



15 FEBRUARY 2024

Shire of Esperance

ORDINARY COUNCIL MEETING

27 FEBRUARY 2024

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POL 0052: Waste Management Services

COUNCIL POLICY

Purpose

The purpose of this policy is to provide an efficient and sustainable waste management services with an aim to improve environmental, public health and operational outcomes for the Shire, its residents and businesses.

Scope

All properties able to be serviced by the waste and recycling collection service are required in accordance with the provisions of the *Waste Avoidance and Resource Recovery Act 2007* to have a refuse and recycling Mobile Garbage Bin (MGB) and will be charged in accordance with the Council's schedule of fees and charges.

Waste collection services can also extend to commercial organisations and when events are held, upon request to the Shire.

Definitions

MGB: mobile garbage bin

Practice

Strategic Context

This policy links to Planet - Outcome 5 Shared responsibility for climate and sustainability within the Shire's Council Plan 2022-2032 and specifically the following outcome:

5.2 Develop a sustainable, low waste, circular economy.

Residential Waste (Refuse) Collection

The Shire will provide a weekly domestic waste collection service to every residential property, with adequate access, within the district for the removal of domestic waste. The Shire will provide the waste receptacle. All residential premises, including 'holiday homes', shall be subject to the residential rates charge and waste levy. The refuse collection charge is to be set as part of the annual budget each financial year.

Residential Recycling Collection

The Shire will provide a fortnightly recycling collection service to all properties able to be serviced by the waste and recycling collection contractor. The Shire will provide the recycling receptacle. The recycling collection charge is to be set as part of the annual budget each financial year.

Street Bins and Public Place Collection

The Shire will provide litter receptacles in appropriate streets, parks and reserves and at buildings under the care, control and management of Council. These will be emptied on a regular basis dependent on usage. Bins with dog poo bags will only be installed at the approaches to approved dog beaches and public open spaces within the Shire.

Bin Weight

MGBs weighing more than 70kg will not be collected by the Contractor. In such an event the Contractor shall place a notification sticker on the MGB, and the occupant shall be required to empty the MGB to bring it under the 70kg limit before the bin can be collected by arrangement. This clause does not apply for larger bins collected by front or rear loading collection

Commercial Collection Options

Commercial premises can also request larger recycling bins for collection by a rear /or front-loading vehicle. Available sizes include 1.5 cubic metre, 3 cubic metre, and 4.5 cubic metre commercial bulk recycling bins, the 70kg weight limit will not apply. The refuse and recycling collection charge is to be set as part of the annual budget each financial.

Rural properties without access to recycling may be eligible for 360 litre MGB.

Contamination

The Shire maintains a three-strike policy regarding the contamination of a recycling bin. On the first occurrence the Contractor or authorised shire staff will place a warning sticker on the receptacle stating "not to collect" until the unacceptable items (contamination) are removed. The removal of unacceptable items (contamination) from the MGB is the responsibility of the occupant, after which the MGB can be placed back out for collection on the next recycling collection day for that premises or by special arrangement. For a second occurrence of contamination, the occupant will also be contacted in writing by a Shire representative to communicate the appropriate use of the service. The recycling MGB will be removed on a third occurrence with fees and charges for the service remaining. The occupant can apply to have the recycling service reinstated after a 30-day cooling off period. When the MGB is returned the occupant will be provided with accompanying education material.

The Shire will promote waste reduction and recycling in the community. The Shire will work with the Keep Australia Beautiful Council and other approved agencies to promote and encourage litter reduction

Waste Vouchers

The Shire shall issue four waste vouchers to each rateable assessment property. The vouchers will be issued with the first rate notice each financial year. New properties or change of ownerships coming onto the domestic waste service shall be issued with pro-rata waste vouchers on written application by ratepayer or authorised property manager. Lost waste vouchers may be reprinted following written application by ratepayer or authorised representative and payment made in accordance with the schedule of fees and charges. Claims for non-receipt of waste vouchers will only be recognised, if made in writing. Waste Vouchers will expire on the 31 August each year and cannot be extended or transferred. A record will be kept of replacement vouchers issued. Conditions apply for acceptable waste when using a waste voucher as payment for waste disposal.

.....End.....

Document Information

Responsible Position	Manager Waste and Environmental Health
Risk Rating	Medium

Referencing Documents

- *Local Government Act 1995*
- *Waste Avoidance and Resource Recovery Act 2007*

Revision History

Date	Version	CM Reference	Reason for Change	Resolution #	Next Review
July 2007	1			O0707-1081	July 2009
Dec 2007	2			O1207-1187	Dec 2009
Mar 2010	3	D12/68		O0310-1426	Mar 2012
Mar 2016	4		Updates to reflect current legislation.	O0316-008	Mar 2018
April 2018	5	D16/29039	Minor formatting	O0418-075	April 2020
Mar 2020	6		No change, laid on table for further discussion.	O0320-073	Mar 2022
June 2020	7	D16/29039[v2]	No change to wording. Policy mandates that All properties able to be serviced by the waste and recycling collection service are required in accordance with the provisions of the Waste Avoidance and Resource Recovery Act 2007 to have a refuse and recycling bin and will be charged accordingly.	O0620-183	June 2022
Dec 2021	8	D16/29039[v3]	Biennial review, no change.	O1221-225	Dec 2023



POL 0053: Applications Lodged by Senior Employees or Elected Members

COUNCIL POLICY

Purpose

To ensure that all applications for development, land use or subdivision lodged by a Senior Employee or Elected Member are referred to Council for consideration.

Scope

This policy applies to an application for development, land use or subdivision lodged by a Senior Employee or Elected Member.

Definitions

N/A

Practice

Notwithstanding any delegation of Council functions, any development application or subdivision application lodged by Senior Employees (as defined in the operative Council Policy: Senior Employees or Elected Member) is to be referred to the Council for determination, except for an application -

1. That is for that person's own place of residence or expansion/upgrading of a place of business that was previously approved and satisfies the objectives and development standards in -
 - a. Local Planning Scheme;
 - b. The Acceptable Development provisions of the Residential Design Codes, and
 - c. Any relevant adopted Planning Strategy, Local Planning Policy and/or Local Law.
2. For a minor modification to an approved plan;
3. An extension of time for a planning consent when there has been no circumstantial change other than the expiration of time; or
4. For amalgamation of lots or realignment of boundaries.

.....End.....

Document Information

Responsible Position	Manager Development Services
Risk Rating	Low

Referencing Documents

- *Local Government Act 1995*

Revision History

Date	Version	CM Reference	Reason for Change	Resolution #	Next Review
Jul 2004	1		New policy	O0704-0928	Jun 2006
Dec 2007	2			O1207-1187	Dec 2009
Mar 2010	3	D12/9		O0310-1426	Mar 2012
Mar 2016	4		Removal of condition regarding certification of clearance of subdivision and strata title conditions.	O0316-008	Mar 2018
Apr 2018	5	D16/29041	Change document controller title, remove planning scheme number.	O0418-075	Apr 2020
Mar 2020	6		No change, laid on table for further discussion.	O0320-073	Mar 2022
June 2020	7	D16/29041[v2]	Amend policy title. Change to wording in line with current terminology. Clarified wording and removed details regarding exemptions that are provided for by Local Planning Scheme No. 24.	O0620-183	Jun 2022
Dec 2021	8	D16/29041[v3]	Biennial review, no change.	O1221-225	Dec 2023



POL 0054: Refusal of Planning Applications

COUNCIL POLICY

Purpose

To provide guidance as to when a development application can be refused without referral to Council.

Scope

This Policy applies within the Shire of Esperance and provides guidance as to when a development application can be refused without referral to Council.

Definitions

N/A

Practice

Applications for Prohibited or "X" Uses

Where a development application is received that is classified as an "X" use (that is a use that is not permitted) or prohibited in accordance with the provisions of Local Planning Scheme No. 24, the application is to be refused as approval to an "X" use can only proceed by way of an amendment to the Planning Scheme.

Applications Prohibited by Scheme Provision

Where a development application is received that is inconsistent with a Scheme provision that does not have any discretion it will be refused, with the primary grounds of refusal being -

"The proposed development is inconsistent with 'Specify Clause' of the Scheme."

Applications Requiring Provision of Further Information

Where a request for further information has been made for a development application, the following procedure is to be followed -

1. A letter requesting more information is to be forwarded to the applicant.
2. If after the expiration of one (1) month no information is received, a further request for the outstanding information is to be sent to the applicant. This letter is to stipulate that should the information not be forwarded to the Shire within one (1) month of the date of the letter the application will be refused.
3. A Development Refusal be issued, with the primary ground for refusal being:

"Insufficient information has been supplied to enable assessment of the application to occur."

Applications for Unspecified Land Uses that are inconsistent with Objective of the Zone

Where a development application is received that is for a land use that is not defined it will be refused where the use is not consistent with the objective of the zone, with the primary ground for refusal being:

“The proposed land use is inconsistent with the objectives of the ‘specify zone’ zone.”

Applications not acceptable to a Government Department

Where a development application is received that is referred to a government department it will be refused where the government department identifies that it cannot be approved.

.....End.....

Document Information

Responsible Position	Manager Development Services
Risk Rating	Low

Referencing Documents

- *Local Government Act 1995*
- Local Planning Scheme No. 24

Revision History

Date	Version	CM Reference	Reason for Change	Resolution #	Next Review
Mar 2008	1		New policy	O0308-1287	Mar 2010
Mar 2010	2	D12/67		O0310-1426	Mar 2012
Mar 2016	3		Changes to timeframes regarding requests for outstanding information.	O0316-008	Mar 2018
Apr 2018	4	D16/29042	Change document controller title. Added Land Use and Government Department paragraphs	O0418-075	Apr 2020
Mar 2020	5		No change, laid on table for further discussion.	O0320-073	Mar 2022
Jun 2020	6	D16/29042[v2]	Include information regarding applications prohibited by Scheme Provision. Amend information regarding timeframes and change ‘Planning’ applications to ‘Development’ applications.	O0620-183	Jun 2022
Dec 2021	7	D16/29042[v3]	Biennial review, no change.	O1221-225	Dec 2023



POL 0055: Non-Refundable External Services Application Fees

COUNCIL POLICY

Purpose

To ensure that time spent on the processing of Planning, Health and Building applications is remitted.

Scope

This policy applies to all Planning, Health and Building applications lodged with the Shire of Esperance.

Definitions

N/A

Practice

That where an application for Planning, Health and/or Building approval has been submitted, no part of the application fee shall be refunded if withdrawn after a period of 7 calendar days from the date received.

Applications withdrawn within the 7 day period are eligible to receive a refund of 50% of the original fee.

Builders Registration Board (BRB) and Building & Construction Industry Training Fund (BCITF) levies, if applicable, will be refunded in full.

If an applicant claims exceptional circumstances, they may apply in writing to the CEO for consideration.

.....End.....

Document Information

Responsible Position	Manager Development Services
Risk Rating	Low

Referencing Documents

- *Local Government Act 1995*

Revision History

Date	Version	CM Reference	Reason for Change	Resolution #	Next Review
Feb 2009	1		New policy	O0209-1539	Feb 2011
Dec 2009	2				
Mar 2010	3	D12/54		O0310-1426	Mar 2012
Mar 2016	4		Note: Policy not applicable to Statutory Requirements as	O0316-008	Mar 2018

Apr 2018	5	D16/29043	outlined in Building Legislation regarding return of fees. Change document controller title	O0418-075	Apr 2020
Mar 2020	6		No change, laid on table for further discussion.	O0320-073	Mar 2022
Jun 2020	7	D16/29043[v2]	Change to wording regarding BRB and BCITF levies and how they are refunded when an application is withdrawn and specify calendar days.	O0620-183	Jun 2022
Dec 2021	8	D16/29043[v3]	Amend policy title	O1221-225	Dec 2023

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POL 0056: Outdoor Eating Facilities in Public Places

COUNCIL POLICY

Purpose

The Shire recognises that appropriately located and designed outdoor eating facilities (alfresco dining area) can make a significant contribution to the vitality and ambience of public places and urban lifestyles. They offer opportunities for spontaneous and arranged social interactions or quiet reflection while introducing a visual vibrancy that can make a place memorable.

This Policy aims to provide a framework and urban design guidelines to promote the establishment of outdoor eating facilities in public places for the purpose of alfresco dining.

Policy aims are -

1. To ensure that alfresco dining does not interfere with the safe and reasonable movement of pedestrian and vehicular traffic;
2. To encourage high quality alfresco dining which enhances the amenity and vitality of the Shire of Esperance;
3. To provide a comprehensive framework for the development, management and control of alfresco dining throughout the Shire of Esperance; and,
4. To ensure that alfresco dining areas are accessible to all patrons, including people with disabilities.

Scope

This policy applies throughout the Shire of Esperance district.

Definitions

N/A

Practice

Alfresco Dining

1. Policy Application Area

Alfresco dining areas will only be permitted to be established on a public place adjacent to a food business that has been issued with a Certificate of Registration of a Food Business by the Shire of Esperance.

2. Development Requirements

a. Pedestrian Access;

- i. A minimum footpath width of 2.0 metres must be provided directly adjacent to the building or running parallel to the street, unless otherwise approved by the Manager Waste and Environmental Health for an alfresco dining area to be considered;

- ii. In areas of heavy pedestrian traffic, the Shire of Esperance may require a wider pedestrian thoroughfare or may prohibit alfresco dining altogether; and,
- iii. Pedestrians must be able to make normal use of the footpath without being obliged to step into the road at any point or make other unwarranted detours.

b. Distance from Kerb

A minimum 0.6 metre setback from the alfresco dining area to any kerb line is required to provide an appropriate separation distance from vehicles using kerbside or parallel parking adjacent to an alfresco dining area, and for the safety of diners

c. Vehicle Sight Lines

Alfresco dining must not obstruct sight lines for either vehicles or pedestrians, both at road junctions and vehicle access crossovers.

d. Demarcation of Outdoor Eating Facilities / Alfresco Dining

The Shire may provide footpath identification of the approved alfresco dining area utilising coloured bricks, small brass plaques or the like, placed at regular intervals (approximately every 2.0m) along the alfresco dining boundary.

3. Furniture

a. Placement of Furniture

- i. All furniture, including barriers must be placed and kept within the alfresco dining area and at all times must not compromise the access and safety of patrons or pedestrians;
- ii. All furniture must be free-standing and removable, unless specific written approval has been given by the Shire;
- iii. Where umbrellas or similar sun protection is provided, they must be adequately secured, contained within the alfresco dining area and of sufficient height (minimum 2.1 metres) above the ground to prevent injury to patrons and pedestrians. Depending upon the structure proposed, structural certification from a practising Structural Engineer may be required.

b. Number of Chairs

A maximum of one chair per square metre may be located in an alfresco dining area. Other items of furniture such as tables and umbrellas can be incorporated as necessary. Note: Number of patrons may be restricted by numbers of toilet facilities available.

c. Design and Materials

- i. The design of the furniture, including barriers used for the alfresco activity should be in keeping with the style and character of the host building and reflect the interior of the business;
- ii. White tabletops and white chairs are not permitted in alfresco dining areas adjacent to public roads due to the possibility of glare;
- iii. Plastic tables and chairs are not permitted;

- iv. All furniture should be durable, waterproof, rust proof and weather resistant and should fold or stack for storage; and,
 - v. All furniture, including barriers must be maintained in a physically sound and aesthetically acceptable condition and in a good state of repair and be designed so that corners and fastenings do not create a potential hazard for patrons and pedestrian traffic to the satisfaction of the Shire.
 - d. Removal and storage of furniture
 - i. All furniture must be removed from the alfresco dining area at the close of business each day, unless otherwise permitted by the Shire of Esperance; and
 - ii. The Shire of Esperance may require the removal of any furniture or structure from public areas at any time to allow the undertaking of street or footpath works, maintenance, cleaning or other works as necessary.
 - e. Advertising
 - i. Advertising on furniture and structures may only bear the name of the associated establishment and/or the name of a commercial product sold within the premises; and,
 - ii. Any additional signage must be approved by the Shire of Esperance, and must not restrict access to any public thoroughfare as required by this Policy.
- 4. Operating Requirements
 - a. Hours of Operation
 - i. Unless otherwise specified by the Shire, hours of operation of the alfresco dining area may be determined at the discretion of the permit holder for the alfresco dining area;
 - ii. Alfresco dining areas serving alcoholic beverages will be limited to the hours stipulated in the liquor licence; and,
 - iii. The permit holder must ensure that no noise nuisance is created by the alfresco dining activity, and that any music complies in all respects with the *Environmental Protection (Noise) Regulations 1997*.
 - b. Consumption of Alcohol
 - i. The consumption of alcohol within alfresco dining areas is only permitted subject to compliance with the proprietor obtaining the necessary approvals from the Shire of Esperance and Department of Racing Gaming and Liquor, and must ensure ongoing compliance with all Liquor Licence conditions; and,
 - ii. Where alcohol is served, regular table service is mandatory and patrons must be seated at all times.
 - c. Cleanliness and Hygiene

The permit holder is responsible for maintaining the alfresco dining area in a clean and sanitary condition free of visible dirt and food material at all times. This includes removing grease stains, keeping the vicinity clear of litter and waste materials and the

high pressure cleaning of the pavement, as and when required. No material from sweeping of the pavement is permitted onto the road or into the stormwater system.

d. Maintenance

The permit holder for the alfresco dining area is responsible for maintenance of the area over which the dining activity takes place and shall make good, to the Shire's satisfaction, any damage or staining to the surface

e. Lighting

- i. Where alfresco dining occurs outside daylight hours, the permit holder for the alfresco dining area must provide adequate, clear and well distributed lighting to ensure the safety and amenity of both patrons and the public; and,
- ii. Outdoor lighting shall not cause a nuisance by way of light spill to any nearby premises.

f. Electrical Wiring

- i. All electrical wiring connected to lights, devices or appliances situated in or about the alfresco dining area shall not be placed -
 - 1. On or under the alfresco dining area;
 - 2. Above any part of a public place so as to interfere or obstruct the passage of vehicles or pedestrians; and,
 - 3. In any manner or in any place which maybe prejudicial to safety.
- ii. Any electrical wiring must be approved by the appropriate authority and must not be placed across any thoroughfare.

g. Heating

- i. Heaters must be Australian Gas Association (AGA) approved and be used in accordance with manufacturer's instructions, particularly in relation to required clearances from other combustible objects.
- ii. Fixed gas heaters are not permitted without the express written consent of the Shire.
 - 1. Any fixed or portable gas heater within the outdoor eating area is to be installed and regularly checked by a registered gas fitter to ensure they comply with all relevant Australian Standards

h. Dogs are only permitted in the outdoor eating area under the following conditions:

- i. Area is to be sufficiently signed to advise patrons that dogs are permitted in the alfresco dining area;
- ii. Food premises to develop a dog management plan
- iii. Dogs do not enter the inside of the food premises
- iv. Area is to be kept clean at all times
- v. Pedestrian access ways remain unobstructed at all times.

i. Smoking

- i. The Shire of Esperance supports any State Government initiative to introduce state wide smoking bans in alfresco dining areas

- ii. Smoking is not permitted within the alfresco dining area and the use of appropriate non-smoking signage by the permit holder is required.
- 5. Application and Administration Procedure
 - a. Assessment and compliance
 - i. All applications shall be assessed in accordance with the requirements of this Policy and the Shire of Esperance Activities in Thoroughfares and Public Places and Trading Local Law 2016 and Local Government Property Local Law 2009, by the Shire's Health Services. The Shire's Planning Services shall be consulted during the assessment process.
 - ii. Once an alfresco dining area has been approved and established, the Shire's Environmental Health Department is responsible for ensuring the permit holder complies with all imposed conditions of approval.
 - b. Application for Permit
 - c. Notwithstanding the requirements of the Shire of Esperance Activities in Thoroughfares and Public Places and Trading Local Law 2016 and Local Government Property Local Law 2009, a proprietor of a food business seeking the issue of an Outdoor Eating Facility Permit shall make application to the Shire in writing on the prescribed form (Application for Traders License) and such application shall be accompanied by –
 - i. The appropriate fee
 - ii. A set of plans of the proposed alfresco dining area to a scale of 1:50 showing –
 - 1. the location and dimensions of the proposed alfresco dining area and the means by which the eating area is to be separated from the balance of the street or public place;
 - 2. the position of all tables, chairs and all other structures proposed to be provided in the alfresco dining area;
 - 3. a description of the type and make of all tables, chairs and all other structures proposed to be provided in the alfresco dining area;
 - iii. A set of plans at a scale of 1:200 depicting the alfresco dining area and all land improvements thereon within 30 metres of the boundaries of the alfresco dining area.
 - iv. Photograph(s) or images of the proposed furniture and other structures to be set up in the alfresco dining area.
 - v. Additional information as required.
 - d. Renewal of Permit

On or by the 30 June each year the permit holder may apply to the Shire in writing, or submit an application form (Application for Traders Permit), for a renewal of their Outdoor Eating Facility Permit. This written request must be accompanied by the prescribed fee and certificate of currency confirming public liability insurance.

6. Cancellation of Permit

The CEO may, by notice in writing, cancel a permit at any time if the requirements of this policy or any specific condition of approval are not complied with.

7. Fees

Fees and charges are established in accordance with sections 6.16 to 6.19 of the *Local Government Act 1995*, listed in the Shire of Esperance Schedule of Fees and Charges.

.....End.....

Document Information

Responsible Position	Manager Waste and Environmental Health
Risk Rating	Medium

Referencing Documents

- *Local Government Act 1995*
- *Environmental Protection (Noise) Regulations 1997*
- *Activities in Thoroughfares and Public Places and Trading Local Law 2016*
- *Local Government Property Local Law 2009*

Revision History

Date	Version	CM Reference	Reason for Change	Resolution #	Next Review
Sept 2012	1		New policy	O0912-022	Sept 2014
Mar 2016	2		Update to current names and titles. Addition of fifth point: No smoking permitted in outdoor eating areas. Additional note outlining patron numbers are subject to number of available toilet facilities.	O0316-008	Mar 2018
Apr 2018	3	D16/29050	Change document controller title and Manager title in 2.1.1	O0418-075	April 2020
Mar 2020	4		No change, laid on table for further discussion.	O0320-073	Mar 2022
Jun 2020	5	D16/29050[v2]	Remove 'outdoor eating facility' and replace with 'alfresco dining area', minor wording changes, formatting changes to numbering throughout, Amended wording to allow alfresco development adjacent to a building. Addition of dogs and smoking paragraphs to section 4, addition of sections 5-7 relating to the Application and Administration Procedure, Cancellation Procedure and Fees.	O0620-183	June 2022
Dec 2021	6	D16/29050[v3]	Remove reference to officer in 3(v)(b) and replace with Shire of Esperance. Adjust	O1221-225	Dec 2023

numbering for consistency
throughout. Minor grammar
adjustment to 4(viii)

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POL 0057: Dividing Fences

COUNCIL POLICY

Purpose

To establish a position on Shire contributions towards dividing fences.

Scope

This Policy applies with the Shire of Esperance and establishes a position on Shire contributions towards dividing fences

Definitions

N/A

Practice

The Shire will only contribute towards the cost of dividing fences on land adjoining reserves or land being used for civic purposes where it sees a municipal need for the fence.

.....End.....

Document Information

Responsible Position	Manager Development Services
Risk Rating	Low

Referencing Documents

- *Local Government Act 1995*

Revision History

Date	Version	CM Reference	Reason for Change	Resolution #	Next Review
Feb 1993	1		New policy	O0293-172	Feb 1995
Dec 2007	2			O1207-1187	Dec 2009
Mar 2010	3	D12/29		O0310-1426	Mar 2012
Mar 2016	4		Biennial review, no change.	O0316-008	Mar 2018
Apr 2018	5	D16/29053	Change document controller title	O0418-075	Apr 2020
Mar 2020	6		No change, laid on table for further discussion.	O0320-073	Mar 2020
Jun 2020	7	D16/29053[v2]	Amend wording to make clear, remove reference to Council residential lots as these are regulated by the Dividing Fences Act 1961.	O0620-183	Jun 2022
Dec 2021	8	D16/29053[v3]	Biennial review, no change.	O1221-225	Dec 2023



POL 0058: Arts Collection

COUNCIL POLICY

Purpose

1. To manage, conserve and document the Shire of Esperance Art Collection.

Scope

To ensure processes are in place for the acquisition and management of art works for the Shire of Esperance Art Collection.

Definitions

N/A

Practice

Management

1. The Shire of Esperance aims to manage and maintain the Art Collection appropriately.
2. The Shire of Esperance ensures the conservation of the collection's holdings and aims for industry standards of environmental control and monitored secure collection storage and exhibition spaces.
3. The Shire of Esperance ensures that the collection is subject to regular valuation and appropriate insurance.
4. The Shire of Esperance maintains a complete catalogue including photographic, location and registration records, detailed provenance and artist's biography

Acquisition

The Shire of Esperance is not bound to accept any works.

The Council may -

1. Acquire works of art which build upon strengths of existing holdings of the collection.
2. Acquire original, excellent and significant works by Esperance artists living and/or working in the Esperance region.
3. Acquire works of art which relate to the experience of people living and/or working in the Esperance region.
4. Acquire those works of art which are of regional and aesthetic significance to the existing holdings and relevant to current acquisition priorities.
5. Acquire works by way of purchase, bequest or gift.
6. Not acquire art works which duplicate existing holdings.
7. Acquire art works with due consideration to cost, public safety, display, storage and transport issues at the time of acquisition.
8. Not acquire commercial prints or reproductions.

9. Accept donations that are the sole property of the donor and which accord with the acquisition policy with no conditions attached.

Loans

The Shire of Esperance does not accept permanent or indefinite loans. The collection may accept loans from time to time for exhibition purposes only.

Public Access

1. The Shire of Esperance, from time to time, will present appropriately documented exhibitions from the collection, and public programs to enhance the appreciation of the collection. Exhibitions may be of a physical or digital nature.
2. Where appropriate, works from the Shire of Esperance Art Collection may be considered for travelling exhibitions subject to appropriate loan agreements being negotiated.

De-accessioning and Disposal

1. Works from the collection may be considered for removal from the collection if they are in poor condition, damaged or deteriorated beyond reasonable repair or conservation; duplicate or do not meet with the requirements of the collections policy statement. This process is known as de-accession.
2. From time to time, staff may recommend works for de-accessioning for Council endorsement to proceed.
3. Any funds raised by the sale of a de-accessioned art work will be set aside for maintenance and management of the collection.

.....End.....

Document Information

Responsible Position	Manager Community Support
Risk Rating	Low

Referencing Documents

- *Local Government Act 1995*

Revision History

Date	Version	CM Reference	Reason for Change	Resolution #	Next Review
Apr 2009	1	D12/11	New policy	O0409-1590	Apr 2011
Mar 2016	2	D16/29058 (rev 02)	Policy updated to reflect current practices.	O0316-008	Mar 2018
Apr 2018	3	D16/29058 (rev 04)	Change document controller title	O0418-075	Apr 2020
Mar 2020	4		No change, laid on table for further discussion.	O0320-073	Mar 2022

Jun 2020	5	D16/29058[v2]	Removal of reference to the defunct Shire of Esperance Art Advisory Committee and removed reference to rescinded policy.	O0620-183	Jun 2022
Dec 2021	6	D16/29058[v3]	Remove Committee and replace with Staff in De-accessioning and Disposal section	O1221-225	Dec 2023

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POL 0059: Museum Village Markets

COUNCIL POLICY

Purpose

To regulate the operation of the Museum Village Markets within the Shire of Esperance. The objectives of this Policy are -

1. To encourage a mixture of commercial and non-commercial stall holders to increase the vibrancy and attraction of the Museum Village Markets to tourists and locals.
2. To encourage the participation of local community groups in the operation of the markets.

Scope

This policy applies to Markets convened in the Museum Village Precinct or on a Reserve as approved by the Chief Executive Officer (CEO).

Definitions

Food Vendor: A person or persons preparing food on site for sale direct to the public.

Stall holder: A person or persons conducting a trading undertaking whom is authorised to do so by the Market Permit Holder.

Practice

Policy Statement (refer Council resolution O0710-1479)

1. From time to time the CEO will call for expressions of interest to operate markets at the Museum Village for a term of up to three years.
2. The CEO is delegated the authority to issue a permit to conduct a market to the person or organisation (the Permit Holder) offering the most advantageous proposition to grow the Museum Village precinct as a tourism focal point on the following conditions -
 - a. The Permit Holder will maintain a Public Liability Insurance Policy for a minimum amount of \$20 million and absolve council and its officers of any liability in relation to the Markets.
 - b. The Market Permit will be reviewed after each 12 month period and will be renewed annually pending satisfactory performance as determined by the CEO. (Local Government Property Local Law 2016 Section 3.13(h))
 - c. The Permit Holder must allow access to each stall area by statutory authorities whenever required to inspect stalls and products offered for sale for statutory compliance requirements.
3. The Permit Holder is authorised to charge a fee to market participants (stall holders, buskers, food vendors etc.). Such fees collected may be retained by the 'Permit Holder'. (Local Government Property Local Law 2016 Section 3.13 (i))

4. Stall holders participating in the Markets will be exempt from the requirement to obtain individual stall holders permits from the Shire. (*Activities in Thoroughfares and Public Places and Trading Local Law 2016* Section 6.7(3))
5. Stall holders and food vendors intending to sell or distribute food products must notify the Shire's Environmental Health Services prior to doing so. (*Food Act 2008*) A permit to operate a temporary food premise must be displayed in a prominent location at the point of sale or distribution. The Permit Holder will not allow any stall holders or food vendors to operate in the Museum Village Markets without the required permit.
6. Market stalls may only be located on the grassed areas of the Museum Village precinct unless approval to occupy portions of built premises is obtained from either the occupier of the premise or the Shire of Esperance.
7. Market activities shall not be conducted within the road reserve or on footpaths and must not block or impede direct access to Museum Village businesses.
8. On designated market days Museum Village business proprietors may display and sell products and services from any part of their built premises, including non-leased verandas and decking. This condition is provided to increase the vibrancy and attraction of the Museum Village Markets to tourists and locals in accordance with objective 2 of this Policy. The Museum Village business proprietors will not be required to pay a stall holders fee to the Market permit holder.
9. The Permit Holder shall ensure the market site is cleared of all refuse when trading has ceased.
10. Failure to comply with any of the terms and conditions of this Policy may result in withdrawal of the Market Permit and/or refusal to renew or reissue the Market permit.
11. Any damage to Shire of Esperance infrastructure due to the activity is to be reinstated by the Permit Holder to the satisfaction of Council.

.....End.....

Document Information

Responsible Position	Manager Waste and Environmental Health
Risk Rating	Low

Referencing Documents

- *Local Government Act 1995*
- *Local Government Property Local Law 2016* Section 3.13(h)
- *Local Government Property Local Law 2016* Section 3.13 (i)
- *Food Act 2008*
- *Activities in Thoroughfares and Public Places and Trading Local Law 2016* Section 6.7(3)

Revision History

Date	Version	CM Reference	Reason for Change	Resolution #	Next Review
Dec 2010	1	D12/53	New policy.	O1210-1546	Dec 2012
Mar 2016	2		Removal of key words and statute. Removal of objective to develop the Museum Village Precinct as the tourism focal point of Esperance	O0316-008	Mar 2018
April 2018	3	D16/29059	Insert document controller title. Minor formatting. Amend reference to Thoroughfare local law in point 4	O0418-075	April 2020
Mar 2020	4		No change, laid on table for further discussion.	O0320-073	Mar 2022
June 2020	5	D16/29059[v2]	Minor wording changes, formatting to number Objective section	O0620-183	June 2022
Dec 2021	6	D16/29059[v3]	Remove numbering in Objective section. Include 2016 for references to Local Government Property Local Law throughout.	O1221-225	Dec 2023



POL 0060: Fire Management – Roadside Burning

COUNCIL POLICY

Purpose

To ensure that roadside burning does not take place without the written consent of the Shire of Esperance.

Scope

This policy applies throughout the Shire of Esperance district.

Definitions

N/A

Practice

Roadside burning shall not take place without the written consent of the Shire.

When examining such applications, Shire will -

1. Grant approval only if the burn is to be supervised by the relevant Bushfire Brigade;
2. Only consider the burn as part of a broader fire management plan;
3. Restrict burning to one side of the road only during any one year;
4. Prefer to see that the burn has ecological advantages to the road verge as well as fire hazard abatement;
5. No firebreaks will be permitted to facilitate the burn unless the roadside vegetation strip is greater than 20 metres wide and then only if in the Shire's opinion the break is necessary for the protection of the roadside vegetation; and the firebreak complies with the requirements of the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004*;
6. Refer the proposal to the Department of Water and Environmental Regulation and Department of Biodiversity, Conservation and Attractions in the assessment of the application; and
7. Applicant to advise the Shire of actual burning date so that the frequency/heat of burns and therefore estimate the ecological value/disadvantage of burns to individual roadsides can be monitored.

.....End.....

Document Information

Responsible Position	Manager Ranger and Emergency Services
Risk Rating	Medium

Referencing Documents

- *Local Government Act 1995*
- *Environmental Protection (Clearing of Native Vegetation) Regulations 2004*

Revision History

Date	Version	CM Reference	Reason for Change	Resolution #	Next Review
Oct 2004	1		New policy	O1004-0967	Oct 2006
Sept 2007	2	D12/38			
Feb 2016	3			O0216-042	Feb 2018
Mar 2016	4		Policy moved from Asset Management to External Services.	O0316-008	Mar 2018
April 2018	5	D16/29060	Update document controller title. Minor formatting and amend department name in point 6.	O0418-075	Apr 2020
Mar 2020	6		No change, laid on table for further discussion.	O0320-073	Mar 2022
June 2020	7	D16/29060[v2]	Minor wording changes, replace 'Council' with 'the Shire'	O0620-183	Jun 2022
Dec 2021	8	D16/29060[v3]	Biennial review, no change.	O1221-225	Dec 2023



POL 0061: Museum Collection

COUNCIL POLICY

Purpose

To provide a clear and consistent framework for the acquisition, management and development of the Shire of Esperance Museum Collection. The purpose of the Collection is to -

1. Create a sense of place
2. Build a unique historical resource available to the public
3. Conserve heritage for the benefit of the community and future generations
4. Provide a supportive role for education and research for the community

Scope

The aim of the collection is to provide a range of materials reflecting the rich diverse heritage of the region. The collection will include -

1. Physical objects
2. Paper based records
3. Digital based records

The Collection -

1. Will cover a time frame from the earliest recorded information about the area to the present day
2. Should contain both current and retrospective materials in a range of formats
3. Will reflect the diversity of the community including collecting items relating to First Nations and multicultural people

Definitions

Accession: refers to the process of documenting an item for inclusion in a museum collection.

Acquisition: refers to the process of obtaining legal possession of an item for accessioning into a collection. Acquisitions can be by donation, purchase and bequest.

Collection: includes physical objects and archives. Archive material includes items such as photographs, documents, audio files, digital files artworks, published items, community organisation records.

Deaccessioning: refers to the process of removing an item from a museum collection and the recording of the disposal of this item from a collection.

Item: can be a physical object or archive material.

Ownership: refers to an item or collection where a clear legal title, without restrictions or conditions, has been established. The Esperance Museum seeks to obtain clear legal title for all items acquired for its collections.

Provenance: The origin and/or subsequent history of the material can be thoroughly documented and authenticated. Assessment of museum collection material includes documentation of its known chain of ownership.

Significance: refers to the historic, aesthetic, scientific and social values that an item or collection has for past, present and future generations.

Practice

Acquisition Principles

The Museum Collection will acquire material through purchase, copying, donation, gifting or creation.

No conditional donations will be accepted. Materials will only be accepted and included into the collection where it is open for public access after processing.

All materials acquired will become the property of the Shire of Esperance.

All materials will be assessed against the following criteria -

1. Relevance to the region
2. Significance including rarity, aesthetics, social/spiritual. Historic and technical values
3. Establishment of provenance
4. Representation of Collection themes
5. Maintenance, conservation and storage limitations

All materials will be assessed and processed in accordance with the Collection Management Practices.

Deaccessioning

As part of the ongoing collection management, there may be situations where it is necessary to remove materials from the collection. Deaccessioning may be required if -

1. it does not comply with current collection policy
2. It is damaged beyond repair or the conservation costs are beyond the means of the collection budget
3. It is a lesser quality duplicate of another item
4. It lacks any supporting information to enable proper identification to establish relevance to the collection
5. A substantiated request of the return of the item to its original owner/donor is received

Method of Disposal

The methods of disposal in order of desirability are -

1. Return to the donor or donor descendants.
2. Transfer or exchange to another appropriate organisation.
3. Sale with proceeds retained by the Museum.
4. Destroy or recycle.

Loan Principles

From time to time, items from within the Museum Collection may be loaned to other organisations on a temporary basis.

Council may also seek to borrow items from other organisations or individuals.

Items of the Shire of Esperance Museum Collection will not be loaned to individuals.

All loan requests will be reviewed on a case by case basis and approved by the CEO.

Loans will be subject to the Terms and Conditions as set out in the Loan Agreement.

Ethics

The Esperance Museum will only acquire items having a legal and ethical provenance and in accordance with State and Federal law and international agreements between Australia and other countries.

The collection of items will always be conducted in accordance with the standards of the Code of Ethics of Museums Australia Inc. or its subsequent review and National Standards for Australian Museums and Galleries.

.....End.....

Document Information

Responsible Position	Manager Community Support
Risk Rating	Low

Referencing Documents

- *Local Government Act 1995*
- Code of Ethics of Museums Australia Inc.
- National Standards for Australian Museums and Galleries

Revision History

Date	Version	CM Reference	Reason for Change	Resolution #	Next Review
Sept 2017	1		New policy	O0917-214	Sept 2019
Apr 2018	2	D17/25901	Biennial review, no change.	O0418-075	Apr 2020
Mar 2020	3		No change, laid on table for further discussion.	O0320-073	Mar 2022
Jun 2020	4	D17/25901[v2]	Minor change reflecting that the Code of Ethics of Museums Australia is currently under review.	O0620-183	Jun 2022
Dec 2021	5	D17/25901[v3]	Biennial review, no change.	O1221-225	Dec 2023



POL 0062: Advertising Signage in a Thoroughfare or Public Place

COUNCIL POLICY

Purpose

The purpose of this policy is to provide a regulatory framework for the design and placement of portable advertising signs within the Local Government. Council supports the need for signage to promote tourism, business, public events and community groups and services but also supports the need for regulation so that signage does not adversely impact the amenity and streetscapes of the Shire.

Scope

This policy will guide the Shire, local business and the community on circumstances where portable advertising signs may be displayed in public places within the District; and also circumstances where signs may be removed from public places if displayed contrary to this policy and/or our Local Law.

This policy does not cover -

1. fixed directional tourism signs or signs promoting public events;
2. signs and advertising devices on or in the vicinity of highways and main roads that come under the control of the Commissioner of Main Roads; or
3. signs, advertising or otherwise, that are covered under separate legislation (including election signage), local planning policies or the local planning scheme.

Definitions

General Definitions

Advertising Sign: A sign that is used for the purpose of advertisement or to draw attention to a product, business, person or event and includes a home open sign and garage sale sign. In the case of signs advertising a business or commercial venture they shall only display material which advertises the business or the products available from the business to which the sign relates.

Local Government: means the Shire of Esperance

Carriageway: A portion of a road that is improved, designed or ordinarily used for vehicular traffic and includes the shoulders, and areas, including embayment's, at the side or centre of the carriageway, used for the stopping or parking of vehicles; and, where a road has two or more of these portions divided by a median strip, the expression means each of those portions separately.

Event: An occurrence proposed to be held within the Local Government on private or public land, either indoor or outdoor by a person(s) / group / organisation, where people assemble at a given time for entertainment, recreation, cultural or community purposes. This includes but is not limited to -

1. concerts and music festivals;
2. motorsport events, motor vehicle rallies and displays;

3. sporting events;
4. cultural and community events;
5. shows and fairs; and,
6. exhibitions, wine and food festivals.

Footpath: An area that is open to the public that is designated for, or has as one of its main uses, as use by pedestrians and includes dual use or shared paths.

Local Law: The Shire of Esperance, Activities in Thoroughfares and Public Places and Trading Local Law 2016.

Median Strip: Any physical provision, other than lines, dividing a road to separate vehicular traffic proceeding in opposing directions or to separate two one-way carriageways for vehicular traffic proceeding in opposing directions.

Portable Sign: Includes 'A' frame or inverted 'T' signs, garage sale signs, home open signs, horizontal and vertical banner signs, and variable message signs (including trailer mounted).

Public Place: Any thoroughfare or place the public is allowed to use, whether or not the thoroughfare is on private property, and includes local government land/property but does not include premises on private property from which trading is lawfully conducted.

Sporting and Community Sign: A portable advertising sign erected by not-for-profit sporting, or community groups or services for the purpose of advertising a sporting or community event (e.g. cultural activities, sporting registration days, arts and craft fairs, market days or other events of public interest).

Thoroughfare: A road or other thoroughfare and includes structures or other things appurtenant to the thoroughfare that are within its limits, and nothing is prevented from being a thoroughfare only because it is not open at each end.

Traffic Controlled Intersection: An intersection that has traffic control lights, stop signs, or give way signs directing traffic.

Traffic Island: Any physical provision, other than lines, marks or other indications on a carriageway, made at or near an intersection to guide vehicular traffic.

Sign Types

'A' Frame of 'T' Frame: A self-supporting sign of rigid, lightweight material that is capable of being easily moved by hand, in 'A' or 'T' frame configuration.

Garage Sale: A sign made from cardboard/corflute, paper or other lightweight material that is used to direct persons to a garage sale at residential premises.

Home Open: A sign made from cardboard/corflute or other lightweight material used to direct persons to a home for sale that is open for inspection and includes display homes.

Horizontal Banner: A sign made of lightweight, non-rigid material such as cloth, canvas or similar attached by rope or similar material to poles or other vertical anchoring points.

Shire Project: A sign made from cardboard/corflute or other lightweight material used to promote constructions projects being undertaken by the Shire.

Verandah: an advertisement above, on or under a verandah, cantilever awning, cantilever verandah and balcony over a public thoroughfare and maybe either of -

1. be a verandah sign – verandah facia, where the verandah sign is fixed to the outer or facia of a verandah and shall not project beyond the outer frame or surround of the facia; or,
2. be a Verandah sign – under verandah, where the verandah sign is fixed at right angles to the front wall of the building to which it is to be affixed, except at the corner of a building at a thoroughfare intersection, where the sign maybe placed at an angle with the wall so as to be visible from both thoroughfares

Vertical Banner: A fabric or similar material sign with a single mast constructed of carbon- fibre or similar flexible material attached to a weighted base or otherwise anchored to the ground. These are typically marketed as 'teardrop', 'feather' or 'blade wing' signs.

Variable Message: An electronic sign that is capable of displaying a single message, or a series of messages

Practice

Strategic Context

This policy links to Growth – outcome 12. A prosperous and diverse economy within the Shire's Council Plan 2022-2032, and specifically the following outcome:

12.1 Attract and retain diverse industries and enterprises to grow the economy and local jobs.

Policy Statement

Portable advertising signs are not to be -

1. erected, placed or maintained on roundabouts, traffic islands, median strips, or within 10m of traffic controlled intersections at or around the following locations -
 - a. Norseman / Harbour Road / Coolgardie Esperance Highway;
 - b. Dempster & Andrew Street;
 - c. Andrew & Windich Street;
 - d. Dempster & William Street;

note: Harbour Road come under the control of Main Roads Western Australia (MRWA) and as such, the control and placement of signs at those locations requires MRWA approval. Where there are compliance issues regarding the placement of signs at those locations, the Shire and MRWA work closely together to resolve those issues; or

2. attached to existing signs, including other advertising signs, or on any road related infrastructure such as traffic sign supports, or on or between trees or other vegetation; or
3. electronically illuminated or have an electronic or animated display; or

4. placed on any footpath where the speed limit on the road abutting the footpath is 60 kilometres per hour or greater; or
5. mounted to a vehicle and/or trailer.

Portable advertising signs in public places shall -

1. have no moving parts once the sign is in place;
2. be placed on the property boundary and provide a minimum of 1.2 metres clearance from the abutting thoroughfare;
3. be weighted or anchored to retain their position in all weather conditions other than the circumstance in (d) below;
4. be removed by the owner during periods of severe weather warnings issued by the Bureau of Meteorology;
5. be manufactured from high quality materials (metal, plastic, wood or fabric) and have professional sign writing and/or graphics (including blackboards that are professionally presented);
6. be designed and supported in a manner that ensures there is no risk of injury to the public through sharp edges, projections, potential trip hazards or similar and
7. in the case of signs that advertise a business or other commercial venture, only be displayed when the business or other commercial venture to which it relates is attended by a representative of the business or commercial venture.

Signs requiring a permit

The Shire of Esperance *Activities in Thoroughfares and Public Places and Trading Local Law 2016* establishes the need for a permit to display certain types of portable advertising signs.

Subject to clause 2.2, permits are required for 'A' or 'T' frame signs, verandah, horizontal and vertical banner signs; and variable message signs that -

1. promote or advertise a business or any other commercial venture; and
2. promote or advertise a sporting event, community event, community group or community service.

A permit application fee will be charged for signs that advertise a business or commercial venture, but will not be charged for signs promoting charitable not-for-profit sporting or community events or services. To not be charged a fee, an organisation or individual is required to be a not-for-profit organisation (with an incorporation certificate) or a charitable organisation. The permit application fee is prescribed in Council's adopted Schedule of Fees and Charges.

The owner of a portable advertising sign advertising a business or commercial venture will be required to provide evidence of current broad form public liability insurance to the minimum value of \$10,000,000

Portable advertising signs for which a permit is required and has been issued will be required to indelibly display, the current permit number at the top right hand corner on one external face of the sign. Permits will be issued annually, unless the sign is only required for a short duration, or unless this policy requires otherwise; after which the permit holder will be required to apply for a permit renewal.

'A' or 'T' frame signs shall -

1. be limited to a maximum of one sign per business premises and placed directly in front of, or as near as is practically possible to the business to which it relates;
2. be placed with a set back from the carriageway of no less than 0.5m, and placed to maintain a clear thoroughfare (footpath) width of no less than 1.8m; and
3. have a maximum vertical or horizontal dimension of 1.2m and have an area allocated for advertising of no more than 0.9m² on either side.

Horizontal banner signs -

1. will only be approved when promoting or advertising sporting or community events or services;
2. shall have a maximum height of 1.5m;
3. shall have a maximum width of 2.5m; and
4. may be displayed for a maximum period of 14 days before an event and removed by the owner no later than one day after the event.

Vertical banner signs shall -

1. be a fabric sign with a single mast;
2. have a maximum flag size of 2.8m by 1.0m with a maximum height, including the stand, of 3.5m (when placed on an open verge);
3. have a maximum flag size of 2.0m by 1m with a maximum height, including the stand, of 2.5m (when placed on a footpath);
4. be no more than 60cm wide below 2m high; and
5. have no more than one vertical banner per 4m of street frontage (with a maximum of four banners per business) and excludes the use of an 'A' or 'T' frame sign (where more than one vertical banner is displayed, each banner shall display a different product or message).

Verandah sign shall -

1. where illuminated have any boxing or casing in which it is enclosed constructed of non-combustible material;
2. not have a light of such intensity of colour as to cause annoyance to the general public or to owners and patrons of adjacent land
3. not comprise flashing or intermittent or running lights;
4. have a minimum clearance of 2.75m from finished ground level

The Shire will not approve the use of variable message signs in a public place for the purpose of advertising a business or commercial venture.

Owners of approved business or commercial ventures that have no fixed business location may apply to use up to two portable advertising signs ('A' or 'T' frame, or other lightweight signs but not including banner or variable message signs) to advertise the location from which the business is currently being undertaken. The first sign to be at the approved trading location, the second is to be located within 500 metres driving distance of that location and shall otherwise comply with the requirements of this policy and the Local Law.

Signs not requiring a permit

Permits are not required for garage sale signs or home open signs. The owner of the signs is responsible for their placement and removal in accordance with this policy and the Local Law. Removal of the signs includes all materials from which the sign is constructed, and all materials used to secure the signs in place.

Garage sale signs are to include the address details, street number and street name, of the premises in which the garage sale is being held.

Restrictions -

1. no more than six separate signs shall be used to advertise or promote the same garage sale, or home open;
2. signs are not to be displayed more than one kilometre from the garage sale or home open, (two kilometres in rural and rural residential areas), within 250m of any other sign advertising or promoting the same garage sale or home open, or within 50m of any other portable advertising sign; and
3. signs should not delineate any more than two alternative routes to the garage sale, or home open.

Garage sale signs, and home open signs shall -

1. be free standing and not affixed to any sign, post, power or streetlight pole, or similar structure (including trees and other vegetation);
2. not exceed 500mm in height or 0.5m² in area;
3. not obstruct the vision of a driver of a vehicle entering or leaving a street or other public place; and
4. not interfere with the safe and convenient passage of pedestrians.

Government, Public Authority or Local Government Signage

Despite any other provision of this policy a government, public authority or local government in the carrying out of their respective duties are exempt for the requirement to gain a permit,

Refusal of applications

Applications that do not comply with the requirements of the Local Law and this Policy will be refused by the Shire.

Removal of unauthorised signs

Portable advertising signs placed contrary to this policy and/or the Local Law may be impounded by the Shire.

Impounded signs may be claimed by the owner following payment of an impound fee as prescribed in Council's Schedule of Fees and Charges. In addition to the impound fee, owners of impounded signs may also receive a written caution and/or an infringement.

.....End.....

Document Information

Responsible Position	Manager Waste and Environmental Health
Risk Rating	Medium

Referencing Documents

- *Local Government Act 1995*
- *Activities in Thoroughfares and Public Places and Trading Local Law 2016*

Revision History

Date	Version	CM Reference	Reason for Change	Resolution #	Next Review
Jan 2018	1		New policy	O0118-013	Jan 2020
Apr 2018	2	D18/374	New Policy Res O0118-013, amend point 1 under 'size, structure and stability of signs' section.	O0418-075	April 2020
Dec 2021	3	D18/374[v2]	Rewrite of policy	O1221-225	Dec 2023



POL 0063: Trading in Public Places and Local Government Property

COUNCIL POLICY

Purpose

The Shire of Esperance is committed to promoting small business initiatives in a sustainable and fair manner.

The purpose of this policy is -

1. To provide direction to Shire staff in the processing of applications for trading in public places in accordance with the Shire of Esperance's *Activities in Thoroughfares and Public Places and Trading Local Law 2016*; and,
2. To provide a clear set of conditions for operators to trade under.

Scope

This policy applies to all public land within the Shire of Esperance as well as private land used for public purposes, and all businesses and individuals seeking to use public land to operate a business or for financial gain.

Definitions

Approved Fixed Locations: means locations from which vendors can trade with Shire approval.

Approved Event: means an event that has been approved under the Shire of Esperance event approval process.

Community Service Organisation: means an organisation which can demonstrate that its objectives are charitable, benevolent, religious, cultural, educational, recreational or sporting.

Food Stall: means a stall from which any perishable or high risk foods, other than fruit or vegetables, is sold or offered for sale, unless approved by the Shire of Esperance

Food Van: means a form of Street Trader being any vehicle, caravan, trailer or other similar mobile structure selling or offering for sale any food and or drink (excluding alcoholic beverages).

Itinerant Food Vendor: means a form of Street Trader who sells food from a vehicle parked temporarily on the road to customers who stop them or come to them while they are so parked.

High Risk Foods: means all prepared or cooked food which consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, crustaceans, molluscs, gravy, cooked rice and pasta or ingredients capable of supporting the growth of infectious or toxigenic micro-organisms.

Local Government Property: means anything except a thoroughfare -

1. Which belongs to the local government;

2. Of which the local government is the management body under the *Land Administration Act 1997*; or
3. Which is an 'otherwise unvested facility' within section 3.53 of the *Local Government Act 1995*.

Public Place: Includes any thoroughfare or place which the public are allowed to use, whether or not the thoroughfare or place is on private property, but does not include -

1. premises on private property from which trading is lawfully conducted under a written law; and
2. local government property;

Stall: means a movable or temporarily fixed structure, stand or table in, on or from which goods or services are sold, hired or offered for sale or hire.

Stallholder: means a person in charge of a stall.

Street Trader: means a person who sells food, goods and/or services from a vehicle parked temporarily on the road/public place while they are parked.

Trader's Permit: means a permit issued to a Street Trader or stall holder.

Trading in Public Places: refers to long-term or periodic occupation of Shire controlled land for the purposes of either selling or displaying goods or providing services to customers.

Practice

The Shire supports Street Traders operating on a regulated basis to ensure equity and fairness to all business proprietors.

The Shire's *Activities in Thoroughfares and Public Places and Trading Local Law 2016* provides regulation for the management of public property and the activities that may be conducted on public property that is owned or managed by the Shire, including Shire halls, carparks, parks and reserves.

This also applies to private property, if being used for public purposes such as fetes and markets.

Assessment of an application considers the proposed location and impact the activity may have on established businesses close by, other traders, traffic flow and the amenities at the desired location.

The Shire reserves the right to refuse any application for any reason.

Trading – General Requirement applicable to all Street Traders

1. All Stallholders and Street Traders (Traders) must ensure that the trading location is kept clean and tidy at all times. Traders are responsible for the disposal of all litter associated with the provision of the goods or services and the cleaning of the permit location.

2. Traders shall depart from a trading location upon the direction of any person or body authorised to carry out any works in the street, thoroughfare, local government property or public place in which the Trader is situated.
3. Traders shall not have any claim for compensation or damages as a result of any disruption to business or loss incurred due to an event, market, parade, thoroughfare works or any other contingency.
4. The Shire is under no obligation to relocate the Trader or Stallholder, however, an alternate location may be offered if an appropriate location is available.
5. Trading shall only take place in a suitable area with landowner permission where it does not cause a safety or nuisance concern, or in a car parking area/space where it complies with local parking restrictions unless otherwise approved.
6. To ensure public safety, trading must be conducted in areas that are serviced by adequate lighting.
7. Advertising signs are restricted to the vehicle/stall from which the business is conducted unless otherwise approved.
8. If trading is selling food, the trading is not to occur within 300m (unless it occurs on Reserve 27318 or adjacent area) of a permanent food business during its normal hours of operation.
9. To apply for permission to operate a mobile trading vehicle within the Shire, the following documentation will be required -
 - a. A copy of current public liability insurance;
 - b. A complete application for a Trader's Permit including proposed payment details; and
 - c. If food is sold, a current copy of your *Food Act 2008* Certificate of Registration (noting the vehicles internal fit out must comply with the requirements of the Food Regulations 2009, applicable ASNZ Food Standards Codes and the Shire of Esperance Health Local Law 2009 (as amended)) is required.
10. Fees will be applied as per Council's Fees and Charges Schedule
11. Where power, water or other services are supplied by the Shire to a Trader, the Trader is responsible for all costs accrued relating to usage and supply.

Trading – Approved Events and Markets

Subject to approval from event holders -

1. If a business, that is registered as a food business outside of the Shire of Esperance and is a stall holder at an event or market, a Temporary Food Permit is required in order to trade.
2. If your business is located outside of the Shire of Esperance an Application for a Temporary Food Stall Approval will be required (unless proof of appropriate registration in another local government area is provided).

Trading Approved Fixed Locations

1. The Shire of Esperance has identified Approved Fixed Trading locations and Reserve 27318 and adjoining areas where trading may be permitted only by the approved Street Traders in accordance with their permit.

2. A Street Trader operating within an Approved Fixed Location as identified in Annexure A may be issued for a maximum fixed term of 3 years.
3. A maximum of two (2) Street Traders are allowed at any one Approved Fixed Location at the same time.
4. A fixed trading location becomes available for reallocation if the Street Trader ceases trading for a period of six (6) months or advises that they wish to cease trading.
5. The Shire of Esperance will call for applications from Street Traders to operate at an Approved Fixed Location prior to the expiry of a Trader's Permit or when an Approved Trading Location becomes available.
6. Annual trading site hire fees will be set each year by Council through the budget process and fees may differ depending on the location/desirability of the site (as shown in Annexure A). The desirability rating is based on the proximity, attractiveness of the locality and/or potential for passing trade.
7. Trader's Permits for these sites are determined at the discretion of the Shire, on their individual merit and against the following criteria -
 - a. How the business will benefit the community (i.e. authenticity, unique culinary experience and celebrating local produce);
 - b. Experience of the Street Trader (e.g. food van or restaurant that is currently operating);
 - c. Already in possession of a well-designed and well-maintained vehicle that is aesthetically pleasing and complies with the Shire's environmental health requirements;
 - d. Vehicle size or layout, utility requirements, public access, circulation, safety or other street or public place activities;
 - e. Historic use of a specific location by the Street Trader and existing patronage by the community;
 - f. Risk management plans provided by the Street Trader.
 - g. Knowledge of food safety principles;
 - h. Litter management plan.

Trading – Itinerant Varied Locations

Itinerant Traders, such as ice-cream vans or the like that stop for customers on public property when hailed, are permitted to trade outside of Approved Fixed Locations under the following conditions -

1. Hold a valid Trader's Permit;
2. Hold a current *Food Act 2008* Certificate of Registration from a Western Australian Local Government;
3. Comply with the overall provisions and intent of this Policy;
4. Serve only approved foods;
5. Only trade between the hours of 9am to 5pm, Monday to Sunday;
6. Must not trade within -
 - a. 100 metres of a permanent food business of the same food type; or
 - b. 300 metres of a school between the hours of 8.00am and 9.00am and 3.00pm and 4.00pm during school days

7. Only remain at a particular location for as long as there is a customer making a purchase. If there is no customer making a purchase, the permit holder must move on from that location within a reasonable time of the last purchase having been made; and
8. Music, or any other forms of noise to attract customers, is not permitted to be played whilst the van is parked.

Trading – Special Permit

Street Traders may apply for a special permit to trade under the following conditions -

1. Reserve 2815 is designated for Community Service Organisations trading food only operating between the months of December to February and other peak holiday periods i.e. Easter one night per week.
2. A permit may be issued to allow a Community Service Organisation to trade outside of the designated trading zones if selling low risk food on an infrequent basis.

Please note the Shire is not obliged to issue any special permits and reserves the right to apply additional conditions of operation.

Stallholder

1. Approval for stalls, other than stalls which are part of an approved market or extend the service area of an existing business onto the adjacent footpath, will be restricted to Community Service Organisations.
2. A stallholder proposing to operate a food stall, which will offer for sale to the public high risk foods (e.g. sausage sizzles) is required to submit an application for approval (unless proof of appropriate registration is provided) to the Shire's Environmental Health team
3. All food products that are not for immediate consumption must be labelled in accordance with the relevant food regulations

Market Operators

1. Operators of markets on public land are required to hold a market operator's permit under the provisions of *the Activities in Thoroughfares and Public Places and Trading Local Law*. Please note, Development Approval may be required for a Market on private land.
2. Individual stalls, other than stalls selling food, are covered by the market operator's permit - individual licencing fees will not be charged.
3. Stallholders proposing to operate a food stall, which will offer for sale to the public high risk foods (e.g. sausage sizzles) are required to be registered/hold registration under the provisions of the *Food Act 2008*.
4. All food products that are not for immediate consumption must be labelled in accordance with the relevant health regulations.

Legislative and Strategic Context

Both the *Food Act 2008* and the Shire's *Activities on Thoroughfares and Public Places and Trading Local Law 2016* require Street Traders to obtain a permit for trading and selling food.

This policy aims to provide direction and guidance for Shire officers assessing applications and to ensure equity for all commercial outlets.

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Annexure A

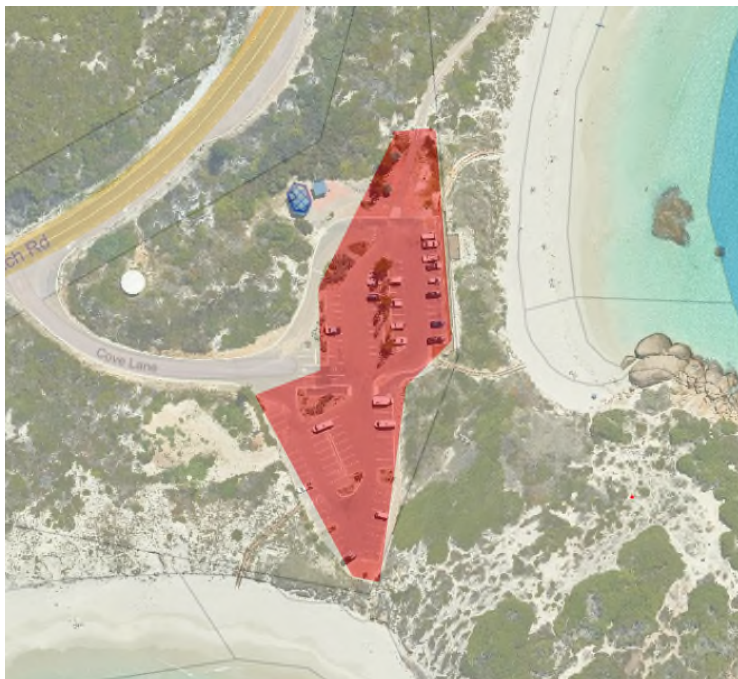
Goldfields Road – Adjacent to Seafront Caravan Park



Portion of Reserve 36993 & 36994



Twilight Beach Carpark (Reserve 50765)



Reserve 3287



Reserve 2815



Use of Reserve 2815 is subject to conditions as specified in section E – Trading – Special Permit.

Adjoining areas to Reserve 27318













.....End.....

Document Information

Responsible Position	Manager Development Services
Risk Rating	Medium

Referencing Documents

- *Local Government Act 1995*
- *Food Act 2008*
- *Food Regulations 2009*
- *Australia New Zealand Food Standards Code*
- *Activities on Thoroughfares and Public Places and Trading Local Law 2016*
- *Local Government Property Local Law 2009 (as amended)*
- *Environmental Protection (Noise) Regulations 1997*
- *Environmental Protection (Unauthorised Discharge) Regulations 2004*
- *National Competition Policy*: Noting Australia's National Reform Agenda is the successor program to the National Competition Policy. Clause 7 of the Competition Principles Agreement extended elements of the National Competition Policy reform agenda to local government.

Revision History

Date	Version	CM Reference	Reason for Change	Resolution #	Next Review
April 2018 Oct 2020	1	D18/376	New policy No change, Council resolved to undertake 30 day advertising period.	O0418-074 O1020-317	April 2020 Oct 2022
Dec 2020	2	D18/376[v2]	Minor wording changes throughout, removal of Jetty Headland and Twilight permit areas. Inclusion of applications not complying with Policy being put to Council for consideration.	O1220-399	Dec 2022
April 2021	3	D18/376[v3]	Include two additional locations where a food van may trade, those being Reserve 2815 (grassed area adjacent to Museum Village) and Reserve 50765 (Twilight Beach).	O0421-105	April 2023
Dec 2021	4	D18/376[v4]	Include Stall Holder in definition for Trader's Permit, minor wording update to point 1 in Part F.	O1221-225	Dec 2023
Mar 2023	5	D18/376[v5]	Allow a trader to only occupy a car parking space where it complies with local parking restrictions unless otherwise approved. Exclude the 300m separation within Reserve 27318 (the foreshore). Approved fixed locations has	O0323-048	Dec 2025

been amended to include
Reserve 27318.

DRAFT



POL 0064: Shark Hazard Response

COUNCIL POLICY

Purpose

The purpose of this policy is to –

1. Provide direction for responding to shark interactions and shark sightings, as well as the broader approach to water safety warnings and information provided to the public.
2. Guide the administration of the Shire of Esperance Property Local Law 2009, under which a sign may be erected to regulate, prohibit or restrict specific activities on the beach or in the water and the giving of directions to swimmers to leave the water if a shark is suspected of being in the vicinity of the beach.

Scope

This policy applies to beach areas under the care, control or management of the Shire of Esperance.

Definitions

Authorised Person: means the Chief Executive Officer or a person or class of persons appointed under section 9.10 of the *Local Government Act 1995* for the purpose of administering the Shire of Esperance Property Local Law 2009

DPIRD: mean Department of Primary Industries and Regional Development

DBCA: means Department of Biodiversity, Conservation and Attractions – Parks and Wildlife Service

Patrolled Beach: means a beach that has a SLSWA beach safety and surveillance service in operation.

Shark Interaction: means an incident where a shark bumps, nudges, chases or attacks or person

SLSWA: means Surf Life Saving Western Australia

Unverified Shark Sighting: means a shark sighting reported to the Shire from Water Police WA and forwarded to the Shire from the Water Police WA.

Verified Shark Sighting: means a shark sighting reported to the Shire from WA Government Shark Monitoring Network, that is tagged shark detected through the shark monitoring network

In determining the level of shark response, the following Beach Categories and summary response protocols have been established.

Beach Categories

Category 1: Patrolled by SLSWA, Beach Life Guards (during vacation swimming lessons) or VacSwim educators

Response: Evacuate / close beach – re-open 1 hour post last sighting. Warning sign in place for 24 hours.

Category 2: Not patrolled, easy road access, regularly populated, car parking and amenities provided.

Response: Notify beach goers as soon as practicable. Post signage indicating recent shark sighting / activity. If frequency > 4 times/annum, consider permanently beach signage. Remove signage 2 hours post last sighting. Warning sign in place for 24 hours.

Category 3: Not patrolled. Access available but not regularly occupied by crowds, no amenities.

Response: As soon as practicable, post signage indicating recent shark sighting/activity. If frequency > 4 times/annum, consider permanently sign beach.

Category 4: Not patrolled. Remote, limited access, no amenities, not thought to have crowds of 10 persons or more.

Response: If practicable, post signage indicating recent shark sighting/activity. If frequency > 4 times/annum, consider permanently sign beach.

Practice

The Chief Executive Officer will prepare a more detailed internal procedures/protocol to supplement this policy and to guide operational staff in the exercise of their functions. The Chief Executive Officer will consult with Councillors as appropriate in the development of those procedures/protocol.

The policy acknowledges the length of the Esperance coastline. Beaches have been categorized using factors such as SLSWA patrols, vacation swimming, access and use. Response to shark sightings at the different categories are reflective of these factors.

This policy recognises that at a beach patrolled by SLSWA, the on duty life saver will be responsible for implementing shark sighting response in accordance with the SLSWA standard operating procedures. In addition Rangers will respond advising beach users and the shark sighting and place signs (warning or beach closed) 1kilometre either side of the sighting.

The Shire will be responsible for activation of Shark Warning Towers (Spectur) at Kelp Beds, West and Twilight Beaches where an unverified shark sighting has been reported. (Note: Verified (detected) shark triggers an automatic activation of the Shark Warning Tower at the relevant beaches).

Surfcomm will be notified by Rangers when Shark Warning Tower is activated on SLSWA patrolled beaches when they are patrolled.

The Shire will engage with SLSWA with the aim of updating coastal risk and safety signage.

Shark sighting reports received by the Shire through the Shark Monitoring Network generally provide details about the location of the shark, species, size and in some instances direction of travel, which are essential for making decisions about swimmer

safety. The Shark Monitoring Network service available will inform the Shire's response to a shark sighting.

Shark sighting reports received by the Shire from the WA Water Police will be assessed acknowledging the source of the information i.e. a public report.

In the event of a shark attack fatality, WA Police are the lead agency. The Shire will provide assistance with the management of the shark attack and implement beach safety measures as considered necessary and under the direction of the WA Police.

Where a direction is given to swimmers to leave the water following a shark attack, the decision to re-opening a beach for swimming shall occur after consultation with lead agencies.

Policy recognizes the need for improving community awareness and education about the shared responsibility of risk. The Shire will actively promote -

1. Report Shark Sightings to Water Police on 9442 8600;
2. WA Governments Shark Smart website; and,
3. Other communication mechanisms to inform the community of recent reports of shark activity/management.

Policy Content

At a Patrolled Beach, when the beach is patrolled, an SLSWA life guard is the authorised person for responding to a shark sighting and for implementing the SLSWA response procedure which may include sounding alarms* to alert swimmers, clearing the water of swimmers and monitoring shark presence.

* Note – this alarm is separate to the Shark Warning Tower (Spectur) system managed by Shire Rangers.

All shark sightings are to be reported to Water Police on 9442 8600.

1. Due to the minimal risk associated, if the shark sighted is less than 2 metres in total length, the Shire will monitor but maintain normal operations and not take any action.

The Shire may also mobilise as outlined below in the event of an Unverified Shark Sighting to minimize risk to the community.

2. The Shire will be responsible for activation of Shark Warning Towers (Spectur) at Kelp Beds, West Beach and Twilight Beach
3. If the shark sighted is greater than 2 metres in total length and less than 500 meters from the shore, temporary signage is to be placed on the beach immediately adjacent to the shark sighting location, at intervals of approximately 500 metres and/or on key beach entry points, for a distance of approximately 1000 meters from a point on the beach immediately adjacent to the shark sighting location.
4. Warning Signage installed on a beach or access points to a beach will remain in place for at least 24 hours from the time of the last notification after the last

shark sighting. Beach Closed signage, when installed, will remain in place for a minimum of 1 hour post last sighting for Category 1 Beach or a minimum of 2 hour post last sighting for Category 2 Beach.

Shark Interaction at Shire Managed / Controlled Beaches) -

1. Where there is a shark interaction i.e. bump/nudge/chase, the beach may be closed by Authorised Persons.
2. Where a shark attack fatality occurs, the beach will be closed by Shire Authorised Person(s) under the direction of the Incident Controller. The beach will re-open 48 hours post incident.
3. Incident Controller, managing the incident, will provide direction to Shire response activity, (i.e. beach closure, manned or unmanned) until responsibility of land management is returned to the Shire.
4. The Shire will consult with relevant agencies in the consideration of activities that may include the re-opening of beaches after an incident has occurred.
5. Shark Warning Tower activated (Mode 2 – Evacuation) by Shire authorised persons.
6. In the event that the Twilight Beach Shark Warning Tower is activated an authorised person will notify SurfCom on 137873.
7. Beach closed signs will be erected at critical locations car park / beach entry points as soon as practicable to notify beach goers of the potential danger and beach closure.
8. An Authorised Person or support agencies will also patrol the relevant beach area one kilometre each side of the attack to notify beach goers of the potential danger.
9. Where it is identified that the public is in clear immediate danger from shark threat, an Authorised Person will endeavour to notify the public via the use of a vehicle horn, air siren or whistle, where available and practical.
10. Where a shark interaction occurs, the Shire may consider installing permanent static signs to notify the public of the potential risk.
11. Permanent signage may contain relevant information provided by DPIRD and Surf Life Saving WA outlining safer water use practices / considerations.
12. If a shark interaction occurs between Bandy Creek Boat Harbour and Cape Le Grand National Park an authorised person will notify DBCA on 9083 2100.

Community awareness of shark hazard will be promoted by -

1. Providing information on the Shire website about how to access recent reports of shark activity from the WA Government information and encourage swimmers to SLSWA patrolled beaches.
2. Installing permanent signage at key beach car parks to inform and promote to beach users, how to access the most recent information on local shark activity.
3. Temporary signage installed in accordance with this policy shall be used to inform beach users and swimmers that a shark has been sighted in the vicinity and provide information on how to access the latest shark sighting report information from the WA Government information and communication platforms.

Prioritisation of response activities

Shire Rangers / Authorised Persons will respond to shark sightings as a matter of priority, except where currently engaged in or mobilised to respond to the following -

1. Fire / emergency;
2. Dog attack on person; or
3. Stock on road.

Where priority activities divert Shire resources from dealing with immediate shark matters, secondary support resources will be activated as soon as possible to assist from the following -

1. Other on-duty Shire Ranger / other Authorised Persons;
2. WA Police and other Emergency Service agencies (where relevant);
3. Other Shire Services as required.

Record Management

Responding Authorised Persons are required to collate and archive records containing the following -

1. Date, location, type, size and time of shark sighting / attack and summary of activities undertaken in each instance.

The Rangers will also collate and maintain a record of -

1. Number of shark related activations within each financial year;
2. Number of shark related closures within each financial year;
3. Number of shark attacks in each financial year.

.....End.....

Document Information

Responsible Position	Manager Ranger and Emergency Services
Risk Rating	High

Referencing Documents

- *Local Government Act 1995*
- Shire of Esperance Property Local Law 2009

Revision History

Date	Version	CM Reference	Reason for Change	Resolution #	Next Review
Jun 2020	1	D20/15285	New policy	O02620-184	Jun 2022
Dec 2021	2	D20/15285[v2]	Remove attacks and replace with interactions in 1.1 under Purpose. Include definition of interaction. Updates to wording throughout.	O1221-225	Dec 2023



POL 0067: Body Worn Camera

COUNCIL POLICY

Purpose

The objective of this policy is to formalise the use of by Body Worn Cameras (BWC) and manage the records generated.

The use of a Body Worn Camera provides a method to document law enforcement activity through audio and visual recording of incidents as they are occurring. The purpose of using BWC's is to reduce aggression and complaints against compliance and regulatory officers, increase their safety and provide collaborating evidence for prosecutions.

Scope

Body Worn Cameras will be worn routinely by Rangers and compliance officers completing investigations, inspections or assessments.

Definitions

Body Worn Camera - A wearable camera providing high definition and high quality audio that is used to record interactions between local government officers and community members

Practice

Use of Body Worn Cameras by officers to assist in the administration of their duties and dealings with the public is to be authorised by the Chief Executive Officer.

Visual and sound records captured by Body Worn Cameras will be stored, accessed and disposed of in accordance with the Shire's *Records Management Policy* COR 009, *Freedom of Information Act 1992*, *State Records Act 2000*, *Surveillance Devices Act 1998* and the *Evidence Act 1906*.

Authorised staff who use Body Worn Camera devices are to follow Shire procedures, to ensure the appropriate and proper use of BWC devices in performance of their duties and their dealing with the public, where the recordings are consistent with this policy and law.

BWC devices will be stored in a secure location when not in use. Loss or theft of any BWC is to be immediately reported.

BWC devices will only be used by on-duty officers wearing a Shire uniform or displaying formal identification.

BWC devices will be used in an overt manner, attached in a prominent location on the officer's body, uniform or clothing in a manner that maximises the cameras ability to capture video footage.

Where reasonably practicable, officers will identify themselves to any person (or group of persons) likely to be captured in the field of view and give notice that the BWC is switched on and actively recording. Notice is not required in the event that there is a

real or perceived danger to the officer or another person which precludes the giving of notice. A written record is to be created to justify that decision.

Recordings (data) must not be deleted from the BWC by an officer in the field. All BWC recordings captured must be retained for assessment and classification.

.....End.....

Document Information

Responsible Position	Manager Waste & Environmental Health
Risk Rating	Medium

Referencing Documents

- *Local Government Act 1995*
- *Freedom of Information Act 1992,*
- *State Records Act 2000,*
- *Surveillance Devices Act 1998*
- *Evidence Act 1906*

Revision History

Date	Version	CM Reference	Reason for Change	Resolution #	Next Review
Feb 2023	1	D23/3062	New policy	O0223-028	Feb 2025



POL 0068: Sporting Association Ground Fees

COUNCIL POLICY

Purpose

This policy provides the methodology for utilising the Sporting Association Ground Fees “Charge per Unit” as specified within the Annual Shire of Esperance *Schedule of Fees and Charges*.

Scope

This policy applies to seasonal users of Shire of Esperance sporting grounds.

Definitions

N/A

Practice

Council will set a ‘unit’ charge for the seasonal use of Shire of Esperance sporting fields. Seasonal sporting association fees will be calculated based on the following formula:

Number of Grounds x Field Size x Length of Season x Impact x Junior Discount = No. of units.

The number of units is then multiplied by the “charge per unit” to determine the total owing by each seasonal user.

Notes:

Field size is determined per 5000m² (approximately). All football/cricket ovals are rated as being 20,000m².

Season Length is measured either as ½ year or full year.

Impact of each sport on the grounds is measured as either high or low.

The Junior Discount (at a rate of 75%) is only applied in instances where there is no senior competition with regards to that particular sport.

Allowance is for 1 day of competition or club day per sport per field. No charge for training however competition/club days have priority. Additional days attract an additional charge, although discretion is available where a full day’s activity is split across two days without impacting on other sports and/or resulting in a lower impact on the sporting grounds.

Sports will not have their fee increase by more than \$300 or 10% (whichever is greater) in a single year (unless they add an additional ground or day to their previous booking).

.....End.....

Document Information

Responsible Position	Director External Services
Risk Rating	Low

Referencing Documents

- *Local Government Act 1995*

Revision History

Date	Version	CM Reference	Reason for Change	Resolution #	Next Review
Jul 2017	1	D17/20732 (rev 03)	New policy	O0717-169	Jul 2019
Apr 2018	2	D17/20732 (rev 05)	Biennial review, no change.	O0418-075	Apr 2020
Mar 2020	3		No change, laid on table for further discussion.	O0320-073	Mar 2022
Jun 2020	4	D17/20732[v2]	Policy moved to Executive Services area reflecting the reporting line under the organisational structure.	O0620-183	Jun 2022
Jan 2022	5	D17/20732[v3]	No change to wording – move to Corporate & Community Services.	O0122-012	Jan 2024



Shire of Esperance

CEMETERIES LOCAL LAW 2024⁴³

Cemeteries Act 1986

Shire of Esperance
CEMETERIES LOCAL LAW 2023

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Local Government Act 1995

Cemeteries Act 1986

Shire of Esperance

CEMETERIES LOCAL LAW 2023

Under the powers conferred on it by the *Cemeteries Act 1986* and the *Local Government Act 1995* and under all other enabling powers, the Council of the Shire of Esperance resolved on ~~27th June~~ 27 February 2024 to make the following local law.

PART 1 PRELIMINARY

1.1 Short title

This local law may be cited as the Shire of Esperance *Cemeteries Local Law 2024*

1.2 Commencement

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

1.3 Application

This local law applies throughout the district.

1.4 Repeal

The Shire of Esperance *Cemeteries Local Law 2002-2023* published in the *Government Gazette* on ~~13 December 2002~~ 11 July 2023 is repealed.

1.5 Definitions

(1) In this local law—

Act means the *Cemeteries Act 1986*;

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

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

Board means the Shire of Esperance;

cemetery means any cemetery which the Governor by order has vested under the care, control and management of the Board.

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

Commissioner of Police means a Commissioner of Police for the time being appointed under the Police Act 1892 and includes a person for the time being acting in that capacity in the absence of the Commissioner of Police.

Defence Force means Australian Defence Force as defined in the Defence Force Act 1903 (Cth).

funeral means the burial or cremation of a dead body;

Funeral Director means a person holding a current funeral director's licence;

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

holder in relation to a grant of right of burial includes a person for the time being appearing to the Board to be the holder of the grant;

monumental mason means a person holding a current monumental mason's licence;

monumental mason's licence means a licence issued by the Board;

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

military grave means a grave eligible for commemoration by the Office of Australian War Graves;

niche wall means a structure for the placement of a container of ashes in a compartment secured with a covering memorial plaque;

right of burial means the right to use a specified area of a cemetery for burial;

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

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

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

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

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

PART 2 ADMINISTRATION

DIVISION 1 GENERAL

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 the cemetery.

DIVISION 2 – RIGHT OF BURIAL

2.2 Issuing Grants

The Board may, upon the written application of a person and upon payment of a set fee issue that person with a grant for a term of twenty five (25) years.

2.3 Right of holder

- (1) Subject to this local law, to the prior approval of the Board and to the terms and conditions (if any) imposed by the Board, a grant confers on the holder, during the term of the grant, an exclusive right –
 - (a) to be buried in a grave specified in the grant; and
 - (b) to carry out monumental works on the gravesite specified in the grant.
- (2) The Board, in its absolute discretion, may determine from time to time the number of dead bodies or ashes which may be placed in the grave.
- (3) The Board or an authorised officer may request the holder to produce the grant before the exercise of any of the rights referred to in subclause (1) and the holder shall forthwith comply with that request.

- (4) If the location stipulated in the grant of right of burial is significantly and adversely affected prior to or at the time of burial by unforeseen conditions the Board may allocate any other gravesite of the grantee's choosing that is not already subject to a grant.

2.4 Renewal of Grant

- (1) Where, at any time during the term of a grant, a holder –
 - (a) makes written application; and
 - (b) pays a set fee;
- (2) the Board must renew the grant for a further term of twenty five (25) years commencing on the expiry date of the grant.
- (3) The set fee for the issue of a new grant pursuant to this clause shall be determined by the Board from time to time.
- (4) The Board may request the holder to deliver an existing grant to it prior to issuing a new grant.
- (5) The holder shall forthwith upon receiving a request by the Board in accordance with sub-rule (3) deliver the existing grant to the Board.

2.5 Replacement of Grant

- (1) The Board may –
 - (a) upon the written application of a holder; and
 - (b) upon the production of evidence to the satisfaction of the Board, issue a new grant to replace a grant which is lost or destroyed.
- (2) Notwithstanding subclause (1), the Board may prior to issuing a replacement grant, require the holder to make a statutory declaration in a form determined by the Board.
- (3) The replacement grant issued by the Board shall be deemed to be the original grant.

2.6 Transfer of Grant

A holder who desires to transfer a grant to another person shall make an application to the Board in a form determined by the board and upon receipt of the application the Board may grant permission in accordance with section 26 of the Act.

2.7 Exercising the rights of holder

If evidence is produced in writing to the satisfaction of the Board that a holder is unavailable or not immediately ascertainable, or has died and has not specifically bequeathed a grant, then the rights conferred upon that holder may be exercised by a holder's personal representative or a person acting expressly on behalf of a personal representative. If those persons are unavailable or not immediately ascertainable, the Board may approve any other person.

PART 3 APPLICATION FOR FUNERALS

3.1 Application for burial

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

3.2 Applications to be accompanied by certificates

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

3.3 Certificate of identification

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

- (a) in the opinion of 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,

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

3.4 Minimum notice required

All bookings to hold a funeral shall be made with the Board at least twenty four (24) hours prior to the time proposed for burial on the application, otherwise an extra charge may be made.

3.5 Fixing times for Funeral

The time fixed for a funeral is at the discretion of the Board.

3.6 Receipt of application for Funeral

Where an application is received by the Board in accordance with clause 3.1 or 3.2, then subject to any other provision of this local law, the Board shall –

- (a) fix a time for a funeral; and
- (b) prepare a grave.

3.7 Times for burials

A person shall not carry out a burial –

- (a) on a gazetted public holiday in the State of Western Australia; or
- (b) outside of the hours of 10:00am – 3:00pm on a weekday; or
- (c) except with the written permission of the Board.

PART 4 FUNERAL DIRECTORS

4.1 Directing a Funeral

A person shall not direct a funeral within a cemetery or otherwise make use of the cemeteries for any purpose connected with directing the funeral unless that person is–

- (a) the funeral director;
- (b) an employee of the funeral director; or
- (c) a holder of a single funeral permit.

4.2 Funeral Director's licence

- (1) The Board may upon the receipt of an application in writing by a fit person in a form determined by the Board and upon payment of a set fee, issue to an applicant a funeral director's licence authorising a holder to direct funerals within a cemetery at such times and on such days and subject to such conditions as the Board shall specify and in compliance with the provisions of this Local law.
- (2) If the application referred to in subclause (1) is approved by the Board, the Board shall issue to the applicant a licence in a form determined by the Board.

- (3) A person who is the holder of a current funeral director's licence may apply for a new licence for the following year by lodging with the Board an application form and payment of the set fee.

4.3 Funeral Director's licence expiry

A funeral director's licence –

- (a) shall expire on the 30th day of June in each year or when a licence is cancelled pursuant to clause 4.5, whichever shall occur sooner; and
- (b) is not transferable.

4.4 Responsibilities of holder of Funeral Director's licence

A holder of a funeral director's licence shall be responsible for the compliance by every person purporting to be authorised to direct a funeral within a cemetery pursuant to that licence with –

- (a) all the requirements of –
 - (i) the licence,
 - (ii) this Local law; and
 - (iii) the Act; and
- (b) the conditions imposed by the Board in respect of that licence.

4.5 Cancellation of Funeral Director's licence

- (1) The Board may, by notice in writing to a holder of a funeral director's licence, cancel a licence if –
- (a) the holder of the licence or any employee of the holder has committed a breach of this Local law, the Act or any of the conditions upon which the licence was issued;
 - (b) in the opinion of the Board, the conduct of the holder of the funeral director's licence or any employee of the holder in directing or attempting to direct a funeral within a cemetery is inappropriate or unbecoming;
 - (c) the holder of the funeral director's licence has purported to transfer the licence issued to that holder;
 - (d) the funeral director's licence was issued erroneously or in consequence of a false or fraudulent document, statement or representation;
 - (e) the fee for the funeral director's licence is due and unpaid;
 - (f) the holder of the funeral director's licence is convicted of an offence against this Act or this Local law; or

- (g) the Board is no longer satisfied that the holder of the funeral director's licence –
 - (i) is of good repute and is fit to hold the funeral director's licence; or
 - (ii) has suitable facilities and equipment for handling and storing dead bodies and conducting funerals.
- (2) Upon the cancellation of the licence pursuant to this clause, no part of any fee paid for the issue of that licence is refundable by the Board.

4.6 Single Funeral Permits

- (1) The Board may upon receipt of an application in writing by a person in a form determined by the Board and upon payment of a set fee issue to an applicant a single funeral permit authorising a holder to direct a funeral of the person named in a permit within a cemetery at such time and subject to such conditions as the Board shall specify upon the issue of that permit or in this local law.
- (2) Every application for the single funeral permit made under section 20 or 21 of the Act shall include coffin specifications and details of a vehicle transporting a dead body to a gravesite.
- (3) The Board may refuse an application for the single funeral permit if, in the opinion of the Board, either a coffin's 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 the cemetery unless -

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

5.2 Funeral processions

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.

5.3 Vehicle entry restricted

Every funeral procession shall enter by the principal entrance, and no vehicle except the following shall be permitted to enter the cemetery –

- (a) hearse;
- (b) official mourning coaches;
- (c) vehicles with an ACROD parking permit;
- (d) wheelchairs or motorised wheelchairs; or
- (e) vehicles with the prior approval by –
 - (i) the CEO;
 - (ii) an authorised officer; or
 - (iii) the funeral director;

5.4 Vehicle access and speed limitations

Vehicles shall proceed within the cemetery by the constructed roadway or other areas designated for the use of vehicles and shall not exceed the speed of 20km per hour.

5.5 Offenders may be ordered to leave

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

5.6 Conduct of Funeral by Board

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

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

- (f) do or require anything which it considers is necessary or convenient for the conduct of a funeral by it.

DIVISION 2 – PLACEMENT OF ASHES

5.7 Disposal of ashes

- (1) The personal representative of a deceased person whose body has been cremated may apply, in an application under clause 3.1 or otherwise, for permission to dispose of the ashes in the cemetery and upon payment of the set fee to the Board.
- (2) Subject to subclauses (3) and (4), a person shall not place the ashes of a deceased person in the cemetery.
- (3) An authorised officer may place the ashes of a deceased person in a cemetery in accordance with the Board approval provided –
 - (a) the person requesting the placement of the ashes has the permission of the Board; and
 - (b) the ashes are placed within an area set aside for that purpose by the Board.
- (4) An authorised officer may place the ashes of a deceased person within a grave in accordance with the Board approval, provided the person requesting the placement of the ashes has the written permission of the Board and the approval of the holder of the right of burial of the grave.

PART 6 BURIALS

6.1 Depth of graves

- (1) A person shall not bury a coffin within the cemetery so that the distance from the top of the coffin to the original surface of the ground is –
 - (a) subject to paragraph (b), less than 750mm, unless that person has the permission of an authorised officer; or
 - (b) in any circumstances less than 600mm.
- (2) The permission of the authorised officer in subclause (1)(a) will only be granted where in the opinion of the authorised officer exceptional circumstances require granting of that permission.

6.2 Re-opening a grave

- (1) Subject to subclause (2), if for the purpose of a re-opening a grave in a cemetery the Board finds it necessary to remove a monument, edging, titles, plants, grasses, shrubs or other like matter from the grave, then a person ordering a re-opening of that grave shall bear the cost of the removal and any necessary reinstatement.
- (2) If a Minister orders the exhumation of a body in accordance with section 58 of the Act, then the Minister may further order how and by whom the costs referred to in subclause (1) shall be met.

6.3 Disinterring a coffin

- (1) Subject to subclause (2), a person shall not disinter a coffin in a cemetery for the purposes of reburial within twelve (12) months after the date of its interment.
- (2) Subclause (1), shall not apply where the coffin is disinterred for the purposes of an exhumation of a dead body and the exhumation is ordered or authorised pursuant to the Act.

6.4 Exhumation

A person shall not disinter a coffin in a cemetery for exhumation of a dead body unless –

- (a) the exhumation is ordered or authorised pursuant to the Act; or
- (b) a holder of a grant of right of burial has applied in writing to the Board requesting the exhumation and the Board has authorised the exhumation.

6.5 Opening a coffin

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

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

PART 7 MEMORIALS AND OTHER WORK

DIVISION 1 – GENERAL

7.1 Application for monumental work

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

7.2 Placement of monumental work

Every 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 permit issued under section 30 of the Act shall be immediately removed from the cemetery by the person carrying out the same.

7.4 Operation of work

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

7.5 Removal of sand, soil or loam

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

7.6 Hours of work

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

7.7 Unfinished work

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

7.8 Use of wood

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

7.9 Plants and trees

No trees or shrubs shall be planted on any grave or in the cemetery except within a memorial forest or with the approval of the Board.

7.10 Supervision

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

7.11 Australian War Graves

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

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

7.12 Placing of glass domes and vases

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

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

DIVISION 2 – LAWN SECTION

7.13 Specification of monuments

All monuments in the lawn section of a cemetery shall—

- (a) be made of natural stone or other durable material approved by the Board; and
- (b) be placed upon a base of natural stone; and
- (c) comply with the following specifications—

- (i) the overall height of the monument above the original surface of the grave shall not exceed 1.0m;
 - (ii) the height of the base of the monument above the original surface of the grave shall not be less than 150mm nor more than 450mm;
 - (iii) the width of the base of the monument shall not exceed 940mm;
 - (iv) the depth of the base of the monument shall not exceed 355mm; and
- (d) have foundations extending to the bottom of the grave unless concrete beam foundations are provided by the Board.
- (2) An admiralty bronze memorial plaque may be attached to a monument erected or being erected in the lawn section of the cemetery.
- (3) A person shall not display any trade names or marks upon any monument erected within the lawn section of the cemetery.

7.14 Headstones

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

DIVISION 3 – MEMORIAL PLAQUE SECTION

7.15 Requirements of a memorial plaque

- (1) All memorial plaques placed in a memorial plaque section of the cemetery shall–
 - (a) be made of admiralty bronze or any other material approved by the Board; and
 - (b) not be less than the dimensions 178mm x 102mm, nor more than 330mm x 330mm; and
- (2) All memorial plaques made of admiralty bronze shall–
 - (a) not exceed 20mm in thickness; and
 - (b) be placed upon a base mounting approved by the Board.
- (3) All memorial plaques made of stone shall–
 - (a) not exceed 50mm in thickness placed upon a base mounting approved by the Board; or
 - (b) not be less than 100mm in thickness if it is not to be placed upon a base mounting.

DIVISION 4 – LICENSING OF MONUMENTAL MASONS

7.16 Monumental Mason’s licence

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

7.17 Expiry Date, non– transferability

A monumental mason’s licence–

- (a) shall, subject to clause 7.20, be valid from the date specified therein until the 30th day of June next following; and
- (b) is not transferable.

7.18 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 issued pursuant to clause 7.16 or does so as the employee of a person who holds such a licence; or
- (b) is authorised by the Board to do so.

7.19 Responsibilities of the Holder of a Monumental Mason’s licence

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

7.20 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 and conditions of the licence, this local law, the Act or any other written law which may affect the carrying out of monumental works;
 - (b) that, in the opinion of the Board, the conduct of the holder of the licence 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.
- (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.

PART 8 GENERAL

8.1 Animals

Subject to clause 8.2, a person shall not bring an animal into or permit an animal to enter or remain in the cemetery, other than with the approval of the CEO or an authorised officer.

8.2 Assistance animal

Clause 8.1 shall not apply to an 'assistance animal', as defined in section 9(2) of the *Disability Discrimination Act 1992 (Cth)*.

8.3 Damaging and removing of objects

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

8.4 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 and vandalism

A person shall not—

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

8.6 Advertising

- (1) A person shall not carry on or advertise any trade, business or profession within the cemetery without the prior written approval of the Board.
- (2) The Board may consider and grant approval subject to such conditions as the Board thinks fit.

8.7 Obeying signs and directions

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

8.8 No benefits or gratuities

A person employed by the Board shall not accept any gratuities or receive any financial benefit from any work undertaken within a cemetery other than the remuneration or benefit paid or given to that person by the Board.

8.9 Entry

A person shall not enter or remain within a cemetery other than during the hours between sunrise and sunset except with the approval of the Board or an authorised person.

8.10 Firearms

- (1) Subject to subclause (2), a person shall not bring or discharge any firearms within the cemetery.
- (2) A person shall not bring or discharge any firearms within the cemetery except in the case of a military funeral when firearms may be brought into the cemetery and discharged by members of the Defence Force.

8.11 Recording ~~or~~ filming ~~or~~ video

A person shall not record or film a funeral or memorial within the cemetery without the prior approval of the next of kin of the deceased person whose funeral or memorial is being held.

8.12 Camping

A person shall not camp in or upon a cemetery.

8.13 Lighting fires

A person shall not light a fire within a cemetery without the prior approval of the Board.

8.14 Removal from the Cemetery

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 officer 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 officer.

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 2.
- (4) The prescribed form of the notice withdrawing an infringement notice referred to in section 63(3) of the Act is set out in Schedule 3.

SCHEDULE 1 MODIFIED PENALTIES

[cl. 9.2]

SHIRE OF ESPERANCE CEMETERIES LOCAL LAW

Item No.	Clause	Nature of Offence	Modified Penalty
1	5.4	Exceeding speed limit	\$50.00
2	5.4	Unauthorised use – driving of vehicles	\$50.00
3	7.3	Placing and removal of rubbish and surplus materials	\$50.00
4	7.5	Unauthorised use of sand, earth or materials taken from another part of the cemetery.	\$50.00
5	7.7	Leaving uncompleted works in an untidy or unsafe condition	\$50.00
6	8.1	Unauthorised bringing of an Animal or permitting animal to remain in cemetery.	\$50.00
7	8.3	Damaging and removing objects.	\$50.00
8	8.5	Littering or vandalism	\$50.00
9	8.6	Unauthorised advertising, and/or trading	\$50.00
10	8.7	Disobeying sign or lawful direction	\$50.00

SCHEDULE 2 INFRINGEMENT NOTICE

[cl. 9.2(3)]

SHIRE OF ESPERANCE CEMETERIES LOCAL LAW

To: _____ (Name)

_____ (Address)

It is alleged that at _____ : _____ hours on the _____ day of _____ 2022

at: _____

you committed the offence indicated below by an (x) in breach of clause of
the Shire of Esperance Local Law – Cemeteries

(Authorised Person)

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 Esperance, Windich Street, Esperance WA 6450.

Please make cheques payable to Shire of Esperance.

Payments by mail should be addressed to: The Chief Executive Officer
Shire of Esperance
PO Box 507
ESPERANCE WA 6450

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 3 WITHDRAWAL OF INFRINGEMENT NOTICE

[cl. 9.2(4)]

SHIRE OF ESPERANCE CEMETERIES LOCAL LAW

No. _____ Date: _____

To: _____ (1)

Infringement Notice
Number: _____ 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 _____ day of _____.

The Common Seal of the Shire of Esperance was hereunto affixed by the authority
of a resolution of the Council in the presence of -

Ronald Chambers
SHIRE PRESIDENT

Shane Burge
CHIEF EXECUTIVE OFFICER