mm to 145mm wide x 115mm to 120 mm high</p> <p>Double: 275mm to 285mm wide x 120mm to 125mm high</p>
Rose Garden	Memorial plaque mounted on a concrete plinth	<p>As specified in clause 7.18</p> <p>Dimensions of Memorial Plaque: 140mm to 145mm wide x 115mm to 120 mm high</p> <p>Dimensions of concrete plinth face for placement of single memorial plaque: 145mm wide x 120mm high.</p>

## [Appendix ORD: 12.4.2D]

### Ferguson Cemetery

Area of cemetery	Type of memorial	Dimensions
General section / Grave sites	Monument or	As specified in clause 7.16
	Headstone or	As specified in clause 7.17
	Memorial Plaque on concrete plinth	As specified in clause 7.18
		Dimensions of Memorial Plaque: 140mm to 145mm wide x 115mm to 120 mm high  Dimensions of concrete plinth face for placement of single memorial plaque: 145mm wide x 120mm high.
Niche Wall	Memorial plaque	As specified in clause 7.18  Single: 140mm to 145mm wide x 115mm to 120 mm high Double: 275mm to 285mm wide x 120mm to 125mm high

SCHEDULE 3  
INFRINGEMENT NOTICE  
(Clause 9.2(3))

TO: \_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Address)

It is alleged that at \_\_\_\_\_ : \_\_\_\_\_ hours on \_\_\_\_\_ day  
of \_\_\_\_\_ 20 \_\_\_\_\_ at \_\_\_\_\_

you committed the offence indicated below by an (x) in breach of clause ..... of the Shire of Dardanup  
Cemeteries Local Law 2022

\_\_\_\_\_  
(Authorised Person)

Offence

	5.3	Unauthorised entrance of a vehicle	\$50.00
	5.4(1)	Driving or riding a vehicle other than on a vehicular access way or the constructed roadway or other areas designated for the use of vehicles within the cemetery	\$50.00
	5.4(2)	Excessive speed	\$50.00
	5.7(1)	Bringing or disposing of the ashes of a deceased person in a cemetery	\$50.00
	7.3	Failure to remove rubbish and surplus material from the cemetery	\$50.00
	7.7	Leaving uncompleted works in an untidy or unsafe condition	\$50.00
	7.9	Unauthorised planting of plants	\$50.00
	7.12	Unauthorised placing of glass domes and vases	\$50.00
	7.19	Displaying a trade name on a memorial	\$50.00
	8.1	Unauthorised animal in cemetery	\$50.00
	8.2(1)	Connect to or alter or interfere with utility services	\$50.00
	8.3	Damage or removal of objects	\$50.00
	8.5	Littering	\$50.00
	8.6(1)	Place or display a sign or advertisement	\$50.00
	8.6(2)	Unauthorised advertising, and/or trading	\$50.00
	8.8	Disobeying sign or lawful direction	\$50.00

Other Offence \_\_\_\_\_ \$ \_\_\_\_\_

you may dispose of this matter:

By payment of the penalty as shown within 21 days of the date of this notice (or the date of the giving of this notice if that is a different date) to the Chief Executive Officer of the Shire of Dardanup, 1 Council Drive, Eaton WA 6232 between the hours of 9am to 4.30pm Monday to Friday.

Please make cheques payable to Shire of Dardanup. Payments by mail should be addressed to:

The Chief Executive Officer  
**Shire of Dardanup**  
1 Council Drive, Eaton WA 6232

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

\_\_\_\_\_

SCHEDULE 4  
**WITHDRAWAL OF INFRINGEMENT NOTICE**  
(Clause 9.2(4))

No. \_\_\_\_\_

\_\_\_\_\_ Date \_\_\_\_/\_\_\_\_/\_\_\_\_

To (1) \_\_\_\_\_

Infringement Notice No \_\_\_\_\_ dated \_\_\_\_/\_\_\_\_/\_\_\_\_ for the alleged offence of (2)

\_\_\_\_\_

Penalty (3) \$ \_\_\_\_\_ is withdrawn.

(Delete whichever does not apply)

\* No further action will be taken.

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

-----

(1) Insert name and address of alleged offender.

(2) Insert short particulars of offence alleged.

(3) Insert amount of penalty prescribed.

\_\_\_\_\_  
(Authorised Person)

\_\_\_\_\_

Dated **23 November 2022**

The Common Seal of the Shire of Dardanup was affixed under the authority of a resolution of Council in the presence of –

\_\_\_\_\_  
CR. MICHAEL THEODORE BENNETT, Shire President

\_\_\_\_\_  
MR ANDRIES STEFAN SCHÖNFELDT, Chief Executive Officer

RISK ASSESSMENT TOOL								
<b>OVERALL RISK EVENT:</b> <b>Parking Local Law 2022 - Adoption</b> <b>RISK THEME PROFILE:</b> 3 - Failure to Fulfil Compliance Requirements (Statutory, Regulatory)                      4 - Document Management Processes <b>RISK ASSESSMENT CONTEXT:</b> Operational								
CONSEQUENCE CATEGORY	RISK EVENT	PRIOR TO TREATMENT OR CONTROL			RISK ACTION PLAN (Treatment or controls proposed)	AFTER TREATMENT OR CONTROL		
		CONSEQUENCE	LIKELIHOOD	INHERENT RISK RATING		CONSEQUENCE	LIKELIHOOD	RESIDUAL RISK RATING
HEALTH	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.
FINANCIAL IMPACT	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.
SERVICE INTERRUPTION	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.
LEGAL AND COMPLIANCE	Council has a statutory obligation to make laws which are clear and effective.	Moderate (3)	Rare (1)	Low (1 - 4)	Not required.	Not required.	Not required.	Not required.
REPUTATIONAL	Council would be seen in a negative light if we failed in our legislative requirements.	Minor (2)	Rare (1)	Low (1 - 4)	Not required.	Not required.	Not required.	Not required.
ENVIRONMENT	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.

**Cathy Lee**

---

**Subject:** Shire of Dardanup Local Laws x 3

**From:** Steven Elliott <steven.elliott@dlgsc.wa.gov.au>

**Sent:** Tuesday, 25 October 2022 11:23 AM

**To:** Cathy Lee <Cathy.Lee@dardanup.wa.gov.au>

**Subject:** RE: Shire of Dardanup Local Laws x 3

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Hi Cathy,

In regard to the Extractive Industries Local Law and Parking Local Law, the Department's comments are provided below. No major issues were identified and the comments only refer to minor or procedural matters.

**Extractive Industries Local Law**

**Minor edits:**

- The local law refers to Australian Standards. The Shire should ensure that the citations are accurate and the complete citation is used at least once, either in the applicable clause or in the interpretation area. The Shire should also ensure that they have information on their website indicating where the Standard can be accessed (presuming a copy isn't available at the Shire's office).
- Legislative citations should be in italics.
- The Shire should ensure all citations and cross references are accurate.

**Parking Local Law**

**Minor edits:**

- **Contents page:** the items for clause 1.3 and 1.4 should be in reverse order.
- The local law includes references to taxis. State taxi legislation has recently been amended and the Shire should ensure that the new statutory definitions still meet the Shire's requirements.
- The Shire should ensure all citations and cross references are accurate.

Kind regards

**Steven Elliott**

Senior Legislation Officer

Department of Local Government, Sport and Cultural Industries  
140 William Street, Perth WA 6000  
GPO Box R1250, Perth WA 6844

Web [www.dlgsc.wa.gov.au](http://www.dlgsc.wa.gov.au)

*The Department acknowledges the Aboriginal peoples of Western Australia as the traditional custodians of this land, and we pay our respects to their Elders past and present.*

# **EDITS TO LOCAL LAW**

**LOCAL GOVERNMENT ACT 1995**

**SHIRE OF DARDANUP**

**EXTRACTIVE INDUSTRIES  
LOCAL LAW 2022**

LOCAL GOVERNMENT ACT 1995

SHIRE OF DARDANUP

**EXTRACTIVE INDUSTRIES LOCAL LAW 2022**

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**PART 3—DETERMINATION OF APPLICATION**

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**SCHEDULE 1 - PRESCRIBED OFFENCES**

LOCAL GOVERNMENT ACT 1995

Shire of Dardanup Extractive Industries Local Law 2022

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Dardanup resolved on 23 November 2022 to make the following local law.

PART 1 PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Dardanup Extractive Industries Local Law 2022*.

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, as amended from time to time, and available for viewing free of charge at the Shire of Dardanup Administration office;

**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 Dardanup;

**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 ~~1.5~~ 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 Dardanup Extractive Industries Local Law* as published in the *Government Gazette* on 15 October 1996.

## **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 applicants, 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.~~
- (2) All survey data supplied by an applicant for the purpose of subclause (1) shall comply with the Australian Height Datum and the Map Grid of Australia.
- (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) 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 from time to time 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 90 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~~ *AS2187.2-2006 Explosives – Storage and Use - Use of Explosives* 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, transfer, 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 not 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 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.

**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**

**Extractive Industries Local Law 2022**

(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	6.2(e)	Failure to prevent the emission of dust, noise or other forms of nuisance	500
7	6.3(a)	Remove trees or shrubs near boundary without approval	500
8	6.3(b)	Store without required approval explosives or explosive devices	500
9	6.3(c)	Fill or excavate in breach of licence	500
10	6.4(1)(a)	Blasting without approval of the local government	500
11	6.4(1)(b)	Blasting outside times authorised	500
12	6.4(1)(d)	Blasting in breach of conditions imposed by the local government	500
13	6.4(2)	Blasting without approval on Saturday, Sunday or public holiday	500

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Dated **23 November 2022**

The Common Seal of the Shire of Dardanup was affixed under the authority of a resolution of Council in the presence of –

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CR. MICHAEL THEODORE BENNETT, Shire President

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MR ANDRIES STEFAN SCHÖNFELDT, Chief Executive Officer

**FINAL LOCAL LAW FOR ADOPTION**

**LOCAL GOVERNMENT ACT 1995**

**SHIRE OF DARDANUP**

**EXTRACTIVE INDUSTRIES  
LOCAL LAW 2022**

LOCAL GOVERNMENT ACT 1995

SHIRE OF DARDANUP

**EXTRACTIVE INDUSTRIES LOCAL LAW 2022**

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**SCHEDULE 1 - PRESCRIBED OFFENCES**



LOCAL GOVERNMENT ACT 1995

Shire of Dardanup Extractive Industries Local Law 2022

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Dardanup resolved on 23 November 2022 to make the following local law.

PART 1 PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Dardanup Extractive Industries Local Law 2022*.

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, as amended from time to time, and available for viewing free of charge at the Shire of Dardanup Administration office;

**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 Dardanup;

**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 Dardanup Extractive Industries Local Law* as published in the *Government Gazette* on 15 October 1996.

## **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 applicants, 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 the Australian Height Datum and the Map Grid of Australia.
- (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) 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 from time to time 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 90 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 is 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 AS2187.2-2006 Explosives – Storage and Use - Use of Explosives 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, transfer, 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 not 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 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.

**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****Extractive Industries Local Law 2022**

(clause 9.3)

<b>Item</b>	<b>Clause</b>	<b>Description</b>	<b>Modified Penalty \$</b>
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	6.2(e)	Failure to prevent the emission of dust, noise or other forms of nuisance	500
7	6.3(a)	Remove trees or shrubs near boundary without approval	500
8	6.3(b)	Store without required approval explosives or explosive devices	500
9	6.3(c)	Fill or excavate in breach of licence	500
10	6.4(1)(a)	Blasting without approval of the local government	500
11	6.4(1)(b)	Blasting outside times authorised	500
12	6.4(1)(d)	Blasting in breach of conditions imposed by the local government	500
13	6.4(2)	Blasting without approval on Saturday, Sunday or public holiday	500

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Dated **23 November 2022**

The Common Seal of the Shire of Dardanup was affixed under the authority of a resolution of Council in the presence of –

---

CR. MICHAEL THEODORE BENNETT, Shire President

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MR ANDRIES STEFAN SCHÖNFELDT, Chief Executive Officer

RISK ASSESSMENT TOOL								
<b>OVERALL RISK EVENT:</b> <b>Parking Local Law 2023 - Adoption</b> <b>RISK THEME PROFILE:</b> 3 - Failure to Fulfil Compliance Requirements (Statutory, Regulatory)                      4 - Document Management Processes <b>RISK ASSESSMENT CONTEXT:</b> Operational								
CONSEQUENCE CATEGORY	RISK EVENT	PRIOR TO TREATMENT OR CONTROL			RISK ACTION PLAN (Treatment or controls proposed)	AFTER TREATMENT OR CONTROL		
		CONSEQUENCE	LIKELIHOOD	INHERENT RISK RATING		CONSEQUENCE	LIKELIHOOD	RESIDUAL RISK RATING
HEALTH	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.
FINANCIAL IMPACT	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.
SERVICE INTERRUPTION	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.
LEGAL AND COMPLIANCE	Council has a statutory obligation to make laws which are clear and effective.	Moderate (3)	Rare (1)	Low (1 - 4)	Not required.	Not required.	Not required.	Not required.
REPUTATIONAL	Council would be seen in a negative light if we failed in our legislative requirements.	Minor (2)	Rare (1)	Low (1 - 4)	Not required.	Not required.	Not required.	Not required.
ENVIRONMENT	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.



## **Item 12.4.4**

### **Adoption of Parking Local Law 2023**

**Appendix ORD: 12.4.4B  
Submission from DLGSC**

**Please Note:**

**Appendix ORD: 12.4.4B  
Is the same as  
Appendix ORD: 12.4.3B**

# **EDITS TO LOCAL LAW**

**LOCAL GOVERNMENT ACT 1995**

**SHIRE OF DARDANUP  
PARKING LOCAL LAW 2023**

**LOCAL GOVERNMENT ACT 1995**  
**SHIRE OF DARDANUP**  
**PARKING LOCAL LAW 2023**  
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- 1.3 ~~Terms used~~ [Repeal](#)
- 1.4 ~~Repeal~~ [Terms Used](#)
- 1.5 Application of particular definitions
- 1.6 Application
- 1.7 Pre-existing signs
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- 1.10 Powers of the local government

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- 6.6 Stopping near a fire hydrant etc.
- 6.7 Stopping at or near a bus stop
- 6.8 Stopping on a path, median strip, or traffic island
- 6.9 Stopping on verge
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**OFFENCES AND MODIFIED PENALTIES**

LOCAL GOVERNMENT ACT 1995

SHIRE OF DARDANUP PARKING LOCAL LAW 2023

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Dardanup resolved on 23 November 2023 to make the following local law.

PART 1 – PRELIMINARY

1.1 Citation

This local law is cited as the *Shire of Dardanup Parking Local Law 2023*.

1.2 Commencement

This local law comes into operation 14 days after it is published in the *Government Gazette*.

1.3 Repeal

The *Shire of Dardanup Parking and Parking Facilities Local Law 2009* published in the *Government Gazette* on 23 November 2009, is repealed.

1.4 Terms used

In this local law unless the context otherwise requires –

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

**authorised person** means a person appointed by the Council or the CEO under section 9.10 of the Act, to perform any of the functions of an authorised person under this local law;

**authorised vehicle** means a vehicle authorised by the local government, CEO, authorised person or under any written law to park on a thoroughfare or parking facility;

**bicycle** has the meaning given to it by the Code;

**bicycle path** has the meaning given to it by the Code;

**built-up area** has the meaning given to it by the Code;

**bus** has the meaning given to it by the Code;

**bus embayment** has the meaning given to it by the Code;

**bus stop** has the meaning given to it by the Code;

**bus zone** has the meaning given to it by the Code;

**caravan** has the same meaning given to it by the *Caravan Parks and Camping Grounds Act 1995*;

**carriageway** has the meaning given to it by the Code;

**centre**, in relation to a carriageway, has the meaning given to it by the Code;

**children's crossing** has the meaning given to it by the Code;

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

**Code** means the *Road Traffic Code 2000*;

**commercial vehicle** means a motor vehicle constructed for the conveyance of goods or merchandise, or for the conveyance of materials used in any trade, business, industry or work whatsoever, other than a motor vehicle for the conveyance of passengers, and includes any motor vehicle that is designed primarily for the carriage of persons but which has been fitted or adapted for the conveyance of the goods, merchandise or materials referred to, and is in fact used for that purpose;

**Council** means the Council of the Shire of Dardanup;

**disability parking permit** has the meaning given to it by the Code;

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

**driver** means any person driving or in control of a vehicle;

**edge line**, for a carriageway, has the meaning given to it by the Code;

**emergency vehicle** has the meaning given to it by the Code;

**footpath** has the meaning given to it by the Code;

**GVM** (which stands for gross vehicle mass) has the meaning given to it in the *Road Traffic (Vehicles) Act 2012*;

**loading zone** has the meaning given to it by the Code;

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

**local government property** means anything —

- (a) which belongs to, is owned by or is under the care, control and management of the local government;
- (b) which is an ‘otherwise unvested facility’ within section 3.53 of the Act; or
- (c) of which the local government is a management body under the *Land Administration Act 1997*;

**mail zone** has the meaning given to it by the Code;

**median strip** has the meaning given to it by the Code;

**motorcycle** has the meaning given to it by the Code;

**motor vehicle** has the meaning given to it by the *Road Traffic (Administration) Act 2008*;

**motorised scooter** has the meaning given to it by the Code;

**nature strip** has the meaning given to it by the Code;

**no parking area** has the meaning given to it by the Code;

**no parking sign** means a sign with the words ‘no parking’ in red letters on a white background, or the letter P within a red annulus and a red diagonal line across it on a white background;

**no stopping area** has the meaning given to it by the Code;

**no stopping sign** means a sign with the words ‘no stopping’ or ‘no standing’ in red letters on a white background or the letter S within a red annulus and a red diagonal line across it on a white background;

**obstructing** means causing or allowing a motor vehicle, trailer, or other object to stand on a road in such a way that it is likely to impede other road users;

**occupier** has the meaning given to it by the Act;

**owner** —

- (a) where used in relation to a vehicle licensed under the Road Traffic Act, means the person in whose name the vehicle has been registered under the Road Traffic Act;
- (b) where used in relation to any other vehicle, means the person who owns, or is entitled to possession of that vehicle; and
- (c) where used in relation to land, has the meaning given to it by the Act;

**painted island** has the meaning given to it by the Code;

**park** has the meaning given to it by the Code;

**parking area** has the meaning given to it by the Code;

**parking facilities**—

- (a) means land, buildings, shelters, parking stalls and other facilities open to the public generally for the parking of vehicles with or without charge; and
- (b) includes signs, notices and facilities used in connection with the parking of vehicles;

**parking region** means the area described in Schedule 1;

**parking stall** means a section or part of a thoroughfare or of a parking facility which is marked or defined by painted lines, metallic studs, coloured bricks or pavers or similar devices for the purpose of indicating where a vehicle may be parked;

**parking station** means any land, or structure provided for the purpose of accommodating vehicles with or without charge;

**path** has the same meaning given to it by the Code;

**pedestrian crossing** has the meaning given to it by the Code;

**public bus** has the same meaning given to it by the Code;

**public place** means any place to which the public has access whether or not that place is on private property;

**reserve means** any land—

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

**road** has the meaning given to it by the *Road Traffic (Administration) Act 2008*;

**Road Traffic Act** means the *Road Traffic Act 1974*;

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

**shared zone** has the meaning given to it by the Code;

**sign** includes a traffic sign, inscription, road marking, mark, structure or device, on which may be shown words, numbers, expressions or symbols, that is—

## [Appendix ORD: 12.4.4C]

(a) approved by the CEO or an authorised person; and  
(b) placed on or near a thoroughfare or within a parking station or reserve for the purpose of prohibiting, regulating, guiding, directing or restricting the parking and stopping of vehicles;  
***special purpose vehicle*** has the meaning given to it by the Code;  
***stop*** in relation to a vehicle means to stop a vehicle and permit it to remain stationary, except for the purposes of avoiding conflict with other traffic or of complying with the provisions of any law;  
***symbol*** includes any symbol specified by Australian Standard 1742.11-2016 and any symbol specified from time to time by Standards Australia for use in the regulation of parking and any reference to the wording of any sign in this local law shall be also deemed to include a reference to the corresponding symbol;  
***taxi*** has the meaning given to it by the Code; [no changes required]  
***taxi zone*** has the meaning given to it by the Code;  
***thoroughfare*** has the meaning given to it by the Act;  
***traffic island*** has the meaning given to it by the Code;  
***trailer*** has the meaning given to it by the Code;  
***vehicle*** has the meaning given to it by the Code;  
***verge*** means the portion of a thoroughfare which lies between the boundary of a carriageway and the adjacent property line and includes any part of the verge designed for or intended for use by vehicles but does not include a footpath;

.....etc.....

**No further changes to the Local Law**

# **FINAL LOCAL LAW FOR ADOPTION**

## **LOCAL GOVERNMENT ACT 1995**

### **SHIRE OF DARDANUP PARKING LOCAL LAW 2023**

**LOCAL GOVERNMENT ACT 1995**

**SHIRE OF DARDANUP**

**PARKING LOCAL LAW 2023**

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**SCHEDULE 1 – PARKING REGION**

**SCHEDULE 2 – PRESCRIBED OFFENCES**

**OFFENCES AND MODIFIED PENALTIES**

LOCAL GOVERNMENT ACT 1995

SHIRE OF DARDANUP PARKING LOCAL LAW 2023

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Dardanup resolved on 23 November 2023 to make the following local law.

PART 1 – PRELIMINARY

1.1 Citation

This local law is cited as the *Shire of Dardanup Parking Local Law 2023*.

1.2 Commencement

This local law comes into operation 14 days after it is published in the *Government Gazette*.

1.3 Repeal

The *Shire of Dardanup Parking and Parking Facilities Local Law 2009* published in the *Government Gazette* on 23 November 2009, is repealed.

1.4 Terms used

In this local law unless the context otherwise requires –

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

*authorised person* means a person appointed by the Council or the CEO under section 9.10 of the Act, to perform any of the functions of an authorised person under this local law;

*authorised vehicle* means a vehicle authorised by the local government, CEO, authorised person or under any written law to park on a thoroughfare or parking facility;

*bicycle* has the meaning given to it by the Code;

*bicycle path* has the meaning given to it by the Code;

*built-up area* has the meaning given to it by the Code;

*bus* has the meaning given to it by the Code;

*bus embayment* has the meaning given to it by the Code;

*bus stop* has the meaning given to it by the Code;

*bus zone* has the meaning given to it by the Code;

*caravan* has the same meaning given to it by the *Caravan Parks and Camping Grounds Act 1995*;

*carriageway* has the meaning given to it by the Code;

*centre*, in relation to a carriageway, has the meaning given to it by the Code;

*children's crossing* has the meaning given to it by the Code;

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

*Code* means the *Road Traffic Code 2000*;

*commercial vehicle* means a motor vehicle constructed for the conveyance of goods or merchandise, or for the conveyance of materials used in any trade, business, industry or work whatsoever, other than a motor vehicle for the conveyance of passengers, and includes any motor vehicle that is designed primarily for the carriage of persons but which has been fitted or adapted for the conveyance of the goods, merchandise or materials referred to, and is in fact used for that purpose;

*Council* means the Council of the Shire of Dardanup;

*disability parking permit* has the meaning given to it by the Code;

*district* means the district of the local government;

*driver* means any person driving or in control of a vehicle;

*edge line*, for a carriageway, has the meaning given to it by the Code;

*emergency vehicle* has the meaning given to it by the Code;

*footpath* has the meaning given to it by the Code;

*GVM* (which stands for gross vehicle mass) has the meaning given to it in the *Road Traffic (Vehicles) Act 2012*;

*loading zone* has the meaning given to it by the Code;

*local government* means the Shire of Dardanup;



**local government property** means anything —

- (a) which belongs to, is owned by or is under the care, control and management of the local government;
- (b) which is an ‘otherwise unvested facility’ within section 3.53 of the Act; or
- (c) of which the local government is a management body under the *Land Administration Act 1997*;

**mail zone** has the meaning given to it by the Code;

**median strip** has the meaning given to it by the Code;

**motorcycle** has the meaning given to it by the Code;

**motor vehicle** has the meaning given to it by the *Road Traffic (Administration) Act 2008*;

**motorised scooter** has the meaning given to it by the Code;

**nature strip** has the meaning given to it by the Code;

**no parking area** has the meaning given to it by the Code;

**no parking sign** means a sign with the words ‘no parking’ in red letters on a white background, or the letter P within a red annulus and a red diagonal line across it on a white background;

**no stopping area** has the meaning given to it by the Code;

**no stopping sign** means a sign with the words ‘no stopping’ or ‘no standing’ in red letters on a white background or the letter S within a red annulus and a red diagonal line across it on a white background;

**obstructing** means causing or allowing a motor vehicle, trailer, or other object to stand on a road in such a way that it is likely to impede other road users;

**occupier** has the meaning given to it by the Act;

**owner** —

- (a) where used in relation to a vehicle licensed under the Road Traffic Act, means the person in whose name the vehicle has been registered under the Road Traffic Act;
- (b) where used in relation to any other vehicle, means the person who owns, or is entitled to possession of that vehicle; and
- (c) where used in relation to land, has the meaning given to it by the Act;

**painted island** has the meaning given to it by the Code;

**park** has the meaning given to it by the Code;

**parking area** has the meaning given to it by the Code;

**parking facilities**—

- (a) means land, buildings, shelters, parking stalls and other facilities open to the public generally for the parking of vehicles with or without charge; and
- (b) includes signs, notices and facilities used in connection with the parking of vehicles;

**parking region** means the area described in Schedule 1;

**parking stall** means a section or part of a thoroughfare or of a parking facility which is marked or defined by painted lines, metallic studs, coloured bricks or pavers or similar devices for the purpose of indicating where a vehicle may be parked;

**parking station** means any land, or structure provided for the purpose of accommodating vehicles with or without charge;

**path** has the same meaning given to it by the Code;

**pedestrian crossing** has the meaning given to it by the Code;

**public bus** has the same meaning given to it by the Code;

**public place** means any place to which the public has access whether or not that place is on private property;

**reserve means** any land—

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

**road** has the meaning given to it by the *Road Traffic (Administration) Act 2008*;

**Road Traffic Act** means the *Road Traffic Act 1974*;

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

**shared zone** has the meaning given to it by the Code;

**sign** includes a traffic sign, inscription, road marking, mark, structure or device, on which may be shown words, numbers, expressions or symbols, that is—

- (a) approved by the CEO or an authorised person; and
  - (b) placed on or near a thoroughfare or within a parking station or reserve for the purpose of prohibiting, regulating, guiding, directing or restricting the parking and stopping of vehicles;
- special purpose vehicle** has the meaning given to it by the Code;
- stop** in relation to a vehicle means to stop a vehicle and permit it to remain stationary, except for the purposes of avoiding conflict with other traffic or of complying with the provisions of any law;
- symbol** includes any symbol specified by Australian Standard 1742.11-2016 and any symbol specified from time to time by Standards Australia for use in the regulation of parking and any reference to the wording of any sign in this local law shall be also deemed to include a reference to the corresponding symbol;
- taxi** has the meaning given to it by the Code;
- taxi zone** has the meaning given to it by the Code;
- thoroughfare** has the meaning given to it by the Act;
- traffic island** has the meaning given to it by the Code;
- trailer** has the meaning given to it by the Code;
- vehicle** has the meaning given to it by the Code;
- verge** means the portion of a thoroughfare which lies between the boundary of a carriageway and the adjacent property line and includes any part of the verge designed for or intended for use by vehicles but does not include a footpath;

### 1.5 Application of particular definitions

- (1) For the purposes of the application of the definitions ‘**no parking area**’ and ‘**parking area**’, an arrow inscribed on a traffic sign erected at an angle to the boundary of the carriageway is deemed to be pointing in the direction in which it would point, if the signs were turned at an angle of less than 90 degrees until parallel with the boundary.
- (2) Unless the context otherwise requires, where a term is used, but not defined, in this local law, and that term is defined in the Road Traffic Act or in the Code, then the term has the meaning given to it in that Act or the Code.

### 1.6 Application

- (1) Subject to subclause (2), this local law applies to the parking region.
- (2) This local law does not apply to a parking facility that is not occupied by the local government, unless the local government and the owner or occupier of that facility have agreed in writing that this local law will apply to that facility.
- (3) The agreement referred to in subclause (2) may be made on such terms and conditions as the parties may agree.
- (4) The provisions of Parts 2, 3, and 4 do not apply to a bicycle parked at a bicycle rail or bicycle rack.

### 1.7 Pre-existing signs

- (1) A sign that –
  - (a) was erected by the local government or the Commissioner of Main Roads prior to the coming into operation of this local law; and
  - (b) relates to the parking of vehicles within the parking region,is deemed for the purposes of this local law to have been erected by the local government under the authority of this local law.
- (2) An inscription or symbol on a sign referred to in subclause (1) operates and has effect according to its tenor, and where the inscription or symbol relates to the stopping of vehicles, it is deemed for the purposes of this local law to operate and have effect as if it related to the parking of vehicles.

### 1.8 Classes of vehicles

For the purpose of this local law, vehicles are divided into classes as follows –

- (a) buses;
- (b) commercial vehicles;
- (c) motorcycles and bicycles;
- (d) taxis; and

- (e) all other vehicles.

### **1.9 Part of thoroughfare to which sign applies**

Where under this local law the parking of vehicles in a thoroughfare is controlled by a sign, the sign must be read as applying to that part of the thoroughfare which –

- (a) lies beyond the sign;
- (b) lies between the sign and the next sign beyond that sign; and
- (c) is on that side of the thoroughfare nearest to the sign.

### **1.10 Powers of the local government**

The Council may prohibit or regulate by signs or otherwise, the stopping or parking of any vehicle or any class of vehicles in any part of the parking region but must do so consistently with this local law.

## **PART 2 – PARKING STALLS AND PARKING FACILITIES**

### **2.1 Determination of parking stalls and parking facilities**

- (1) The Council may by resolution constitute, determine and vary –
  - (a) parking stalls;
  - (b) parking facilities;
  - (c) permitted time and conditions of parking in parking stalls and parking facilities which may vary with the locality;
  - (d) permitted classes of vehicles which may park in parking stalls and parking facilities;
  - (e) permitted classes of persons who may park in specified parking stalls or parking facilities; and
  - (f) the manner of parking in parking stalls and parking facilities.
- (2) Where the Council makes a resolution under subclause (1) it will erect signs to give effect to the determination.

### **2.2 Vehicles to be within parking stall on a thoroughfare**

- (1) Subject to subclauses (2), (3) and (4), a person must not park a vehicle in a parking stall in a thoroughfare otherwise than –
  - (a) parallel to and as close to the kerb as is practicable;
  - (b) wholly within the stall; and
  - (c) headed in the direction of the movement of traffic on the side of the thoroughfare in which the stall is situated.
- (2) Subject to subclause (3), where a parking stall in a thoroughfare is set out otherwise than parallel to the kerb, then a person must park a vehicle in that stall wholly within it.
- (3) If a vehicle is too long or too wide to fit completely within a single parking stall then the person parking the vehicle must do so within the minimum number of parking stalls needed to park that vehicle.
- (4) A person must not park a vehicle partly within and partly outside a parking area.

### **2.3 Payment of fee to park in a parking facility**

A person must not park a vehicle or permit a vehicle to remain parked in any parking facility during any period for which a fee is payable unless –

- (a) in the case of a parking facility having an authorised person on duty, the appropriate fee is paid when demanded; or
- (b) in the case of a parking facility equipped with parking meters, the appropriate fee is inserted in the meter or the required payment is made in such other form as may be permitted.

### **2.4 Suspension of parking facility restrictions**

The Council may by resolution declare that the provisions of clause 3.3 do not apply during periods on particular days in relation to particular parking facilities as specified in such resolution.

## **2.5 Vehicle not to be removed until fee paid**

A person must not remove a vehicle which has been parked in a parking facility until the appropriate fee has been paid for the period for which the vehicle has been parked.

## **2.6 Entitlement to receipt**

A person paying a fee at a parking facility is entitled to receive a receipt on demand showing the period of parking covered by such payment.

## **2.7 Parking prohibitions and restrictions**

- (1) A person must not –
  - (a) park a vehicle so as to obstruct an entrance to, or an exit from a parking facility, or an access way within a parking facility;
  - (b) except with the permission of the local government or an authorised person, park a vehicle on any part of a parking facility contrary to a sign referable to that part;
  - (c) permit a vehicle to park on any part of a parking facility, if an authorised person directs the driver of such vehicle to move the vehicle; or
  - (d) park or attempt to park a vehicle in a parking stall in which another vehicle is parked, but this paragraph does not prevent the parking of a motorcycle and a bicycle together in a stall marked 'M/C', if the bicycle is parked in accordance with subclause (2).
- (2) A person must not park any bicycle –
  - (a) in a parking stall other than in a stall marked 'M/C'; and
  - (b) in such stall, other than against the kerb.

# **PART 3 – PARKING GENERALLY**

## **3.1 Restrictions on parking in particular areas**

- (1) A person must not park a vehicle in a thoroughfare or part of a thoroughfare, or part of a parking facility –
  - (a) if by a sign it is set apart for the parking of vehicles of a different class;
  - (b) if by a sign it is set apart for the parking of vehicles by persons of a different class; or
  - (c) during any period when the parking of vehicles is prohibited by a sign.
- (2) A person must not park a vehicle –
  - (a) in a no parking area;
  - (b) in a parking area, except in accordance with both the signs associated with the parking area and with this local law;
  - (c) in a stall marked 'M/C' unless it is a motorcycle without a sidecar or a trailer, or it is a bicycle.
- (3) A person must not park a motorcycle without a sidecar or a trailer, or a bicycle in a parking stall not marked 'M/C', except where there are no stalls marked 'M/C' within 500 metres of the parking stall.
- (4) A person must not, without the prior permission of the local government, the CEO, or an authorised person, park a vehicle in an area designated by a sign stating 'Authorised Vehicles Only'.

## **3.2 Parking vehicle on a carriageway**

- (1) A person parking a vehicle on a carriageway other than in a parking stall must park it –
  - (a) in the case of a two-way carriageway, so that it is as near as practicable to, and parallel with, the left boundary of the carriageway and headed in the direction of the movement of traffic on the side of the thoroughfare on which the vehicle is parked;
  - (b) in the case of a one-way carriageway, so that it is as near as practicable to and parallel with either boundary of the carriageway and headed in the direction of the movement of traffic on the side of the thoroughfare on which the vehicle is parked;

- (c) so that at least 3 metres of the width of the carriageway lies between the vehicle and the farther boundary of the carriageway, or any continuous line or median strip, or between the vehicle and a vehicle parked on the farther side of the carriageway;
  - (d) so that the front and the rear of the vehicle respectively is not less than 1 metre from any other vehicle, except a motorcycle without a trailer or a bicycle parked in accordance with this local law; and
  - (e) so that it does not obstruct any vehicle on the carriageway, unless otherwise indicated on a parking regulation sign or markings on the carriageway.
- (2) In this clause continuous dividing line means –
- (a) a single continuous dividing line only;
  - (b) a single continuous dividing line to the left or right of a broken dividing line; or
  - (c) 2 parallel continuous dividing lines.

### **3.3 When parallel and right-angled parking apply**

Where a traffic sign associated with a parking area is not inscribed with the words ‘angle parking’, or with an equivalent symbol depicting this purpose, then unless a sign associated with the parking area or marks on the carriageway indicate that vehicles have to park in a different position, then –

- (a) where the parking area is adjacent to the boundary of a carriageway, a person parking a vehicle in the parking area must park it as near as practicable to and parallel with that boundary; and
- (b) where the parking area is at or near the centre of the carriageway, a person parking a vehicle in that parking area must park it at approximately right angles to the centre of the carriageway.

### **3.4 When angle parking applies**

- (1) This clause does not apply to –
  - (a) a passenger vehicle or a commercial vehicle with a mass, including any load, of over 3 tonnes; or
  - (b) a person parking either a motor cycle without a trailer or a bicycle.
- (2) Where a sign associated with a parking area is inscribed with the words ‘angle parking’ or with an equivalent symbol depicting this purpose, a person parking a vehicle in the area must park the vehicle at an angle of approximately 45 degrees to the centre of the carriageway unless otherwise indicated by the inscription on the parking sign or by marks on the carriageway.

### **3.5 General prohibitions on parking**

- (1) This clause does not apply to a vehicle parked in a parking stall or to a bicycle in a bicycle rack.
- (2) Subclauses (3)(c), (e) and (g) do not apply to a vehicle which parks in a bus embayment.
- (3) Subject to any law relating to intersections with traffic control signals, a person must not park a vehicle so that any portion of the vehicle is –
  - (a) between any other stationary vehicles and the centre of the carriageway;
  - (b) on or adjacent to a median strip;
  - (c) obstructing a right of way, private driveway or carriageway or so close as to deny a vehicle reasonable access to or egress from the right of way, private driveway or carriageway;
  - (d) alongside or opposite any excavation, works, hoarding, scaffolding or obstruction on the carriageway, if the vehicle would obstruct traffic;
  - (e) on or within 10 metres of any portion of a carriageway bounded by a traffic island;
  - (f) on any footpath or pedestrian crossing;
  - (g) between the boundaries of a carriageway and any double longitudinal line consisting of 2 continuous lines or between a double longitudinal line consisting of a continuous line and a broken or dotted line and the boundary of a carriageway nearer to the continuous line, unless there is a distance of at least 3 metres clear between the vehicle and the double longitudinal line;
  - (h) on an intersection, except adjacent to a carriageway boundary that is not broken by an intersecting carriageway;
  - (i) within 1 metre of a fire hydrant or fire plug, or of any sign or mark indicating the existence of a fire hydrant or fire plug;

## [Appendix ORD: 12.4.4D]

- (j) within 3 metres of a public letter pillar box located on a thoroughfare, unless the vehicle is being used for the purposes of collecting postal articles from the pillar box; or
  - (k) within 10 metres of the nearer property line of any thoroughfare intersecting the thoroughfare on the side on which the vehicle is parked, unless a sign or markings on the carriageway indicate otherwise.
- (4) A person must not park a vehicle so that any portion of the vehicle is within 10 metres of the departure side of –
- (a) a sign inscribed with the words ‘Bus Stop’ or ‘Hail Bus Here’, or with equivalent symbols depicting these purposes, unless the vehicle is a bus stopped to take up or set down passengers; or
  - (b) a children’s crossing or pedestrian crossing.
- (5) A person must not park a vehicle so that any portion of the vehicle is within 20 metres of the approach side of –
- (a) a sign inscribed with the words ‘Bus Stop’ or ‘Hail Bus Here’, or with equivalent symbols depicting these purposes, unless the vehicle is a bus stopped to take up or set down passengers; or
  - (b) a children’s crossing or pedestrian crossing.
- (6) A person must not park a vehicle so that any portion of the vehicle is within 20 metres of either the approach side or the departure side of the nearest rail of a railway level crossing.
- (7) A person shall not park on a verge unless that portion of the verge has been approved in writing by the local government as a parking area.
- (8) Subclause (7) does not apply to a verge adjacent to a premises zoned industry, light and service industry or residential under the local planning scheme if the person is the owner or occupier of the premises adjacent to that portion of the verge, or is a person authorised by the occupier to park on that portion of the verge.

### **3.6 Authorised person may order vehicle on thoroughfare to be moved**

The driver of a vehicle must not park that vehicle on any part of a thoroughfare in contravention of this local law after an authorised person has directed the driver to move it.

### **3.7 Authorised person may mark the tyres of a vehicle**

- (1) An authorised person may mark the tyres of a vehicle parked in a parking stall or parking facility with chalk or any other non-indelible substance for a purpose connected with or arising out of his or her duties or powers.
- (2) A person must not remove a mark made by an authorised person so that the purpose of the affixing of such a mark is defeated or likely to be defeated.

### **3.8 No movement of vehicles to avoid time limitation**

- (1) Where the parking of vehicles in a parking facility is permitted for a limited time, a person must not move a vehicle within the parking facility so that the total time of parking exceeds the maximum time allowed for parking in the parking facility.
- (2) Where the parking of vehicles in a thoroughfare is permitted for a limited time, a person must not move a vehicle along that thoroughfare so that the total time of parking exceeds the maximum time permitted, unless the vehicle has first been removed from the thoroughfare for at least 2 hours.

### **3.9 No parking of vehicles exposed for sale and in other circumstances**

A person must not park a vehicle on any portion of a thoroughfare –

- (a) for the purpose of exposing it for sale;
- (b) if that vehicle is not licensed under the Road Traffic Act;
- (c) if that vehicle is a trailer or a caravan unattached to a motor vehicle; or
- (d) for the purpose of effecting repairs to it, other than the minimum repairs necessary to enable the vehicle to be moved to a place other than a thoroughfare.

### **3.10 Parking on private land**

- (1) In this clause a reference to 'land' does not include land –
  - (a) which is local government property;
  - (b) which is the subject of an agreement referred to in subclause 1.6(2); or
  - (c) which is identified in a Schedule.
- (2) A person must not park a vehicle on land without the consent of the owner or occupier of the land on which the vehicle is parked.
- (3) Where the owner or occupier of the land, by a sign referable to that land or otherwise, consents to the parking of vehicles of a specified class or classes on the land for a limited period, a person must not park a vehicle on the land otherwise than in accordance with the consent.

### **3.11 Parking on local government property**

No person other than an employee of the local government in the course of his or her duties or a person authorised by the local government shall drive or park a vehicle upon or over any portion of a local government property other than upon an area specifically set aside for that purpose.

### **3.12 Suspension of parking limitations for urgent, essential or official duties**

- (1) Where, by a sign, the parking of vehicles is permitted for a limited time on a portion of a thoroughfare or parking facility, the local government, the CEO or an authorised person may permit a person to park a vehicle in that portion of the thoroughfare or parking facility for longer than the permitted time in order that the person may carry out urgent, essential or official duties.
- (2) Where permission is granted under subclause (1), the local government, the CEO or an authorised person may prohibit the use by any other vehicle of that portion of the thoroughfare or parking facility to which the permission relates, for the duration of that permission.

## **PART 4 – PARKING AND STOPPING GENERALLY**

### **4.1 No stopping and no parking signs, and yellow edge lines**

- (1) A driver shall not stop on a length of carriageway, or in an area, to which a no stopping sign applies.
- (2) A driver must not stop on a length of carriageway or in an area to which a no parking sign applies, unless the driver –
  - (a) is dropping off, or picking up, passengers or goods;
  - (b) does not leave the vehicle unattended; and
  - (c) completes the dropping off, or picking up, of the passengers or goods within 2 minutes of stopping and drives on.
- (3) A driver must not stop at the side of a carriageway marked with a continuous yellow edge line.
- (4) In this clause a driver leaves the vehicle unattended if the driver leaves the vehicle so the driver is over 3 metres from the closest point of the vehicle.

## **PART 5 – STOPPING IN ZONES FOR PARTICULAR VEHICLES**

### **5.1 Stopping in a loading zone**

A person must not stop a vehicle in a loading zone unless it is –

- (a) a motor vehicle used for commercial or trade purposes engaged in the picking up or setting down of goods; or
- (b) a motor vehicle taking up or setting down passengers, but, in any event, must not remain in that loading zone –
  - (c) for longer than a time indicated on the sign designating the loading zone; or
  - (d) longer than 30 minutes if no time is indicated on the sign.

**5.2 Stopping in a taxi zone or a bus zone**

- (1) A driver must not stop in a taxi zone, unless the driver is driving a taxi.
- (2) A driver must not stop in a bus zone, unless the driver is driving a public bus, or a bus of a type that is permitted to stop at the bus zone by information on or with the 'bus zone' sign applying to the bus zone.

**5.3 Stopping in a mail zone**

A person must not stop a vehicle in a mail zone.

**5.4 Other limitations in zones**

A person must not stop a vehicle in a zone to which a traffic sign applies if stopping the vehicle would be contrary to any limitation in respect to classes of persons or vehicles, or specific activities allowed, as indicated by additional words on a traffic sign that applies to the zone.

**PART 6 – OTHER PLACES WHERE STOPPING IS RESTRICTED**

**6.1 Stopping in a shared zone**

A driver must not stop in a shared zone unless –

- (a) the driver stops at a place on a length of carriageway, or in an area, to which a parking control sign applies and the driver is permitted to stop at that place under this local law;
- (b) the driver stops in a parking stall and the driver is permitted to stop in the parking stall under this local law;
- (c) the driver is dropping off, or picking up, passengers or goods; or
- (d) the driver is engaged in door-to-door delivery or collection of goods, or in the collection of waste or garbage.

**6.2 Double parking**

- (1) A driver must not stop a vehicle so that any portion of the vehicle is between any other stopped vehicle and the centre of the carriageway.
- (2) This clause does not apply to –
  - (a) a driver stopped in traffic; or
  - (b) a driver angle parking on the side of the carriageway or in a median strip parking area, in accordance with this local law.

**6.3 Stopping near an obstruction**

A driver must not stop on a carriageway near an obstruction on the carriageway in a position that further obstructs traffic on the carriageway.

**6.4 Stopping on a bridge or in a tunnel, etc.**

- (1) A driver must not stop a vehicle on a bridge, causeway, ramp or similar structure unless –
  - (a) the carriageway is at least as wide on the structure as it is on each of the approaches and a traffic sign does not prohibit stopping or parking; or
  - (b) the driver stops at a place on a length of carriageway, or in an area, to which a parking control sign applies and the driver is permitted to stop at that place under this local law.
- (2) A driver must not stop a vehicle in a tunnel or underpass unless –
  - (a) the carriageway is at least as wide in the tunnel or underpass as it is on each of the approaches and a traffic sign does not prohibit stopping or parking; or
  - (b) the driver of a motor vehicle stops at a bus stop, or in a bus zone or parking area marked on the carriageway, for the purpose of setting down or taking up passengers.



### **6.5 Stopping on crests, curves, etc.**

- (1) Subject to subclause (2), a driver must not stop a vehicle on, or partly on, a carriageway in any position where it is not visible to the driver of an overtaking vehicle from a distance of 50 metres within a built-up area and from a distance of 150 metres outside a built-up area.
- (2) A driver may stop on a crest or curve on a carriageway that is not in a built-up area if the driver stops at a place on the carriageway, or in an area, to which a parking control sign applies and the driver is permitted to stop at that place under this local law.

### **6.6 Stopping near a fire hydrant etc.**

- (1) A driver must not stop a vehicle so that any portion of the vehicle is within 1 metre of a fire hydrant or fire plug, or of any sign or mark indicating the existence of a fire hydrant or fire plug, unless –
  - (a) the driver is driving a public bus, and the driver stops in a bus zone or at a bus stop and does not leave the bus unattended; or
  - (b) the driver is driving a taxi, and the driver stops in a taxi zone and does not leave the taxi unattended.
- (2) In this clause a driver leaves the vehicle unattended if the driver leaves the vehicle so the driver is over 3 metres from the closest point of the vehicle.

### **6.7 Stopping at or near a bus stop**

- (1) A driver must not stop a vehicle so that any portion of the vehicle is within 20 metres of the approach side of a bus stop, or within 10 metres of the departure side of a bus stop, unless –
  - (a) the vehicle is a public bus stopped to take up or set down passengers; or
  - (b) the driver stops at a place on a length of carriageway or in an area to which a parking control sign applies and the driver is permitted to stop at that place under this local law.
- (2) In this clause –
  - (a) distances are measured in the direction in which the driver is driving; and
  - (b) a trailer attached to a public bus is deemed to be a part of the public bus.

### **6.8 Stopping on a path, median strip, or traffic island**

The driver of a vehicle (other than a bicycle or an animal) must not stop so that any portion of the vehicle is on a footpath, traffic island or median strip, unless the driver stops in an area to which a parking control sign applies and the driver is permitted to stop at that place under this local law.

### **6.9 Stopping on verge**

- (1) A person must not –
  - (a) stop a vehicle other than a bicycle;
  - (b) stop a commercial vehicle or bus, or a trailer or caravan unattached to a motor vehicle; or
  - (c) stop a vehicle during any period when the stopping of vehicles on that verge is prohibited by a sign adjacent and referable to that verge, so that any portion of it is on a verge.
- (2) Subclause (1)(a) does not apply to the person if he or she is the owner or occupier of the premises adjacent to that verge, or is a person authorised by the occupier of those premises to stop the vehicle so that any portion of it is on the verge.
- (3) Subclause (1)(b) does not apply to a commercial vehicle when it is being loaded or unloaded with reasonable expedition with goods, merchandise or materials collected from or delivered to the premises adjacent to the portion of the verge on which the commercial vehicle is parked, provided no obstruction is caused to the passage of any vehicle or person using a carriageway or a footpath.

### **6.10 Obstructing access to and from a footpath, driveway, etc.**

- (1) A driver must not stop a vehicle so that any portion of the vehicle is in front of a footpath or in a position that obstructs access by vehicles or pedestrians to or from that footpath, unless –
  - (a) the driver is dropping off, or picking up, passengers; or
  - (b) the driver stops in a parking stall and the driver is permitted to stop in the parking stall under this local law.

- (2) A driver must not stop a vehicle on or across a driveway or other way of access for vehicles travelling to or from adjacent land, unless –
- (a) the driver is dropping off, or picking up, passengers; or
  - (b) the driver stops in a parking stall and the driver is permitted to stop in the parking stall under this local law.

#### **6.11 Stopping near a letter box**

A driver must not stop a vehicle so that any portion of the vehicle is within 3 metres of a public letter pillar box, unless the driver –

- (a) is dropping off, or picking up, passengers or mail; or
- (b) stops at a place on a length of carriageway or in an area to which a parking control sign applies and the driver is permitted to stop at that place under this local law.

#### **6.12 Stopping on a carriageway – heavy and long vehicles**

(1) A person must not park a vehicle or any combination of vehicles that, together with any projection on, or load carried by, the vehicle or combination of vehicles, is 7.5 metres or more in length or exceeds a GVM of 4.5 tonnes –

- (a) on a carriageway in a built-up area for any period exceeding 1 hour, unless engaged in the picking up or setting down of goods; or
  - (b) on a carriageway outside a built-up area, except on the shoulder of the carriageway or in a truck bay or other area set aside for the parking of goods vehicles.
- (2) Nothing in this clause affects or overrides the limitations or conditions imposed by any other clause in this local law, or by any other local law or traffic sign relating to the parking or stopping of vehicles.

#### **6.13 Stopping on a carriageway with a bicycle parking sign**

The driver of a vehicle, other than a bicycle, must not stop on a length of carriageway to which a ‘bicycle parking’ sign applies, unless the driver is dropping off or picking up passengers.

#### **6.14 Stopping on a carriageway with motor cycle parking sign**

The driver of a vehicle must not stop on a length of carriageway or in an area to which a ‘motor cycle parking’ sign applies, or an area marked ‘M/C’ unless –

- (a) the vehicle is a motor cycle; or
- (b) the driver is dropping off, or picking up, passengers.

### **PART 7 – MISCELLANEOUS**

#### **7.1 Removal of notices on vehicle**

A person, other than the driver of the vehicle or a person acting under the direction of the driver of the vehicle, must not remove from the vehicle any notice put on the vehicle by an authorised person.

#### **7.2 Unauthorised signs and defacing of signs**

A person must not, without the authority of the local government –

- (a) mark, set up or exhibit a sign purporting to be or resembling a sign marked, set up or exhibited by the local government under this local law;
- (b) remove, deface or misuse a sign or property, set up or exhibited by the local government under this local law, or attempt to do any such act; or
- (c) affix a board, sign, placard, notice or other thing to or paint or write upon any part of a sign set up or exhibited by the local government under this local law.

### 7.3 Signs must be complied with

An inscription or symbol on a sign operates and has effect according to its tenor and a person contravening the direction on a sign commits an offence under this local law.

### 7.4 General provisions about signs

- (1) A sign marked, erected, set up, established or displayed on or near a thoroughfare is, in the absence of evidence to the contrary, presumed to be a sign marked, erected, set up, established or displayed under the authority of this local law.
- (2) The first 3 letters of any day of the week when used on a sign indicate that day of the week.

### 7.5 Special purpose and emergency vehicles

Notwithstanding anything to the contrary in this local law, the driver of –

- (a) a special purpose vehicle may, only in the course of his or her duties and when it is expedient and safe to do so, stop or park the vehicle in any place, at any time; and
- (b) an emergency vehicle may, in the course of his or her duties and when it is expedient and safe to do so or where he or she honestly and reasonably believes that it is expedient and safe to do so, stop or park the vehicle at any place, at any time.

### 7.6 Vehicles not to obstruct a public place

- (1) A person must not leave a vehicle, or any part of a vehicle, in a public place so that it obstructs the use of any part of that public place without the permission of the local government or unless authorised under any written law.
- (2) A person will not contravene subclause (1) where the vehicle is left for a period not exceeding 24 hours.

### 7.7 Hindrance of an authorised person

A person shall not in any way obstruct or hinder an authorised person in the execution of his or her duties.

## PART 8 - PENALTIES

### 8.1 Offences and penalties

- (1) A person who breaches a provision of this local law commits an offence.
- (2) An offence against any provision of this local law is a prescribed offence for the purposes of section 9.16(1) of the Act.
- (3) Any person who commits an offence under this local law will be liable, upon conviction, to a penalty not exceeding \$5,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.
- (4) The amount appearing in the final column of Schedule 2 directly opposite a clause specified in that Schedule is the modified penalty for an offence against that clause.

### 8.2 Form of notices

For the purposes of this local law –

- (a) the form of the notice referred to in section 9.13 of the Act is Form 1 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*;
  - (b) the form of the infringement notice referred to in section 9.17 of the Act is Form 2 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*; and
  - (c) the form of the infringement withdrawal notice referred to in section 9.20 of the Act is Form 3 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.
-

**SCHEDULE 1 – PARKING REGION**

[cl 1.6(1)]

The parking region is the whole of the district, but excludes the following portions of the district –

- (1) the approach and departure prohibition areas of all existing and future traffic control signal installations as determined by the Commissioner of Main Roads;
- (2) prohibition areas applicable to all existing and future bridges and subways as determined by the Commissioner of Main Roads; and
- (3) any road which comes under the control of the Commissioner of Main Roads, unless the control of parking and parking facilities on that road is carried out subject to the control and direction of the Commissioner of Main Roads, or has been delegated by the Commissioner to the local government.

**SCHEDULE 2 – PRESCRIBED OFFENCES**

[cl 8.1(4)]

**OFFENCES AND MODIFIED PENALTIES**

<b>ITEM NO.</b>	<b>CLAUSE NO.</b>	<b>NATURE OF OFFENCE</b>	<b>MODIFIED PENALTY \$</b>
1	2.2(1)	Failure to park wholly within parking stall	60
2	2.2(4)	Failure to park wholly within parking area	60
3	2.7(1)(a)	Causing obstruction in a parking facility	60
4	2.7(1)(b)	Parking contrary to sign in a parking facility	60
5	2.7(1)(c)	Parking contrary to directions of authorised person	100
6	2.7(1)(d)	Parking or attempting to park a vehicle in a parking stall occupied by another vehicle	60
7	3.1(1)(a)	Parking wrong class of vehicle	60
8	3.1(1)(b)	Parking by persons of a different class	60
9	3.1(1)(c)	Parking during prohibited period	60
10	3.1(2)(a)	Parking in no parking area	60
11	3.1(2)(b)	Parking contrary to signs or limitations	60
12	3.1(2)(c)	Parking vehicle in motor cycle only area	60
13	3.1(3)	Parking motor cycle in stall not marked 'M/C'	60
14	3.1(4)	Parking without permission in an area designated with a sign 'Authorised Vehicles Only'	60
15	3.2(1)(a)	Failure to park on the left of two-way carriageway	60
16	3.2(1)(a)	Parking against the flow of traffic	100

## [Appendix ORD: 12.4.4D]

ITEM NO.	CLAUSE NO.	NATURE OF OFFENCE	MODIFIED PENALTY \$
17	3.2(1)(b)	Failure to park on boundary of one-way carriageway	60
18	3.2(1)(c)	Parking when distance from farther boundary less than 3 metres	60
19	3.2(1)(d)	Parking closer than 1 metre from another vehicle	60
20	3.2(1)(e)	Causing obstruction	100
21	3.3(b)	Failure to park at approximate right angle	60
22	3.4(2)	Failure to park at an appropriate angle	60
23	3.5(3)(a) and 6.2	Double parking	100
24	3.5(3)(b)	Parking on or adjacent to a median strip	100
25	3.5(3)(c)	Denying access to private drive or right of way	100
26	3.5(3)(d)	Parking beside excavation or obstruction so as to obstruct traffic	100
27	3.5(3)(e)	Parking within 10 metres of traffic island	60
28	3.5(3)(f)	Parking on footpath/pedestrian crossing	100
29	3.5(3)(g)	Parking contrary to continuous line markings	100
30	3.5(3)(h)	Parking on intersection	100
31	3.5(3)(i)	Parking within 1 metre of fire hydrant or fire plug	100
32	3.5(3)(j)	Parking within 3 metres of public letter box	60
33	3.5(3)(k)	Parking within 10 metres of intersection	100
34	3.5(4)	Parking vehicle within 10 metres of departure side of bus stop, children's crossing or pedestrian crossing	100
35	3.5(5)	Parking vehicle within 20 metres of approach side of bus stop, children's crossing or pedestrian crossing	60
36	3.5(6)	Parking vehicle within 20 metres of approach side or departure side of railway level crossing	100
37	3.5(7)	Parking on a verge that is not an approved parking area	60
38	3.6	Parking contrary to direction of authorised person	100
39	3.7(2)	Removing mark of authorised person	100
40	3.8	Moving vehicle to avoid time limitation	100
41	3.9(a)	Parking in thoroughfare for purpose of sale	60
42	3.9(b)	Parking unlicensed vehicle in thoroughfare	60
43	3.9(c)	Parking a trailer/caravan on a thoroughfare	60

## [Appendix ORD: 12.4.4D]

ITEM NO.	CLAUSE NO.	NATURE OF OFFENCE	MODIFIED PENALTY \$
44	3.9(d)	Parking in thoroughfare for purpose of repairs	60
45	3.10(2)	Parking on land that is not a parking facility without consent	100
46	3.10(3)	Parking on land not in accordance with consent	100
47	3.11	Driving or parking on local government property	100
48	4.1(1)	Stopping contrary to a no stopping sign	100
49	4.1(2)	Parking contrary to a no parking sign	100
50	4.1(3)	Stopping within continuous yellow lines	60
51	5.1	Stopping unlawfully in a loading zone	60
52	5.2	Stopping unlawfully in a taxi zone or bus zone	100
53	5.3	Stopping unlawfully in a mail zone	100
54	5.4	Stopping in a zone contrary to a sign	100
55	6.1	Stopping in a shared zone	60
56	6.3	Stopping near an obstruction	60
57	6.4	Stopping on a bridge or tunnel	100
58	6.5	Stopping on crests/curves etc	100
59	6.6	Stopping near fire hydrant	100
60	6.7	Stopping near bus stop	60
61	6.8	Stopping on path, median strip or traffic island	100
62	6.9	Stopping on verge	100
63	6.10	Obstructing path, a driveway etc	100
64	6.11	Stopping near letter box	100
65	6.12	Stopping heavy or long vehicles on carriageway	60
66	6.13	Stopping in bicycle parking area	60
67	6.14	Stopping in motorcycle parking area	60
68	7.6	Leaving vehicle so as to obstruct a public place	100
69	7.7	Hindrance to an authorised officer	200
70	8.1(1)	All other offences not specified	100

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Dated **23 November 2022**

The Common Seal of the Shire of Dardanup was affixed under the authority of a resolution of Council in the presence of –

---

CR. MICHAEL THEODORE BENNETT, Shire President

---

MR ANDRIES STEFAN SCHÖNFELDT, Chief Executive Officer

## [Appendix ORD: 12.4.5]

RISK ASSESSMENT TOOL								
<b>OVERALL RISK EVENT:</b> Risk that the budget is not amended to reflect anticipated expenditure for unspent grant funds <b>RISK THEME PROFILE:</b> 3 - Failure to Fulfil Compliance Requirements (Statutory, Regulatory) <b>RISK ASSESSMENT CONTEXT:</b> Operational								
CONSEQUENCE CATEGORY	RISK EVENT	PRIOR TO TREATMENT OR CONTROL			RISK ACTION PLAN (Treatment or controls proposed)	AFTER TREATMENT OR CONTROL		
		CONSEQUENCE	LIKELIHOOD	INHERENT RISK RATING		CONSEQUENCE	LIKELIHOOD	RESIDUAL RISK RATING
HEALTH	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.
FINANCIAL IMPACT	Risk that the budget is not updated to reflect the grant funding expenditure to complete the project.	Minor (2)	Rare (1)	Low (1 - 4)	Not required.	Not required.	Not required.	Not required.
SERVICE INTERRUPTION	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.
LEGAL AND COMPLIANCE	Risk of non-compliance to LGA 1995 Regulation 6.8 – Expenditure from Municipal Fund not included in the Annual Budget.	Minor (2)	Rare (1)	Low (1 - 4)	Not required.	Not required.	Not required.	Not required.
REPUTATIONAL	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.
ENVIRONMENT	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.



# RISK ASSESSMENT TOOL

**OVERALL RISK EVENT:** Monthly Statement of Financial Activity for the Period Ended on the 31<sup>st</sup> of October 2022

**RISK THEME PROFILE:**

3 - Failure to Fulfil Compliance Requirements (Statutory, Regulatory)

**RISK ASSESSMENT CONTEXT:** Operational

CONSEQUENCE CATEGORY	RISK EVENT	PRIOR TO TREATMENT OR CONTROL			RISK ACTION PLAN (Treatment or controls proposed)	AFTER TREATMENT OR CONTROL		
		CONSEQUENCE	LIKELIHOOD	INHERENT RISK RATING		CONSEQUENCE	LIKELIHOOD	RESIDUAL RISK RATING
HEALTH	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.
FINANCIAL IMPACT	Not monitoring ongoing financial performance would increase the risk of a negative impact on the financial position.	Moderate (3)	Unlikely (2)	Moderate (5 - 11)	Not required.	Not required.	Not required.	Not required.
SERVICE INTERRUPTION	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.
LEGAL AND COMPLIANCE	Non-compliance with the legislative requirements that results in a qualified audit.	Minor (2)	Unlikely (2)	Low (1 - 4)	Not required.	Not required.	Not required.	Not required.
REPUTATIONAL	Non-compliance that results in a qualified audit can lead stakeholders to question the Council's ability to manage finances effectively.	Insignificant (1)	Unlikely (2)	Low (1 - 4)	Not required.	Not required.	Not required.	Not required.
ENVIRONMENT	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.



## Monthly Financial Report

For the Period

1 July 2022 to 31 October 2022

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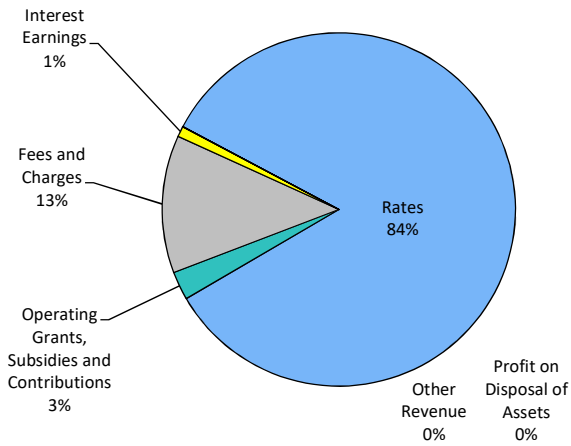
# [Appendix ORD: 12.4.6B]



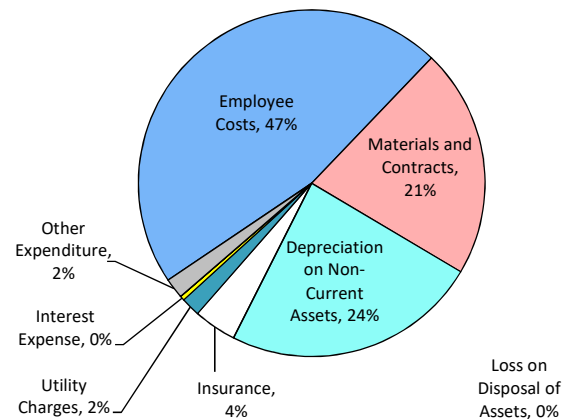
## Monthly Financial Report For the Period Ended 31 October 2022

### SUMMARY GRAPHS

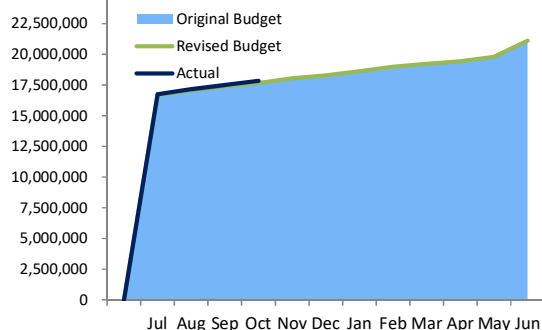
#### OPERATING REVENUE - ACTUAL YTD



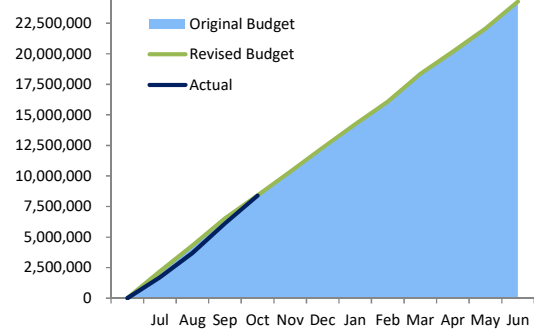
#### OPERATING EXPENSES - ACTUAL YTD



#### Total Operating Revenue - Budget - v Actual (excludes profit on disposal of assets)



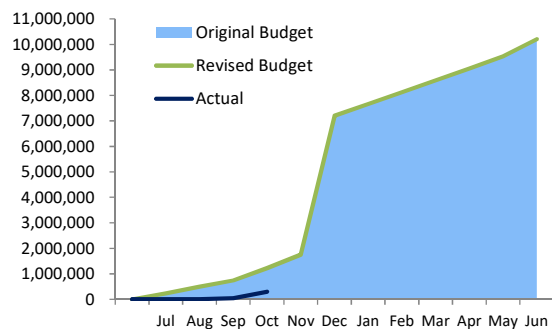
#### Total Operating Expenses - Budget - v Actual (excludes loss on disposal of assets)



#### CAPITAL REVENUE

(Non-operating grants, subsidies and contributions; sale of assets)

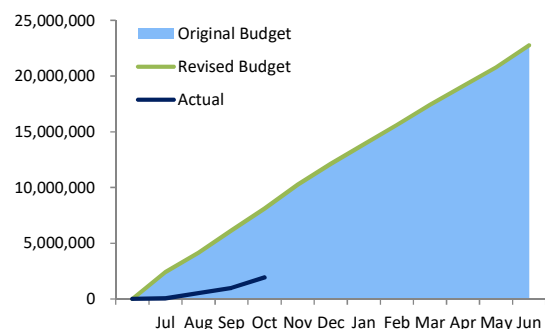
#### Capital Revenue - Budget - v Actual



#### CAPITAL EXPENSES

(Acquisition of assets)

#### Capital Expenses - Budget - v Actual



This information is to be read in conjunction with the accompanying Financial Statements and Notes

# [Appendix ORD: 12.4.6B]



## Statement of Financial Activity by Nature and Type For the Period Ended 31 October 2022 (Covering 4 months or 34% of the year)

	2022/23 Adopted Budget \$	2022/23 Revised Budget \$	2022/23 Y-T-D Revised Budget \$	2022/23 Y-T-D Actual \$	Variance Y-T-D Actual to Revised Budget \$	Variance Y-T-D Actual to Revised Budget %	2022/23 Forecast \$	2021/22 Last Year Actual \$
<b>OPERATING ACTIVITIES</b>								
<b>Operating revenue</b>								
Rates	15,021,963	15,021,963	14,950,182	14,943,622	(6,560)	(0.0%)	15,021,963	14,307,664
Operating grants, subsidies & contributions	2,457,135	2,457,135	482,669	465,618	(17,051)	(3.5%)	2,310,849	2,984,793
Fees and charges	3,331,234	3,331,234	2,104,149	2,247,164	143,015	6.8% ▲	3,406,570	3,409,896
Interest earnings	269,350	269,350	131,889	172,968	41,079	31.1% ▲	269,350	190,871
Other revenue	29,226	29,226	7,306	2,411	(4,895)	(67.0%)	29,226	23,436
Profit on asset disposal	2,942,186	2,942,186	644	0	(644)	(100.0%)	2,942,186	22,505
<b>Total Operating Revenue</b>	<b>24,051,094</b>	<b>24,051,094</b>	<b>17,676,839</b>	<b>17,831,784</b>	<b>154,945</b>	<b>0.9%</b>	<b>23,980,144</b>	<b>20,939,165</b>
<b>Operating expenses</b>								
Employee costs	(11,453,887)	(11,453,887)	(3,893,039)	(3,910,489)	(17,450)	(0.4%)	(11,318,935)	(10,564,139)
Materials and contracts	(5,279,133)	(5,279,133)	(1,846,677)	(1,795,354)	51,323	2.8%	(5,361,115)	(6,550,688)
Utility charges	(571,758)	(571,758)	(163,993)	(150,109)	13,884	8.5%	(571,758)	(573,880)
Depreciation on non-current assets	(6,017,969)	(6,017,969)	(2,005,956)	(2,005,988)	(32)	(0.0%)	(6,017,969)	(5,619,217)
Interest expenses	(204,976)	(204,976)	(44,938)	(36,461)	8,477	18.9%	(119,812)	(108,244)
Insurance expenses	(339,527)	(339,527)	(242,260)	(336,273)	(94,013)	(38.8%) ▼	(339,527)	(318,720)
Other expenses	(392,196)	(402,196)	(221,128)	(157,861)	63,267	28.6% ▲	(402,196)	(416,236)
Loss on asset disposals	0	0	0	0	0	0.0%	0	(59,741)
<b>Total operating expenditure</b>	<b>(24,259,447)</b>	<b>(24,269,447)</b>	<b>(8,417,991)</b>	<b>(8,392,534)</b>	<b>25,457</b>	<b>0.3%</b>	<b>(24,131,312)</b>	<b>(24,210,865)</b>
<b>Adjustments of non cash items</b>								
(Profit)/Loss on Asset Disposals	(2,942,186)	(2,942,186)	(644)	0	644	100.0%	(2,942,186)	37,236
Accruals	0	0	0	0	0	100.0%	(40,717)	(1,874)
Movement in non-current assets and liabilities	0	0	0	(553)	(553)	(100.0%)		
Movement in contract liabilities associated with restricted cash	0	0	0	40,934	40,934	100.0% ▲	0	(47,033)
Depreciation on Assets	6,017,969	6,017,969	2,005,956	2,005,988	32	0.0%	6,017,969	5,619,217
Non-cash amounts excluded from operating activities	3,075,783	3,075,783	2,005,312	2,046,369	41,057	2.0%	3,035,067	5,607,546
<b>Adjusted net operating activities</b>	<b>2,867,430</b>	<b>2,857,430</b>	<b>11,264,160</b>	<b>11,485,619</b>	<b>221,459</b>	<b>2.0%</b>	<b>2,883,899</b>	<b>2,335,846</b>
<b>INVESTING ACTIVITIES</b>								
Non-operating grants, subsidies & contributions	5,179,259	5,070,599	1,173,215	284,145	(889,070)	(75.8%) ▼	5,036,435	7,438,890
Proceeds from disposal of assets	5,025,000	5,025,000	25,000	10,989	(14,011)	(56.0%)	5,025,000	243,274
Payments for land and buildings	(17,314,573)	(16,690,074)	(3,630,041)	(1,371,431)	2,258,610	62.2% ▲	(16,796,399)	(6,032,993)
Payments for transport infrastructure	(4,217,151)	(4,618,151)	(2,272,560)	(467,501)	1,805,059	79.4% ▲	(4,621,912)	(3,270,707)
Payments for parks and reserves infrastructure	(845,258)	(1,051,097)	(684,922)	(54,194)	630,728	92.1% ▲	(1,051,097)	(746,543)
Payments for motor vehicles	(80,000)	(80,000)	(80,000)	(37,901)	42,099	52.6% ▲	(80,000)	(829,094)
Payments for plant & equipment	0	0	0	0	0	0.0%	0	(398,755)
Payments for furniture & fittings	(168,382)	(168,382)	(56,120)	0	56,120	100.0% ▲	(168,382)	(58,483)
<b>Amount attributable to investing activities</b>	<b>(12,421,105)</b>	<b>(12,512,105)</b>	<b>(5,525,428)</b>	<b>(1,635,893)</b>	<b>3,889,535</b>	<b>70.4%</b>	<b>(12,656,354)</b>	<b>(3,654,411)</b>
<b>Non-cash amounts excluded from investing activities</b>								
Movement in non-current developer contributions	0	0	0	0	0	0.0%	0	(251,763)
Movement in non-operating grants and contributions associated with restricted cash	0	0	0	494,614	494,614	100.0% ▲	0	(1,799,589)
<b>Adjusted amount attributable to investing activities</b>	<b>(12,421,105)</b>	<b>(12,512,105)</b>	<b>(5,525,428)</b>	<b>(1,141,279)</b>	<b>4,384,149</b>	<b>79.3%</b>	<b>(12,656,354)</b>	<b>(5,705,763)</b>
<b>FINANCING ACTIVITIES</b>								
Proceeds from new debentures	7,000,000	6,700,000	0	0	0	0.0%	6,700,000	320,000
Transfers from reserves	13,715,412	14,116,412	5,123,209	2,109,332	(3,013,877)	(58.8%) ▼	14,517,989	13,956,121
Repayment of debentures	(529,714)	(529,714)	(171,951)	(158,682)	13,269	7.7%	(412,798)	(333,977)
Principal portion of lease liabilities	(238,834)	(238,834)	(89,354)	(69,620)	19,734	22.1%	(237,219)	(188,701)
Transfers to reserves	(10,440,476)	(10,440,476)	0	(943,083)	(943,083)	(100.0%) ▼	(10,630,760)	(11,169,323)
<b>Amount attributable to financing activities</b>	<b>9,506,389</b>	<b>9,607,389</b>	<b>4,861,904</b>	<b>937,947</b>	<b>(3,923,957)</b>	<b>(80.7%)</b>	<b>9,937,213</b>	<b>2,584,120</b>
<b>FUNDING SOURCES</b>								
Surplus/(Deficit) July 1 B/Fwd	184,453	184,453	184,453	175,393	(9,060)	(4.9%)	175,393	961,190
<b>CLOSING FUNDS (A+B+C+D)</b>	<b>137,167</b>	<b>137,167</b>	<b>10,785,089</b>	<b>11,457,680</b>	<b>672,591</b>	<b>6.2%</b>	<b>340,150</b>	<b>175,393</b>

### KEY INFORMATION

▲ ▼ Indicates a significant variance between Year-to-Date (YTD) Revised Budget and YTD Actual data as per the adopted materiality threshold.

▲ indicates a positive impact on the surplus/deficit position. ▼ indicates a negative impact on the surplus/deficit position.

Refer to Note 2 for an explanation of the reasons for the variance.

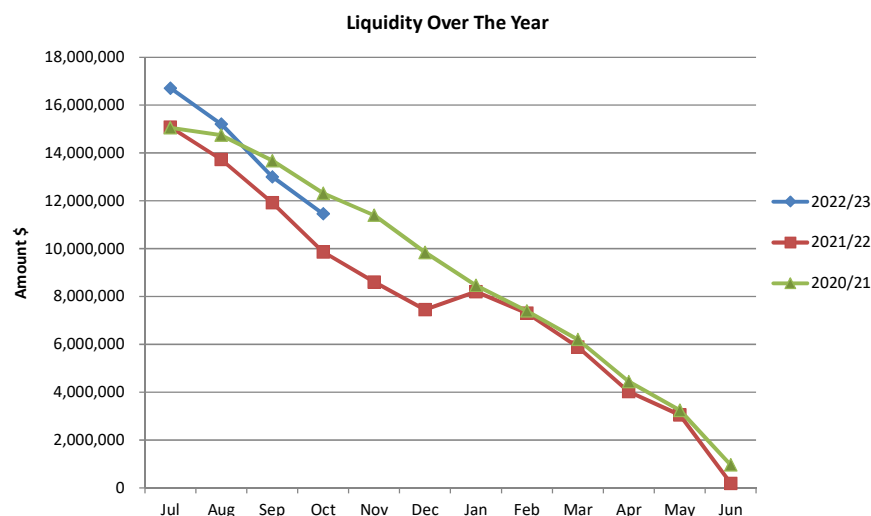
This statement to be read in conjunction with the accompanying Financial Statements and Notes

# [Appendix ORD: 12.4.6B]



## Statement of Financial Activity by Nature and Type For the Period Ended 31 October 2022 NET CURRENT ASSETS

Note	Year to Date Actual 31-Oct-2022 \$	Same Time Last Year Actual 31-Oct-2021	Last Year Closing 30-Jun-2022 \$
Represented By:			
<b>CURRENT ASSETS</b>			
Cash and Cash Equivalents	25,982,660	27,989,068	22,165,701
Rates Debtors Outstanding	6,112,710	5,420,578	465,832
Pensioner Rates Rebate	9,076	264,939	19,104
Sundry Debtors	139,858	113,581	394,055
Accrued Revenue	26,195	33,443	244,738
Prepaid Expenses	0	0	41,896
Goods & Services Tax / BAS Refund	303,138	407,986	378,414
Other Receivables	(1,243)	1,080	0
Inventories - Materials	7,122	6,318	7,122
Inventories- Trading Stock - Recreation Centre	7,159	5,842	7,159
<b>Current Assets</b>	<b>32,586,676</b>	<b>34,242,836</b>	<b>23,724,022</b>
<b>LESS CURRENT LIABILITIES</b>			
Payables:			
Sundry Creditors	0	(1,438)	(1,149,276)
Goods & Services Tax / BAS Payable	0	0	0
Other Payables	(670,027)	(644,914)	(11,040)
Municipal Bonded Liabilities	(553,830)	(579,512)	(573,692)
Contract Liabilities	(1,639,976)	(3,024,152)	(1,072,337)
Prepaid Revenue - Rates / PPL	(270,192)	(215,975)	(890,198)
Accrued Interest on Debentures	(28,572)	(30,331)	(28,572)
Accrued Salaries & Wages	0	0	(171,847)
Other Accrued Expenses	0	0	(6,565)
Borrowings - Debentures	(140,908)	(133,613)	(392,533)
Provisions:			
Staff Leave Provisions	(1,659,152)	(1,464,026)	(1,636,069)
<b>Current Liabilities</b>	<b>(4,962,657)</b>	<b>(6,093,961)</b>	<b>(5,932,129)</b>
<b>Net Current Assets</b>	<b>27,624,019</b>	<b>28,148,875</b>	<b>17,791,893</b>
Less: Restricted Assets / Reserve Funds	(17,885,843)	(20,539,083)	(19,052,092)
Add: Current - Borrowings	140,908	133,613	392,533
Add: Current - Contract Liabilities held in Reserve accounts	1,383,843	1,951,758	848,305
Add: Current - Contract Liabilities - Leases	194,754	167,441	194,754
<b>CLOSING FUNDS / NET CURRENT ASSETS (per previous page)</b>	<b>11,457,681</b>	<b>9,862,604</b>	<b>175,393</b>



# [Appendix ORD: 12.4.6B]



## Statement of Comprehensive Income by Program For the Period Ended 31 October 2022 (Covering 4 months or 34% of the year)

	2022/23 Adopted Budget \$	2022/23 Revised Budget \$	2022/23 Y-T-D Revised Budget \$	2022/23 Y-T-D Actual \$	Variance Y-T-D		2022/23 Forecast \$	2021/22 Last Year Actual \$
					Actual to Revised Budget \$	Actual to Revised Budget %		
<b>Revenue</b>								
General Purpose Funding	16,606,755	16,606,755	14,947,368	14,953,468	6,100	0.0%	16,433,446	16,197,052
Governance	800	800	260	109	(151)	(58.2%)	800	4,282
Law, Order, Public Safety	312,737	312,737	111,457	155,441	43,984	39.5%	312,737	504,600
Health	28,050	28,050	9,348	4,299	(5,049)	(54.0%)	28,050	23,504
Education and Welfare	6,000	6,000	332	0	(332)	100.0%	6,000	2,550
Community Amenities	1,756,509	1,756,509	1,561,842	1,640,180	78,338	5.0%	1,820,698	1,732,986
Recreation and Culture	1,777,990	1,659,330	728,628	780,986	52,358	7.2%	1,811,120	1,849,379
Transport	196,957	196,957	159,288	145,301	(13,987)	(8.8%)	200,057	210,248
Economic Services	195,250	195,250	81,736	72,113	(9,623)	(11.8%)	181,250	169,233
Other Property and Services	229,800	229,800	76,580	79,888	3,308	4.3%	243,800	222,825
	21,110,848	20,992,188	17,676,839	17,831,784	154,945	0.9%	21,037,958	20,916,659
<b>Expenses</b>								
General Purpose Funding	(389,518)	(389,518)	(137,260)	(165,502)	(28,242)	(20.6%)	(389,518)	(532,978)
Governance	(1,303,217)	(1,303,217)	(455,694)	(398,787)	56,907	12.5%	(1,303,217)	(1,387,717)
Law, Order, Public Safety	(1,748,584)	(1,758,584)	(631,594)	(641,262)	(9,668)	(1.5%)	(1,729,897)	(1,717,806)
Health	(597,360)	(597,360)	(208,586)	(211,947)	(3,361)	(1.6%)	(595,370)	(531,650)
Education and Welfare	(976,940)	(966,940)	(342,830)	(272,364)	70,466	20.6%	(926,058)	(864,255)
Community Amenities	(3,513,422)	(3,513,422)	(1,075,839)	(1,152,754)	(76,915)	(7.1%)	(3,566,764)	(3,281,154)
Recreation & Culture	(8,359,365)	(8,359,365)	(2,860,358)	(2,900,828)	(40,470)	(1.4%)	(8,423,480)	(8,148,781)
Transport	(6,596,712)	(6,596,712)	(2,211,256)	(2,275,102)	(63,846)	(2.9%)	(6,596,712)	(6,746,647)
Economic Services	(474,369)	(484,369)	(219,794)	(221,772)	(1,978)	(0.9%)	(476,455)	(526,260)
Other Property and Services	(301,901)	(301,901)	(275,424)	(152,216)	123,208	44.7%	(123,842)	(413,875)
	(24,261,387)	(24,271,387)	(8,418,635)	(8,392,534)	26,101	0.3%	(24,131,312)	(24,151,123)
<b>Operational Surplus / (Deficit)</b>	<b>(3,150,539)</b>	<b>(3,279,199)</b>	<b>9,258,204</b>	<b>9,439,250</b>	<b>181,046</b>	<b>(2.0%)</b>	<b>(3,093,354)</b>	<b>(3,234,464)</b>
Grants & Contributions for the Development of Assets	5,179,259	5,070,599	1,173,215	284,145	(889,070)	(75.8%)	5,036,435	7,438,890
Profit on Asset Disposals	2,942,186	2,942,186	644	0	(644)	(100.0%)	2,942,186	0
Loss on Asset Disposals	0	0	0	0	0	0.0%	0	(37,236)
	8,121,445	8,012,785	1,173,859	284,145	(889,714)	75.8%	7,978,621	7,401,654
<b>NET RESULT</b>	<b>4,970,906</b>	<b>4,733,586</b>	<b>10,432,063</b>	<b>9,723,395</b>	<b>(708,668)</b>	<b>(6.8%)</b>	<b>4,885,267</b>	<b>4,167,190</b>
<b>Other Comprehensive Income</b>								
Changes on Revaluation of Non-Current Assets	0	0	0	0	0	0.0%	0	0
<b>TOTAL COMPREHENSIVE INCOME</b>	<b>4,970,906</b>	<b>4,733,586</b>	<b>10,432,063</b>	<b>9,723,395</b>	<b>(708,668)</b>	<b>6.8%</b>	<b>4,885,267</b>	<b>4,167,190</b>

# [Appendix ORD: 12.4.6B]



## Notes to the Statement of Financial Activity For the Period Ended 31 October 2022

### 1. PROGRAMS / ACTIVITIES

In order to discharge its responsibilities to the community, the Shire has developed a set of operational and financial objectives. These objectives have been established both on an overall basis, reflected by the Shire's Community Vision and for each of its broad activities/programs.

#### COMMUNITY VISION

*Provide effective leadership in encouraging balanced growth and development of the Shire while recognising the diverse needs of the community.*

PROGRAM NAME	OBJECTIVE	ACTIVITIES
GENERAL PURPOSE FUNDING	To collect revenue to allow for the provision of services	Rates, general purpose government grants and interest revenue.
GOVERNANCE	To provide a decision making process for the efficient allocation of scarce	Includes the activities of members of Council and the administration support available to Council for the provision of governance of the District. Other costs relate to the task of assisting elected members and ratepayers on matters which do not concern specific Council services.
LAW, ORDER, PUBLIC SAFETY	To provide services to help ensure a safer and environmentally conscious	Supervision and enforcement of various local-laws relating to the fire prevention, animal control and protection of the environment, and other aspects of public safety including emergency services.
HEALTH	To provide services to achieve community and environmental health.	Maternal and infant health facilities, immunisation, meat inspection services, inspection of food outlets, noise control and pest control services.
EDUCATION AND WELFARE	To provide services to children, youth, the elderly and disadvantaged persons.	Pre-school and other education services, child minding facilities, playgroups, senior citizens' centres.
COMMUNITY AMENITIES	To provide services required by the community.	Waste collection services, operation of refuse site, litter control, construction and maintenance of urban storm water drains, protection of the environment and administration of town planning schemes, cemeteries and public conveniences.
RECREATION AND CULTURE	To establish and effectively manage infrastructure and resources which help the social well being of the community.	Maintenance of halls, civic buildings, river banks, recreation centre and various sporting facilities. Provision and maintenance of parks, gardens and playgrounds. Operation of library and other cultural facilities.
TRANSPORT	To promote safe, effective and efficient transport services to the community.	Construction and maintenance of streets, roads, bridges, footpaths, cycle ways, parking facilities, traffic control and depot. Cleaning of streets and maintenance of street trees, street lighting, etc.
ECONOMIC SERVICES	To help promote the shire and its economic wellbeing.	Tourism and area promotion, building control, provision of rural services including weed control and vermin control, standpipes.
OTHER PROPERTY & SERVICES	To monitor and control Council's overheads operating accounts.	Private works operations, general administration overheads, plant repairs and operating costs, public works overheads.



## Notes to the Statement of Financial Activity For the Period Ended 31 October 2022

### 2. EXPLANATION OF MATERIAL VARIANCES IN THE STATEMENT OF FINANCIAL ACTIVITY

The material variances adopted by the Shire of Dardanup for reporting in the 2022/23 year is 5% or \$25,000, whichever is the greater. All variances are between Year-to-Date Actual and Year-to-Date Revised Budget values.

	2022/23 Y-T-D Revised Budget \$	2022/23 Y-T-D Actual \$	Variance to Y-T-D Revised Budget \$	Variance to Y-T-D Revised Budget %	Timing / Permanent	Material Variance - Explanation
<b>OPERATING ACTIVITIES</b>						
<b>Revenue</b>						
Rates	14,950,182	14,943,622	(6,560)	(0.0%)		
Operating grants, subsidies & contributions	482,669	465,618	(17,051)	(3.5%)		
Fees and charges	2,104,149	2,247,164	143,015	6.8%	▲ Timing	Higher than expected revenue from various fees and charges including \$54,000 charges for waste collection, \$39,000 planning application fees, \$37,500 Eaton Recreation Centre membership & activities, \$7,000 DAMA application fees, \$5,500 engineering supervision fees, \$4,000 building licence fees.
Interest earnings	131,889	172,968	41,079	31.1%	▲ Permanent	Increase in interest received on bank accounts and term deposits due to higher than expected interest rates
Other revenue	7,306	2,411	(4,895)	(67.0%)		
Profit on asset disposal	644	0	(644)	(100.0%)		
<b>Total Operating Revenue</b>	<b>17,676,839</b>	<b>17,831,784</b>	<b>154,945</b>	<b>0.9%</b>		
<b>Operating Expenses</b>						
Employee costs	(3,893,039)	(3,910,489)	(17,450)	(0.4%)		
Materials and contracts	(1,846,677)	(1,795,354)	51,323	2.8%		
Utility charges	(163,993)	(150,109)	13,884	8.5%		
Depreciation on non-current assets	(2,005,956)	(2,005,988)	(32)	(0.0%)		
Interest expenses	(44,938)	(36,461)	8,477	18.9%		
Insurance expenses	(242,260)	(336,273)	(94,013)	(38.8%)	▼ Timing	All insurances paid by the end of October, Budget for buildings and vehicles insurance was evenly spread over the year.
Other expenses	(221,128)	(157,861)	63,267	28.6%	▲ Timing	\$52,000 for less payments made to date for operating grants and subsidies to sporting, community and tourism groups, \$16,000 lower costs to date for elected members fees, allowances and expenses.
<b>Total Operating Expenditure</b>	<b>(8,417,991)</b>	<b>(8,392,534)</b>	<b>25,457</b>	<b>(0.3%)</b>		
<b>Net Operating Activities</b>	<b>9,258,848</b>	<b>9,439,250</b>	<b>180,402</b>	<b>1.9%</b>		

(continued next page)





## Notes to the Statement of Financial Activity For the Period Ended 31 October 2022

### 2. EXPLANATION OF MATERIAL VARIANCES IN THE STATEMENT OF FINANCIAL ACTIVITY (continued)

	2022/23 Y-T-D Revised Budget \$	2022/23 Y-T-D Actual \$	Variance to Y-T-D Revised Budget \$	Variance to Y-T-D Revised Budget %	Timing / Permanent	Material Variance - Explanation
<b>ADJUSTMENTS OF NON CASH ITEMS</b>						
(Profit)/Loss on Asset Disposals	(644)	0	644	100.0%		
Accruals	0	(553)	(553)	(100.0%)		
Fair value adjustment to financial assets	0	0	0	0.0%		
Movement in contract liabilities associated with restricted cash	0	40,934	40,934	100.0%	▲ Timing	Tied operating grants are held as contract liabilities and transferred to Reserve until required for the specific activity. This adjustment is to offset the duplication of funding recognised as revenue as well as transfer from Reserve.
Depreciation on Assets	2,005,956	2,005,988	32	0.0%		
<b>Adjusted Net Operating Activities</b>	<b>11,264,160</b>	<b>11,485,619</b>	<b>221,459</b>	<b>2.0%</b>		
<b>INVESTING ACTIVITIES</b>						
<b>Revenue</b>						
Non-operating grants, subsidies & contributions	1,173,215	284,145	(889,070)	(75.8%)	▼ Timing	Less grants recognised as revenue to date - linked to lower expenditure to date on related construction projects
Proceeds from disposal of assets	25,000	10,989	(14,011)	(56.0%)		
Payments for land and buildings	(3,630,041)	(1,371,431)	2,258,610	62.2%	▲ Timing	Lower costs to date than budget estimates for building projects - upgrade to community halls, Wells Recreation Reserve change rooms, Charlotte Street toilets and new Administration Centre / Library.
Payments for transport infrastructure assets	(2,272,560)	(467,501)	1,805,059	79.4%	▲ Timing	Less activity than budget estimate to date on some major transport upgrade and renewal projects - Ferguson Road, Pratt Road, Glenhuon Boulevard intersection, Pile Road and bridge renewals. Eaton Drive / Peninsula Lakes intersection is completed.
Payments for parks infrastructure assets	(684,922)	(54,194)	630,728	92.1%	▲ Timing	Most parks and reserves construction projects are at design and preliminaries stage.
Payments for motor vehicles	(80,000)	(37,901)	42,099	52.6%	▲ Timing	Extended delivery time for Parks & Gardens utility
Payments for plant & equipment	0	0	0	0.0%		
Payments for furniture & fittings	(56,120)	0	56,120	100.0%	▲ Timing	Purchase of replacement IT equipment has not yet occurred
<b>Net investing activities</b>	<b>(5,525,428)</b>	<b>(1,635,893)</b>	<b>3,889,535</b>	<b>(70.4%)</b>		
<b>Non-cash amounts excluded from investing activities</b>						
Movement in non-operating grants and contributions associated with restricted cash	0	494,614	494,614	100.0%	▲ Timing	Non-operating grants and contributions for acquisition of assets are held as contract liabilities and transferred to revenue when required for specific asset acquisition. These funds are also held in Reserve accounts. This adjustment is to offset the duplication of funding recognised as revenue as well as transfer from reserve
<b>Adjusted net investing activities</b>	<b>(5,525,428)</b>	<b>(1,141,279)</b>	<b>4,384,149</b>	<b>79.3%</b>		

(continued next page)



## Notes to the Statement of Financial Activity For the Period Ended 31 October 2022

### 2. EXPLANATION OF MATERIAL VARIANCES IN THE STATEMENT OF FINANCIAL ACTIVITY (continued)

	2022/23 Y-T-D Revised Budget \$	2022/23 Y-T-D Actual \$	Variance to Y-T-D Revised Budget \$	Variance to Y-T-D Revised Budget %	Timing / Permanent	
<b>FINANCING ACTIVITIES</b>						
<b>Revenue</b>						
Proceeds from new debentures	0	0	0	0.0%		
Transfers from reserves	5,123,209	2,109,332	(3,013,877)	(58.8%)	▼ Timing	Less Reserve funds required to date for asset acquisition and construction.
Repayment of debentures	(171,951)	(158,682)	13,269	7.7%		
Principal portion of lease liabilities	(89,354)	(69,620)	19,734	22.1%		
Transfers to Reserves	0	(943,083)	(943,083)	(100.0%)	▼ Timing	Grants received but not yet required for capital works are transferred to Unspent Grants Reserve. Budget did not include these transfers.
<b>Total financing activities</b>	<b>4,861,904</b>	<b>937,947</b>	<b>(3,923,957)</b>	<b>(80.7%)</b>		
<b>FUNDING SOURCES</b>						
Surplus/(Deficit) July 1 B/Fwd	184,453	175,393	(9,060)	4.9%		
<b>CLOSING FUNDS (A+B+C+D)</b>	<b>10,785,089</b>	<b>10,963,066</b>	<b>672,591</b>	<b>6.2%</b>		

# [Appendix ORD: 12.4.6B]



## Notes to the Statement of Financial Activity For the Period Ended 31 October 2022

### 3. TRUST FUNDS

Funds held at reporting date over which the Shire has no control and which are not included in the financial statements are as follows:

NAME	BALANCE 1 JULY	RECEIPTS	INTEREST	PAYMENTS	ADJUSTMENTS (TRANSFERS)	CLOSING BALANCE
	\$	\$	\$	\$	\$	\$
Ross & Deborah Bevan	40,000.00	0.00	0.00	0.00	0.00	40,000.00
Public Open Space	527,534.28	0.00	0.00	0.00	0.00	527,534.28
Dept Communities Grant - Auspicing for Goodstart Eaton Child Care Centre	25,000.00	0.00	0.00	0.00	0.00	25,000.00
Accrued Interest	65.31	0.00	2,601.95	0.00	0.00	2,667.26
Plus: Outstanding Creditors	0.00	0.00	0.00	0.00	0.00	0.00
Less: Outstanding Debtors	0.00	0.00	0.00	0.00	0.00	0.00
<b>TOTAL</b>	<b>592,599.59</b>	<b>0.00</b>	<b>2,601.95</b>	<b>0.00</b>	<b>0.00</b>	<b>595,201.54</b>

### 4. RESERVES - CASH BACKED

All reserves are supported by cash and cash equivalents and are restricted within equity as Reserves - cash backed.

NAME	BALANCE 1 JULY	RECEIPTS	INTEREST	PAYMENTS	ADJUSTMENTS (TRANSFERS)	CLOSING BALANCE
	\$	\$	\$	\$	\$	\$
<b><i>Council Restricted</i></b>						
Executive & Compliance Vehicles Reserve	223,902.88	0.00	0.00	0.00	0.00	223,902.88
Plant & Engineering Equipment Reserve	585,646.52	0.00	0.00	0.00	0.00	585,646.52
Eaton Recreation Centre - Equipment Reserve	303,650.04	0.00	0.00	0.00	0.00	303,650.04
Building Maintenance Reserve	3,550,218.30	0.00	0.00	(277,479.40)	0.00	3,272,738.90
Employee Relief Reserve	265,625.85	0.00	0.00	0.00	0.00	265,625.85
Employee Leave Entitlements Reserve	48,755.58	0.00	0.00	0.00	0.00	48,755.58
Refuse Site Environmental Works Reserve	84,255.28	0.00	0.00	0.00	0.00	84,255.28
Information Technology Reserve	699,456.58	0.00	0.00	0.00	0.00	699,456.58
Roadwork Construction & Major Maintenance Reserve	801,283.59	0.00	0.00	(27,250.61)	0.00	774,032.98
Accrued Salaries Reserve	500,668.37	0.00	0.00	0.00	0.00	500,668.37
Tourism Reserve	11,777.32	0.00	0.00	0.00	0.00	11,777.32
Recycling Education Reserve	44,211.29	0.00	0.00	0.00	0.00	44,211.29
Road Safety Programs Reserve	26,778.71	0.00	0.00	0.00	0.00	26,778.71
Council Land Development Reserve	22,681.01	0.00	0.00	0.00	0.00	22,681.01
Carried Forward Projects Reserve	3,235,514.34	0.00	0.00	(230,291.15)	0.00	3,005,223.19
Election Expenses Reserve	11,650.71	0.00	0.00	0.00	0.00	11,650.71
Town Planning Consultancy Reserve	28,072.37	0.00	0.00	0.00	0.00	28,072.37
Parks & Reserves Upgrades Reserve	145,854.33	0.00	0.00	(29,822.85)	0.00	116,031.48
Strategic Planning Studies Reserve	109,507.55	0.00	0.00	0.00	0.00	109,507.55
Pathways Reserve	174,197.69	0.00	0.00	0.00	0.00	174,197.69
Asset / Rates Revaluation Reserve	184,810.63	0.00	0.00	0.00	0.00	184,810.63
Refuse & Recycling Bin Replacement Reserve	59,919.86	0.00	0.00	0.00	0.00	59,919.86
Sale of Land Reserve	2,341,667.14	0.00	0.00	0.00	0.00	2,341,667.14
Storm Water Reserve	183,642.31	0.00	0.00	0.00	0.00	183,642.31
	<b>13,643,748.25</b>	<b>0.00</b>	<b>0.00</b>	<b>(564,844.01)</b>	<b>0.00</b>	<b>13,078,904.24</b>
<b><i>Statute Restricted</i></b>						
Contribution to Works Reserve	921,807.33	7,899.82	0.00	(7,348.03)	0.00	922,359.12
Eaton Drive - Access Construction Reserve	0.00	16,523.03	0.00	0.00	0.00	16,523.03
Eaton Drive - Scheme Construction Reserve	0.00	12,692.55	0.00	0.00	0.00	12,692.55
Fire Control Reserve	11,593.54	0.00	0.00	0.00	0.00	11,593.54
Collie River (Eaton Drive) Bridge Construction Reserve	514,376.48	5,936.75	0.00	(247,996.94)	0.00	272,316.29
Unspent Grants Reserve	2,837,638.91	808,451.00	0.00	(1,289,143.10)	0.00	2,356,946.81
Swimming Pool Inspection Reserve	4,510.58	0.00	0.00	0.00	0.00	4,510.58
Burekup - Public Open Space	72,651.30	0.00	0.00	0.00	0.00	72,651.30
Unspent Specified Area Rate - Bulk Waste Collection Reserve	89,661.73	0.00	0.00	0.00	0.00	89,661.73
Unspent Specified Area Rate - Eaton Landscaping Reserve	239,564.73	0.00	0.00	0.00	0.00	239,564.73
Wanju Developer Contribution Plan Unspent Loan Reserve	716,539.19	0.00	0.00	0.00	0.00	716,539.19
Dardanup Expansion Developer Contribution Plan Reserve	0.00	0.00	0.00	0.00	0.00	0.00
	<b>5,408,343.79</b>	<b>851,503.15</b>	<b>0.00</b>	<b>(1,544,488.07)</b>	<b>0.00</b>	<b>4,715,358.87</b>
Interest	0.00	0.00	93,419.67	0.00	0.00	93,419.67
Less: Outstanding Debtors	0.00	0.00	0.00	1,839.82	0.00	(1,839.82)
<b>TOTAL</b>	<b>19,052,092.04</b>	<b>851,503.15</b>	<b>93,419.67</b>	<b>(2,107,492.26)</b>	<b>0.00</b>	<b>17,885,842.96</b>

# [Appendix ORD: 12.4.6B]



## Notes to the Statement of Financial Activity For the Period Ended 31 October 2022

### 5. MUNICIPAL LIABILITIES

Funds held at reporting date for bonds and deposits not required to be held in the Trust Fund and classified as restricted to recognise that they are owed to developers/hirers and others. These are now classified as Municipal Liabilities as follows:

	BALANCE 1 JULY	RECEIPTS	INTEREST	PAYMENTS	ADJUSTMENTS (TRANSFERS)	CLOSING BALANCE
	\$	\$	\$	\$	\$	\$
<b>Retention Bonds</b>						
Parkridge Group	52,360.04	0.00	0.00	0.00	0.00	52,360.04
Little Meadows Pty Ltd	15,631.53	0.00	0.00	0.00	0.00	15,631.53
Winterfall Nominees Pty Ltd	36,007.60	0.00	0.00	0.00	0.00	36,007.60
Holland Loop Pty Ltd	19,370.00	2,540.00	0.00	0.00	0.00	21,910.00
T J Coman	8,384.63	0.00	0.00	0.00	0.00	8,384.63
Garvey Road Pty Ltd	25,953.17	0.00	0.00	(25,953.17)	0.00	0.00
Burekup Developments Pty Ltd	16,945.37	0.00	0.00	0.00	0.00	16,945.37
Garvey Road Pty Ltd	7,569.43	0.00	0.00	0.00	0.00	7,569.43
Thompson Surveying Consultants	21,993.00	0.00	0.00	0.00	0.00	21,993.00
<b>Total - Retention Bonds</b>	<b>204,214.77</b>	<b>2,540.00</b>	<b>0.00</b>	<b>(25,953.17)</b>	<b>0.00</b>	<b>180,801.60</b>
<b>Construction Contract Retention</b>						
Carbone Bros - Harris Road Upgrade	33,992.00	0.00	0.00	0.00	0.00	33,992.00
Advanteering - Skate Park	23,899.55	0.00	0.00	0.00	0.00	23,899.55
	<b>57,891.55</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>57,891.55</b>
<b>Extractive Industry Rehabilitation Bonds</b>						
L G Davidson	1,290.20	0.00	0.00	0.00	0.00	1,290.20
M Denholm	845.24	0.00	0.00	0.00	0.00	845.24
S Catalano	1,340.36	0.00	0.00	0.00	0.00	1,340.36
Bunbury Agricultural Society	2,387.88	0.00	0.00	0.00	0.00	2,387.88
D Busher	1,282.84	0.00	0.00	0.00	0.00	1,282.84
Valli & Co	2,600.14	0.00	0.00	0.00	0.00	2,600.14
Charles Hull Contracting	7,603.41	0.00	0.00	0.00	0.00	7,603.41
J & P Group	135,809.01	0.00	0.00	0.00	0.00	135,809.01
<b>Total - Extractive Industries Bonds</b>	<b>153,159.08</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>153,159.08</b>
<b>Specified Projects</b>						
Dardanup Central Bushfire Station Refurbishment - Red Cross - A Poad Bequest	26,631.15	0.00	0.00	0.00	0.00	26,631.15
<b>Total - Specified Projects</b>	<b>26,631.15</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>26,631.15</b>
<b>Sundry Deposits</b>						
Unclaimed Monies	1,838.11	61.65	0.00	(70.11)	0.00	1,829.65
Bunbury Wellington Group of Councils (BunGeo Group of Councils - BGGC)	50,532.31	3,000.00	0.00	0.00	0.00	53,532.31
<b>Total - Sundry Deposits</b>	<b>52,370.42</b>	<b>3,061.65</b>	<b>0.00</b>	<b>(70.11)</b>	<b>0.00</b>	<b>55,361.96</b>
<b>Election Deposits</b>	0.00	0.00	0.00	0.00	0.00	0.00
<b>Key Bonds</b>	752.68	40.00	0.00	0.00	0.00	792.68
<b>Hire Bonds</b>	3,630.00	3,690.00	0.00	(3,170.00)	0.00	4,150.00
<b>Kerb Bonds</b>	75,041.91	0.00	0.00	0.00	0.00	75,041.91
<b>Construction Training Fund</b>	8,434.41	16,085.15	0.00	(21,816.03)	0.00	2,703.53
<b>Building Services Levy</b>	2,606.31	25,543.72	0.00	(20,321.59)	0.00	7,828.44
<b>Development Assessment Panel</b>	0.00	11,630.00	0.00	(5,815.00)	0.00	5,815.00
<b>Less Outstanding Debtors</b>	0.00	0.00	0.00	0.00	0.00	0.00
<b>TOTAL</b>	<b>584,732.28</b>	<b>62,590.52</b>	<b>0.00</b>	<b>(77,145.90)</b>	<b>0.00</b>	<b>570,176.90</b>

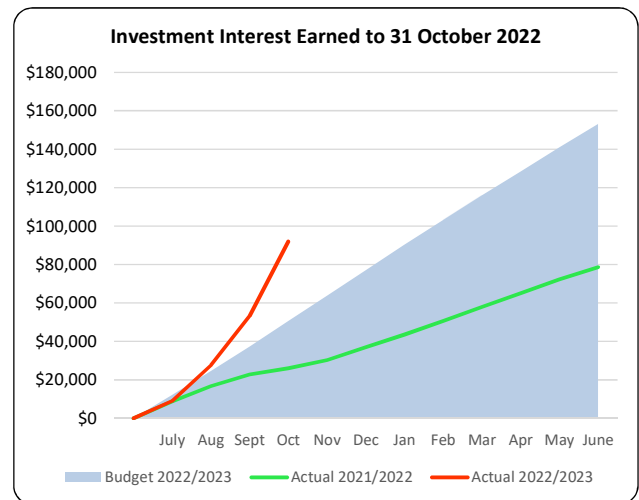
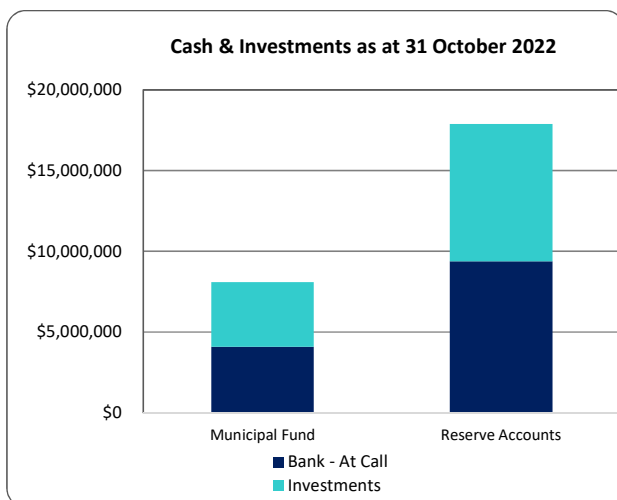
# [Appendix ORD: 12.4.6B]



## Notes to the Statement of Financial Activity For the Period Ended 31 October 2022

### 6. STATEMENT OF INVESTMENTS

BANK	TYPE	AMOUNT	RATE	DAYS	COMMENCE	MATURITY	ESTIMATED INTEREST	INTEREST CREDITED 2022-2023
<b>MUNICIPAL FUND</b>								
CBA	Municipal Fund Bank Account	\$ 3,085,401.35	2.40%					\$14,613.64
CBA	Municipal - Business Online Saver	\$ 1,007,954.96	2.70%					\$6,625.76
CBA	Term Deposit	\$ 1,000,000.00	3.63%	88	10/2022	01/2023	\$8,751.78	
CBA	Term Deposit	\$ 1,000,000.00	3.73%	120	10/2022	02/2023	\$12,263.01	
NAB	Term Deposit	\$ 1,000,000.00	3.72%	120	10/2022	02/2023	\$12,230.14	
NAB	Term Deposit	\$ 1,000,000.00	3.60%	91	10/2022	01/2023	\$8,975.34	
		<u>\$ 8,093,356.31</u>					<u>\$42,220.27</u>	<u>\$21,239.40</u>
<b>TRUST FUND</b>								
CBA	Trust Fund Bank Account	\$ 594,200.35	2.40%					\$248.81
		<u>\$ 594,200.35</u>					<u>\$0.00</u>	<u>\$248.81</u>
<b>RESERVE ACCOUNTS</b>								
CBA	Reserve Bank Account	\$ 5,833,517.90	2.40%					\$12,598.33
CBA	Reserve - Business Online Saver	\$ 3,552,325.06	2.70%					\$48,295.83
CBA	Term Deposit	\$ 1,500,000.00	3.63%	89	10/2022	01/2023	\$13,276.85	
CBA	Term Deposit	\$ 1,050,000.00	3.73%	116	10/2022	02/2023	\$12,446.96	
CBA	Term Deposit	\$ 450,000.00	3.73%	116	10/2022	02/2023	\$5,334.41	
CBA	Term Deposit	\$ 1,500,000.00	3.85%	150	10/2022	03/2023	\$23,732.88	
CBA	Term Deposit	\$ 1,000,000.00	3.96%	180	10/2022	04/2023	\$19,528.77	
NAB	Term Deposit	\$ 1,500,000.00	3.60%	91	10/2022	01/2023	\$13,463.01	
NAB	Term Deposit	\$ 1,500,000.00	4.05%	182	10/2022	05/2023	\$30,291.78	
	Interest received on matured deposits							\$32,525.51
		<u>\$ 17,885,842.96</u>					<u>\$118,074.66</u>	<u>\$93,419.67</u>
<b>Total Interest Received</b>								<u><b>\$114,907.88</b></u>





Notes to the Statement of Financial Activity  
For the Period Ended 31 October 2022

## 6. STATEMENT OF INVESTMENTS (continued)

### Total Funds Invested

Total Funds Invested as at Reporting Date -

Municipal Fund Investment Portfolio	\$ 4,000,000.00
Trust Fund Investment Portfolio	\$ -
Reserve Fund Investment Portfolio	\$ 8,500,000.00
	<u>\$ 12,500,000.00</u>

### Investment Policy - Portfolio Risk Exposure

Council's investment policy provides a framework to manage the risks associated with financial investments.

### Portfolio - Terms of Maturity

Limits are placed on the term to maturity thereby reducing the impact of any significant change in interest rate markets and to provide liquidity.

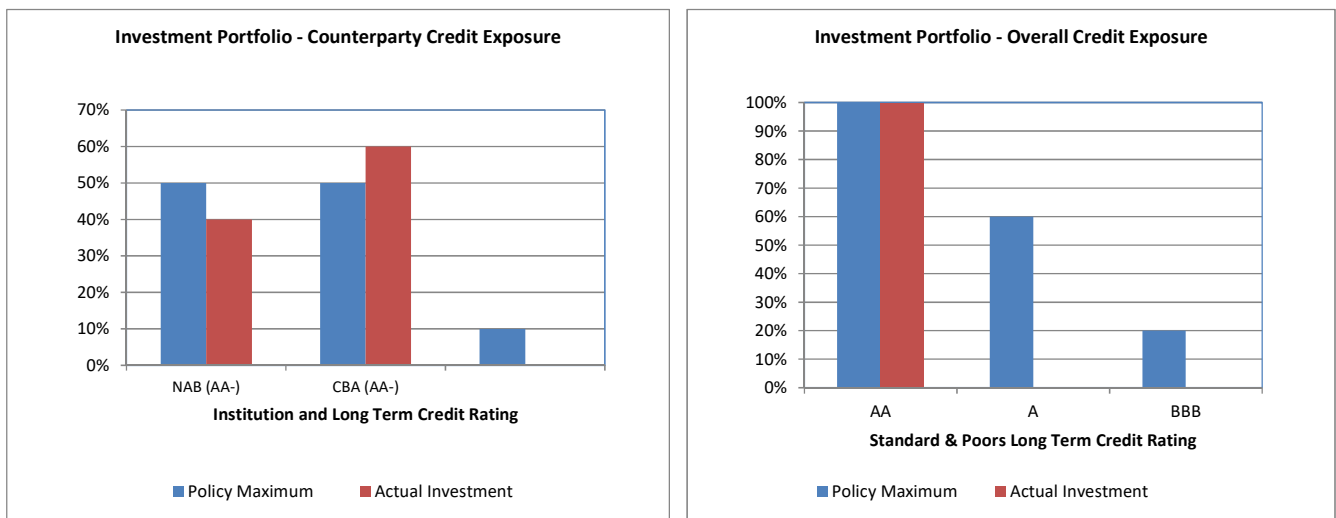
### Counterparty Credit Exposure

Exposure to an individual authorised deposit-taking institution (ADI) counterparty will be restricted by their credit rating so that single entity exposure is limited.

### Overall Credit Exposure

To control the credit quality on the entire portfolio, limits are placed on the percentage exposed to any particular credit rating category.

The following charts demonstrate the current portfolio diversity and risk compliance with the policy framework.





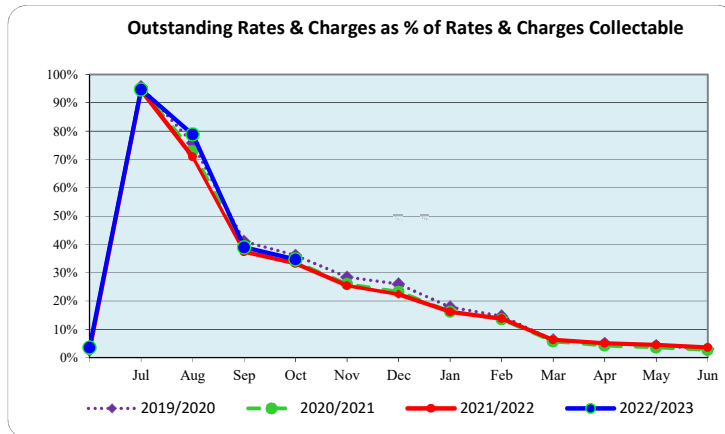
## Notes to the Statement of Financial Activity For the Period Ended 31 October 2022

### 7. Accounts Receivable as at 31 October 2022

#### Rates and Charges Outstanding

2022/23 annual rates were raised on 28 July 2022 and were due by 21 September 2022 for payment in full or for the first of four instalments. For the 1,600 ratepayers who have elected to pay by the four instalment option, the final instalment will be due by 29 March 2023.

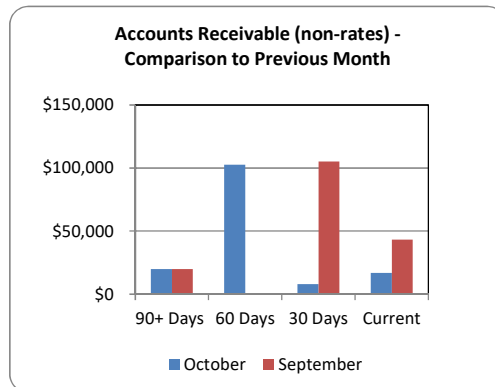
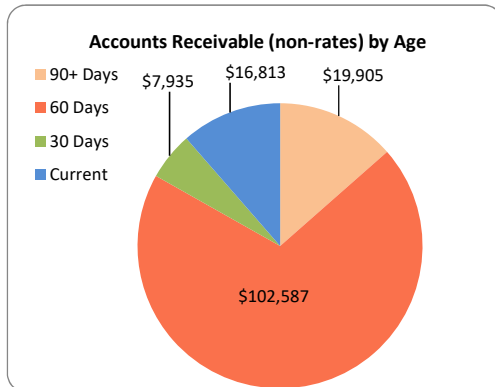
As at the reporting date, total outstanding rates and charges (including pensioner deferred rates) is \$6,238,238. This equates to 34.7% of rates and charges collectable. It is the objective of management to achieve less than 4% of rates and charges outstanding by 30 June.



#### Sundry Debtors Outstanding (non-rates)

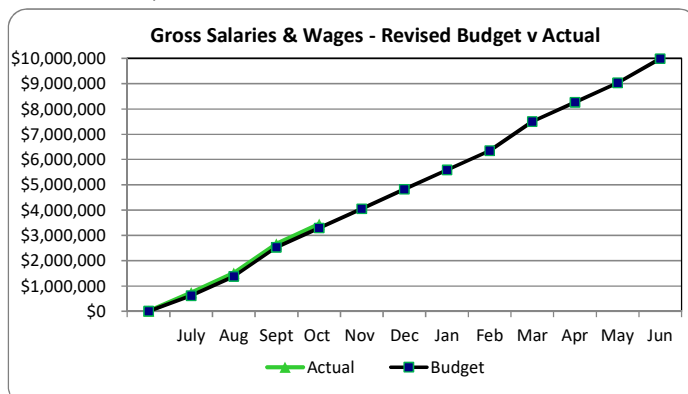
As at the reporting date, the total outstanding Sundry Debtors amount to \$168,396.

The only significant debt outstanding in excess of 30 days is for Education Department use of Eaton Recreation Centre and Glen Huon Oval. Receipt of this is expected in November 2022.



### 8. Salaries and Wages to 31 October 2022

At the reporting date, total salaries and wages expenditure is \$3,445,401 (34.5%) of the annual budget of \$9,989,148 for the 2022/23 financial year.





Notes to the Statement of Financial Activity  
For the Period Ended 31 October 2022

RATING INFORMATION

RATE TYPE	Rate in	Number of properties	Rateable value	2022/23 Budget rate revenue	2022/23 Budget interim rates	2022/23 Budget back rates	2022/23 Budget total revenue	2022/23 Actual total revenue	2021/22 Actual total revenue	2021/22 Budget total revenue
	\$		\$	\$	\$	\$	\$		\$	\$
<b>Differential general rate or general rate</b>										
<b>Gross rental valuations</b>										
General Rates - GRV: Residential	0.103260	4,069	75,050,605	7,749,725	0	0	7,749,725	7,749,977	6,391,857	6,391,857
General Rates - GRV: Commercial	0.103260	61	14,621,022	1,509,767	0	0	1,509,767	1,509,767	1,520,904	1,520,904
General Rates - GRV: Industrial	0.103260	65	8,975,470	926,807	0	0	926,807	926,807	830,417	830,417
General Rates - GRV: Small Holding	0.103260	369	8,638,608	892,023	0	0	892,023	892,023	817,475	817,475
General Rates - GRV: Interim and Back Rates	0.103260	0	0	0	111,668	0	111,668	51,047.66	99,081	92,600
<b>Unimproved valuations</b>										
General Rates - UV: Broad Acre Rural	0.006362	491	277,205,512	1,763,581	0	0	1,763,581	1,763,830	1,677,068	1,677,068
General Rates - UV: Mining	0.006362	0	0	0	0	0	0	0	0	0
General Rates - UV: Interim and Back Rates	0.006362	0	0	0	0	0	0	0	0	0
<b>Sub-Totals</b>		5,055	384,491,217	12,841,903	111,668	0	12,953,571	12,893,450	11,336,802	11,330,321
<b>Minimum</b>										
<b>Minimum payment</b>	\$									
<b>Gross rental valuations</b>										
General Rates - GRV: Residential	1,547.50	834	9,953,955	1,290,615	0	0	1,290,615	1,290,615	2,237,685	2,237,685
General Rates - GRV: Commercial	1,547.50	9	67,360	13,927	0	0	13,927	13,928	10,833	10,833
General Rates - GRV: Industrial	1,547.50	49	505,650	75,828	0	0	75,828	75,828	68,090	68,090
General Rates - GRV: Small Holding	1,547.50	65	531,830	100,588	0	0	100,588	100,588	122,253	122,253
General Rates - GRV: Interim and Back Rates	1,547.50	0	0	0	0	0	0	0	0	0
<b>Unimproved valuations</b>										
General Rates - UV: Broad Acre Rural	1,547.50	130	19,723,287	201,175	0	0	201,175	201,175	194,985	194,985
General Rates - UV: Mining	1,547.50	18	232,409	27,855	0	0	27,855	27,855	21,665	21,665
General Rates - UV: Interim and Back Rates	1,547.50	0	0	0	0	0	0	0	0	0
<b>Sub-Totals</b>		1,105	31,014,491	1,709,988	0	0	1,709,988	1,709,988	2,655,511	2,655,511
		6,160	415,505,708	14,551,891	111,668	0	14,663,559	14,603,438.00	13,992,313	13,985,832
Concession on general rates							(12,062)	(34,514)	(37,427)	(25,027)
Rates write-off							(4,000)	(780)	(1,747)	(4,000)
Total amount raised from general rates							14,647,497	14,568,145	13,953,139	13,956,805
Specified area rates - bulk waste collection			83,442,010	109,726			109,726	110,024	102,893	103,719
Specified area rates - Eaton landscaping			90,508,822	264,740			264,740	265,453	251,632	250,882
Total specified area and ex gratia rates							374,466	375,477	354,525	354,601
<b>Total rates</b>							15,021,963	14,943,622	14,307,664	14,311,406





## Notes to the Statement of Financial Activity For the Period Ended 31 October 2022

### 10. INFORMATION ON BORROWINGS

#### Debenture Repayments

		Principal Opening Balance 01 July 2022	New Loans 2022/23		Principal Repayments 2022/23		Interest Repayments 2022/23		Principal Outstanding 30 June 2023	
Particulars	Loan No.		Actual	Adopted Budget	Actual	Adopted Budget	Actual	Adopted Budget	Actual	Adopted Budget
		\$	\$	\$	\$	\$	\$	\$	\$	\$
<b>Community Amenities</b>										
Wanju/Waterloo Industrial Park										
Developer Contribution Plans	70	679,751	0	0	0	(66,588)	0	(26,738)	679,751	613,164
Waste Bins (3 Bin System)	71	320,000	0	0	(21,472)	(43,150)	(3,055)	(7,821)	298,528	276,850
<b>Recreation and Culture</b>										
Eaton Recreation Centre	59	99,117	0		(48,830)	(99,118)	(2,909)	(4,741)	50,287	0
Glen Huon Oval Club Rooms	69	881,525	0	0	(22,003)	(44,429)	(16,925)	(39,375)	859,522	837,096
Sport Lighting / Eaton Oval C/Rooms	New	0	0	1,000,000	0	(20,265)	0	(14,133)	0	979,735
<b>Transport</b>										
Depot Land	66	383,437	0	0	(31,454)	(63,548)	(7,803)	(17,510)	351,983	319,889
<b>Economic Services</b>										
Gravel Pit Land - Panizza Road	61	41,220	0	0	(13,317)	(27,052)	(1,276)	(2,350)	27,903	14,168
<b>Other Property and Services</b>										
Administration Building Extensions	65	43,972	0	0	(21,606)	(43,971)	(1,546)	(2,650)	22,366	0
Library / Adminstration Centre	New	0	0	6,000,000	0	(121,593)	0	(84,800)	0	5,878,407
		2,449,022	0	7,000,000	(158,682)	(529,714)	(33,514)	(200,118)	2,290,339	8,919,309

All debenture repayments are financed by general purpose revenue.



## Notes to the Statement of Financial Activity For the Period Ended 31 October 2022

### 11. BUDGET AMENDMENTS

Amendments to the original budget since budget adoption. Surplus/(Deficit)

GL/JOB Code	Description	Council Resolution	Classification	Non Cash Adjustment	Increase in Available Cash	Decrease in Available Cash	Revised Budget Running Balance
				\$	\$	\$	\$
	<b>Budget Adoption</b>		Opening Surplus (Budgeted)				137,167
	<b>Permanent Changes</b>						
J12316	Bridge Renewals - Bridge 4930 Collie River Road (Krones)	27/07/22 - 190-22	Asset Acquisition			(125,000)	12,167
0341003	Transfer from Reserve - Unspent Grants	27/07/22 - 190-22	Transfer from Reserve		24,480		36,647
1241010	Transfer from Reserve - Carried Forward Projects Reserve	27/07/22 - 190-22	Transfer from Reserve		100,520		137,167
	Increase to Tourism and Events budget for Dardanup Bull & Barrel Festival						
1312501	and the Dardanup Arts Spectacular,	27/07/22 - 208-22	Operating Expense			(10,000)	127,167
J08714	Minor / Community Event Assistance	27/07/22 - 208-22	Operating Expense		10,000		137,167
J11653	Dardanup Civic Precinct	24/08/22 - 221-22	Asset Acquisition			(205,839)	(68,672)
J05026	Dardanup Central BFB Car Park	24/08/22 - 221-22	Asset Acquisition		205,839		137,167
0422501	SWDC Government Grant - Other Governance	28/09/22 - 232-22	Operating Grant		40,000		177,167
0412506	Consultants Special projects - Hydrogen Feasibility Study	28/09/22 - 232-22	Operating Expense			(40,000)	137,167
1121502	Contribution to Sports Lighting - Softball	28/09/22 - 233-22	Capital Contribution			(20,000)	117,167
1121501	LRCI Grant - Sports Lighting	28/09/22 - 233-22	Capital Grant		45,000		162,167
1221504	LRCI Grant - Bridge Maintenance	28/09/22 - 233-22	Capital Grant			(45,000)	117,167
J12307	Ironstone Road Bridge	28/09/22 - 233-22	Asset Acquisition		45,000		162,167
1121501	CSRFF Grant - Sports Lighting	28/09/22 - 233-22	Capital Grant			(144,328)	17,839
1143009	Loan - Sports Lighting	28/09/22 - 233-22	Borrowings			(300,000)	(282,161)
J11656	Sports Lighting	28/09/22 - 233-22	Asset Acquisition		419,328		137,167
0524501	AWARE grant - Internal Emergency Support	28/09/22 - 236-22	Operating Revenue		10,000		147,167
J05031	Emergency Response and Recovery	28/09/22 - 236-22	Operating Expense			(10,000)	137,167
0341003	Transfer from Unspent Grants Reserve - LGGC Bridge 3658	26/10/22 - 267-22	Transfer from Reserve		276,000		413,167
J12303	Bridge Renewal - Ferguson Road Bridge 3658	26/10/22 - 267-22	Asset Acquisition			(276,000)	137,167
					<b>1,176,167</b>	<b>(1,176,167)</b>	<b>137,167</b>

**RISK ASSESSMENT TOOL**

**OVERALL RISK EVENT:** Schedule of Paid Accounts as at the 31st of October 2022

**RISK THEME PROFILE:**

3 - Failure to Fulfil Compliance Requirements (Statutory, Regulatory)

6 - Engagement Practices

**RISK ASSESSMENT CONTEXT:** Operational

CONSEQUENCE CATEGORY	RISK EVENT	PRIOR TO TREATMENT OR CONTROL			RISK ACTION PLAN (Treatment or controls proposed)	AFTER TREATMENT OR CONTROL		
		CONSEQUENCE	LIKELIHOOD	INHERENT RISK RATING		CONSEQUENCE	LIKELIHOOD	RESIDUAL RISK RATING
HEALTH	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.
FINANCIAL IMPACT	Not monitoring ongoing financial performance would increase the risk of a negative impact on the financial position.	Moderate (3)	Unlikely (2)	Moderate (5 - 11)	Not required.	Not required.	Not required.	Not required.
SERVICE INTERRUPTION	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.
LEGAL AND COMPLIANCE	Non-compliance with the legislative requirements that results in a qualified audit.	Minor (2)	Unlikely (2)	Low (1 - 4)	Not required.	Not required.	Not required.	Not required.
REPUTATIONAL	Non-compliance that results in a qualified audit can lead stakeholders to question the Council's ability to manage finances effectively.	Insignificant (1)	Unlikely (2)	Low (1 - 4)	Not required.	Not required.	Not required.	Not required.
ENVIRONMENT	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.

