



Shire of Cunderdin

Minutes of a Special Council Meeting

Dear Council Member,

A Special Meeting of the Cunderdin Shire Council was held on **Thursday 25th September 2014** in the Council Chambers, Lundy Avenue Cunderdin commencing **at 5:41pm**, for the purpose of:

1. Local Law Review;
2. October Ordinary Council Meeting; and
3. Airfield Lease

Peter Naylor
Chief Executive Officer

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AGENDA

1. Declaration of opening

The President declared the meeting open at 5.41pm

The Shire of Cunderdin disclaimer was read aloud.

The Local Government Act 1995 Part 5 Division 2 Section 5.25 and Local Government (Administration) Regulations 1996 Regulation 13

"No responsibility whatsoever is implied or accepted by the Shire of Cunderdin for any act, omission or statement or intimation occurring during this meeting. It is strongly advised that persons do not act on what is heard at this Meeting and should only rely on written confirmation of Council's decisions, which will be provided within ten working days of this meeting".

2. Suspension of Clause 3.2 - Standing Orders

| | |
|--------------------------|---------------------------------|
| Location: | Cunderdin |
| Applicant: | Not applicable |
| Date: | 23 rd September 2014 |
| Author: | Peter Naylor |
| Item Approved by: | Chief Executive Officer |

Resolution 2.0:

Council suspends clause 3.2 – Order of Business – of the Shire of Cunderdin Standing Orders Local Law 2001

Moved: Cr Todd Harris

Seconded: Cr Dianne Kelly

Vote – Simple majority

Carried: 6/0

3. Public Question Time

Response to previous public questions taken on notice

Declaration of public question time opened at

Declaration of public question time closed at

4. Record of Attendance, Apologies and Approved Leave of Absence

Record of attendances

Councillors

| | |
|-----------------------|------------------------|
| Cr RL (Rod) Carter | Shire President |
| Cr RC (Clive) Gibsone | Deputy Shire President |
| Cr TE (Todd) Harris | |
| Cr TA (Terri) Jasper | |
| Cr NW (Norm) Jenzen | |
| Cr DG (Di) Kelly | |

Apologies

Cr DB (Doug) Kelly

On Leave of Absence

Cr DA (Dennis) Whisson

Staff

| | |
|--------------|--------------------------------|
| Peter Naylor | Chief Executive Officer |
| Paul Godfrey | Deputy Chief Executive Officer |

Guests of Council

Members of the Public

Applications for leave of absence

Declaration of Members and Officers Financial Interests

5. Petitions, Deputations, Presentations

Deputations

Presentations

6. Announcements by President without discussion

7. Confirmation of the Minutes of Previous Meetings

Nil

8. Finance & Administration

8.1. Proposed Cemeteries Local Law 2014

| | |
|--------------------------|---|
| Location: | Shire of Cunderdin |
| Applicant: | Administration |
| Date: | 22 nd September 2014 |
| Author: | Peter Naylor / Darren Long (Consultant) |
| Item Approved by: | Chief Executive Officer |
| File Reference: | Nil |
| Attachment/s: | 11 Pages |

Proposal/Summary

To allow:

- (1) the Presiding Person to give notice to the meeting of the intent to make a new Cemeteries local law;
- (2) the Presiding Person to give notice of the purpose and effect of the proposed Cemeteries Local Law,
- (3) for the Council to adopt the proposed Local Law for advertising purposes; and
- (4) for advertising for public comment of the local law.

Background

The current principal Cemeteries local law was first adopted by Council on 15 November 1968, and gazetted on 6 February 1969. An amendment was made to the principal local law on 6 February 1972 relating to fees and charges.

To comply with the provisions of section 3.16 of the *Local Government Act* 1995, the Shire of Cunderdin commenced a review of its local laws on 27 October 2009.

At the conclusion of the review process it was identified that a more contemporary local law relating to cemeteries was required and that the existing Cemeteries local law needed to be repealed.

Comment

The proposed new Cemeteries local law is based on the WALGA model gazetted in 1998 and incorporates all changes made to that model by various local governments since its gazettal.

In making a new local law, the Shire must comply with the provisions of section 3.12 of the *Act*.

The *Local Government (Functions and General) Regulations* (Regulation 3) states that for the purpose of Section 3.12(2) of the *Act*, the person presiding at a council meeting is to give notice of the purpose of the local law by ensuring that the purpose and effect of the proposed local law is included in the agenda for that purpose and the minutes of the meeting of the council include the purpose and effect of the proposed local law.

The purpose of this local law is to provide for the orderly management of those Cemeteries in accordance with established plans and to create offences for inappropriate behaviour within cemetery grounds.

The effect of this local law is that all persons in the administration of the cemeteries, burying deceased in the cemeteries, or otherwise providing services to or making use of the cemeteries, are to comply with the provisions of this Local Law.

Consultation

As required by section 3.12 the *Local Government Act 1995*, an advertisement is to be placed, in a state-wide newspaper, inviting the public to comment on the proposed local law, with submissions being open for a period of not less than 6 weeks (42 days).

The advertisement will be placed once Council has resolved its intent to make the local law.

In addition, copies of the proposed Local Law, as amended, (gazettal copy), must be sent to the relevant Minister for comment.

Statutory Implications

Local Government Act 1995

Section 3.16 of the Act requires the Council to carry out a formal review of its Local Laws every 8 years. The Act provides that after the last day for submissions the Council is to consider any submissions received and cause a report of the review to be prepared and considered by the Council. The Council must adopt the report on the review at which time it determines whether the Local Laws should be repealed or amended.

Cemeteries Act 1986

Policy Implications

The introduction of the proposed new local law may require Council to adopt new policies relating to the administration of the cemetery as follows -

- (1) Specifications relating to the construction of monuments; and
- (2) Specifications relating to the types of material that can be used for, and size of, memorial plaques.

The adoption of such policies should be undertaken after the final adoption of the proposed local law, and after considering any comments from the Department of Local Government in relation to the local law.

Financial Implications

There will be cost implications pertaining to the advertising and final gazettal of the Local Law.

Strategic Implications

Cunderdin Community Strategic Plan

The Cunderdin Community Strategic Plan aims to manage growth sustainably through governance, leadership, and targeted service and economic growth. The goals to achieve the aim are:

Social

- Grow and build the population base.
- Improve community spirit, collectively caring for each other.
- Build an active community, increasing participation and ownership.

Environmental

- Maintain and enhance the natural environment and resources.
- Maintain and enhance the area's infrastructure.

Economic

- Strengthen local business and employment capacity.
- Support and encourage sustainable business growth.
- Position the area as a regional strategic location and transport hub.

Up to date and relevant local laws are an important cornerstone of good governance. Local Government has a statutory and moral obligation to ensure that the regulation of local matters is conducted in a fair, efficient and reasonable manner.

Resolution 8.1

That Council:

- 1. Adopt the proposed Shire of Cunderdin Cemeteries Local Law 2014, as contained in Attachment 1, for advertising purposes.**
- 2. Pursuant to section 3.12 of the Local Government Act 1995, give Statewide public notice that it intends to make the Shire of Cunderdin Cemeteries Local Law 2014, as contained in the Attachment:**
 - (a) the purpose of which is to provide for the orderly management of those Cemeteries within the district, in accordance with established plans and to create offences for inappropriate behaviour within cemetery grounds; and**
 - (b) the effect being that all persons in the administration of the cemeteries, burying deceased persons in the cemeteries, or otherwise providing services to or making use of the cemeteries, are to comply with the provisions of this Local Law.**

Moved: Cr Norm Jenzen

Seconded: Cr Dianne Kelly

Vote – Absolute majority

Carried : 6/0

8.2. Proposed Dogs Local Law 2014

| | |
|--------------------------|---|
| Location: | Shire of Cunderdin |
| Applicant: | Administration |
| Date: | 22 nd September 2014 |
| Author: | Peter Naylor / Darren Long (Consultant) |
| Item Approved by: | Chief Executive Officer |
| File Reference: | Nil |
| Attachment/s: | 10 Pages |

Proposal/Summary

To allow:

- (1) the Presiding Person to give notice to the meeting of the intent to make a new Dogs local law;
- (2) the Presiding Person to give notice of the purpose and effect of the proposed Dogs Local Law,
- (3) for the Council to adopt the proposed Dogs Local Law for advertising purposes; and
- (4) for advertising of the local law for public comment.

Background

To comply with the provisions of section 3.16 of the *Local Government Act 1995*, the Shire of Cunderdin commenced a review of its local laws on 27 October 2009.

At the conclusion of the review process it was identified that during the gazettal by reference process for the Shires' Dogs local law in 2008, the incorrect date was used in the gazettal reference. The effect was the Shires' Dogs local law did not refer to the correct date that the referenced local law was placed in the government gazette, resulting in invalidating the law making process.

The Council is required to re-commence the law making process to make a valid Dogs local law.

Comment

The proposed new Dogs local law is based on the WALGA model drafted in 2005 and incorporates all changes made to that local law by various local governments since its drafting.

Further, the proposed new Dogs Local Law also complies the new requirements resulting from the *Dog Amendment Act 2013*, gazetted on 1 November 2013, which removed a local governments' ability to make local laws that contained clauses-

- (a.) establishing prohibited areas for dogs; and
- (b.) establishing dog exercise areas.

The *Dog Amendment Regulations 2014*, gazetted on 20 May 2014, contained a sunset clause on the operation of existing local laws that contained clauses relating to these two areas, with the sunset date of '31 July 2014'.

Should a local government wish to establish exercise areas or specify places where dogs are prohibited, that must now do so via a council resolution (by absolute majority) in accordance with amended section 31 of the *Dog Act 1976*.

In making a new local law, the Shire must comply with the provisions of section 3.12 of the *Act*.

The *Local Government (Functions and General) Regulations* (Regulation 3) states that for the purpose of Section 3.12(2) of the *Act*, the person presiding at a council meeting is to give notice of the purpose of

the local law by ensuring that the purpose and effect of the proposed local law is included in the agenda for that purpose and the minutes of the meeting of the council include the purpose and effect of the proposed local law.

The purpose of the proposed Dogs local law is to make provisions about the impounding of dogs, to control the number of dogs that can be kept on premises and the manner of keeping those dogs and to prescribe areas, in which dogs are prohibited, and, that are dog exercise areas.

The effect of the proposed Dogs local law is to extend the control over dogs which exist under the *Dog Act 1976*.

Consultation

As required by section 3.12 the *Local Government Act 1995*, an advertisement is to be placed, in a state-wide newspaper, inviting the public to comment on the proposed local law, with submissions being open for a period of not less than 6 weeks (42 days).

The advertisement will be placed once Council has resolved its intent to make the local law.

In addition, copies of the proposed Local Law, as amended, (gazettal copy), must be sent to the relevant Minister for comment.

Statutory Implications

Local Government Act 1995

Section 3.16 of the *Act* requires the Council to carry out a formal review of its Local Laws every 8 years. The *Act* provides that after the last day for submissions the Council is to consider any submissions received and cause a report of the review to be prepared and considered by the Council. The Council must adopt the report on the review at which time it determines whether the Local Laws should be repealed or amended.

Dog Act 1976 and associated regulations.

Dog (Restricted Breeds) Regulations 2002.

Policy Implications

There are no policy implications for this item.

Financial Implications

There will be cost implications pertaining to the advertising and final gazettal of the Local Law.

Strategic Implications

Cunderdin Community Strategic Plan

The Cunderdin Community Strategic Plan aims to manage growth sustainably through governance, leadership, and targeted service and economic growth. The goals to achieve the aim are:

Social

- Grow and build the population base.
- Improve community spirit, collectively caring for each other.

- Build an active community, increasing participation and ownership.

Environmental

- Maintain and enhance the natural environment and resources.
- Maintain and enhance the area's infrastructure.

Economic

- Strengthen local business and employment capacity.
- Support and encourage sustainable business growth.
- Position the area as a regional strategic location and transport hub.

Up to date and relevant local laws are an important cornerstone of good governance. Local Government has a statutory and moral obligation to ensure that the regulation of local matters is conducted in a fair, efficient and reasonable manner.

Resolution 8.2

That Council:

- 1. Adopt the proposed Shire of Cunderdin Dogs Local Law 2014, as contained in Attachment 1 for advertising purposes;**
- 2. Pursuant to section 3.12 of the Local Government Act 1995, give Statewide public notice that it intends to make the Shire of Cunderdin Dogs Local Law 2014, as contained in the Attachment:**
 - (a) the purpose of which is to make provisions about the impounding of dogs, to control the number of dogs that can be kept on premises and the manner of keeping those dogs and to prescribe areas, in which dogs are prohibited, and, that are dog exercise areas; and**
 - (b) the effect is to extend the control over dogs which exist under the Dog Act 1976.**

Moved: Cr Norm Jenzen

Seconded: Cr Dianne Kelly

Vote – Absolute majority

Carried: 6/0

8.3. Proposed Local Government Property Local Law 2014

| | |
|--------------------------|---|
| Location: | Shire of Cunderdin |
| Applicant: | Administration |
| Date: | 22 nd September 2014 |
| Author: | Peter Naylor / Darren Long (Consultant) |
| Item Approved by: | Chief Executive Officer |
| File Reference: | Nil |
| Attachment/s: | 19 Pages |

Proposal/Summary

To allow:

- (1) the Presiding Person to give notice to the meeting of the intent to make a new Local Government Property local law 2014;
- (2) the Presiding Person to give notice of the purpose and effect of the proposed Local Government Property local law 2014;
- (3) for the Council to adopt the proposed Local Government Property local law 2014 for advertising purposes; and
- (4) for advertising of the Local Government Property local law 2014 for public comment.

Background

The current principal Local Government Property local law was first adopted by Council on 21 December 2001, and gazetted on 26 March 2002.

To comply with the provisions of section 3.16 of *the Local Government Act 1995*, the Shire of Cunderdin commenced a review of its local laws on 27 October 2009.

At the conclusion of the review process it was identified that a new local law was required.

Comment

The proposed Local Government Property Local Law is set out in the attachment to this report.

In making a new local law, the Shire must comply with the provisions of section 3.12 of the *Act*.

The *Local Government (Functions and General) Regulations* (Regulation 3) states that for the purpose of Section 3.12(2) of the *Act*, the person presiding at a council meeting is to give notice of the purpose of the local law by ensuring that the purpose and effect of the proposed local law is included in the agenda for that purpose and the minutes of the meeting of the council include the purpose and effect of the proposed local law.

The proposed local law covers:

- Determinations by Council as to use of the Shire's property (see below also);
- Circumstances where permits are required to use the Shire's property;
- Behaviour on all Shire property;
- Matters relating to particular Shire properties;
- Fees for entry;
- Objections and appeals; and
- Enforcement

Determinations

This local law proposes that from time to time, Council will need to make decisions about use of particular property. Amending the local law is a time consuming and expensive process and as such the proposed local law contains a provision that uses may be varied by 'determination'.

Determinations could be used in a wide variety of circumstances including:

- Prohibit the riding of skateboards on particular Shire property;
- Limit the age of children using particular types of playground equipment;
- Regulate the hours of access by animals to particular areas and on specified times or days of the week;
- Limiting ball games or activities in conservation areas or parks designed for passive use only;

A process for making determinations has been included in the proposed local law in Part 2. Clauses 2.7 and 2.8 contain a list of the various heads of power for which determinations may be made, and Clause 2.2 sets out the procedure for making a determination. It is considered important to enshrine this process in the proposed local law so as to reduce the potential for challenge from the Parliamentary Joint Standing Committee on Delegated Legislation which scrutinises any provisions of local laws that may be seen as giving local governments the ability to legislate without following due public consultation and advertising processes.

Assuming this provision is retained, because the Shire will need to give notice of its intention to make a determination under the proposed new local law, there may be a period from commencement of the local law where no determinations are in effect. To avoid any problems that may arise as a result of this situation, Schedule 2 of the proposed local law sets out the Shire's first set of determinations.

In future, determinations made after commencement of the local law will not appear in the Schedule, although the Shire will need to keep a register of them in case it wishes to prosecute an offence.

The local law also contains a transitional provision to the effect that certain signs erected by the Shire under the old local laws repealed have effect as determinations, to the extent that they are not inconsistent with the new local law or any determinations made under it.

Policies regarding procedural matters can also be made without the need to make a determination or amendment to the local law. In general, these will relate to simple administrative matters such as key collection/return, standard conditions of use of hired facilities, use of particular items of equipment such as pianos, finishing times for functions etc.

When Permits are Required

Part 3 sets out the requirements for a person to obtain a permit to use local government property, similarly to the Shire's existing by-laws. It basically sets out the Shire's proprietary rights and provides for an offence to be created if a person breaches it.

Behaviour

Part 4 of the proposed local law uses a simple and comprehensive approach to prohibit anti-social behaviour on all types of local government property. Note that Clause 4.3 prohibits anyone from taking, killing, or injuring 'fauna' on all local government property.

Specific Types of Property

Part 5 of the proposed local sets out matters relating to use of swimming pool areas, toilet blocks and change rooms, and airports.

Enforcement Provisions

Provision has been made for breaches of the proposed local law to be dealt with by an infringement notice and modified penalty process. The Shire may still resort to Court prosecution, but this should be avoided except for repeat or serious offences.

The purpose of the proposed Local Government Property local law is to provide for the regulation, control and management of activities and facilities on local government property within the district.

The effect of the proposed Local Government Property local law is to establish the requirements with which any persons using or being on local government property within the district must comply.

Consultation

As required by section 3.12 the *Local Government Act 1995*, an advertisement is to be placed, in a state-wide newspaper, inviting the public to comment on the proposed local law, with submissions being open for a period of not less than 6 weeks (42 days).

The advertisement will be placed once Council has resolved its intent to make the local law.

In addition, copies of the proposed Local Law, (gazettal copy), must be sent to the relevant Minister for comment.

Statutory Implications

Local Government Act 1995

Section 3.12(2) of the Local Government Act 1995 and the *Local Government (Functions and General) Regulations* (Regulation 3) which states that for the purpose of Section 3.12(2) of the *Local Government Act* the person presiding at a council meeting is to give notice of the purpose of the local law by ensuring that the purpose and effect of the proposed local law is included in the agenda for that purpose and the minutes of the meeting of the council include the purpose and effect of the proposed local law.

Policy Implications

There are no policy implications for this item.

Financial Implications

There will be cost implications pertaining to the advertising and final gazettal of the Local Law.

Strategic Implications

Cunderdin Community Strategic Plan

The Cunderdin Community Strategic Plan aims to manage growth sustainably through governance, leadership, and targeted service and economic growth. The goals to achieve the aim are:

Social

- Grow and build the population base.
- Improve community spirit, collectively caring for each other.
- Build an active community, increasing participation and ownership.

Environmental

- Maintain and enhance the natural environment and resources.
- Maintain and enhance the area's infrastructure.

Economic

- Strengthen local business and employment capacity.
- Support and encourage sustainable business growth.
- Position the area as a regional strategic location and transport hub.

Up to date and relevant local laws are an important cornerstone of good governance. Local Government has a statutory and moral obligation to ensure that the regulation of local matters is conducted in a fair, efficient and reasonable manner.

Resolution 8.3

That Council:

- 1. Adopt the proposed Shire of Cunderdin Local Government Property Local Law 2014, as contained in Attachment 1 for advertising purposes;**
- 2. Pursuant to section 3.12 of the *Local Government Act 1995*, give Statewide public notice that it intends to make the Shire of Cunderdin Local Government Property Local Law 2014, as contained in Attachment 1:**
 - (a) the purpose of which is to provide for the regulation, control and management of activities and facilities on local government property within the district.; and**
 - (b) the effect is to establish the requirements with which any persons using or being on local government property within the district must comply.**

Moved: Cr Norm Jenzen

Seconded: Cr Dianne Kelly

Vote – Absolute majority

Carried: 6/0

8.4. Proposed Pest Plants Local Law 2014

| | |
|--------------------------|---|
| Location: | Shire of Cunderdin |
| Applicant: | Administration |
| Date: | 22 nd September 2014 |
| Author: | Peter Naylor / Darren Long (Consultant) |
| Item Approved by: | Chief Executive Officer |
| File Reference: | Nil |
| Attachment/s: | 3 Pages |

Proposal/Summary

To allow:

- (1) the Presiding Person to give notice to the meeting of the intent to make a new Pest Plants local law 2014;
- (2) the Presiding Person to give notice of the purpose and effect of the proposed Pest Plants local law 2014;
- (3) for the Council to adopt the proposed Pest Plants local law 2014 for advertising purposes; and
- (4) for advertising of the proposed Pest Plants local law 2014 for public comment.

Background

The current principal Pest Plants local law was first adopted by Council on 21 August 1981, and gazetted on 6 November 1981.

To comply with the provisions of section 3.16 of the *Local Government Act 1995*, the Shire of Cunderdin commenced a review of its local laws on 27 October 2009.

At the conclusion of the review process it was identified that a new Pest Plants local law was required to reflect current legislation and drafting requirements.

The purpose of this report is to allow the Presiding Person to:

- (1) give notice to the meeting of the intent to make a new Pest Plants Local Law 2014; and
- (2) give notice of the purpose and effect of the proposed Pest Plants Local Law 2014;
- (3) for the Council to adopt the proposed Pest Plants Local Law 2014 for advertising purposes; and
- (4) to allow for advertising of the proposed Pest Plants Local Law 2014 for public comment.

Comment

The proposed Pest Plants Local Law 2014 is set out in the attachment to this report.

In making a new local law, the Shire must comply with the provisions of section 3.12 of the *Act*.

The *Local Government (Functions and General) Regulations* (Regulation 3) states that for the purpose of Section 3.12(2) of the *Act*, the person presiding at a council meeting is to give notice of the purpose of the local law by ensuring that the purpose and effect of the proposed local law is included in the agenda for that purpose and the minutes of the meeting of the council include the purpose and effect of the proposed local law.

The purpose of the proposed Pest Plants local law 2014 is to prescribe pest plants within the district.

The effect of the proposed Pest Plants local law 2014 is that owners and occupiers of land within the district are to comply with the provisions in this local law.

Consultation

As required by section 3.12 the *Local Government Act 1995*, an advertisement is to be placed, in a state-wide newspaper, inviting the public to comment on the proposed local law, with submissions being open for a period of not less than 6 weeks (42 days).

The advertisement will be placed once Council has resolved its intent to make the local law.

In addition, copies of the proposed Pest Plants Local Law, (gazettal copy), must be sent to the relevant Minister for comment.

Statutory Implications

Local Government Act 1995

Section 3.12(2) of the *Local Government Act 1995* and the *Local Government (Functions and General) Regulations* (Regulation 3) which states that for the purpose of Section 3.12(2) of the *Local Government Act* the person presiding at a council meeting is to give notice of the purpose of the local law by ensuring that the purpose and effect of the proposed local law is included in the agenda for that purpose and the minutes of the meeting of the council include the purpose and effect of the proposed local law.

Agriculture and Related Resources Protection Act 1976.

Policy Implications

There are no policy implications for this item.

Financial Implications

There will be cost implications pertaining to the advertising and final gazettal of the Local Law.

Strategic Implications

Cunderdin Community Strategic Plan

The Cunderdin Community Strategic Plan aims to manage growth sustainably through governance, leadership, and targeted service and economic growth. The goals to achieve the aim are:

Social

- Grow and build the population base.
- Improve community spirit, collectively caring for each other.
- Build an active community, increasing participation and ownership.

Environmental

- Maintain and enhance the natural environment and resources.
- Maintain and enhance the area's infrastructure.

Economic

- Strengthen local business and employment capacity.
- Support and encourage sustainable business growth.
- Position the area as a regional strategic location and transport hub.

Up to date and relevant local laws are an important cornerstone of good governance. Local Government has a statutory and moral obligation to ensure that the regulation of local matters is conducted in a fair, efficient and reasonable manner.

Resolution 8.4

That Council:

- 1. Adopt the proposed Shire of Cunderdin Pest Plants Local Law 2014, as contained in Attachment 1 for advertising purposes;**
- 2. Pursuant to section 3.12 of the *Local Government Act 1995*, give Statewide public notice that it intends to make the Shire of Cunderdin Pest Plants Local Law 2014, as contained in Attachment 1:
 - (a) the purpose of which is to prescribe pest plants within the district; and**
 - (b) the effect is that owners and occupiers of land within the district are to comply with the provisions in this local law.****

Moved: Cr Norm Jenzen

Seconded: Cr Dianne Kelly

Vote – Absolute majority

Carried: 6/0

8.5. Proposed Repeal Local Law 2014

| | |
|--------------------------|---|
| Location: | Shire of Cunderdin |
| Applicant: | Administration |
| Date: | 22 nd September 2014 |
| Author: | Peter Naylor / Darren Long (Consultant) |
| Item Approved by: | Chief Executive Officer |
| File Reference: | Nil |
| Attachment/s: | 1 Page |

Proposal/Summary

To allow:

- (1) the Presiding Person to give notice to the meeting of the intent to make a new Repeal Local Law 2014;
- (2) the Presiding Person to give notice of the purpose and effect of the proposed Repeal Local Law 2014;
- (3) for the Council to adopt the proposed Repeal Local Law 2014 for advertising purposes; and
- (4) for advertising of the proposed Repeal Local Law 2014 for public comment.

Background

To comply with the provisions of section 3.16 of the *Local Government Act 1995*, the Shire of Cunderdin commenced a review of its local laws on 27 October 2009.

As part of the review process a number of old by-laws and local laws, which are now superfluous or obsolete due to the introduction of the *Local Government Act 1995* and/or other legislation, were identified. It is proposed that these obsolete local laws be repealed in accordance with section 3.12 of the *Local Government Act 1995*, as they no longer serve any functional purpose.

The purpose of this report is to commence the local law making process to repeal defunct and obsolete by-laws and local laws relating to the Shire of Cunderdin, in accordance with Section 3.12 of the *Local Government Act 1995*.

Comment

Up to date and relevant local laws are an important cornerstone of good governance. Local Government has a statutory and moral obligation to ensure that the regulation of local matters is conducted in a fair, efficient and reasonable manner. The repeal of obsolete and defunct local laws will result in more efficient and effective local government by removing outdated local laws from the public record.

In making a new local law, the Shire must comply with the provisions of section 3.12 of the *Act*.

The *Local Government (Functions and General) Regulations* (Regulation 3) states that for the purpose of Section 3.12(2) of the *Act*, the person presiding at a council meeting is to give notice of the purpose of the local law by ensuring that the purpose and effect of the proposed local law is included in the agenda for that purpose and the minutes of the meeting of the council include the purpose and effect of the proposed local law.

The purpose of this local law is to repeal superfluous, defunct and obsolete local laws.

The effect of this local law is more efficient and effective local government by removing outdated local laws from the public record.

Consultation

As required by section 3.12 the *Local Government Act 1995*, an advertisement is to be placed, in a state-wide newspaper, inviting the public to comment on the proposed local law, with submissions being open for a period of not less than 6 weeks (42 days).

The advertisement will be placed once Council has resolved its intent to make the local law.

In addition, copies of the proposed Repeal Local Law, (gazettal copy), must be sent to the relevant Minister for comment.

Statutory Implications

Local Government Act 1995

Section 3.12(2) of the *Local Government Act 1995* and the *Local Government (Functions and General) Regulations* (Regulation 3) which states that for the purpose of Section 3.12(2) of the *Local Government Act* the person presiding at a council meeting is to give notice of the purpose of the local law by ensuring that the purpose and effect of the proposed local law is included in the agenda for that purpose and the minutes of the meeting of the council include the purpose and effect of the proposed local law.

Policy Implications

There are no policy implications for this item.

Financial Implications

There will be cost implications pertaining to the advertising and final gazettal of the Local Law.

Strategic Implications

Cunderdin Community Strategic Plan

The Cunderdin Community Strategic Plan aims to manage growth sustainably through governance, leadership, and targeted service and economic growth. The goals to achieve the aim are:

Social

- Grow and build the population base.
- Improve community spirit, collectively caring for each other.
- Build an active community, increasing participation and ownership.

Environmental

- Maintain and enhance the natural environment and resources.
- Maintain and enhance the area's infrastructure.

Economic

- Strengthen local business and employment capacity.
- Support and encourage sustainable business growth.
- Position the area as a regional strategic location and transport hub.

Up to date and relevant local laws are an important cornerstone of good governance. Local Government has a statutory and moral obligation to ensure that the regulation of local matters is conducted in a fair, efficient and reasonable manner.

Resolution 8.5

That Council:

- 1. Adopt the proposed Shire of Cunderdin Repeal Local Law 2014, as contained in Attachment 1 for advertising purposes;**
- 2. Pursuant to section 3.12 of the *Local Government Act 1995*, give Statewide public notice that it intends to make the Shire of Cunderdin Repeal Local Law 2014, as contained in the Attachment:
 - (a) the purpose of which is to repeal superfluous, defunct and obsolete local laws; and**
 - (b) the effect is more efficient and effective local government by removing outdated local laws from the public record.****

Moved: Cr Norm Jenzen

Seconded: Cr Dianne Kelly

Vote – Absolute majority

Carried: 6/0

8.6. Proposed Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law 2014

| | |
|--------------------------|---|
| Location: | Shire of Cunderdin |
| Applicant: | Administration |
| Date: | 22 nd September 2014 |
| Author: | Peter Naylor / Darren Long (Consultant) |
| Item Approved by: | Chief Executive Officer |
| File Reference: | Nil |
| Attachment/s: | 24 Pages |

Proposal/Summary

To allow:

- (1) the Presiding Person to give notice to the meeting of the intent to make a new Activities on Thoroughfares and Trading in Thoroughfares and Public Places local law 2014;
- (2) the Presiding Person to give notice of the purpose and effect of the proposed Activities on Thoroughfares and Trading in Thoroughfares and Public Places local law 2014;
- (3) for the Council to adopt the proposed Activities on Thoroughfares and Trading in Thoroughfares and Public Places local law 2014 for advertising purposes; and
- (4) for advertising of the proposed Activities on Thoroughfares and Trading in Thoroughfares and Public Places local law 2014 for public comment.

Background

The current principal Activities on Thoroughfares and Trading in Thoroughfares and Public Places local law was first adopted by Council on 21 December 2001, and gazetted on 26 March 2002.

To comply with the provisions of section 3.16 of the *Local Government Act 1995*, the Shire of Cunderdin commenced a review of its local laws on 27 October 2009.

At the conclusion of the review process it was identified that a new local law was required.

Comment

The proposed Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law 2014 is set out in the attachment to this report.

In making a new local law, the Shire must comply with the provisions of section 3.12 of the *Act*.

The *Local Government (Functions and General) Regulations* (Regulation 3) states that for the purpose of Section 3.12(2) of the *Act*, the person presiding at a council meeting is to give notice of the purpose of the local law by ensuring that the purpose and effect of the proposed local law is included in the agenda for that purpose and the minutes of the meeting of the council include the purpose and effect of the proposed local law.

The purpose of the proposed Activities on Thoroughfares and Trading in Thoroughfares and Public Places local law 2014 is to restrict and prohibit activities on thoroughfares, and trading in thoroughfares and public places.

The effect of the proposed Activities on Thoroughfares and Trading in Thoroughfares and Public Places local law 2014 is that all persons wishing to conduct an activity on a thoroughfare or trade in a thoroughfare or public place are to comply with the provisions of this local law.

Consultation

As required by section 3.12 the *Local Government Act 1995*, an advertisement is to be placed, in a state-wide newspaper, inviting the public to comment on the proposed local law, with submissions being open for a period of not less than 6 weeks (42 days).

The advertisement will be placed once Council has resolved its intent to make the local law.

In addition, copies of the proposed Activities on Thoroughfares and Trading in Thoroughfares and Public Places Amendment Local Law, (gazettal copy), must be sent to the relevant Minister for comment.

Statutory Implications

Local Government Act 1995

Section 3.12(2) of the *Local Government Act 1995* and the *Local Government (Functions and General) Regulations* (Regulation 3) which states that for the purpose of Section 3.12(2) of the *Local Government Act* the person presiding at a council meeting is to give notice of the purpose of the local law by ensuring that the purpose and effect of the proposed local law is included in the agenda for that purpose and the minutes of the meeting of the council include the purpose and effect of the proposed local law.

Policy Implications

There are no policy implications for this item.

Financial Implications

There will be cost implications pertaining to the advertising and final gazettal of the Local Law.

Strategic Implications

Cunderdin Community Strategic Plan

The Cunderdin Community Strategic Plan aims to manage growth sustainably through governance, leadership, and targeted service and economic growth. The goals to achieve the aim are:

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- Grow and build the population base.
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Environmental

- Maintain and enhance the natural environment and resources.
- Maintain and enhance the area's infrastructure.

Economic

- Strengthen local business and employment capacity.
- Support and encourage sustainable business growth.
- Position the area as a regional strategic location and transport hub.

Up to date and relevant local laws are an important cornerstone of good governance. Local Government has a statutory and moral obligation to ensure that the regulation of local matters is conducted in a fair, efficient and reasonable manner.

Resolution 8.6

That Council:

- 1. Adopt the proposed Shire of Cunderdin Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law 2014, as contained in Attachment 1 for advertising purposes;**
- 2. Pursuant to section 3.12 of the *Local Government Act 1995*, give Statewide public notice that it intends to make the Shire of Cunderdin Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law 2014, as contained in the Attachment:
 - (a) the purpose of which is to restrict and prohibit activities on thoroughfares, and trading in thoroughfares and public places; and**
 - (b) the effect is that all persons wishing to conduct an activity on a thoroughfare or trade in a thoroughfare or public place are to comply with the provisions of this local law.****

Moved: Cr Norm Jenzen

Seconded: Cr Dianne Kelly

Vote – Absolute majority

Carried: 6/0

9 Environmental Health & Building Services

Nil

10 Works & Services

Nil

11 Planning & Development

Nil

12 Urgent Items

12.1 Shire of Cunderdin Ordinary Council Meeting October 2014

Council noted that the Scheduled Date for the October 2014 Ordinary Council Meeting will clash with significant local sporting event.

Resolution 12.1

That the Ordinary Meeting of Council scheduled to be held on Thursday 16th October 2014, be rescheduled to Wednesday 22nd October 2014, commencing at 5:00pm.

Moved: Cr Todd Harris

Seconded: Cr Dianne Kelly

Vote – Simple majority

Carried: 6/0

13 Matters for which the meeting may be closed

Council Resolution

That the meeting be closed to the public at 5:54pm to consider matter 13.1 behind closed doors.

Moved: Cr Todd Harris Seconded: Cr Terri Jasper

Vote: Simple majority Carried: 6/0

13.1 Cunderdin Airfield Lease Arrangements

| | |
|--------------------------------|---------------------------------|
| Location: | Cunderdin Airfield |
| Applicant: | Ascent Aviation Pty Ltd |
| Date: | 22 nd September 2014 |
| Author: | Peter Naylor |
| Item Approved by: | Chief Executive Officer |
| Disclosure of Interest: | Nil |
| File Reference: | |
| Attachment/s: | 167 Pages (11 documents) |

Proposal/Summary

To consider future leasing arrangement (terms & conditions) for the Cunderdin Airfield, as detailed within three documents "Agreement for Lease", "Lease", and "Funding Deed", which are presented for Council consideration.

Background

Following considerable consultation between Council and Ascent Aviation, Ascent presented the three documents at a meeting on Friday 15th August 2014 for Council consideration.

Council and Ascent worked through the documents and minor amendments were effected prior to secondary draft being re-presented to Council on 26th August 2014. Please refer to ATTACHMENTS 1, 2, 3 & 4.

The three documents were forwarded to Councils solicitors, McLeods, for review and comment.

McLeods responded on 3rd September 2014 making several superficial and minor variations to the documents. Details of which were also incorporated into a covering letter. The amended documents were circulated to Councillors and copy to Ascent for their information. Please refer to ATTACHMENTS 5, 6, 7 & 8.

Ascent have worked through the McLeods changes / comments and have agreed to some modifications however do not believe all of the changes are necessary. Ascent have responded with revised documents. Please refer to ATTACHMENTS 9, 10 & 11.

Comment

An issue raised by McLeods is the need for Council to comply with section 3.59 of the *Local Government Act* prior to entering into a Major Land Transaction.

It was initially thought that this proposal would not fall within the requirements of section 3.59, however subsequent to McLeods correspondence the matter has been pursued with the Department of Local Government and Communities. Officers from the Department believe that there may be arguments on either side of the case however given that the matter has been raised by Councils solicitors it may be prudent to follow the requirements of section 3.59. This is now being addressed with a Business Plan prepared and advertisement placed in the Western Australian newspaper on Wednesday 17th September 2014.

Consultation

Ascent (Ben Reid & Tighe Whelan)
McLeods (David Nicholson)

Statutory Implications

Local Government Act 1995
Planning and Development Act 2005
State Records Act 2000
Civil Aviation Safety Regulations 139

Policy Implications

Nil

Financial Implications

Nil

Strategic Implications

Cunderdin Community Strategic Plan

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Environmental

- Maintain and enhance the natural environment and resources.
- Maintain and enhance the area's infrastructure.

Economic

- Strengthen local business and employment capacity.
- Support and encourage sustainable business growth.
- Position the area as a regional strategic location and transport hub.

Resolution 13.1

That Council:

- 1. Endorse the three (3) lease documents for the future leasing of the Cunderdin Airfield, being Agreement for Lease and Lease (both dated 8th September 2014) and Funding Deed (with amended Clause 7 dated 25th September 2014), as presented by Corrs Chamber Westgarth on behalf of Ascent Aviation.**
- 2. Authorises the Shire President and Chief Executive Officer to execute the official documentation (including placement of the Common Seal) on behalf of the Shire of Cunderdin.**

Moved: Cr Clive Gibsone

Seconded: Cr Terri Jasper

Vote – Absolute majority

Carried: 6/0

Council Resolution

That the meeting move from behind closed doors and be open to the public at 6.37pm.

Moved: Cr Norm Jenzen

Seconded: Cr Dianne Kelly

Vote – Simple majority

Carried : 6/0

14 Closure of meeting

There being no further business the Shire President declared the meeting closed at 6.38pm.