

LOCAL GOVERNMENT ACT 1995

Shire of Toodyay

Cat Local Law

2018

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ARRANGEMENT

DECLARATION

ARRANGEMENT

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Under the powers conferred by the *Cat Act 2011* and the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Toodyay resolved on September 25, 2018 to make the following local law.

PART 1 – PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Toodyay Cat Local Law 2018*.

1.2 Commencement

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

1.3 Application

This local law applies throughout the district.

1.4 Interpretation

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

Act means the *Cat Act 2011*;

applicant means a person who applies for an approval under this local law;

application means an application for approval granted under this local law;

approved person means the person to whom an approval is granted under this local law;

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

cat means an animal of the species *felis catus* or a hybrid of that species;

Cat Management Facility has the meaning given to it in the Act;

cat prohibited places means all land identified in Schedule 3.

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

CEO means the Chief Executive Officer of the local government;

district means the district of the local government;

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

- (a) The owner of the cat as defined in the Act;
- (b) A person who has or appears to have immediate custody or control of the cat;
- (c) A person who keeps the cat, or has the cat in his or her possession for the time being;
- (d) A person who occupies any premises in which a cat is ordinarily kept or permitted to live and who has care and control of the cat;
- (e) A permit holder of a permit which relates to the cat;
- (f) The holder of an exemption issued in relation to the cat.

local government means the Shire of Toodyay;

microchip has the meaning given to it in the Act;

Regulations means the *Cat Regulations 2012*;

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

sterilised has the meaning given to it in the Act;

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Schedule means a *Schedule* to this local law;

Town Planning Scheme means a *Town Planning Scheme* of the *local government* under the *Planning and Development Act 2005*, or a *Town Planning Scheme* which was made under the *Town Planning and Development Act 1928*.

(2) A term that is used in this local law and is not defined in subclause (1) has the same meaning given to it in the Act or, if not defined in the Act, the same meaning given to it in the *Cat Regulations 2012*, the *Cat (Uniform Local Provisions) Regulations 2013* or the *Local Government Act 1995*.

PART 2 – NUMBER OF CATS THAT MAY BE KEPT

2.1 Interpretation

For the purposes of applying this Part, a cat does not include a cat less than 6 months old.

2.2 Standard number of cats

For the purposes of the definition of standard number of cats in regulation 4(1) of the *Cat (Uniform Local Provisions) Regulations 2013*, no more than three cats may be kept on premises at which a member of a **cat** organisation is not ordinarily resident.

2.3 Cats to which an approval is required

- (1) Subject to subclause (2) a person is required to have an approval -
- (a) to keep more than three cats on any premises; or
 - (b) to use any premises as a cattery.
- (2) An approval is not required under subclause (1) if the premises concerned are –
- (a) a refuge of the RSPCA;
 - (b) an animal pound which has been approved by the local government;
 - (c) a veterinary surgery; or
 - (d) a pet shop.

2.4 Application for approval

- (1) An application for approval to keep an additional number of cats at prescribed premises is dealt with in regulation 8 of the *Cat (Uniform Local Provisions) Regulations 2013*.
- (2) An application for approval must be accompanied by the application fee determined by the local government from time to time.

2.5 Determining an application

- (1) For the purposes of determining whether to grant approval for an application to keep an additional number of cats at prescribed premises, the local government must have regard to –
- (a) the suitability of the zoning of the premises under the local planning scheme which applies to the premises for the use;
 - (b) the physical suitability of the premises for the proposed use;
 - (c) the environmental sensitivity and general nature of the location surrounding the premises for the proposed use;

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- (d) the structural suitability of any enclosure in which any cat is to be kept;
 - (e) the likelihood of a cat causing a nuisance, inconvenience or annoyance to an occupier of adjoining land;
 - (f) the likely effect on the amenity of the surrounding area of the proposed use;
 - (g) the likely effect on the local environment including any pollution or other environmental damage, which may be caused by the proposed use;
 - (h) any other factors which the local government considers to be relevant in the circumstances of the application; and
 - (i) any submissions received under subclause (2) within the time specified in subclause (2).
- (2) The local government may –
- (a) consult with adjoining landowners; and
 - (b) advise the adjoining landowners that they may make submissions to the local government on the application for the approval within 14 days of receiving that advice, before determining the application for the permit.
- (3) The local government may –
- (a) approve an application for a permit in which case it shall approve it subject to the conditions in clause 2.6 and may approve it subject to any other conditions it considers fit; or
 - (b) refuse to approve the application for an approval.
- (4) If the local government approves an application under subclause (3), then it shall issue to the applicant an approval in the form determined by the CEO.
- (5) If the local government refuses to approve an application under subclause (3), then it is to advise the applicant accordingly in writing.

2.6 Conditions

- (1) For the purpose of ensuring that the premises to which an application relates are suitable for the additional number of cats, the local government may impose any condition that it considers to be reasonably necessary for that purpose, including –
- (a) that each cat on the premises to which the approval relates shall be registered under the Act;
 - (b) that the premises shall be maintained in good order and in a clean and sanitary condition;
 - (c) that the premises must have adequate enclosures;
 - (d) that there must be adequate space for the exercise of the cats;
 - (e) that, in the case of multiple dwellings where there is no suitable dividing fence, each current occupier of the adjoining multiple dwellings must give their written consent to the approval; and
 - (f) that, without the consent of the local government, the approved person must not substitute or replace any cat that dies or is permanently removed from the premises.
- (2) An approved person who does not comply with a condition of the approval, commits an offence.

Penalty: a fine of \$5,000.

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2.7 Renewal of an application

- (1) An application is to be renewed if –
 - (a) the approved person has not breached the conditions of the approval;
 - (b) the approval would have been granted if a fresh application for an approval had been made; and
 - (c) the renewal fee is paid in full, imposed and determined by the local government under sections 6.16 to 6.19 of the *Local Government Act 1995*.
- (2) On the renewal of an approval, the conditions of the approval that applied immediately before the renewal continue to have effect.

2.8 Transfer of an approval

- (1) An approval relates only to the premises specified in the approval, and only to the approved person specified in the approval, and is transferrable only in accordance with this clause 2.8.
- (2) An application for the transfer of an approval from the approved person to another person must be –
 - (a) made in the form determined by the CEO;
 - (b) made by the proposed transferee;
 - (c) made with the consent of the approved person; and
 - (d) lodged with the local government together with the fee for the application for the transfer of an approval that is imposed and determined by the local government under sections 6.16 to 6.19 of the *Local Government Act 1995*.

2.9 Variation or cancellation of an approval

- (1) The local government may, at any time, vary the conditions of an approval by giving written notice to the approved person and specifying the date on which the changes will become effective.
- (2) The local government may cancel an approval –
 - (a) on the request of the approved person;
 - (b) if the approved person breaches the Act, the Regulations, the *Cat (Uniform Local Provisions) Regulations 2013* or this local law; or
 - (c) if the approved person is not a fit and proper person to provide for the health and welfare of the cats.
- (3) If an approval is cancelled, the fee paid for the approval is not refundable for the term of the approval that has not yet expired.

2.10 Objection and review rights

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

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PART 3 – CONTROL OF CATS

3.1 Cat nuisance

The owner or occupier of premises on which a cat is ordinarily kept shall prevent the cat from creating a nuisance on other premises, to another person or exposing another person to health and/ or safety risk by:

- (a) the noise or odour generated by the presence of the cat;
- (b) the aggressive nature of the cat.

Penalty: a fine of \$2,000.

3.2 Cats in other places

- (1) A cat shall not be in any cat prohibited places listed in *Schedule 3*.
- (2) If a cat is at any time in a place in contravention of clause 3.2(1) –
 - (a) the keeper of the cat commits an offence; and
 - (b) an authorised person may seize and impound the cat and deal with the cat pursuant to the Act.

Penalty: a fine of \$2,000.

PART 4 – DESIGNATED CAT MANAGEMENT FACILITIES

4.1 Interpretation

In this part and in *Schedule 2* –

licence means a Cat Management Facility licence issued under this local law;

licensee means the holder of a licence issued under this local law;

premises, in addition to the meaning given to it in section 3 of the Act, means the premises described in the *application* to be licensed as a Cat Management Facility;

animal establishment has the meaning given to the term in the Town Planning Scheme;

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

4.2 Operating a Cat Management Facility without a licence

Unless exempt as an organisation listed in the Regulations, a person who operates a premises as a Cat Management Facility within the district without a licence commits an offence.

Penalty: a fine of \$5,000 and a daily fine of \$100.

4.3 Application for a licence to be designated as a Cat Management Facility

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

- (a) plans and specifications of the premises, including a site plan;
- (b) proposed details of how the facility will be kept secure;
- (c) written evidence that either the applicant or another person who will have the charge of the cats, will reside on the premises or, in the opinion of the local government,

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sufficiently close to the premises so as to control the cats and ensure their health and welfare;

- (d) a written acknowledgement that the applicant has read and agrees to comply with any code of practise relating to the keeping of cats which may be nominated from time to time by the local government; and
- (e) the fee for the application for a licence referred to in clause 4.8(1).

4.4 Determination of an application

In determining an application to be designated as a Cat Management Facility, the local government is to have regard to –

- (a) the matters referred to in clause 4.5;
- (b) any written submissions received on the proposed use of the premises;
- (c) the effect which the Cat Management Facility may have on the environment or amenity of the neighbourhood;
- (d) whether the Cat Management Facility will create a nuisance for the owners and occupiers of adjoining premises; and
- (e) whether or not the imposition of and compliance with appropriate conditions of a licence will mitigate any adverse effects of the Cat Management Facility identified in the preceding paragraphs.

4.5 Where applications cannot be approved

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

- (a) the facility is proposed to be located in an area where an animal establishment is not a permitted use under the Town Planning Scheme; or
- (b) an applicant or another person who will have the charge of the cats will not reside on the premises, or, in the opinion of the local government, sufficiently close to the premises so as to control the cats and so as to ensure their health and welfare.

4.6 Conditions of approval

- (1) The local government may approve an application for a licence subject to the conditions contained in *Schedule 2* and to such other conditions as the local government considers appropriate.
- (2) In respect of a particular application for a licence, the local government may vary any of the conditions contained in *Schedule 2*.
- (3) Operators of a Cat Management Facility must comply with their obligations as specified in Division 3 of Part 3 of the Act.

4.7 Compliance with conditions of approval

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

Penalty: a fine of \$2,000 and a daily penalty of \$100.

4.8 Fees

- (1) On lodging an application for a licence, the applicant is to pay a fee to the local government.
- (2) On renewal of a licence, the licensee is to pay a fee to the local government.
- (3) On lodging an application for the transfer of a valid licence, the transferee is to pay a fee to the local government.

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- (4) The fees referred to in subclause (1) to (3) are to be imposed and determined by the local government under sections 6.16 to 6.19 of the *Local Government Act 1995*.

4.9 Exemption from requirement to pay fees

- (1) In this clause –

charitable organisation means –

- (a) An institution, association, club, society or body whether incorporated or not -
- (i) Where its objectives are charitable, benevolent, educational, or other like nature concerned with the welfare of cats; and
- (ii) From which any members does not receive any pecuniary profit.
- (2) The local government may waive any fee required to be paid by the applicant for a licence, or the fee for the renewal of a licence by a charitable organisation.

4.10 Form of licence

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

4.11 Period of licence

- (1) The period of effect of a licence is 12 months from the date of issue.
- (2) A licence is to be renewed if the fee referred to in clause 4.8(2) is paid to the local government prior to the expiry of the licence.
- (3) On the renewal of a licence the conditions of the licence at the time of its renewal continue to have effect.

4.12 Variation or cancellation of licence

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

4.13 Transfer

- (1) An application for the transfer of a valid licence from the licensee to another person must be –
- (a) made in the form determined by the local government;
- (b) made by the transferee;
- (c) made with the written consent of the licensee; and
- (d) lodged with the local government together with –

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- (i) written evidence that a person to whom the licence is proposed to be transferred will reside at or within reasonably close to the proximity to the premises subject to the licence; and
 - (ii) the fee for the application for the transfer of a licence referred to in clause 4.8(3).
- (2) The local government is not to determine an application for the transfer of a valid licence until the transferee has complied with subclause (1).
- (3) The local government may approve, whether or not subject to such conditions as it considers appropriate, or refuse to approve an application for the transfer of a valid licence.
- (4) Where the local government approves an application for the transfer of a valid licence, then on the date of the approval, unless otherwise specified in the notice issued under subclause 4.14(b), the transferee becomes the licensee of the licence for the purposes of this local law.

4.14 Notification

The local government is to give written notice to –

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

4.15 Inspection of Cat Management Facility

Subject to the provisions of the power to enter premises within the Act, an authorised person may inspect an approved Cat Management Facility.

4.16 Record Keeping

All designated Cat Management Facilities are required to keep and maintain a register of all cats entering and leaving the facility, and where entry to the premises has been made under clause 4.15, an authorised officer may inspect the register.

PART 5 – ENFORCEMENT

5.1 Interpretation

In this Part –

infringement notice means the notice referred to in clause 5.3; and

notice of withdrawal means the notice referred to in clause 5.4.

5.2 Modified penalties

- (1) The offences contained in *Schedule 4* are offences in relation to which a modified penalty may be imposed.

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- (2) The amount appearing in the fourth column of *Schedule 4* directly opposite an offence is the modified penalty payable in respect of that offence.

5.3 Issue of infringement notice

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

5.4 Withdrawal of an infringement notice

The form of withdrawal of an infringement notice is Form 7 of *Schedule 1* in the Regulations.

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**SCHEDULE 1 – APPLICATION FOR A LICENCE FOR A DESIGNATED CAT
MANAGEMENT FACILITY**

[clause 4.3]

APPLICANT/S DETAILS

Name of Applicant/s (in full)			
Residential Address			
Suburb		Post Code	
Postal Address (if different from above)			
Telephone	(H)	(W)	(M)
Fax		Email	

CAT MANAGEMENT FACILITY DETAILS

I/ We apply for a licence for a designated cat management facility at:			
Address of premises			
Suburb		Post Code	
For number of cats			
Person will reside (tick appropriate box) *evidence to be provided	<input type="checkbox"/>	At the premises	
	<input type="checkbox"/>	Sufficiently close to the premises so as to control the cats and so as to ensure their health and welfare	
Name of person (if not applicant/s)			
Address of residence (if not residing at the premises)			

Prior to approval the following must be attached:

- (a) A site plan of the premises showing the location of the cages and runs and all other building and structures and fences;
- (b) Plans and specifications of the Cat Management Facility;
- (c) Proposed details of how the facility will be kept secure;
- (d) Evidence that a person will reside –
 - i. at the premises; or
 - ii. sufficiently close to the premises so as to control the cats and so as to ensure their health and welfare; and
- (e) if the person in item (d) is not the applicant, evidence that the person is a person in charge of the cats.

Signature of applicant..... Date.....

Note: A licence, if issued, will have effect for a period of 12 months, effective from the date of issue unless and until is it revoked or it is determined by the local government non-compliance with the conditions of clause 4.6 of the Shire of Toodyay Cat Local Law 2018 justifies this.

APPLICATION FEE	
Cat Management Facility Establishment Fee	\$200.00

OFFICE USE ONLY				
Application No.	Date	Receipt No.	Amount Paid	Cashier

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**SCHEDULE 2 – MINIMUM CONDITIONS OF A DESIGNATED CAT
MANAGEMENT FACILITY**

[clause 4.6(1)]

An application for a licence within the district may be approved subject to the following conditions –

- (a) each Cat Management Facility must have a secure area where cats are housed and can exercise and must be at a distance of not less than 10 metres from the front boundary of the premises and 5 metres from any other boundary of the premises;
- (b) Adequate measures are to be in place to minimise the risk of unauthorised entry into the facility;
- (c) Where floor washing is required, washings must pass through the drains and must be piped to an approved apparatus for the treatment of sewage (as specified by the *Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974*) and in accordance with the health requirements of the local government;
- (d) All external surfaces of each Cat Management Facility must be impervious and kept in good condition;
- (e) Sufficient ventilation to keep animal housing areas free of dampness, noxious odours and draughts, and prevent accumulation or concentrations of gases;
- (f) Supply of fresh air, or if animals are housed in a totally enclosed area where forced ventilation is the only form of air movement there should be adequate air change rate;
- (g) Located away from sources of excessive noise or pollution, and draughts that could cause injury or stress to animals;
- (h) Natural lighting or lighting that duplicates the characteristics of natural light including a simulated day/ night period;
- (i) All cages and outdoor enclosures are to have adequate shelter in the form of a roof constructed of impervious material;
- (j) Must have a mix of cages to provide for individual housing where required and cages or modules constructed of impervious, washable materials;
- (k) All cages, outdoor enclosures and drinking vessels must be maintained in a clean condition and must be cleaned and disinfected or when so ordered by an authorised person;
- (l) All refuse, faeces and food waste must be disposed of daily to the satisfaction of an authorised person;
- (m) Noise, odours, fleas, flies and other vectors of disease must be effectively controlled;
- (n) Suitable water both for cleaning and drinking must be available at the Cat Management Facility;
and
- (o) The licensee or the person nominated in the application for a licence, must, in accordance with the application for the licence, continue to reside –
 - i. At the premises; or
 - ii. In the opinion of the local government, sufficiently close to the premises so as to control the cats, and to ensure their health and welfare.

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SCHEDULE 3 – CAT PROHIBITED PLACES

[clause 3.2(1)]

Reserve Name	Reserve Number	Location
Moondyne Nature Reserves	RV. 30191	Moondyne
Morangup Nature Reserve	RV. 38924	Morangup
Avon Valley National Park	RV. 30192	Morangup
Julimar Conservation Park	RV. 30192	Julimar
Poison Valley Gully Nature Reserve	RV. 19900	Dewars Pool
Flat Rocks Gully	RV. 22096	Culham
Bindoon Springs Nature Reserve	RV. 3156	Dewars Pool
Coondle West Nature Reserve	RV. 19904	Coondle
Rugged Hills Nature Reserve	RV. 21429	West Toodyay
Wongamine Nature Reserve	RV. 33697	Nunile
Wattening Springs Nature Reserve	RV. 2393	Wattening
Mavis Jefferys Nature Reserve	RV. 44729	Toodyay
Nanamoolan Nature Reserve	RV. 33254	Clackline
Drummond Nature Reserve	RV. 42808	Wattening
Camerer Nature Reserve	RV. 42370	Wattening
Bewmalling Nature Reserve	RV. 30306	Culham
Millards Pool Foreshore	RV. 49736 & RV. 35394	Dumbarton
Lloyds Reserve Foreshore Reserve	RV 46827	Toodyay
Weatherall Foreshore Reserve	RV. 24865	West Toodyay
Snake Gully Reserve	RV. 4669	Coondle
Dewars Pool Reserve (Toodyay Brook)	RV. 3156	Dewars Pool
West Toodyay Bridge Reserve	RV. 4155	West Toodyay
Dumbarton Bridge Reserve	RV. 224	Dumbarton
White Lakes Reserve	RV. 44099	Dumbarton
Balgaling Reserve	RV. 35279 & RV. 4668	Coondle
Coondle Reserve	RV. 35406	Coondle
Horseshoe Reserve	RV. 44424	Coondle
Dudley Chitty Reserve	RV. 3204	Dewars Pool
Julimar Crown Reserve West	RV 35299	Julimar
Keating Reserve	RV. 41983	Moondyne
Dawn Atwell Reserve	RV. 5273	Julimar
Malkup Brook Reserve	RV. 34308	Julimar

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Red brook Reserve	RV. 36589	Morangup
Wallaby Reserve	RV. 35789	Morangup
Grevillea Reserve	RV. 35790	Morangup
Gabidine Brook Reserve	RV. 2876	Majestic Heights
Pelham Reserve	RV. 35809	Toodyay
Majestic Heights Reserve - Hatfield Place	RV. 39803	Majestic heights
Majestic Heights Reserve - Stirlingia Dive	RV. 37786	Majestic Heights
Majestic Heights Reserve	RV. 39809	Majestic Heights
Majestic Heights Reserve - Sandplain Road	RV. 36597	Majestic Heights
Majestic Heights Reserve - Stirlingia Drive	RV - 37692	Majestic Heights

Note –

1. The list is correct at the time of publication in the Gazette.
2. Members of the public may inspect or obtain a copy of the Local Public Notice containing an up-to-date list of the specified lands and areas designated as Cat Prohibited Places in accordance with this local law, from the Shire of Toodyay's Administration Centre or public library during normal office hours.

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**SCHEDULE 4 – OFFENCES IN RESPECT OF WHICH A MODIFIED PENALTY
APPLIES**

[clause 5.2]

	CLAUSE	NATURE OF OFFENCE	MODIFIED PENALTY
			\$
1	2.6	Failing to comply with the conditions of an <i>application</i> for additional <i>cats</i>	200
2	3.1	<i>Cat</i> creating a nuisance	200
3	3.2	Cat within a Prohibited Place	200
4	4.2	Operating a <i>Cat Management Facility</i> without a licence	200
5	4.7	Failing to comply with the conditions of a licence	200

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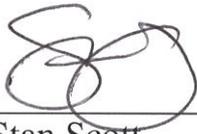
The Common Seal of the Shire of Toodyay was hereunto affixed by authority of a resolution of Council in the presence of –



Cr Brian Rayner
Shire President

25th September 2018

Date



Mr Stan Scott
Chief Executive Officer

25th September 2018

Date