



Shire of Cunderdin

Minutes of an Ordinary Council Meeting

Dear Council Member,

An Ordinary Meeting of the Cunderdin Shire Council was held on Wednesday 18th August 2010 in the Council Chambers, Lundy Avenue Cunderdin commencing at 5:10 pm.

G M Tuffin
Chief Executive Officer

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MINUTES

1.0 Declaration of opening

1.1 The President declared the meeting open 5:10pm

1.2 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”.

2.0 Suspension of Clause 3.2 - Standing Orders

Location:	Cunderdin
Applicant:	Not applicable
Date:	18 th August 2010
Author:	G Tuffin
Item Approved by:	Chief Executive Officer

Recommendation:

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

Moved: Cr Todd Harris Seconded: Cr. Doug Kelly

Vote – Simple majority Carried 8/0

3.0 Public Question Time

3.1 Response to previous public questions taken on notice

There were no questions from the public at the previous meeting of Council.

3.2 Declaration of public question time opened 5:11pm

3.3 Declaration of public question time closed 5:11pm

4.0 Record of Attendance, Apologies and Approved Leave of Absence

4.1 Record of attendances

Councillors

Cr RL (Rod) Carter	President
Cr RC (Clive) Gibsone	Deputy President
Cr GJ (Graham) Cooper	
Cr DA (Dennis) Whisson	
Cr TE (Todd) Harris	
Cr DB (Doug) Kelly	
Cr DT (David) Beard	
Cr DG (Dianne) Kelly	

- 4.2 Apologies
- 4.3 On Leave of Absence
- 4.4 Staff
G M (Gary) Tuffin Chief Executive Officer
- 4.5 Guests of Council
- 4.6 Members of the Public
- 4.7 Applications for leave of absence

Moved Cr Graham Cooper

Seconded Cr Dennis Whisson

- (a) That the meeting scheduled for the 16th September 2010 be rescheduled for the Wednesday 15th September 2010.
- (b) That public notice be given in accordance with section 5.25(1)(g) of the Local Government Act.

Carried 8/0

NB: The meeting was changed to accommodate a study tour of the City of Canning.

- 4.8 Declaration of Members and Officers Financial Interests

5.0 Petitions, Deputations, Presentations

- 5.1 Petitions
None

- 5.2 Deputations
None

- 5.3 Presentations
None

6.0 Council Discussion

The Shire President gave a verbal report.

- General discussion on the local component of the CLGF & meeting (WDC Forum) held in Quairading on the 20th July 2010.
- Met with Enterprise Minerals - all necessary approvals received - drilling program in Cunderdin to commence shortly - they will be in contact with surrounding property owners.
- Meeting with the Minister for Local Govt in Cunderdin on the 2nd August 2010
- Attended the first Sports facility design workshop held on the 3 August 2010
- Attended Local Government convention
- The RTG Agreement was signed on the 7th August 2010
- The first informal RTG meeting will be held on the 23rd August 2010 - York

Cr Dianne Kelly

- Attended the Day Care meeting held on the 2nd August 2010
- Group requested assistance with promoting service – an advertisement was included with this years Rate notices.
- Co-location agreement was sign between the Play Group and Day Care Centre.

- Attended the last DHAC meeting
- update on activities
- two new St Johns paramedics to be based in the Wheatbelt
- LHAG struggling with numbers

- Attended the Meckering Sports Club meeting
- Greenkeeper – some confusion exists in regards to the new Shire employee, needs to be sorted.
- Project stages for new sporting surfaces in Meckering – raised concerns on behalf of the club as to the extent of the works to be undertaken.

Cr David Beard

- provided feedback in regards to Council's responsibilities with private landowners clearing native vegetation. The Quairading NRM Officer advised that council has no responsibility in policing the issue.
- General discussion followed in regards to how, if at all, council should get involved with such matters.
- Cr Beard Advised he had received calls in regards to what is happening to the mobile coolroom.
- The Coolroom is to be returned to the Bulgin Bush Race Committee.
- Attended the first Sports facility design workshop held on the 3rd August 2010

Cr Graham Cooper

- Attended the first Sports facility design workshop held on the 3rd August 2010
- Attended Local Government Convention
- Enquired where the Gliding Club was at with the draft lease agreement.

Cr Carter advised that the matter was being considered at their AGM this Saturday.

- Suggested a working committee should be formed to assist with the Airfields development.
- Attended the WBN Regional Road Group Meeting with the CEO – 19th July 2010
- Suggested council should consider lobbying various politicians and other appropriate bodies to ensure a fair split of funds continues for the CLGF – concerned that the fund will go to 100% Regional projects only, no local focus.

Cr Doug Kelly

- Attended an Emergency Management course on the 10th August 2010.

Cr Todd Harris

- Attended the first Sports facility design workshop held on the 3rd August 2010
- Attended the Clay Target Club opening on the 7th August 2010

Cr Clive Gibsone

- Attended the Clay Target Club opening on the 7th August 2010
- Attended the Museum Committee meeting held on the 12th August 2010
- Provided an update on the Cottage Homes dealings with Water Corp to acquire additional land.
- LHAG is struggling for numbers – needs additional members to the group

Cr Dennis Whisson

- Provided a general update on the activities of the Cunderdin Telecentre
- Will be advertising for a fulltime co-ordinator

7.0 Confirmation of the Minutes of Previous Meetings

7.1 Confirmation of Minutes of Previous Meetings

Location:	Cunderdin
Applicant:	Administration
Date:	18th August 2010
Author:	G Tuffin
Item Approved by:	Chief Executive Officer

Proposal

Council to confirm the minutes of the

- Ordinary Council meeting held on 15th July 2010.

Background

The minutes have been circulated to all Councillors and they have been made available to the public.

Comment

No business arising.

Statutory Environment

Local Government Act 1995 Part 5 Division 2 Subdivision 3 - Section 5.22 (2) Regulations requires minutes of all meetings to be kept and submitted to the next full council meeting for confirmation.

Financial Implications

There are no financial implications in considering this item.

Resolution7.1

That the minutes of the Ordinary Council meeting held on 15th July 2010 be confirmed as a true and correct record subject to the following additional information being included in General Business in regards to the discussion that was held about the mobile Coolroom.

That Council authorise the CEO to consult with the Bulgin Bush Races Committee in regards to returning the coolroom to the committee for their disposal.

Moved: Cr. Clive Gibsone

Seconded: Cr. Graham Cooper

Vote – Simple majority

Carried 8/0

Note to this item:

The President will sign the minute declaration.

7.2 Receiving Minutes of Meetings of Committees of Council and other Committees and Organisations

Location:	Cunderdin
Applicant:	Administration
Date:	18th August 2010
Author:	G Tuffin
Item Approved by:	Chief Executive Officer

Proposal

Council receive the minutes of the following meetings;

- Minutes of the Cunderdin Museum Committee meeting held on 8th July 2010.

Attachment

The minutes listed above are attached as an appendix to this item.

Background

The minutes have been circulated to all Councillors and they have been made available to the public.

Statutory Environment

There is no statutory requirement for council to receive or confirm the minutes for the SEAVROC meeting.

Local Government Act 1995 Part 5 Division 2 Subdivision 3 - Section 5.22 (2) Regulations requires minutes of all meetings to be kept and submitted to the next full council meeting for confirmation.

Financial Implications

Nil

Resolution7.2

That council receive the minutes of the Cunderdin Museum Committee meeting held 8th July 2010

Moved: Cr. Todd Harris

Seconded: Cr. Dianne Kelly

Vote – Simple majority

Carried 8/0

Minutes of the Cunderdin Museum Committee – 8 July 2010

1.0 Declaration of Opening

The President, Clive Gibsone declared the meeting opened.
Malcolm verbally on behalf of himself and Merylyn resigned from the CMC stating that they will be leaving the district in the near future. Clive thanked Malcolm for the great work he has put into Museum and said that he and Merylyn will be missed.

2.0 Record of Attendance, Apologies

- 2.1 Record of Attendances: Clive Gibsone (Chairman), Wendy Davey (Museum Manager), Peter Godfrey, Beth Beckett, Malcolm Furlong, Debra Farmer & Marguerita O'Hare.
- 2.2 Apologies: Anne Brake, Merylyn Furlong, Renarta Gray, Trevor Canning, Trish Bromwell, Holly Lamey & Trevor Canning.

3.0 Confirmation of Minutes for meeting held 13 May 2010

- 3.1 Business Arising from the Minutes:
- 3.2 Rupert Weller – Peter to ask if Rupert would be interested in working on an engine if brought to his residence in Fremantle.
- 3.3 "Public Toilet" sign has been erected.
- 3.4 Lighting of the outside of the building – NT & Committee questioning the plans submitted by Verlindens – Clive to contact Tony. If unsuccessful with Verlindens the NT have supplied other contacts for this sort of work.
- 3.5 Barrett's will supply a new flag at the cost of \$100.00. Guaranteed for only 12 months. Committee decided to take up this offer.
- 3.6 Bookshelf / Hutch from Adage Furniture has been installed in office – still waiting for stools which are currently on a container ship.
- 3.7 Dome Shelter at the Bulgin Farm needs extensive repairs – unsuitable for the Museum. Get a quote from Westarp for the cost of a new dome shelter.
- 3.8 Heritage Awards – CMC were finalists in the category (commitment to the promotion and understanding of cultural heritage in WA). Wendy attended the Awards Ceremony with our Shire President, Rod Carter at Council House, City of Perth.
- 3.9 The Launch of the "Wheat belt Museums & Heritage" brochure 21 May was a successful event for the Museum and well attended by representatives from other local museums.

4.0 Correspondence

- 4.1 Inward:
- | | |
|--------------------------------|--|
| York Visitor Centre | York Museum closed for repairs. |
| Tractor Museum of WA (Inc) | Invitation to visit their Museum |
| Shire of Dalwallinu | Request for brochures |
| Mavis Bennetts | Offer (historical invitation) for collection. |
| Mission Shop | Donation |
| Rachel Bensley | Email great Job volunteer – Museum visit |
| Alison Barrett | Request local artist – art component of |
| (Art Coordinator & Consultant) | new additions WA College of Ag Cunderdin |
| Cunderdin Historical Society | Disappointed CMC not in favour of the proposed |
| | positioning of the Rabbit Proof Sculpture |
| National Trust | Sculpture – rail reserve |
| Country Arts | Programme |
| Museums Australia WA | State Heritage Awards |
| Museums Australia WA | Flyer – State Conference 20-21 August |
| Museums Australia WA | Flyer – Show & Tell |
| Museums Australia WA | Annual Report |
| Museums Australia WA | Autumn "Musings" magazine |

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5.0 Business Arising from Correspondence:
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5.1 Wendy to compile a list of committee members and volunteers interested in attending the Tractor Museum at Whiteman Park.

6.0 Financial Report

6.1	CFWD Balance as at 1 st April 2010			\$14,180.73
	<u>Plus Revenue</u>			
	Donations	\$ 126.30		
	Souvenirs	\$ 149.08		
	Takings	<u>\$1,167.09</u>		
		<u>\$1,442.47</u>	Sub Total	\$15,623.20
	<u>Less Expenditure</u>			
	Stationery	\$ 34.82		
	Materials	\$ 102.71		
	Utilities (phone & Internet)	<u>\$ 123.97</u>	30/4/10	
		<u>\$ 261.50</u>	Closing Balance	\$15,361.70
6.2	CFWD Balance as at 1 st May 2010			\$15,361.70
	<u>Plus Revenue</u>			
	Donations	\$ 213.95 (includes Mission Shop)		
	Souvenirs	\$ 225.96		
	Takings	<u>\$ 467.00</u>		
		<u>\$ 906.91</u>	Sub Total	\$16,268.61
	<u>Less Expenditure</u>			
	Stationery	\$ 50.73		
	Materials	\$ 450.91		
	Utilities (phone & Internet)	\$ 61.63		
	Catering (Tea Coffee etc)	\$ 70.52		
	Donations	\$ 34.50		
	Training	\$ 180.82		
	Souvenirs (DVD,s Books etc)	\$ 203.63		
	Hardware & Cleaning Products	\$ 132.27		
	Repairs	<u>\$ 272.73</u>	31/5/10	
		<u>\$1458.74</u>	Closing Balance	\$14,809.87
6.3	CFWD Balance as at 1 st June 2010			\$14809.87
	<u>Plus Revenue</u>			
	Donations	\$ 195.60		
	Souvenirs	\$ 163.82		
	Takings	<u>\$ 733.00</u>		
		<u>\$ 1092.42</u>	Sub Total	\$15,902.29
	<u>Less Expenditure</u>			
	Stationery	\$ 50.55		
	Materials	\$ 719.00 (hutch office)		
	Utilities (phone & Internet)	\$ 143.32		
	Catering (Tea Coffee etc)	\$ 33.45		
	Donations	\$ 34.50		
	Training	\$ 327.00 (Wendy Mosaic)		
	Souvenirs (DVD,s Books etc)	\$ 149.74		
	Archiving Products	<u>\$1,426.10</u>		
		<u>\$2,849.16</u>	31/5/10	
			Closing Balance	\$13,053.13

7.0 Business Arising from the Financial report

- 7.1 In the June Financials query with Emma the donations for \$34.50 in expenditure.
- 7.2 From 1/1/10 to 30/6/10 we have had 1906 visitors to the Museum.
- 7.3 Beth to do a stock take.
- 7.4 Troy Donovan has completed the 2 stands for the large archive boxes. Troy did these for cost – need to write a thank you letter.

8.0 Cunderdin Museum Collection:

- 8.1 Committee still to inspect Auger at Meckering.
- 8.2 Peter has picked up the Doctor's examination table from Tammin.
- 8.3 Unable to obtain the plaque that was originally on the peddle organ. Will need to inspect the organ. Ask Trevor if he is able to do this?
- 8.4 Marguerita & Peter progressing with the new rabbit proof fence display.
- 8.5 The petrol bowser is probably not a local item – probably worth keeping for a representation piece – still investigating.
- 8.6 Emmott's from Ejangding are willing to donate at least 20 plough discs for signage.
- 8.7 Alec Fissiloi has said there is an old weighbridge at the WA College of Ag that could be suitable for the Museum. Need to inspect.
- 8.8 Gregor Draffin from Manta Products Pty Ltd donated an old Avery Scale which they used to weigh fibre glass packing for mufflers. Purchased from and previously used by State Ships.

9.0 Training:

- 9.1 Peter & Wendy attended the Ag Machinery Workshop held at the Avondale Discovery Farm, Beverley 16 May run by the NT. Holly attended Public Programs 15-16 May (Report Attached). Nancy attended the ECU Textile workshop 14-15 June and Wendy attended the Collections Mosaic Computer Course 28/29 & 30 May. Most costs covered by bursaries but any shortfalls to be covered by the Museum's finances. Invoices and or records to be submitted for reimbursement.
- 9.2 Malcolm is no longer able to attend the Disaster Planning, Preparedness & Recovery ECU Weekend workshop 28/29 August. Wendy to contact Stacey to see if she would be interested in attending.

10 Maintenance Report

- 10.1 Verлиндens replaced the timer for the chimney lighting.
- 10.2 Drew Whisson has come on board as a volunteer and helping Peter on a Thursday.
- 10.3 Jumbo vision fixed the earthquake house – working well – they also left two spare electrical blocks for spares.

11 General Business:

- 11.1 Flag pole needs replacing – Clive to report to the Shire.
- 11.2 Brocken slabs in the gantry area are becoming a safety issue – Clive to report to the Shire.
- 11.3 Everyone happy with the covering used at the front of the Museum – Shire will replace the poles with curbing.
- 11.4 Dean Hatwell from Inside Computers has donated a s/h computer to the Museum so we can use in the boiler area for visitors to access the data that has been recorded to date. Need to write a thank you letter.
- 11.5 Clive to check with Shire re upgrading the office computer etc and a backing up system.

12	National Trust
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- | | |
|------|---|
| 12.1 | Peter Withers undertaking conservation work on the chimney. |
| 12.2 | Anne Brake will visit the Museum Wednesday 11 August to discuss the way forward with the pavilion development. Anne requests that we start cataloguing the tractors – ask Trevor if he would be interested in doing this. |

13	Close Meeting
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Next Meeting – Thursday August 12 – 7.30pm

8.0 Finance Report

8.1 Financial Report for July 2010

Location:	Cunderdin
Applicant:	Manager of Finance & Administration
Date:	9 th August 2010
Author:	Loren Hempel
Item Approved by:	Chief Executive Officer

Proposal

The financial position as at 31st July 2010 is presented for consideration.

Appendices – July 2010 - Financial Statements

- Statement of Financial Activity
- Operating Statement
- Statement of Surplus or Deficit
- Statement of Financial Position
- Statement of Cash Flows
- Details by Function & Activity
- Reserves Account Summary
- Loan Repayment Schedule
- Financial Activity Statement projected to 30 June 2011
- Municipal Bank Account Statement & Reconciliation (036-102 000030)
- Restricted Cash Account Statement & Reconciliation (036102 123263)
- Licensing Trust, Working Trust and REBA Trust Account Statements & Reconciliations

Statutory Environment

The Local Government Act 1995 Part 6 Division 3 requires that a monthly financial report be presented to Council.

Commentary

Nil

Policy Implications

Nil

Financial Implications

All financial implications are contained within the reports

Strategic Implications

Nil

Resolution8.1

That council receive the financial report for July 2010.

Moved: Cr Clive Gibsone

Seconded: Cr David Beard

Vote – Simple majority

Carried 8/0

8.2 Accounts Paid and Payable – July 2010

Location:	Cunderdin
Applicant:	Manager of Finance & Administration
Date:	18th August 2010
Author:	Loren Hempel
Item Approved by:	Chief Executive Officer

Disclosure of Interest

No disclosure of interest has been tabled

Proposal

Council is requested to confirm and authorise the payment of Accounts listed in the Warrant of Payments for July 2010.

Appendix

Warrant of Payments for July 2010.

Statutory Environment

Financial Management Regulations 12 & 13

Commentary on Statutory Environment

In accordance with Financial Management Regulations 12 & 13, a List of all accounts paid or payable shall be presented to Council (Refer Warrant of Payments attached).

Policy Implications

Nil

Financial Implications

All financial implications are contained within the reports

Strategic Implications

Nil

The accounts paid and payable are summarised as follows for July 2010.

1.0 Accounts Already Paid

1.1 Municipal Fund –

CHEQUE NUMBERS	AMOUNT
008783-008807	\$ 64,384.79
Electronic Payments - various	\$ 232,849.44

1.2 Other Funds – Recoup of Municipal Fund Expenditure and Term Investment	
Nil.	

CHEQUE NUMBERS	AMOUNT \$
2.0 Accounts to be passed for payment	
2.1 Municipal Fund - Nil	
TOTAL MUNICIPAL FUNDS	\$297,234.23

3. Trust Fund – Accounts Already Paid

DATE	CHEQUE NUMBER	DETAILS	AMOUNT \$
Nil			0.00

Resolution 8.2

- (a) That Council's payment of accounts amounting to \$ 297,234.23 for the Municipal Fund be received and noted.
- (b) The Warrant of Payments as presented be incorporated in the Minutes of the Meeting.

Moved Cr. Clive Gibsone

Seconded Cr. Graham Cooper

Vote – simple majority

Carried 8/0

Payments List - July 2010			
Date	Reference	Creditor	Amount
1/07/2010	Bank Fees	Westpac Banking Corporation	\$ 94.42
1/07/2010	Bank Fees	Westpac Banking Corporation	\$ 29.00
1/07/2010	Bank Fees	Westpac Banking Corporation	\$ 41.40
1/07/2010	Bank Fees	Westpac Banking Corporation	\$ 13.00
1/07/2010	Bank Fees	Westpac Banking Corporation	\$ 13.00
1/07/2010	Bank Fees	Westpac Banking Corporation	\$ 23.62
1/07/2010	Bank Fees	Westpac Banking Corporation	\$ 22.00
1/07/2010	Bank Fees	Westpac Banking Corporation	\$ 22.00
1/07/2010	Bank Fees	Westpac Banking Corporation	\$ 81.57
2/07/2010	Bank Fees	Westpac Banking Corporation	\$ 5.50
2/07/2010	Bank Fees	Westpac Banking Corporation	\$ 16.50
2/07/2010	Bank Fees	Westpac Banking Corporation	\$ 34.00
7/07/2010	Bank Fees	Westpac Banking Corporation	\$ 7.50
7/07/2010	EFT PAYS	Staff Salaries & Wages	\$ 27,040.78
8/07/2010	EFT PAYS	Staff Salaries & Wages - W Davey	\$ 477.26
13/07/2010	Credit Card	Westpac Banking Corporation	\$ 827.45
14/07/2010	8783	Cunderdin Co-op FUEL	\$ 10,240.00
15/07/2010	8784	Australian Taxation Office	\$ 31,093.00
15/07/2010	Bank Fees	Westpac Banking Corporation	\$ 29.00
15/07/2010	EFT7414	Wanneroo Gas & Air Conditioning	\$ 1,287.00
15/07/2010	Loan 68	West Australian Treasury Corporation	\$ 19,628.91
21/07/2010	8785	Australian Government Communication Authority	\$ 37.00
21/07/2010	8786	Avon Valley Nissan	\$ 289.43
21/07/2010	8787	Cr D Beard	\$ 280.00
21/07/2010	8788	Jill Bonser	\$ 60.00
21/07/2010	8789	Cr Rod Carter	\$ 560.00
21/07/2010	8790	Country Ford	\$ 231.00
21/07/2010	8791	Cunderdin Co-op	\$ 1,327.41
21/07/2010	8792	Cunderdin Newsagency	\$ 95.80
21/07/2010	8793	Cunderdin Co-op MUSEUM	\$ 75.67
21/07/2010	8794	Direct Property Valuers	\$ 550.00
21/07/2010	8795	Cr Clive Gibsone	\$ 280.00
21/07/2010	8796	Goodfield Quality Meats	\$ 79.50
21/07/2010	8797	Cr Todd Harris	\$ 280.00
21/07/2010	8798	Kellerberrin Tyre Service	\$ 300.00
21/07/2010	8799	Cr Dianne Kelly	\$ 140.00
21/07/2010	8800	Prime Super	\$ 330.40
21/07/2010	8801	Daphne Skinner	\$ 60.00
21/07/2010	8802	Synergy	\$ 1,803.05
21/07/2010	8803	Telstra Corporation	\$ 1,246.40
21/07/2010	8804	Telstra (Bigpond)	\$ 138.49
21/07/2010	8806	Water Corporation	\$ 14,630.30
21/07/2010	8807	Westscheme Superannuation	\$ 257.34
21/07/2010	EFT PAYS	Staff Salaries & Wages	\$ 26,741.54
21/07/2010	EFT7415	Action Sportswear	\$ 652.30
21/07/2010	EFT7416	Air Liquide Pty Ltd	\$ 115.55
21/07/2010	EFT7417	Applied Climate Control	\$ 435.60
21/07/2010	EFT7418	Australia Post	\$ 193.48
21/07/2010	EFT7419	Avdata Australia	\$ 758.10
21/07/2010	EFT7420	Avon Waste	\$ 4,653.62

Payments List - July 2010			
Date	Reference	Creditor	Amount
21/07/2010	EFT7421	Baxters Rural Centre	\$ 7,338.68
21/07/2010	EFT7422	Beau repairs Northam	\$ 1,710.00
21/07/2010	EFT7423	Boral Construction Materials Group	\$ 19,066.32
21/07/2010	EFT7424	Brookes Hire Service	\$ 1,329.24
21/07/2010	EFT7425	Civil Aviation Safety Authority	\$ 500.00
21/07/2010	EFT7426	Cody Express Transport	\$ 35.96
21/07/2010	EFT7427	Combined Tyrepower	\$ 4,199.40
21/07/2010	EFT7428	Cr Graham Cooper	\$ 280.00
21/07/2010	EFT7429	Corporate Express	\$ 95.25
21/07/2010	EFT7430	Courier Australia	\$ 109.30
21/07/2010	EFT7431	Coventrys	\$ 204.17
21/07/2010	EFT7432	Cunderdin Telecentre	\$ 3,000.00
21/07/2010	EFT7433	The Cunderdin Mob	\$ 545.90
21/07/2010	EFT7434	DarMitch Logistics	\$ 715.00
21/07/2010	EFT7435	Darry's Plumbing & Gas	\$ 400.00
21/07/2010	EFT7436	Farmways Cunderdin	\$ 42.90
21/07/2010	EFT7437	Fibreglass Moulding Coffs Harbour P/L	\$ 22,060.28
21/07/2010	EFT7438	Great Eastern Country Zone	\$ 3,080.00
21/07/2010	EFT7439	Jasol Australia	\$ 1,060.35
21/07/2010	EFT7440	Cr Doug Kelly	\$ 280.00
21/07/2010	EFT7441	Landgate	\$ 102.36
21/07/2010	EFT7442	Local Government Managers Australia	\$ 410.00
21/07/2010	EFT7443	Macri Partners	\$ 4,064.20
21/07/2010	EFT7444	McLeod's Barristers & Solicitors	\$ 1,663.20
21/07/2010	EFT7445	Northam Physiotherapy	\$ 395.60
21/07/2010	EFT7446	Orica Australia Pty	\$ 75.24
21/07/2010	EFT7447	RBE Internet Service	\$ 175.00
21/07/2010	EFT7448	Road & Traffic Services	\$ 40,023.50
21/07/2010	EFT7449	Shire of Tammin	\$ 504.60
21/07/2010	EFT7450	Shire of Northam	\$ 479.38
21/07/2010	EFT7451	Shire of York	\$ 185.40
21/07/2010	EFT7452	Startrack Express	\$ 73.10
21/07/2010	EFT7453	Steeplejacks & Riggers	\$ 11,000.00
21/07/2010	EFT7454	WA Local Government Superannuation	\$ 7,494.71
21/07/2010	EFT7455	Cr Dennis Whisson	\$ 280.00
21/07/2010	EFT7456	Stan Wilkins	\$ 11.30
21/07/2010	EFT7457	WA Local Government Association	\$ 16,565.00
30/07/2010	Bank Fees	Audit Bank Fees	\$ 50.00
		TOTAL	\$297,234.23

8.3 Council Investments – July 2010

Location:	Westpac Banking Corporation
Applicant:	Manager of Finance & Administration
Date:	18th August 2010
Author:	Loren Hempel
Item Approved by:	Chief Executive Officer

Disclosure of Interest

No disclosure of interest has been tabled

Proposal

To inform Council of its investments as at 31st July 2010.

Background

The authority to invest money held in any Council Fund is delegated to the Chief Executive Officer. Council Funds may be invested in one or more of the following:

- Fixed Deposits
- Commercial Bills
- Government bonds
- Other Short-term Authorised Investments

Council funds are to be invested with the following financial institutions.

- Major banks
- Bonds Issued by Government and/ or Government Authorities.

Commentary

COUNCIL INVESTMENTS AS AT 31st JULY 2010				
Institution	Amount Invested	Investment type	Municipal Funds	Reserve Funds
Westpac Banking Corporation	\$832,756.98	Max-i Bonus Account 13-7729 1.95%	\$0.00	\$832,756.98
Westpac Banking Corporation	\$30,275.07	Max-i Bonus Account 13-8262 1.95%	\$30,275.07	\$0.00
TOTAL INVESTMENTS	\$863,032.05		\$30,275.07	\$832,756.98

Statutory Implications

Financial Management Regulation 19.

Policy Implications

Delegation #18 – Investments.

Financial Implications

There are no financial implications in considering this item.

Strategic Implications

There are no strategic implications in considering this item.

Resolution8.3

That the report on Council investments as at 31st July 2010 be received and noted

Moved Cr. Dennis Whisson

Seconded Cr. Dianne Kelly

Vote – Simple Majority

Carried 8/0

**9.0 Chief Executive Officer's Reports
Outstanding items**

ITEM	RESOLUTION/PARTICULARS	STAFF ACTION	COMPLETED
<p>Resolution 9.3 Ordinary Council meeting 20th May 2010</p>	<p>Amendment to Tree Cropping Policy</p> <p>"That Council resolves to adopt the Draft SEAVROC Tree Cropping Policy for advertising for public comment for a period of 21 days in accordance with Clause 2.4.1 of the Shire of Cunderdin Town Planning Scheme No. 3."</p>	<p>STACEY MCQUISTAN</p> <p>Advertise Draft SEAVROC Tree Cropping Policy for 21 days</p> <p>GARY TUFFIN Further report to be presented to council at the completion of advertising</p>	<p>Actioned 25/05/2010</p> <p>Advertised in the Avon valley Advocate 2 & 9/06/10 & Bandicoot</p> <p>Report (9.4) 15/07/10</p>
<p>Resolution 9.8 Ordinary Council meeting 18th February 2010</p> <p>Resolution 9.4 Ordinary Council meeting 20th May 2010</p>	<p>Gliding Club of WA – Proposed 25 Year Lease</p> <p>That subject to the GCWA agreeing to paying half costs for the preparation of the lease agreement, Council authorise the CEO to prepare a lease agreement for a period of 25 years in conjunction with Council's solicitors McLeod & Co incorporating the terms & conditions as outlined in Report 9.8.</p> <p>(b) that prior to entering into the lease WAPC & Heritage Council consent be sort in accordance with section 136 of the Planing Development Act & Section 78 of the Heritage of WA Act 1990.</p> <p>(c) that upon securing the necessary funding to renovate Hut 101 (clubhouse) the President & CEO be authorised to sign and affix the Common Seal to the proposed lease agreement.</p> <p>(d) that the Gliding Club of WA be advised of (a) & (c) above</p> <p>(a) to receive Report 9.4 on the proposed GCWA draft lease.</p> <p>(b) the following clauses be amended;</p> <p>clause 24.1 from 6 months to 12 months notice clauses 10.1 & 10.2 as detailed in report 9.5</p> <p>(c) That the CEO be authorised to seek further instruction from Council's solicitors for the following issues;</p> <p>- Ensuring gliding club members have access to their hangars at all times – entry in & out.</p> <p>- Introduction of a rent review mechanism in addition to the current CPI Provisions, that accounts for future growth in the clubs membership.</p> <p>(d) That the proposed lease amount be amended to \$7,000 pa, increased annually in line with CPI movements.</p> <p>(a) That council endorse the recommendations of the Audit Committee meeting, subject to amending Option 1 (Rent Review) to \$115.00 per member.</p> <p>(b) That Council resolves to advise the Gliding Club of WA of the proposed final amendments to the terms of the lease document.</p> <p>(b) That subject to the Gliding Club of WA accepting the Lease document (either option 1, 2 or 3 – rent review) as amended, the Shire President & CEO be authorised to sign and affix the Common Seal to the Lease document.</p>	<p>GARY TUFFIN/ MCLEOD & CO SOLICITORS</p> <p>GARY TUFFIN Liaise with McLeods Solicitors to amend clauses 24.1, 10.1 & 10.2</p> <p>Seek further instruction from McLeods as per (c)</p>	<p>First draft completed</p> <p>Council's solicitors have re-drafted lease document (95% complete)</p> <p>Further Report (9.6) to council after receiving comments from the gliding club</p> <p>Final Draft sent 20/07/10</p>

<p>Resolution 9.5 Ordinary Council meeting 20th May 2010</p>	<p align="center">Proposed Agricultural Spraying Business and Workers Accommodation (Dongas) at Cunderdin Airfield, Cunderdin</p> <p>(a) That the CEO be authorised to prepare a commercial lease detailing the terms and conditions for the use of the Bellman Hangar and other associated areas (accommodation & fuel facility) at an annual rental of \$10,000 pa, adjusted in line with CPI movements for a term of 5 years, with an option for a further 5 years.</p> <p>(b) That President & CEO be authorised to sign and affix the Common Seal to the lease agreement</p> <p>(c) That Council approve the application for a commercial agricultural spraying business and associated workers accommodation (dongas) at Cunderdin Airport, subject to the following conditions:</p>	<p>GARY TUFFIN</p> <p>Liaise with McLeods Solicitors to prepare a commercial lease for Taurus Aviation</p> <p>To issue DA Approval outlining conditions as per Council's resolution</p>	<p>Council's solicitors have drafted a lease document (90% complete) - to be checked</p> <p>Development Approval issued (100% complete)</p>
<p>Resolution 12.3 Ordinary Council meeting 20th May 2010</p>	<p align="center">Royalties for Regions Funding – Meckering</p> <p>(a) to authorise the CEO to allocate \$20,000 to a Meckering based project and amend the Royalties for Regions funding agreement and 2009/10 budget accordingly.</p> <p>(b) to carry forward this funding into the 2010/11 Budget in accordance with (a) above.</p>	<p>GARY TUFFIN</p>	<p>To be allocated to the Meckering Transfer station upgrade</p>
<p>Resolution 12.4 Ordinary Council meeting 20th May 2010</p>	<p align="center">Cunderdin Co-location Centre</p> <p>Council did not want to make any commitment to this project until such time as further information is provided from staff indicating the likely cost to council.</p> <p><u>Notes</u> Cr Todd Harris requested that the staff look at utilising the current Cunderdin Sports Club building as a possible site.</p>	<p>STACEY MCQUISTAN</p> <p>To follow up with FESA Re: Cost to Council</p>	<p align="center">10%</p> <p>Further report to be prepared for council's consideration – information still being gathered</p>
<p>General Items Ordinary Council meeting 20th May 2010</p>	<p align="center">Car TV Show – Cunderdin Airfield</p> <p>General discussion was held in relation to this request and there was little support for the concept, mainly possible damage concerns, liability issues & airfield operational logistics – need to close the airfield when being used.</p> <p>Council suggested that the CEO inform Mr Smith of these concerns and general lack of support at this stage. However, an invite should be extended to Mr Smith to inspect the site to determine whether the site is suitable to their requirements. If it is a suitable site, Mr Smith be requested to provide further detailed information about the project.</p>	<p>GARY TUFFIN</p> <p>To provide feedback to Mr Smith as per Council Resolution</p>	<p>Email sent to Mr Smith advising council's decision – no response</p>
<p>General Items</p>	<p align="center">Main Street Redevelopment – Stage 1</p> <p>Arial power lines in front of Main Street Shopping district to be placed underground.</p> <p>Funding provided by the Country Local Government Fund</p>	<p>GARY TUFFIN</p> <p>Commence underground boring 16/07/10</p>	<p>Design 100% complete</p> <p>Contractor engaged by Western Power Due to commence 16/07/10</p>
<p>Resolution 9.1 Ordinary Council meeting 19th November 2010</p>	<p align="center">Cunderdin Airfield</p> <p>That Council proceed with the registration of the Cunderdin Airfield for a 12 month period, at which time a further review be conducted of the benefits (if any).</p> <p>Reseal 7 mm Re-linemark airfield Replacement of gable marker</p>	<p>GARY TUFFIN/ BRET HOWSON</p>	<p>To be reviewed 12 months from registration</p> <p>100% complete 100% complete Ordered yet to be placed on-site</p>

General Items	CASA registration Staff Training (Safety Reporting Officer)		Report completed and submitted to CASA Training to be undertaken
General Items Ordinary Council Meeting 15th April 2010	SOARability Proposal to establish a Gliding Centre for the Physically Challenged at the Cunderdin Airfield. Project progressing Hangar design complete Met with Damien 29/06/10 to further discuss project - development application to be lodged. – request a 25 year lease	GARY TUFFIN	Met with Damien O'Reilly on site to select hangar site. 30% complete
General Items Ordinary Council Meeting 15th April 2010	Enterprise Metals Ltd Presentation provided by Mr Bruce Hawley (Metal Enterprises) Copies of drilling locations provided – all within council's road reserves – refer to drilling maps Letter received 9/06/10 from the Department of Mines & Petroleum requesting comment on the proposed drilling program Wrote to the Department of Mines advising council's resolution; <i>That Council advises the Hon Minister for Mines and Petroleum that it has no objections to the application by Glintan Pty Ltd for an Exploration Licence to drill test for iron ore within the road reserves nominated in the application, subject to the conditions specified in the referral letter dated 3 June 2010 from the Department of Mines and Petroleum</i>	GARY TUFFIN MARCUS TUDEHOPE (PLANNER)	15th April 2010 Further presentation provided to President & CEO 2 June 2010 Report (9.10) to June council meeting Letter sent 29/06/10
Resolution 9.10 Ordinary Council meeting 18th March 2010	Proposed Mobile Telephone Base Station at Lot 60 Lundy Avenue, Cunderdin. (Telstra) That public consultation be undertaken for a period of 14 days seeking public comment on the proposed Telstra Mobile Tower, and subject to not receiving any adverse submissions Council authorise the CEO to approve the application for a mobile base station at Lot 60 Lundy Avenue Cunderdin, subject to the following conditions: 1. The proposed development is to comply in all respects with the submitted plans approved on 18.03.2010 and stamped accordingly. Applied for a Building Licence to construct tower	GARY TUFFIN JIM RIDDLE (BUILDING SURVEYOR)	Proposal advertised and wrote to adjoining landowners 100% complete No objections received Development Approval issued Building licence issued
Resolution 9.2 Ordinary Council Meeting 15th April 2010	Optus Mobile Tower That Council approve the application for a mobile base station at Lot 100 Carter Road Cunderdin, subject to the following conditions: 1. The proposed development is to comply in all respects with the submitted plans approved on 15th April 2010 and stamped accordingly. Received (4/06/10) an email requesting access licence agreement to use Cunderdin Hill road.	GARY TUFFIN	Development Approval issued Draft agreement not yet received from Optus

<p>Resolution 9.5 Ordinary Council meeting 24th August 2009</p> <p>Resolution 9.7 Ordinary Council meeting 18th March 2010</p>	<p>Proposed Amendment No. 1 to Local Planning Scheme No. 3.</p> <p>a) That Council resolve pursuant to Part 5 of the Planning and Development Act 2005, to initiate an amendment to the Local Planning Scheme, District Zoning Scheme No. 3 to rezone Lot 1 and Loc 2195 Coronation Street Cunderdin to 'Rural Residential'.</p> <p>b) Western Australian Planning Commission be advised of a) above.</p> <p>That Council resolve pursuant to TP Regulations 17(1) to adopt the recommendation contained within the attached Schedule of Submissions, and further resolve pursuant to TP regulations 17(2) that Amendment No. 1 to the District Zoning Scheme (Town Planning Scheme No. 3) be adopted for final approval without modification.</p> <p>b) Western Australian Planning Commission and those who made submissions be advised of a) above.</p> <p>c) The affixing of the Common Seal to be authorized with respect to the amending documents for Amendment No 1 to TP Scheme No. 3.</p>	<p>GARY TUFFIN</p>	<p>(90% complete)</p> <p>All documentation completed, signed and sent to the WAPC</p>
<p>Resolution 9.10 Ordinary Council meeting 15th October 2009</p> <p>Resolution 9.7 Ordinary Council meeting 18th February 2010</p>	<p>Eight Year Review of Local Laws (SEAVROC PROJECT)</p> <p>The Council at its meeting on the 15 October 2009 resolved as follows:</p> <p>"That Council:-</p> <ol style="list-style-type: none"> Resolves to undertake a review of its existing local laws; and in accordance with section 3.16 (2) of the Local Government Act 1995, give public notice of its intention to undertake a review of its local laws." <p>That Council</p> <ol style="list-style-type: none"> NOTE that no community submissions were received by the close of the submission period on 6 January 2010 following advertising the review of the following local laws: <ul style="list-style-type: none"> By-laws relating to the Cunderdin and Meckering Cemeteries Health Local Laws 1998 Activities in Thoroughfares and Trading in Thoroughfares and Public Places Local Laws relating to Standing Orders Local Government Property Local Law Dogs Local Law 2008 By-Laws relating to Pest Plants DETERMINE BY ABSOLUTE MAJORITY to accept the review report and to take the following action for each local law: <ul style="list-style-type: none"> By-laws relating to the Cunderdin and Meckering Cemeteries Health Local Laws 1998 Activities in Thoroughfares and Trading in Thoroughfares and Public Places Local Laws relating to Standing Orders Local Government Property Local Law Dogs Local Law 2008 By-Laws relating to Pest Plants DETERMINE BY ABSOLUTE MAJORITY to commence the process under Section 3.12 of the Local Government Act 1995 of amending or repealing the Local Laws as per (2) above 	<p>GARY TUFFIN</p> <p>DARREN LONG CONSULTING</p>	<p>80% Complete</p>

<p>Resolution 9.3 Ordinary Meeting 17th December 2009</p> <p>Resolution #SE-024-10</p>	<p align="center">LGS Business Plan</p> <p>(a) That Council advise SEAVROC that it wishes to participate in the LGS Integrated Software project.</p> <p>(b) That the CEO be authorised to undertake public consultation, making the Plan available for viewing, advertising the Plan (period not less than 6 weeks), with any submissions received to be considered by Council before its final adoption, pursuant to Section 3.59 of the Local Government Act 1995.</p> <p>(a) That the participating Member Local Governments to the LGS Software Project, namely the Shires of: Beverley, Cunderdin, Quairading and York</p> <p>be requested to give consideration to adopting the Business Plan, titled: "Integrated Software – Exclusive West Australian Marketing and SalesRights Proposal" on the basis that the submission period has now expired.</p> <p>(b) Subject to (a) above, the Host Local Government, the Shire of Cunderdin, be requested to finalise and sign the Grant Agreement on behalf of the participating local governments.</p> <p>(c) The Executive Officer be authorised to liaise with LG Systems Inc in relation to preparing a Deed of Agreement in accordance with the objectives and purpose set out in the Memorandum of Understanding and the Adopted Business Plan for the Project.</p>	<p>GARY TUFFIN</p> <p>GARY TUFFIN</p> <p>DCA</p>	<p>Joint notice placed advertising complete no submissions received by closing date 29th April 2010</p> <p>Report (9.7) to June council meeting</p> <p>Signed & invoiced</p> <p>In progress</p>
<p>Resolution 9.7 Ordinary Meeting 17th December 2009</p>	<p align="center">Staff Housing Project</p> <p>(1) That a Staff House Working Group be established to prepare the necessary tender specifications & documentation for the supply and construction of one new staff house.</p> <p>(2) That the Staff House Working Group consist of the following membership;</p> <p>Cr David Beard Cr Doug Kelly Cr Dianne Kelly Chief Executive Officer</p> <p>(3) That the CEO be authorised to invite tenders when the tender documentation has been completed by the Staff Housing Working Group & purchase a suitable vacant lot.</p>		<p>Tender specifications Completed</p> <p>Project suspended due to withdrawal of CLGF for 2009/10</p>
<p>Resolution 12.4 Ordinary Meeting 17th December 2009</p> <p>Resolution 12.2 Ordinary Council meeting 18 March 2010</p>	<p align="center">Proposed Fire Break Notice</p> <p>(a) That Council advertise the attached Firebreak Notice for a public consultation period of eight (8) weeks; and</p> <p>(b) That any submissions received during the public consultation period be referred back to Council for further consideration at it's Ordinary Council Meeting to be held 18 March 2010.</p> <p>(a) That Council advertise the attached amended 'Fire Hazard Reduction Notice' for a public consultation period of two weeks (2) weeks; and</p> <p>(b) That any submissions received during the public consultation period be referred back to Council for further consideration at it's Ordinary Council Meeting to be held 15 April 2010.</p>	<p>STACEY MCQUISTAN</p>	<p>60% Complete</p> <p>Report (12.2) to June council meeting</p>

Resolution 12.4 Ordinary Council meeting 18 February 2010	<p style="text-align: center;">Honour Board</p> (a) That Council agree to support the purchase and installation of the Imperial & Australian Honour Board; and (b) That Council endorse staff to spend up to \$1,000 to undertake this project.	STACEY MCQUISTAN	<p style="text-align: center;">100% complete</p> <p style="text-align: center;">Needs to be installed.</p>
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Outstanding matters
Council Resolution Action List – 23 June 2010

9.6 Resolution	<p style="text-align: center;">Authorised Persons – Gazette Notices</p> (a) All previous appointments are to be revoked. (b) That Council endorse the Authorised persons appointments as detailed in report 9.6 in relation to the following; Caravan Parks & Camping Grounds Act 1995 Control of Vehicles (Off-Road Areas) Act 1978 Litter Act 1979 Local Government (Miscellaneous Provisions) Act 1960 Dog Act 1976 (c) Undertake all statutory procedures for the amendment of the Authorised Persons	GARY To place notice in Government Gazette	<p style="text-align: center;">Notice prepared</p>
12.2 Resolution	<p style="text-align: center;">Firebreak Notice</p> a) adopt the attached Firebreak Notice, subject to the following amendments; 1) the provision covering “ <i>Land Area 5ha and Above</i> ” be deleted from the notice 2) That the require Fire reduction Zone width be reduced from “3’ to 2.4 metres 3) That the notice date be moved to the 1 st October 2011, from 1 st October 2010. b) advertise the Firebreak Notice in the Government Gazette, Bandicoot and Avon Valley Advocate c) a copy of the notice be forwarded to all ratepayers in the Shire	STACEY To advertise notices	
12.3 Resolution	<p style="text-align: center;">Meckering Hockey Club Upgrades</p> That Council: a) allocate \$15,000 in the 2010/11 Budget for works at the Meckering Hockey Field; b) that Meckering Ladies Hockey Club sign the Council Donations Terms and Conditions, as well as provide a full acquittal of funds once the allocation has been spent; and c) provide a cheque for the same amount to the Meckering Ladies Hockey Club	STACEY to draft letter advising Meckering Hockey	<p style="text-align: center;">Meckering Hockey Club have accepted the offer of \$15,000 (12/08/10)</p>

Council Resolution Action List – 15 July 2010

Resolution 9.1	RTG Agreement That Council RESOLVE to authorise the Shire President & CEO to sign and affix the Common Seal to the RTG Agreement, subject to not receiving any adverse information from McLeod & Co (Solicitors), that in the opinion of the CEO is significant and would require further consideration by Council.		Agreement signed 7/08/10 by all parties
Resolution 9.2	Authorised Person – Delegation Amendment That Council RESOLVE (a) to amend the conditions in Delegation #3 to include the Food Act 2008 and its Regulations. (b) to amend Council's Delegation Register accordingly.	Provide delegation in writing to Gordon Tester (EHO)	
Resolution 9.3	Forward Capital Works Plans That DCA & Associates be engaged to undertaken the preparation of the Forward Capital Works Plans as detailed in their submission dated 2nd July 2010. DCA have accepted the appointment.	Wrote to DCA advising appointment Work to commence 18/08/10	5%
Resolution 9.4	Tree Cropping Policy That Council resolves; (a) to adopt the SEAVROC Tree Cropping Policy with minor modification in accordance with Clause 2.4 of the Shire of Cunderdin Town Planning Scheme No.3. (b) to give local notice that it has adopted the amended Tree Cropping Policy.		
Resolution 9.6	DA - Lot 8 Lundy Ave, Cunderdin That Council approve the application for a proposed single dwelling at lot 8 Lundy Avenue, Cunderdin, subject to the following conditions: 1. The proposed development is to comply in all respects with the submitted plans approved on 15.07.2010 and stamped accordingly. 2. The proposed building is to be provided with an adequate effluent disposal system. 3. Stormwater from all roofed or paved areas is to be collected and contained on site. 4. This approval is conditional on the owners of adjoining Lot 9 Lundy Avenue returning a notice of no objection to the reduced setback of 0.5m of the proposed verandah to the Western boundary. Should adjoining owners object, the matter will be reconsidered by Council prior to the issue of planning consent.		90% Letter of no objection received 12/08/10

9.1 Proposed New Cemeteries Local Law

Location:	Cunderdin
Applicant:	Administration
Date:	18th August 2010
Author	G Tuffin
Item Approved by:	Chief Executive Officer

Disclosure of Interest:

No disclosure of interest has been tabled.

Attachments:

A copy of the proposed Cemeteries Local Law 2010 is attached.

Proposal:

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; and
- (4) for advertising of the local law for public comment.
- (5) to align SEAVROC/RTG council's Local Laws

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, SEAVROC member council's commenced a review of their local laws on 27 October 2009 jointly as a group. As a consequence it was decided that given the RTG and move towards amalgamation, our Local Laws should be based on the same models to align them as closely as possible to assist with a smoother transition should an amalgamation proceed.

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.

The other five members of the current RTG (Beverley, Cunderdin, Quairading, Tammin & York) will all be adopting the same model.

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), and the National Competition Policy review must be sent to the relevant Minister for comment.

Policy Implications:

The introduction of the proposed new local law will 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.

Statutory Environment:

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

Strategic Implications:

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.

Recommendation 9.1

That Council:

- (1) adopt the proposed Shire of Cunderdin Cemeteries Local Law 2010, as contained in the Attachment;
- (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 2010, 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 _____

Seconded Cr _____

Vote – **Simple Majority**

Carried/Lost ____/ ____

Resolution

Moved Cr Graham Cooper

Seconded Cr Doug Kelly

That items 9.1 to 9.6 and 9.8 be received in block.

Carried 8/0

CEMETERIES ACT 1986
LOCAL GOVERNMENT ACT 1995
Shire of Cunderdin
CEMETERIES LOCAL LAW 2010

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CEMETERIES ACT 1986
LOCAL GOVERNMENT ACT 1995
SHIRE OF CUNDERDIN
CEMETERIES LOCAL LAW 2010

PART 1—PRELIMINARY

Under the powers conferred by the *Cemeteries Act 1986* and the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Cunderdin resolved on [insert date of adoption resolution here] to make the following local law.

1.1 Citation

This local law is cited as the *Shire of Cunderdin Cemeteries Local Law 2010*.

1.2 Commencement

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

1.3 Repeal of Local Law

The following local laws are repealed:

Cunderdin Public Cemetery—Reserve No. 14531 and the Meckering Public Cemetery—Reserve No. 14624, published in the *Government Gazette* on 6 February 1969, and as amended and published in the *Government Gazette* on 6 February 1972.

1.4 Content and Intent

This local law provides for rules and guidelines for the management and control of cemeteries located in Cunderdin (Reserve No. 14531) and Meckering (Reserve No 14624).

1.5 Interpretation

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

“**Act**” means the *Cemeteries Act 1986*;

“**animal**” means any animal;

“**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 Cunderdin;

“**burial**” has the same meaning as is given to it in the Act;

“**Cemetery**” means the Cunderdin and Meckering Cemeteries, which the Governor, by order, has placed under the care control and management of the Board;

“**CEO**” means the Chief Executive Officer for the time being, of the Board and includes an acting Chief Executive Officer;

“**dead body**” has the same meaning given to it in the Act;

“**funeral**” includes the burial of a dead body and all associated processions and ceremonials but does not include so much of the ceremonial that is solely a religious rite;

“**Funeral Director**” means a person holding a current funeral director’s licence;

“**grant**” means a grant issued by the Board, of an exclusive right of burial in a grave;

“**grave**” means a specified area of the cemetery for burial;

“**guide dog**” has the same meaning as is given to that expression in the Dog Act 1976;

“**holder**” in relation to a grant includes-

- (a) a person issued with a grant by the Board;

- (b) a person for the time being appearing to the Board to be the holder of a grant;
- “local government”** means the Shire of Cunderdin;
- “Memorial”** means a memorial plaque or memorial as described in this local law or as otherwise approved by the Board;
- “Minister”** means the Minister for Local Government;
- “monumental mason”** means a person holding a current monumental mason’s licence;
- “personal representative”** means the administrator or executor of an estate of a deceased person;
- “remains”** means ashes or what remains of a dead body after burial;
- “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;
- (2) Unless otherwise defined herein the terms and expressions used in this local law shall have the same meaning given to them in the Act;
- (3) Where a term is not defined in this local law, the Act or Regulations, the term is to be taken from the Oxford Dictionary.

PART 2—ADMINISTRATION

2.1 Powers and Functions of Chief Executive Officer.

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.

PART 3—APPLICATION FOR FUNERALS

3.1 Grant of right of burial

The Board may issue to a person a grant of right of burial, for the term specified in the Act from time to time, upon –

- (a) written application by that person; and
- (b) payment of the set fee.

3.2 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.

3.3 Applications to be Accompanied by Certificates etc

All applications referred to in clauses 3.2 shall be accompanied by either a medical certificate of death or a Coroner’s order of burial, and a certificate issued under clause 3.4, in respect of the body.

3.4 Certificate of Identification

- (1) 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.
- (2) Where—
 - (a) in the opinion of the Funeral Director, the dead body is not in a fit state to be viewed; or
 - (b) after reasonable effort the Funeral Director is unable to arrange for a person to identify the dead body,

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

3.5 Minimum Notice Required

All bookings to hold a funeral shall be made with the Board at least 2 working days prior to the time proposed for burial on the application, otherwise an extra charge may be made.

3.6 Time for burials

- (1) A person shall only carry out a burial between the hours of 6:00am and 6:00pm Monday to Sunday.
- (2) A person shall not carry out a burial –
 - (a) on Christmas Day; or
 - (b) on Good Friday.

PART 4—FUNERAL DIRECTORS

4.1 Funeral Director's Licence Expiry

A funeral director's licence shall expire on the 30th day of June in each year.

4.2 Application for a Single Funeral Permit

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

4.3 Application may be Refused

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

PART 5—FUNERALS

Division 1—General

5.1 Requirements for Funerals and Coffins

A person shall not bring a dead body into 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 10mm 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, and, if not punctually observed, then the applicant who applied to hold the funeral under clause 3.1 shall pay the set fee for being late.

5.3 Vehicle Access and Speed Limitations

- (1) Subject to subclause 5.3(2), every funeral procession shall enter by the principal entrance, and no vehicle except the hearse, and official mourning coaches, shall be permitted to enter the interment area.
- (2) This clause shall not apply to persons using wheelchairs or motorised wheelchairs;
- (3) 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 25km per hour.

5.4 Offenders may be Expelled

A person committing an offence under sub-clause 5.3(3) may be expelled from the cemetery by the CEO or an authorised officer.

5.5 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) bury a dead body within cemeteries under the delegation of the Shire of Cunderdin and in conjunction with the *Cemeteries Act 1986*.
- (e) specify an area in the cemetery where the dead body is to be buried or the ashes placed;
- (f) conduct the funeral notwithstanding the failure of a person to make any application or to obtain any consent required under this local law;
- (g) do or require anything which it considers is necessary or convenient for the conduct of a funeral by it.

Division 2—Placement of Ashes

5.6 Disposal of Ashes

- (1) A 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 the Board may grant permission for the ashes to be disposed of by one of the following methods—
Niche Wall, Scattering to the Winds, or other memorials approved by 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's 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 re-opening a grave in the cemetery, the Board finds it necessary to remove plants, grass, shrubs or other like matter from the grave, then the person

6

ordering the re-opening of that grave shall bear the cost of the removal and any necessary reinstatement.

- (2) If the 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 cost referred to in subclause (1) should be met.

6.3 Exhumation of a Coffin

- (1) Subject to subclause (2), a person shall not exhume a coffin in the cemetery for the purposes of re-burial within twelve (12) months after the date of its interment.
- (2) Subclause (1) shall not apply where the exhumation is ordered or authorised pursuant to the Act.
- (3) Subject to subclause (1) and (2) prior to any other exhumation, the holder of a grant must have applied in writing to the Board requesting the exhumation and the Board has authorised the exhumation.

6.4 Opening of Coffin

- (1) A person shall not open a coffin in the cemetery unless –
- (a) the coffin is opened for the purposes of the exhumation of a dead body; or
- (b) that person has produced to the Board an order signed by the Commission 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 in accordance with the Board's specifications.

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 without the prior approval of the Board.

7.9 Plants and Trees

No trees or shrubs shall be planted on any grave or within the cemetery except such as shall be approved by the CEO.

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 Minor Maintenance and Repair Works

Persons shall be permitted to carry out minor maintenance and repair works, not of a structural nature, such as cleaning, touch up painting, etc on graves, without seeking the approval of the Board.

7.12 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.

7.13 Placing of Glass Domes and Vases

A person shall not place glass domes, vases or other grave ornaments outside the perimeter of a grave in the cemetery as defined in the plans kept and maintained under section 40 (2) of the Act;

Division 2—Memorial Plaque Section

7.14 Requirements of a Memorial Plaque

All memorial plaques placed in a memorial plaque section of the cemetery shall be in accordance with the Boards' specifications.

Division 3—Licensing of Monumental Masons

7.15 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.

7.16 Expiry Date, Non-Transferability

A monumental mason's licence—

- (a) shall, subject to clause 7.19, be valid from the date specified therein until the 30th day of June next following; and
- (b) is not transferable.

7.17 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 7.15 or does so as the employee of a person who holds such a licence;
- (b) is authorised by the Board to do so; or
- (c) has received from the Board permission to do so during a funeral service.

7.18 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.

7.19 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; or
 - (c) that the holder of the licence has purported to transfer the licence issued to that holder.
- (2) Upon the termination of a monumental mason's licence under this clause no part of any fee paid for the issue of that licence is refundable by the Board.
- (3) An aggrieved person whose licence has been terminated under subclause (1) may appeal to the State Administrative Tribunal for a review of the decision of the Board under this clause in the manner stated in section 19(2) of the Act.

PART 8—GENERAL

8.1 Animals and Guide Dogs

- (1) Subject to sub-clause (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.
- (2) Sub-clause (1) shall not apply to a hearing impaired person or a person who is blind or partially blind and is accompanied by a hearing or guide dog.

8.2 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.

8.3 Flowers

- (1) All flowers must be placed in vases or receptacles;
- (2) No person shall plant trees, shrubs or plants in the cemetery without the prior approval of the Board; and
- (3) 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.

8.4 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;
- (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.

8.5 Advertising

A person shall not carry on or advertise any trade, business or profession within the cemetery without the prior written approval of the Board which consent may be granted subject to such conditions as the Board thinks fit.

8.6 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.

8.7 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 the addition

to any penalty provided by this local law, be ordered to leave the cemetery by the Board, the CEO or an authorised officer.

8.8 Fireworks or Firearms

- (1) A person shall not bring or discharge any fireworks 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.

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 the First Schedule 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 the First Schedule is set out in the fourth column of the First Schedule.
- (3) The prescribed form of the infringement notice referred to in section 63 (1) of the Act is set out in the Second Schedule.
- (4) The prescribed form of the notice withdrawing an infringement notice referred to in section 63 (3) of the Act is set out in the Third Schedule.

FIRST SCHEDULE

CEMETERIES ACT, 1986
 LOCAL GOVERNMENT ACT 1995
Shire of Cunderdin
 CEMETERIES LOCAL LAW
MODIFIED PENALTIES

Item No.	Clause	Nature of Offence	Modified Penalty
1	5.3	Excessive speed	\$100.00
2	5.3	Unauthorised use - driving of vehicles	\$100.00
3	7.3	Placing and removal of rubbish and surplus materials	\$100.00
4	7.7	Leaving uncompleted works in an untidy or unsafe condition	\$100.00
5	8.1(1)	Animal at large	\$100.00
6	8.4	Dumping of Rubbish	\$100.00
7	8.5	Unauthorised advertising, and/or trading	\$100.00
8	8.6	Disobeying sign or lawful direction	\$100.00

SECOND SCHEDULE
CEMETERIES ACT 1986
LOCAL GOVERNMENT ACT 1995
Shire of Cunderdin
CEMETERIES LOCAL LAW 2010
INFRINGEMENT NOTICE

TO: _____
(Name)

(Address)

It is alleged that at _____ : _____ hours on _____ day
of _____ 20_____ at _____

you committed the offence indicated below by an (x) in breach of clause of the *Shire of Cunderdin Cemeteries Local Law 2010*.

(Authorised Officer)

Offence

- Animal at large
 - Dumping rubbish
 - Excessive speed in vehicle
 - Leaving uncompleted works in an untidy or unsafe condition
 - Non removal of rubbish
 - Unauthorised advertising or trading
 - Unauthorised vehicle use
 - Disobeying sign or lawful direction
 - Other Offence _____
- \$ _____

You may dispose of this matter—

By payment of the penalty as shown within 21 days of the date of this notice (or the date of the giving of this notice if that is a different date) to the Chief Executive Officer of the *Shire of Cunderdin* at Lundy Avenue, Cunderdin between the hours of 9am to 4.30pm Monday to Friday.

Please make cheques payable to the Shire of Cunderdin. Payments by mail should be addressed to—

The Chief Executive Officer
Shire of Cunderdin
PO Box 100
CUNDERDIN WA 6407

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.

THIRD SCHEDULE
CEMETERIES ACT 1986
LOCAL GOVERNMENT ACT 1995
Shire of Cunderdin
CEMETERIES LOCAL LAW 2010
WITHDRAWAL OF INFRINGEMENT NOTICE

No. _____

_____ Date ____/____/____

To ⁽¹⁾ _____

Infringement Notice No _____ dated ____/____/____ for the alleged offence of ⁽²⁾

Penalty ⁽³⁾ \$ _____ is withdrawn.

(Delete whichever does not apply)

* No further action will be taken.

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

(1) Insert name and address of alleged offender.

(2) Insert short particulars of offence alleged.

(3) Insert amount of penalty prescribed.

(Authorised Officer)

Dated this [date]

The Common Seal of the Shire of Cunderdin was affixed by authority of a resolution of the Council in the presence of:

R CARTER, Shire President

G TUFFIN, Chief Executive Officer

9.2 Proposed Dogs Local Law 2010

Location:	Cunderdin
Applicant:	Administration
Date:	18th August 2010
Author	G Tuffin
Item Approved by:	Chief Executive Officer

Disclosure of Interest:

No disclosure of interest has been tabled.

Attachments:

A copy of the proposed Dogs Local Law 2010 is attached.

Proposal:

To allow:

- (6) the Presiding Person to give notice to the meeting of the intent to make a new Dogs local law;
- (7) the Presiding Person to give notice of the purpose and effect of the proposed Dogs Local Law,
- (8) for the Council to adopt the proposed Dogs Local Law; and
- (9) for advertising of the local law for public comment.
- (10) to align SEAVROC/RTG council Local Laws

Background:

To comply with the provisions of section 3.16 of the *Local Government Act 1995*, SEAVROC member council's commenced a review of their local laws on 27 October 2009 jointly as a group. As a consequence it was decided that given the RTG and move towards amalgamation, our Local Laws should be based on the same models to align them as closely as possible to assist with a smoother transition should an amalgamation proceed.

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.

The other five members of the current RTG (Beverley, Cunderdin, Quairading, Tammin & York) will all be adopting the same model.

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), and the National Competition Policy review must be sent to the relevant Minister for comment.

Policy Implications:

There are no policy implications for this item.

Statutory Environment:

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.

Strategic Implications:

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.

Recommendation 9.2

That Council:

- (1) adopt the proposed Shire of Cunderdin Dogs Local Law 2010, as contained in the Attachment;
- (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 2010, 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 _____ Seconded Cr _____

Vote – **Simple Majority** Carried/Lost ____/____

Note: Refer to item 9.1 - That items 9.1 to 9.6 and 9.8 be received in block

Shire of Cunderdin

PROPOSED DOGS LOCAL LAW 2010

DOG ACT 1976

DOG ACT 1976
LOCAL GOVERNMENT ACT 1995
Shire of Cunderdin
DOGS LOCAL LAW 2010

ARRANGEMENT

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DOG ACT 1976
LOCAL GOVERNMENT ACT 1995
Shire of Cunderdin
DOGS LOCAL LAW 2010

Under the powers conferred by the *Dog Act 1976* and under all other powers enabling it, the Council of the Shire of Cunderdin resolved on [insert adoption resolution date here] to make the following local law.

PART 1 - PRELIMINARY

1.1 Citation

This local law is cited as the *Shire of Cunderdin Dogs Local Law 2010*.

1.2 Commencement

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

1.3 Repeal

1.4 Definitions

In this local law unless the context otherwise requires -

“Act” means the *Dog Act 1976*;

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

“CEO” means the Chief Executive Officer of the local government and includes an acting chief executive officer;

“dangerous dog” has the meaning given to it in the Act;

“district” means the district of the local government;

“local government” means the Shire of Cunderdin;

“local planning scheme” means a local planning scheme made by 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*, which applies throughout the whole or a part of the district.

“pound keeper” means a person authorized by the local government to perform all or any of the functions conferred on a “pound keeper” under this local law;

“Regulations” means the *Dog Regulations 1976*;

“restricted breed dog” has the meaning given to it in regulation 3 of the *Dog (restricted Breeds) Regulations (No.2) 2002*;

“thoroughfare” has the meaning given to it in section 1.4 of the *Local Government Act 1995*; and

“townsite” means the townsites within the district which are—

(a) constituted under section 26(2) of the *Land Administration Act 1997*; or

(b) referred to in clause 37 of Schedule 9.3 of the *Local Government Act 1995*;

1.5 Application

This local law applies throughout the district.

PART 2 - IMPOUNDING OF DOGS

2.1 Charges and costs

The following are to be imposed and determined by the local government under sections 6.16 - 6.19 of the *Local Government Act 1995* -

- (a) the charges to be levied under section 29(4) of the Act relating to the seizure and impounding of a dog;
- (b) the additional fee payable under section 29(4) of the Act where a dog is released at a time or on a day other than those determined under clause 2.2; and
- (c) the costs of the destruction and the disposal of a dog referred to in section 29(15) of the Act.

2.2 Attendance of pound keeper at pound

The pound keeper is to be in attendance at the pound for the release of dogs at the times and on the days of the week as are determined by the CEO.

2.3 Release of impounded dog

- (1) A claim for the release of a dog seized and impounded is to be made to the pound keeper or in the absence of the pound keeper, to the CEO.
- (2) The pound keeper is not to release a dog seized and impounded to any person unless that person has produced, to the satisfaction of the pound keeper, satisfactory evidence of her or his ownership of the dog or of her or his authority to take delivery of it.

2.4 No breaking into or destruction of pound

A person who -

- (a) unless he or she is the pound keeper or a person authorized to do so, releases or attempts to release a dog from a pound; or
- (b) destroys, breaks into, damages or in any way interferes with or renders not dog-proof -
 - (i) any pound; or
 - (ii) any vehicle or container used for the purpose of catching, holding or conveying a seized dog,commits an offence.

Penalty: Where the dog is a dangerous or restricted breed dog, \$2,000; otherwise \$1,000.

PART 3 - REQUIREMENTS AND LIMITATIONS ON THE KEEPING OF DOGS

3.1 Dogs to be confined

- (1) An occupier of premises within a townsite on which a dog is kept must -
 - (a) cause a portion of the premises on which the dog is kept to be fenced or walled in a manner capable of confining the dog;
 - (b) ensure the fence or wall used to confine the dog and every gate or door in the fence or wall is of a type, height and construction which having regard to the breed, age, size and physical condition of the dog is capable of preventing the dog at all times from passing over, under or through it;
 - (c) ensure that every gate or door in the fence or wall is kept closed at all times when the dog is on the premises;
 - (d) maintain the fence or wall and all gates and doors in the fence or wall in good order and condition; and
 - (e) where no part of the premises consists of open space, yard or garden or there is no open space or garden or yard of which the occupier has exclusive use or occupation, ensure that

other means exist on the premises (other than the tethering of the dog) for effectively confining the dog within the premises.

- (2) Where an occupier fails to comply with subclause (1), he or she commits an offence.

Penalty: Where the dog kept is a dangerous or restricted breed dog, \$2,000; otherwise \$1,000.

3.2 Limitation on the number of dogs

- (1) This clause does not apply to premises which have been -
- (a) licensed under Part 4 as an approved kennel establishment; or
 - (b) granted an exemption under section 26(3) of the Act.
- (2) On land within a townsite, or zoned "rural residential" under a local planning scheme, the limit on the number of dogs which may be kept on any premises is, for the purpose of section 26(4) of the Act, 2 dogs over the age of 3 months and the young of those dogs under that age.
- (3) On land zoned "rural" under a local planning scheme, the limit on the number of dogs which may be kept on any premises is, for the purpose of section 26(4) of the Act, 4 dogs over the age of 3 months and young of those dogs under that age.

PART 4 - APPROVED KENNEL ESTABLISHMENTS

4.1 Interpretation

In this Part and in Schedule 2 -

"licence" means a licence to keep an approved kennel establishment on premises;

"licensee" means the holder of a licence;

"premises", in addition to the meaning given to it in section 3 of the Act, means the premises described in the application for a licence; and

"transferee" means a person who applies for the transfer of a licence to her or him under clause 4.14.

4.2 Application for licence for approved kennel establishment

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 kennel establishment, including a site plan;
- (b) copies of the notices to be given under clause 4.3;
- (c) written evidence that either the applicant or another person who will have the charge of the dogs, will reside on the premises or, in the opinion of the local government, sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare;
- (d) a written acknowledgement that the applicant has read and agrees to comply with any code of practice relating to the keeping of dogs nominated by the local government; and
- (e) the fee for the application for a licence referred to in clause 4.10(1).

4.3 Notice of proposed use

- (1) An applicant for a licence must give notice of the proposed use of the premises as an approved kennel establishment after the application for a licence has been lodged -
- (a) once in a newspaper circulating in the district; and
 - (b) to the owners and occupiers of any premises adjoining the premises.
- (2) The notices in subclause (1) must specify that -
- (a) any written submissions as to the proposed use are to be lodged with the CEO within 14 days of the date the notice is given; and

- (b) the application and plans and specifications may be inspected at the offices of the local government.

(3) Where –

- (a) the notices given under subclause (1) do not clearly identify the premises; or
- (b) a notice given under subclause (1)(a) is of a size or in a location in the newspaper which, in the opinion of the local government, would fail to serve the purpose of notifying persons of the proposed use of the premises,

then the local government may refuse to determine the application for a licence until the notices or notice, as the case may be, is given in accordance with its directions.

4.4 Exemption from notice requirements

Where an application for a licence is made in respect of premises on which an approved kennel establishment is either a -

- (a) permitted use; or
- (b) use which the local government may approve subject to compliance with specified notice requirements,

under a local planning scheme, then the requirements of clauses 4.2(b), 4.3 and 4.5(a) do not apply in respect of the application for a licence.

4.5 When application can be determined

An application for a licence is not to be determined by the local government until -

- (a) the applicant has complied with clause 4.2;
- (b) the applicant submits proof that the notices referred to in clause 4.3(1) have been given in accordance with that clause; and
- (c) the local government has considered any written submissions received within the time specified in clause 4.3(2)(a) on the proposed use of the premises.

4.6 Determination of application

In determining an application for a licence, the local government is to have regard to –

- (a) the matters referred to in clause 4.7;
- (b) any written submissions received within the time specified in clause 4.3(2)(a) on the proposed use of the premises;
- (c) any economic or social benefits which may be derived by any person in the district if the application for a licence is approved;
- (d) the effect which the kennel establishment may have on the environment or amenity of the neighbourhood;
- (e) whether the approved kennel establishment will create a nuisance for the owners and occupiers of adjoining premises; and
- (f) whether or not the imposition of and compliance with appropriate conditions of a licence will mitigate any adverse effects of the approved kennel establishment identified in the preceding paragraphs.

4.7 Where application cannot be approved

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

- (a) an approved kennel establishment cannot be permitted by the local government on the premises under a local planning scheme; or

- (b) an applicant for a licence or another person who will have the charge of the dogs will not reside on the premises, or, in the opinion of the local government, sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare.

4.8 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.

4.9 Compliance with conditions of approval

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

Penalty: Where a dog involved in the contravention is a dangerous or restricted breed dog, \$2,000 and a daily penalty of \$200; otherwise \$1,000 and a daily penalty of \$100.

4.10 Fees

- (1) On lodging an application for a licence, the applicant is to pay a fee to the local government.
- (2) On the issue or 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.
- (4) The fees referred to in subclauses (1) to (3) are to be imposed and determined by the local government under sections 6.16 - 6.19 of the *Local Government Act 1995*.

4.11 Form of licence

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

4.12 Period of licence

- (1) The period of effect of a licence is set out in section 27(5) of the Act.
- (2) A licence is to be renewed if the fee referred to in clause 4.10(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.

4.13 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 the licensee is not a fit and proper person.
- (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 under section 27(6) of the Act.
- (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.

4.14 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 –
 - (i) written evidence that a person will reside at or within reasonably close proximity to the premises the subject of the licence; and
 - (ii) the fee for the application for the transfer of a licence referred to in clause 4.10(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 approval, unless otherwise specified in the notice issued under clause 4.15(b), the transferee becomes the licensee of the licence for the purposes of this local law.

4.15 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 4.13(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 4.13(2)(a); and
- (g) a licensee of the cancellation of a licence under paragraphs (b) or (c) of clause 4.13(2), which notice is to be given in accordance with section 27(6) of the Act.

4.16 Inspection of kennel

With the consent of the occupier, an authorized person may inspect an approved kennel establishment at any time.

PART 5 - DOGS IN PUBLIC PLACES

5.1 Places where dogs are prohibited absolutely

- (1) Subject to section 8 of the Act and section 66J of the *Equal Opportunity Act 1984*, dogs are prohibited absolutely from entering or being in any of the following places –
 - (a) a public building, unless permitted by a sign;
 - (b) a theatre or picture gardens;
 - (c) all premises or vehicles classified as food premises or food vehicles under the *Food Act 2008*;
 - (d) a public swimming pool;
 - (e) a public toilet block or changing room
 - (f) a cemetery, unless otherwise provided for in the local governments local law relating to cemeteries.
- (2) If a dog enters or is in a place specified in subclause (1), every person liable for the control of the dog at that time commits an offence.

Penalty: Where the dog is a dangerous or restricted breed dog, \$2,000; otherwise \$1,000.

5.2 Places which are dog exercise areas

- (1) Subject to clause 5.1 and subclauses (1)(b) and (2) of this clause, for the purposes of sections 31 and 32 of the Act, the following are dog exercise areas –
 - (a) Cunderdin town lots 33 and 34 – portion of Cunderdin Greater Sports Ground.
- (2) Subclause (1)(a) does not apply to –
 - (a) an area set aside by a wall or fence as a children’s playground, or where there is no wall or fence, an area within 10 metres of the edge of playing equipment or apparatus
 - (b) an area within 10m of the edge of a playing field being used for sporting or other activities, as permitted by the local government, during the times of such use;
 - (c) a car park, thoroughfare, access way or right of way;

PART 6 - MISCELLANEOUS

6.1 Offence to excrete

- (1) A dog must not excrete on –
 - (a) any thoroughfare or other public place; or
 - (b) any land which is not a public place without the consent of the occupier.
- (2) Subject to subclause (3), if a dog excretes contrary to subclause (1), every person liable for the control of the dog at that time commits an offence.

Penalty: \$200.

- (3) The person liable for the control of the dog does not commit an offence against subclause (2) if any excreta is removed immediately by that person.

PART 7 - ENFORCEMENT

7.1 Interpretation

In this Part -

“infringement notice” means the notice referred to in clause 7.3; and

“notice of withdrawal” means the notice referred to in clause 7.6(1).

7.2 Modified penalties

- (1) The offences contained in Schedule 3 are offences in relation to which a modified penalty may be imposed.
- (2) The amount appearing in the third column of Schedule 3 directly opposite an offence is the modified penalty payable in respect of that offence if -
 - (a) the dog is not a dangerous or restricted breed dog; or
 - (b) the dog is a dangerous or restricted breed dog, but an amount does not appear in the fourth column directly opposite that offence.
- (3) The amount appearing in the fourth column of Schedule 3 directly opposite an offence is the modified penalty payable in respect of that offence if the dog is a dangerous or restricted breed dog.

7.3 Issue of infringement notice

Where an authorized 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 7 of the First Schedule of the Regulations.

7.4 Failure to pay modified penalty

Where a person who has received an infringement notice fails to pay the modified penalty within the time specified in the notice, or within such further time as may in any particular case be allowed by the CEO, he or she is deemed to have declined to have the offence dealt with by way of a modified penalty.

7.5 Payment of modified penalty

A person who has received an infringement notice may, within the time specified in that notice or within such further time as may in any particular case be allowed by the CEO, send or deliver to the local government the amount of the penalty, with or without a reply as to the circumstances giving rise to the offence, and the local government may appropriate that amount in satisfaction of the penalty and issue an acknowledgment.

7.6 Withdrawal of infringement notice

- (1) Whether or not the modified penalty has been paid, an authorized person may withdraw an infringement notice by sending a notice in the form of Form 8 of the First Schedule of the Regulations.
- (2) A person authorized to issue an infringement notice under clause 7.3 cannot sign or send a notice of withdrawal.

7.7 Service

An infringement notice or a notice of withdrawal may be served on a person personally, or by leaving it at or posting it to her or his address as ascertained from her or him, or as recorded by the local government under the Act, or as ascertained from inquiries made by the local government.

Schedule 1
(clause 4.2)
Shire of Cunderdin
DOGS LOCAL LAW 2010

APPLICATION FOR A LICENCE FOR AN APPROVED KENNEL ESTABLISHMENT

I/we (full name)
of (postal address)
(telephone number)
(facsimile number)
(E-mail address)

Apply for a licence for an approved kennel establishment at (address of premises)
.....
For (number and breed of dogs)

- * (insert name of person) will be residing at the premises on and from (insert date)
- * (insert name of person) will be residing (sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare) at
..... (insert address of residence)
on and from (insert date).

Attached are -

- (a) a site plan of the premises showing the location of the kennels and yards and all other buildings and structures and fences;
- (b) plans and specifications of the kennel establishment;
- (c) copy of notice of proposed use to appear in newspaper;
- (d) copy of notice of proposed use to be given to adjoining premises;
- (e) written evidence that a person will reside -
 - (i) at the premises; or
 - (ii) sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare; and
- (f) if the person in item (e) is not the applicant, written evidence that the person is a person in charge of the dogs.

I confirm that I have read and agree to comply with the Code of Practice known as, in the keeping of dogs at the proposed kennel establishment.

Signature of applicant Date

* delete where inapplicable.

Note: a licence if issued will have effect for a period of 12 months – section 27.5 of the Dog Act.

OFFICE USE ONLY

Application fee paid on *[insert date]*.

Schedule 2
(clause 4.8(1))
Shire of Cunderdin
DOGS LOCAL LAW 2010

CONDITIONS OF A LICENCE FOR AN APPROVED KENNEL ESTABLISHMENT

An application for a licence for an approved kennel establishment may be approved subject to the following conditions -

- (a) each kennel, unless it is fully enclosed, must have a yard attached to it;
- (b) each kennel and each yard must be at a distance of not less than -
 - (i) 25m from the front boundary of the premises and 5m from any other boundary of the premises;
 - (ii) 10m from any dwelling; and
 - (iii) 25m from any church, school room, hall, factory, dairy or premises where food is manufactured, prepared, packed or stored for human consumption;
- (c) each yard for a kennel must be kept securely fenced with a fence constructed of link mesh or netting or other materials approved by the local government to a height of no less than 2m;
- (d) the minimum floor area for each kennel must be calculated at 2.5 times the length of the breed of dog (when it is fully grown), squared, times the number of dogs to be housed in the kennel and the length of the dog is to be determined by measuring from the base of the tail to the front of its shoulder;
- (e) the floor area of the yard attached to any kennel or group of kennels must be at least twice the floor area of the kennel or group of kennels to which it is attached;
- (f) the upper surface of the kennel floor must be –
 - (i) at least 100mm above the surface of the surrounding ground;
 - (ii) smooth so as to facilitate cleaning;
 - (iii) rigid;
 - (iv) durable;
 - (v) slip resistant;
 - (vi) resistant to corrosion;
 - (vii) non-toxic;
 - (viii) impervious;
 - (ix) free from cracks, crevices and other defects; and
 - (x) finished to a surface having a fall of not less than 1 in 100 to a spoon drain which in turn must lead to a suitably sized diameter sewerage pipe which must be properly laid, ventilated and trapped in accordance with the health requirements of the local government;
- (g) all kennel floor washings must pass through the drain in item (f)(x) and must be piped to approved apparatus for the treatment of sewage in accordance with the health requirements of the local government;
- (h) the kennel floor must have a durable upstand rising 75mm above the floor level from the junction of the floor and external and internal walls, or internal walls must be so constructed as to have a minimum clearance of 50mm from the underside of the bottom plate to the floor;
- (i) where a yard is to be floored, the floor must be constructed in the same manner as the floor of any kennel;
- (j) from the floor, the lowest internal height of a kennel must be, whichever is the lesser of -
 - (i) 2m; or

- (ii) 4 times the height of the breed of dog in the kennel, when it is fully grown, measured from the floor to the uppermost tip of its shoulders while in a stationary upright position;
- (k) the walls of each kennel must be constructed of concrete, brick, stone or framing sheeted internally and externally with good quality new zincalume or new pre-finished colour coated steel sheeting or new fibrous cement sheeting or other durable material approved by the local government;
- (l) all external surfaces of each kennel must be kept in good condition;
- (m) the roof of each kennel must be constructed of impervious material (or other material) approved by the local government;
- (n) all kennels and yards and drinking vessels must be maintained in a clean condition and must be cleaned and disinfected when so ordered by an authorized person;
- (o) all refuse, faeces and food waste must be disposed of daily into the approved apparatus for the treatment of sewage;
- (p) noise, odours, fleas, flies and other vectors of disease must be effectively controlled;
- (q) suitable water must be available at the kennel via a properly supported standpipe and tap; and
- (r) 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 dogs, and to ensure their health and welfare.

Schedule 3

(clause 7.2)

Shire of Cunderdin

DOGS LOCAL LAW 2010

OFFENCES IN RESPECT OF WHICH MODIFIED PENALTY APPLIES

Offence	Nature of offence	Modified penalty \$	Dangerous or Restricted Breed Dog Modified Penalty \$
2.4(a)	Attempting to or causing the unauthorized release of a dog from a pound	200	400
2.4(b)	Interfering with any pound or vehicle used for the purpose of catching, holding or conveying dogs	200	
3.1	Failing to provide means for effectively confining a dog	100	200
3.2	Exceeding the number of dogs permitted to be kept at a premises	100	200
4.9	Failing to comply with the conditions of a licence	100 and a daily penalty of 10	200 And a daily penalty of 20

5.1(2)	Dog in place from which prohibited absolutely	200	400
6.1(2)	Dog excreting in prohibited place	100	

Dated this [date]

The Common Seal of the Shire of Cunderdin was affixed by authority of a resolution of the Council in the presence of:

R CARTER, Shire President

G TUFFIN, Chief Executive Officer

9.3 Proposed Health Amendment Local Law 2010

Location:	Cunderdin
Applicant:	Administration
Date:	18th August 2010
Author	G Tuffin
Item Approved by:	Chief Executive Officer

Disclosure of Interest:

No disclosure of interest has been tabled.

Attachments:

A copy of the proposed Health Amendment Local Law 2010 is attached.

Proposal:

To allow:

- (1) the Presiding Person to give notice to the meeting of the intent to make a new Health Amendment local law;
- (2) the Presiding Person to give notice of the purpose and effect of the proposed Health Amendment local law,
- (3) for the Council to adopt the proposed Health Amendment local law; and
- (4) for advertising of the Health Amendment local law for public comment.
- (5) to align SEAVROC/RTG council Local Laws

Background:

The current principal Health local law was first adopted by Council on 24 September 1998, and gazetted on 24 November 1998.

To comply with the provisions of section 3.16 of the *Local Government Act 1995*, SEAVROC member council's commenced a review of their local laws on 27 October 2009 jointly as a group. As a consequence it was decided that given the RTG and move towards amalgamation, our Local Laws should be based on the same models to align them as closely as possible to assist with a smoother transition should an amalgamation proceed.

At the conclusion of the review process it was identified that a series of amendments were required to the principal Health local law. The areas of the Shire's operations that relate to health local laws have been affected by other legislation are summarised below.

Food Act 2008

Amongst other things, the Food Act 2008 regulates 'food businesses', including their registration, conduct and the imposition of fees and charges by local governments. This Act made significant amendments to the Health Act including:

- The repeal of those Parts that deal with eating houses, including the removal of a local government's powers to make local laws in respect of eating houses (Part V, Division 3); and
- The removal of other local law making powers such as sections 134(49), 52a, 199(14), 207 and 220.

The intention of the Food Act is to remove anomalies and different compliance regimes that exist between the large number of local laws that operate within the State, while at the same time protecting public health and maintaining the role that local governments play in maintaining standards.

Waste Avoidance and Resource Recovery Act 2007

The most relevant provisions of the *Waste Avoidance and Resource Recovery Act (WARR)* came into force on 1 July 2008.

This Act repealed various provisions of the Health Act 1911 that dealt with the powers of local governments in relation to the collection and removal of rubbish, and had the effect of transferring the powers of a local government to make local laws about waste to the WARR Act (item 4 of Schedule 4).

In terms then of dealing with the parts of the Health local laws that relate to waste, it is proposed that a separate local law will be made that deals only with waste under the WARR Act.

New Public Health Act

The State Government has been aiming to have updated legislation in place for some time to replace the Health Act 1911. The Health Department of WA has advised that its promulgation is imminent. This however, has been the case for some considerable time, and there appears to be no immediate prospect of it happening.

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

- (6) give notice to the meeting of the intent to make a new Health Amendment Local Law; and
 - (7) give notice of the purpose and effect of the proposed Health Amendment Local Law,
 - (8) for the Council to adopt the proposed Health Amendment Local Law, and
- to allow for advertising of the Health Amendment Local Law for public comment.

Comment:

The proposed amendments to Shire of Cunderdin Health Local Law are 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 Health amendment Local Law is to incorporate updated provisions into the principal Health Local Law that reflect current terminology and meet legislative requirements.

The effect of the proposed Health Amendment Local Law is that the provision of sanitary conveniences, the maintenance of dwelling houses, nuisances, the keeping of animals, pest control, infectious diseases, lodging houses, and offensive trades are regulated within the district.

The other five members of the current RTG (Beverley, Cunderdin, Quairading, Tammin & York) will all be adopting the same model.

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), and the National Competition Policy review must be sent to the relevant Minister for comment.

Policy Implications:

There are no policy implications for this item.

Statutory Environment:

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.

Health Act 1911

Food Act 2008

Food Standards Code

Strategic Implications:

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.

Recommendation 9.3

That Council:

- (1) adopt the proposed Shire of Cunderdin Health Amendment Local Law 2010, as contained in the Attachment;
- (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 Health Amendment Local Law 2010, as contained in the Attachment:
 - (a) the purpose of which is to incorporate updated provisions into the principal Health local law that reflect current terminology and meet legislative requirements; and
 - (b) the effect is that the provisions of sanitary conveniences, the maintenance of dwelling houses, nuisances, the keeping of animals, pest control, infectious diseases, lodging houses, and offensive trades are regulated within the district.

Moved Cr _____

Seconded Cr _____

Vote – **Simple Majority**

Carried/Lost ____ / ____

Note: Refer to item 9.1 - That items 9.1 to 9.6 and 9.8 be received in block

HEALTH ACT 1911
LOCAL GOVERNMENT ACT 1995
SHIRE OF CUNDERDIN
HEALTH AMENDMENT LOCAL LAW 2010

Under the powers conferred by section 342 of the *Health Act 1911*, Subdivision 2 of Division 2 of Part 3 of the *Local Government Act 1995* and all other powers enabling it, the Council of the Shire of Cunderdin resolved on [insert adoption resolution date here] to make the following local law.

1. Citation

This local law is cited as the *Shire of Cunderdin Health Amendment Local Law 2010*.

2. Application

This local law shall apply throughout the district of the Shire of Cunderdin.

3. Commencement

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

4. Principal local law

In this local law, the *Shire of Cunderdin Health Local Laws 1997* as published in the *Government Gazette* on 24 November 1998 is referred to as the principal local law. The principal local law is amended as follows-

5. Arrangement amended

The arrangement is amended as follows –

- (1) Insert, immediately after item “3.5.1”, the following text “3.5.2 Revocation of licence”;
- (2) In Part 4, delete the heading Division 2 and all sections there under;
- (3) In Part 4, amend the heading Division 3 by deleting the number “3” and substituting the number “2”;
- (4) Renumber items “4.3.1” to “4.3.3”, inclusive, to “4.2.1” to “4.2.3”, respectively;
- (5) Insert, immediately after item “5.4.7”, the following text “5.4.8 Restrictions on feeding wild birds”;
- (6) Insert, immediately after item “6.2.3”, the following text -
“6.2.4 Measures to be taken by an owner or occupier
6.2.5 Measures to be taken by occupier
6.2.6 Removal of undergrowth or Vegetation
6.2.7 Filling in Excavations etc
6.2.8 Drains, Channels and Septic Tanks
6.2.9 Drainage of land”
- (7) Renumber items “7.1.1” to “7.1.10”, inclusive, to “7.1.2” to “7.1.11”, respectively;
- (8) Insert, immediately before renumbered item “7.1.2”, the following text, “7.1.1 Environmental Health Officer may visit, inspect and report”;
- (9) Amend item “8.3.1” by inserting, before the word “keeper” the words “Duties of”, and after the word “keeper” deleting the words “or manager to reside in the lodging house”;

(10) Delete item "9.1.8".

6. Part 1 Section 1.3 amended

Section 1.3 is amended as follows-

- (a) The definition of "**Council**" is deleted;
- (b) Insert, in the appropriate alphabetical order, the definition "**Food Standards Code**" means the Australian New Zealand Food Standards Code as defined in the *Commonwealth Food Standards Australia New Zealand Act 1991*;"
- (c) Insert, in the appropriate alphabetical order, the definition "**local government**" means the Local Government of the Shire of Cunderdin and its officers;"
- (d) Insert, in the appropriate alphabetical order, the definition "**Morgue**" means a place for the temporary reception and keeping of the bodies of the dead awaiting burial or cremation;"
- (e) The definition of "**water**" is deleted and the definition "**water**" means drinking water within the meaning of the Australian Drinking Water Guidelines as published by the National Health and Medical Research Council in 2004 and amended and endorsed by the Minister for Health from time to time;" is substituted;
- (f) Insert, in the appropriate alphabetical order, the definition "**WC**" means a water closet pan;"

7. Part 2 Section 2.1.1 amended

Section 2.1.1 is amended by inserting, in the appropriate alphabetical order, the definition "**Guidelines**" means the Guidelines for Concerts, Events and Organised Gatherings as published by the Department of Health, and amended from time to time;".

8. Part 2 Section 2.1.4 amended

Section 2.1.4 is deleted and the following inserted –

- "(1) The organiser of an outdoor festival shall provide sanitary conveniences in accordance with the recommendations contained within the Department of Health document Guidelines for Concerts, Events and Organised Gatherings;
- (2) Where, under sub-section (1), the number of a particular sanitary convenience to be provided is not a whole number, that number shall be rounded up to the next higher whole number;
- (3) The Environmental Health Officer may vary the requirements of sub-section (1) upon the written request of the organiser."

9. Part 2 Section 2.1.5 amended

Section 2.1.5 is amended by inserting the following after subsection (b)-

- "(c) the floor of any internal toilet shall be-
 - (i) of concrete or of other approved impervious material of an approved thickness; and
 - (ii) graded to a floor waste outlet and proper discharge pipe with flap valve fitted and, where necessary, protected by an approved sump; and
- (d) the floor of any external toilet shall be –
 - (i) of concrete or of other approved impervious material of an approved thickness; and
 - (ii) graded to the door or alternatively an approved outlet."

10. Part 2 Section 2.1.8 amended

Section 2.1.8 is amended by inserting a new subsection (2) as follows –

“(2) A mechanical ventilation system provided under subsection (1) shall be maintained in good working order and condition.”.

11. Part 2 Section 2.1.11 amended

Section 2.1.11 is amended by inserting a new subsection (2) as follows –

“(2) Every temporary sanitary convenience shall be installed in accordance with the requirements of the *Health (Temporary Sanitary Convenience) Regulations 1997*.”.

12. Part 2 Section 2.2.1 amended

Section 2.2.1 (1)(a) is amended by deleting the words “an adequate ceiling” and substituting the words “a ceiling that complies with the requirements of the Building Code”.

13. Part 2 Section 2.2.4 amended

Subsection 2.2.4 is amended as follows-

(a) Delete subsection 2.2.4(2)(a) and (b) and substitute the following-

“(a) a cooking facility which is adequate in the opinion of an Environmental Health Officer;”

(b) Renumber paragraph (c) of subsection 2.2.4(2) to (b);

(c) In subsection 2.2.4 (3), delete the words “stove, oven” and substitute “cooking facility”; and

(d) In subsection (4)(a), delete the words “the Office of Energy” and substitute “Energy Safety”.

14. Part 3 Section 3.1.1 amended

Paragraph (m) of section 3.1.1 is amended by deleting the words “the Office of Energy” and substituting “Energy Safety”.

15. Part 3 Section 3.1.2 amended

Paragraph (b) of subsection 3.1.2, is amended by inserting after the word “property” the words “, and ensure stormwater is disposed of directly into an appropriate drain or soak-well or directly onto a paved surface, provided the paved surface has an adequate fall away from any building structure.”.

16. Part 3 Section 3.2.4 amended

Subsection 3.2.4 is amended as follows –

(a) In subsection 3.2.4 (2)(b), insert the numbers “-2002” after the numbers “1668.2”;

(b) In subsection 3.2.4(3)(a), delete the numbers “3666:1989” and insert “/NZS 3666.2-2002”

17. Part 3 Division 5 amended

Division 5 is amended by inserting a new section 3.5.2 as follows –

“3.5.2 Revocation of Licence

(1) Subject to subsection (3), the Council may, at any time, revoke the licence of a morgue for any reason, which in the opinion of the Council, justifies the revocation.

(2) Without limiting the generality of subsection (1), the Council may revoke a licence upon any one or more of the following grounds –

(a) That the morgue has not, to the satisfaction of the Council, been kept free from vectors of disease or in a clean, wholesome and sanitary condition;

(b) That the proprietor of the morgue has –

- (i) Been convicted of an offence against these local laws in respect of a morgue;
 - (ii) not complied with a requirement of this Part; or
 - (iii) not complied with a condition of licence;
- (c) that the Council, having regard to a report from the Police Service, is satisfied that the proprietor or manager is not a fit and proper person; and
- (d) that by reason of alterations or additions or neglect to repair and renovate, the condition of the morgue is such as to render it, in the opinion of the Council, unfit to remain registered.
- (3) Before revoking the licence of a morgue under this section, the Council shall give notice to the proprietor requiring him or her, within a time specified in the notice, to show cause why the licence should not be revoked.
- (4) Whenever the Council revokes the licence of a morgue, it shall give the proprietor notice of the revocation and the licence shall be revoked as from the date on which the notice is served on the proprietor."

18. Part 4 Section 4.1.4 amended

Paragraph (c) of Section 4.1.4 is amended by deleting the words "the Council or", and inserting after the word "Health", the words ", the Chief Executive of the Department of Environment and Conservation or the local government".

19. Part 4 Division 2 deleted

In Part 4 delete all of Division 2.

20. Part 5 Section 5.1.2 amended

Delete the existing section 5.1.2 and insert the following –

"5.1.2 Footpaths etc, to be kept clean

An owner or occupier of premises shall keep any footpath, pavement, area or right of way immediately adjacent to the premises clean and clear from refuse and other obstacles which are or have been in the possession or control of the owner or occupier which the owner or occupier has caused or allowed to be on the footpath, pavement, area or right of way."

21. Part 5 Section 5.1.3 amended

Section 5.1.3 is amended by deleting the following " (1) Subject to subsection (2), an" and substituting the word "An", and;

Deleting subsection (2).

22. Part 5 Section 5.1.6 amended

Section 5.1.6 is amended by deleting the last word "therefrom" and substituting the words "there from".

23. Part 5 Section 5.2.3 amended

Section 5.2.3 is amended by inserting a new subsection (3) as follows –

"(3) The owner or occupier of premises where rabbits are kept, shall ensure that all rabbits are kept in a suitable enclosure that effectively prevents them from escaping."

24. Part 5 Section 5.2.6

Section 5.2.6 is amended by inserting a new subsection (4) as follows –

"(4) The requirements of subsections (2) and (3) shall not limit the practice by farmers, pastoralists and the like of disposing of carcasses on rural land in a manner that is not likely to pollute or be dangerous or injurious to health."

25. Part 5 Section 5.3.1 amended

Section 5.3.1 is amended as follows –

- (a) Insert, in the appropriate alphabetical position, the definition ““**stable**” means any building in which a horse is stabled or kept and includes any shed, loose box, stall, or shelter used for the keeping, stabling, feeding, watering, grooming, sheltering, shoeing or veterinary treatment of horses.”.

26.Part 5 Section 5.4.3 amended

Section 5.4.3 is amended as follows –

- (a) In subsection (a), delete the word “is” where it is first used and substitute the word “are”;
- (b) In subsection (b), after the word “enclosure” insert the words “provided with a floor consisting of concrete, brick paving or any other suitable impervious surface;”;
- (c) In subsection (d), delete the word “is” where it is first used and substitute the word “are”;
- (d) In subsection (d), after the words “distance”, delete the word “and”;
- (e) In subsection (e), after the word “Officer”, insert the word “and”; and
- (f) After subsection (e), insert a new subsection (f) as follows:
 - “(f) a structure or enclosure in which poultry is kept is situated no closure than 1.2m to any side or rear property boundary.”

27.Part 5 Section 5.4.5 amended

Section 5.4.5 is amended in subsection (b), by inserting after the word “cote,” the words “cage or enclosure”;

28.Part 5 Section 5.4.6 amended

Section 5.4.6 is amended as follows –

- (a) In subsection (1), delete the words “the Council” and substitute the words “Environmental Health Officer”;
- (b) In subsection (2), delete the words “the Council” and substitute the words “Environmental Health Officer”;

29.Part 5 New Section 5.4.8

After Section 5.4.6 (2), insert a new section 5.4.8, in the correct numerical order, as follows –

“5.4.8 Restrictions on Feeding Wild Birds

A person shall not feed a pigeon, dove, seagull, ibis, raven or other wild bird, so as to cause a nuisance or be injurious or dangerous to health.”.

30.Part 6 Section 6.1.5 amended

Subsection (3) of section 6.1.5 is amended by inserting after the word “section”, the words “, other than compensation or damages for loss or damage suffered because the local government acted negligently or in breach of duty.”.

31.Part 6 New Sections 6.2.4, 6.2.5, 6.2.6, 6.2.7, 6.2.8 and 6.2.9

After Section 6.2.3 (3), insert the following new Sections in the correct numerical order –

“6.2.4 Measures to be taken by an Owner or Occupier

An owner or occupier of premises -

- (a) where there is a fountain, artificial pool, artificial pond or excavation of any kind which contains water suitable for the breeding of mosquitoes, shall take adequate and reasonable measures to prevent mosquitoes breeding; and
- (b) where there is a water tank, well, cistern, vat or barrel, shall -
 - (i) keep it protected with a mosquito-proof cover; and
 - (ii) screen all openings, other than the delivery exit, with wire mesh having openings no larger than 1.2 millimetres.

6.2.5 Measures to be taken by Occupier

An occupier of premises where water is kept in a horse trough, poultry drinking vessel or other receptacle shall -

- (a) frequently change the water; and
- (b) keep the water clean and free from vegetable matter and slime.

6.2.6 Removal of Undergrowth or Vegetation

- (1) Where it appears to the Environmental Health Officer that there is, on any premises, undergrowth or vegetation likely to harbour mosquitoes, the Environmental Health Officer may direct, orally or in writing, the owner or occupier of the premises to cut down and remove within a specified time the undergrowth or vegetation.
- (2) An owner or occupier of premises shall comply with a direction from, and within the time allowed by, the Environmental Health Officer under this section.

6.2.7 Filling in Excavations etc.

Unless written permission to the contrary is obtained from the Council, a person who cuts turf or removes soil or other material from any land shall forthwith ensure that each excavation is filled in with clean sound material and made level with the surrounding surface so as not to retain water.

6.2.8 Drains, Channels and Septic Tanks

An owner or occupier of land shall -

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

6.2.9 Drainage of Land

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

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

32.Part 6 Section 6.3.1 amended

Section 6.3.1 is amended by inserting, in the appropriate alphabetical position, the definition ““contemporary rodenticide bait” means the exclusion of Warfarin baits due to resistance and inclusion of Bromadiolone or Coumatetralyl or any future Department of Health approved rodenticide.”

33. Part 7 New Section 7.1.1

(1) In Part 7, Division 1, insert a new Section 7.1.1 as follows –

“7.1.1 Environmental Health Officer may visit, inspect and report

An Environmental Health Officer –

- (a) may visit and inspect any house, its occupants, fixtures and fittings; and
- (b) who has reason to believe that there has been a breach of the Act, any regulation made under the Act or these local laws relating to infectious diseases shall, as soon as possible, submit a written report on the matter to the Council.”; and

(2) Renumber sections “7.1.1” to “7.1.10”, inclusive, to “7.1.2” to “7.1.11”, respectively.

34. Part 7 Section 7.1.2 amended

Subsection (1) of section 7.1.2 is amended by deleting the words “Council or an”.

35. Part 7 Section 7.1.3 amended

Section 7.1.3 is amended as follows –

- (a) In subsection (1), delete the word “Council” where-ever it appears and substitute the words “Environmental Health Officer”; and
- (b) In subsection (1), delete, after the word “direct”, the words “an Environmental Health Officer”;
- (c) In subsection (2), delete, after the word “enable,”, the words “an Environmental Health Officer”;
- (d) In subsection (4), insert, after the word “section,” the words “other than compensation or damages for loss or damage because the Council or any of its staff acted negligently or in breach of duty.”.

36. Part 7 Renumbered Section 7.1.11 amended

Subsection (3) of renumbered Section 7.1.11 is amended by inserting, after the word “section,”, the words “other than compensation or damages for loss or damage because the Council or any of its staff acted negligently or in breach of duty.”.

37. Part 8 Section 8.1.2 amended

Paragraph (b) of Section 8.1.2 is amended by deleting the number “111” and substituting the number “8.1.3”.

38. Part 8 Section 8.1.3 amended

Paragraph (c) of Section 8.1.3 is amended by deleting the words “prescribed in Schedule 12” and substituting the words “as fixed from time to time by the Council under section 344C of the Act and sections 6.16 to 6.19 of the Local Government Act 1995”.

39. Part 8 Section 8.1.4 amended

Section 8.1.4 is amended by deleting the word “Council” and substituting the words “Environmental Health Officer”.

40. Part 8 Section 8.1.5 amended

Paragraph (b) Section 8.1.5 is amended by deleting the words “prescribed in Schedule 12” and substituting the words “as fixed from time to time by the Council under section 344C of the Act and sections 6.16 to 6.19 of the Local Government Act 1995”.

41. Part 8 Section 8.1.6 amended

Section 8.1.6 is amended by deleting the word "Council" and substituting the words "Environmental Health Officer".

42.Part 8 Section 8.2.2 amended

Section 8.2.2 is amended as follows –

(a) Delete paragraph (b) and substitute with the following –

“(b) complies with any of the requirements of Standard 3.2.3 of the Food Standards Code;
and”

(b) Insert a new paragraph (c) as follows –

“(c) has a hand wash basin and a double bowl sink or dishwashing facility, each provided with an adequate supply of hot and cold water.”

43.Part 8 Section 8.2.5 amended

In Section 8.2.5 -

(a) insert a new subsection (1) as follows –

“(1) For the purposes of this section –

"communal toilet" means a room which has more than one toilet with each toilet being divided from the other toilets with a cubicle surrounding it, whether or not the walls of that cubicle extend to the floor or the ceiling or both of the room;

"communal bathroom" means a room which has more than one shower or more than one bath or any combination of more than one shower and one bath, whether or not they are divided by cubicles, designed with the intention that the bathroom may be used by more than one person at any particular time;

"individual toilet" means a room that has walls extending from the floor to the ceiling and contains a single toilet;

"individual bathroom" means a room which has only one shower or only one bath or only one shower and only one bath and is designed to be used by only one person at any particular time.”; and

(b) Renumber all subsections as follows –

(i) Subsection (1) to (2);

(ii) Subsection (2) to (3);

(iii) Subsection (3) to (4);

(iv) Subsection (4) to (5);

(v) Subsection (5) to (6);

(vi) Subsection (6) to (8); and

(c) Amend paragraph (b) of subsection (2) by inserting, before the word “wash”, the word “hand”;

(d) Amend subsection (6) by deleting the word “Each” and substituting the words “Subject to subsection (8) each communal”; and inserting after the word “and”, the word “communal”;

(e) Insert a new subsection (7) as follows –

“(7)Subject to subsection (8) each individual toilet and individual bathroom shall –

- (a) be so situated, separated and screened so as to ensure privacy;
- (b) be apportioned to each sex;
- (c) be fitted with a mechanism by which the door may be locked from the inside and the individual toilet or individual bathroom as approved by an Environmental Health Officer; and
- (d) be provided with adequate electric lighting.”.

44. Part 8 Section 8.2.7 amended

Subsection (2) of Section 8.2.7 is amended by deleting the words “advised by the fire and Emergency Services Authority of Western Australia and approved by Council” and substituting the words “required by the Building Code”.

45. Part 8 Section 8.2.11 amended

Paragraph (8)(a) of Section 8.2.11 is amended by inserting –

- (a) after the numbers “1530.2”, the following “-1993”; and
- (b) after the numbers “1530.3”, the following “-1999”.

46. Part 8 Section 8.3.1 amended

Section 8.3.1 is deleted and the following is substituted –

“8.3.1 Duties of Keeper

No keeper of a lodging house shall absent themselves from such house, unless they leave a reputable person in charge thereof.”.

47. 8.3.9 amended

Section 8.3.9 is amended as follows –

- (1) In paragraph (c) the word “hand”, after the word “wash”, is deleted and inserted before the word “wash”; and
- (2) In paragraph (h) delete the numbers “139” and substitute the numbers “8.3.10”.

48. Part 9 Section 9.1.2 amended

Section 9.1.2 is amended by deleting the word “Town” and substituting the word “Local” .

49. Part 9 Section 9.1.4 amended

Paragraph (b) of Section 9.1.4 is amended by deleting the words “*Offensive Trades (Fees)*” and substituting the words “*Health (Offensive Trade Fees)*”.

50. Part 9 Section 9.1.5 amended

Section 9.1.5 is amended by inserting, after the numbers “11”, the words “and list relevant conditions”.

51. Part 9 Section 9.1.8 deleted

Section 9.1.8 is deleted.

52. Part 9 Section 9.2.4 amended

Delete the word “hand”, after the word “wash”, and insert it before the word “wash”

53. Part 9 Section 9.2.6 amended

Section 9.2.6 is amended by –

- (1) inserting the number (1) before the word "The"; and
- (2) inserting a new subsection (2) as follows –
 - "(2) The occupier shall manage and operate the premises such that odours emanating from the premises do not unreasonably interfere with the health, welfare, convenience, comfort or amenity of any person."

54. Part 9 Section 9.2.7 amended

Section 9.2.7 (e) is amended by inserting, after the word "efficient", the words "and approved".

55. Part 9 Section 9.2.11 amended

Section 9.2.11 is amended by inserting a new subsection (2) as follows –

- "(2) While any premises remain registered under this Division, a person shall not, without the written permission of the Environmental Health Officer, make or permit any change or alteration whatsoever to the premises internally."

56. Schedule 1 amended

In Schedule 1 delete the words "Wash hand basins" and substitute the words "Hand wash basins" in both places where they appear.

Dated: [date]

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

R CARTER, Shire President.

G TUFFIN, Chief Executive Officer.

Consented to—

DR TARUN WEERAMANTHRI, Executive Director Public Health.

Dated: [date].

9.4 Proposed Pest Plants Local Law 2010

Location:	Cunderdin
Applicant:	Administration
Date:	18th August 2010
Author	G Tuffin
Item Approved by:	Chief Executive Officer

Disclosure of Interest:

No disclosure of interest has been tabled.

Attachments:

A copy of the proposed Pest Plants Local Law 2010 is attached.

Proposal:

To allow:

- (1) the Presiding Person to give notice to the meeting of the intent to make a new Pest Plants local law 2010;
- (2) the Presiding Person to give notice of the purpose and effect of the proposed Pest Plants local law 2010;
- (3) for the Council to adopt the proposed Pest Plants local law 2010; and
- (4) for advertising of the proposed Pest Plants local law 2010 for public comment.
- (5) to align SEAVROC/RTG council Local Laws

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*, SEAVROC member council's commenced a review of their local laws on 27 October 2009 jointly as a group. As a consequence it was decided that given the RTG and move towards amalgamation, our Local Laws should be based on the same models to align them as closely as possible to assist with a smoother transition should an amalgamation proceed.

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 2010; and
- (2) give notice of the purpose and effect of the proposed Pest Plants Local Law 2010;
- (3) for the Council to adopt the proposed Pest Plants Local Law 2010; and
- (4) to allow for advertising of the proposed Pest Plants Local Law 2010 for public comment.

Comment:

The proposed Pest Plants Local Law 2010 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 2010 is to prescribe pest plants within the district.

The effect of the proposed Pest Plants local law 2010 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), and the National Competition Policy review must be sent to the relevant Minister for comment.

Policy Implications:

There are no policy implications for this item.

Statutory Environment:

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.

Strategic Implications:

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.

Recommendation 9.4

That Council:

- (1) adopt the proposed Shire of Cunderdin Pest Plants Local Law 2010, as contained in the Attachment 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 2010, as contained in the Attachment:
 - (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 _____ Seconded Cr _____

Vote – **Simple Majority** Carried/Lost ____ / ____

Note: Refer to item 9.1 - That items 9.1 to 9.6 and 9.8 be received in block

SHIRE OF CUNDERDIN

PROPOSED PEST PLANTS LOCAL LAW 2010

AGRICULTURE AND RELATED RESOURCES PROTECTION ACT 1976

LOCAL GOVERNMENT ACT 1995

Shire of Cunderdin

PEST PLANTS LOCAL LAW 2010

Under the powers conferred by the *Agriculture and Related Resources Protection Act 1976* and the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Cunderdin resolved on [insert adoption resolution date here], to make the following local law.

PART 1 - PRELIMINARY

1.1 Citation

This local law is cited as the *Shire of Cunderdin Pest Plants local law 2010*.

1.2 Commencement

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

1.3 Definitions

In this local law, unless the contrary intention appears —

“district” means the district of the local government;

“local government” means the Shire of Cunderdin;

“Pest Plant” means a plant described as a pest plant by clause 2.1 of this local law.

1.4 Application

This local law applies throughout the district.

PART 2 – DESCRIPTION OF PEST PLANTS

2.1 Description of Pest Plants

Every plant described in the First Schedule of this local law is a pest plant.

PART 3 - SERVING OF NOTICES

3.1 Serving of Notice

- (1) The local government may serve on the owner or occupier of private land within the district, a duly completed notice in the form of the Second Schedule to these local laws requiring him to destroy, eradicate or otherwise control any pest plant on that land;
- (2) A person served with a notice under subclause (1) of this clause shall comply with that notice within the time and in the manner specified therein.

PART 4 - OFFENCES

4.1 Penalties

Where a person fails to comply with a notice under clause 3.1 of these local laws served upon him, the local government may:—

- (a) Without payment of any compensation in respect thereof, destroy, eradicate or control, as the case may be, any pest plant, the destruction, eradication or control of which was required by the notice; and
- (b) Recover in a court of competent jurisdiction from the person to whom the notice is directed, the amount of the expense of such destruction, eradication or control.

FIRST SCHEDULE

AGRICULTURE AND RELATED RESOURCES PROTECTION ACT 1976

LOCAL GOVERNMENT ACT 1995

Shire of Cunderdin

PEST PLANTS LOCAL LAW 2010

PEST PLANTS

Common Name

Afghan Thistle

Scientific Name

Solanum hystrix R. Br.

Solanum hoplopetalum Bitter et Summ.

SECOND SCHEDULE

AGRICULTURE AND RELATED RESOURCES PROTECTION ACT 1976

LOCAL GOVERNMENT ACT 1995

Shire of Cunderdin

PEST PLANT LOCAL LAW 2010

PEST PLANT NOTICE

No.

To

(Full name)

of.....

(Address)

You are hereby given notice under the above local laws that you are required to:

.....

(here specify whether required to destroy, eradicate or otherwise control)

the pest plant —

(Common Name)

(Scientific Name)

on

(here specify the land)

of which you are the

(owner or occupier)

This notice may be complied with by.....

(here specify manner of achieving destruction, eradication or control)

Such measures shall be commenced not later than

(Date)

and shall be completed by

(Date)

Upon failure to comply with this notice within the times specified, the local government may destroy, eradicate or control, as the case may be, any specified pest plant at your expense, and if necessary recover the same in a Court of competent jurisdiction.

Date of service of notice:

Signature of authorized person

Dated [DATE]

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

R CARTER, President.

G TUFFIN, Chief Executive Officer.

9.5 Proposed Activities on Thoroughfares and Trading in Thoroughfares and Public Places Amendment Local Law 2010

Location:	Cunderdin
Applicant:	Administration
Date:	18th August 2010
Author	G Tuffin
Item Approved by:	Chief Executive Officer

Disclosure of Interest:

No disclosure of interest has been tabled.

Attachments:

A copy of the proposed Activities on Thoroughfares and Trading in Thoroughfares and Public Places Amendment Local Law 2010 is attached.

Proposal:

To allow:

- (6) 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 Amendment local law 2010;
- (7) the Presiding Person to give notice of the purpose and effect of the proposed Activities on Thoroughfares and Trading in Thoroughfares and Public Places Amendment local law 2010;
- (8) for the Council to adopt the proposed Activities on Thoroughfares and Trading in Thoroughfares and Public Places Amendment local law 2010; and
- (9) for advertising of the proposed Activities on Thoroughfares and Trading in Thoroughfares and Public Places Amendment local law 2010 for public comment.
- (10) align SEAVROC/RTG council Local Laws

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, SEAVROC member council's commenced a review of their local laws on 27 October 2009 jointly as a group. As a consequence it was decided that given the RTG and move towards amalgamation, our Local Laws should be based on the same models to align them as closely as possible to assist with a smoother transition should an amalgamation proceed.

At the conclusion of the review process it was identified that a series of amendments to the local law were required to reflect updated practices and consistency amongst the SEAVROC Councils.

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 Activities on Thoroughfares and Trading in Thoroughfares and Public Places Amendment Local Law 2010; and
- (2) give notice of the purpose and effect of the proposed Activities on Thoroughfares and Trading in Thoroughfares and Public Places Amendment Local Law 2010;
- (3) for the Council to adopt the proposed Activities on Thoroughfares and Trading in Thoroughfares and Public Places Amendment Local Law 2010; and
- (4) to allow for advertising of the proposed Activities on Thoroughfares and Trading in Thoroughfares and Public Places Amendment Local Law 2010 for public comment.

Comment:

The proposed amendments to the Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law 2010 are 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 Amendment local law 2010 is to ensure compliance with current terminology, to achieve consistency in local law provisions amongst the South East Avon Regional Organisation of Councils and review modified penalties.

The effect of the proposed Activities on Thoroughfares and Trading in Thoroughfares and Public Places Amendment local law 2010 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), and the National Competition Policy review must be sent to the relevant Minister for comment.

Policy Implications:

There are no policy implications for this item.

Statutory Environment:

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.

Strategic Implications:

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.

Recommendation 9.5

That Council:

- (1) adopt the proposed Shire of Cunderdin Activities on Thoroughfares and Trading in Thoroughfares and Public Places Amendment Local Law 2010, as contained in the Attachment 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 Amendment Local Law 2010, as contained in the Attachment:
 - (a) the purpose of which is to ensure compliance with current terminology, to achieve consistency in local law provisions amongst the South East Avon Regional Organisation of Councils and review modified penalties; 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 _____ Seconded Cr _____

Vote – **Simple Majority** Carried/Lost ____/____

Note: Refer to item 9.1 - That items 9.1 to 9.6 and 9.8 be received in block

LOCAL GOVERNMENT ACT 1995

Shire of Cunderdin

**ACTIVITIES ON THOROUGHFARES AND TRADING IN THOROUGHFARES AND
PUBLIC PLACES AMENDMENT LOCAL LAW 2010**

Under the powers conferred by the *Local Government Act 1995* and by all other powers enabling it, the Council of the Shire of Cunderdin resolved on **[Insert adoption resolution date here]** to make the following local law.

1. Citation

This local law is cited as the *Shire of Cunderdin Activities on Thoroughfares and Trading in Thoroughfares and Public Places Amendment Local Law 2010*.

2. Commencement

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

3. Application

This local law shall apply throughout the district.

4. Principal local law

In this local law, the *Shire of Cunderdin Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law* published in the *Government Gazette* on 26 March 2002 is referred to as the principal local law. The principal local law is amended as follows –

5. Preliminary

- (1) In construing the following modifications, where a modification requires the renumbering of a clause, subclause or paragraph, subsequent modifications have been drafted on the basis that the renumbering has been effected.
- (2) Wherever the words "*Town Planning and Development Act 1928*" appear in the local law substitute the words "*Planning and Development Act 2005*".
- (3) Wherever the words "*Road Traffic Code 1975*" appear in the local law substitute the words "*Road Traffic Code 2000*".
- (4) Wherever the words "*Weight and Measures Act 1915*" appear in the local law substitute the words "*Trade Measurement Administration Act 2006*".
- (5) Wherever the words "*Liquor Licensing Act 1988*" appear in the local law substitute the words "*Liquor Control Act 1988*".

6. Table of Contents amended

The Table of Contents is amended as follows –

- (1) Delete the heading "Part 3" and substitute "Division 2".
- (2) Delete, under renumbered Division 2, the heading "Division 1" and substitute "Subdivision 1".
- (3) Renumber clauses "3.1" to 3.7", inclusive, to "2.4" to "2.11", respectively.
- (4) Insert, after renumbered clause 2.9, the following –
"Subdivision 3 – Existing verge treatments
2.10 Transitional provisions".

- (5) Delete, under renumbered Division 2, the heading "Division 3" and substitute "Subdivision 4".
- (6) Insert, after renumbered clause 2.11, the following –
- “
- Division 3 – Property numbers
- Subdivision 1 - Preliminary
- 2.12 Interpretation
- Subdivision 2 – Assignment and marking of numbers
- 2.13 Assignment of numbers
- Division 4 – Fencing
- 2.14 Public place – Item 4(1) of Division 1, Schedule 3.1 of Act
- Division 5 – Signs erected by the local government
- 2.15 Signs
- 2.16 Transitional
- Division 6 – Driving on a closed thoroughfare
- 2.17 No driving on closed thoroughfare”.
- (7) Delete, "Part 4: and substitute "Part 3".
- (8) Renumber clauses "4.1" to "4.4", inclusive, to "3.1" to "3.4", respectively.
- (9) Insert, after renumbered clause 3.4 the following "3.5 Conditions on election sign".
- (10) Delete "Part 5" and substitute "Part 4".
- (11) Renumber clauses "5.1" to "5.7", inclusive, to "4.1" to "4.8", respectively.
- (12) Insert, after renumbered clause 4.8, the following "4.9 Impounding of abandoned trolley".
- (13) Insert, after clause 4.9, the following –
- “
- PART 5 – ROADSIDE CONSERVATION**
- Division 1 – Preliminary
- 6.1 Interpretation
- 6.2 Application
- Division 2 – Flora roads
- 6.3 Declaration of flora road
- 6.4 Construction works on flora roads
- 6.5 Signposting of flora roads
- 6.6 Driving only on carriageway of flora roads
- Division 3 – Special environmental areas
- 6.7 Designation of special environmental areas
- 6.8 Marking of special environmental areas
- Division 4 – Planting in thoroughfares
- 6.9 Permit to plant
- 6.10 Relevant considerations in determining application

Division 5 – Clearance of vegetation

6.11 Permit to clear

6.12 Application for permit

Division 6 – Fire management

6.13 Permit to burn thoroughfare

6.14 Application for permit

6.15 When application for permit can be approved

6.16 Prohibitions on burning

Division 7 – Firebreaks

6.17 Permit for firebreaks on thoroughfares

6.18 Application for permit cannot be approved

Division 8 – Commercial wildflower harvesting on thoroughfares

6.19 General prohibition on commercial wildflower harvesting

6.20 Permit for revegetation projects

(14) In Subdivision 2 of Part 6, delete clauses 6.5 and 6.6.

(15) Renumber clauses “6.7” to “6.15”, inclusive, to “6.5” to “6.13”.

(16) Delete all of Division 3 under Part 6.

(17) Insert, after clause 7.2, the following “7.3 Relevant considerations in determining permits”.

(18) Renumber clauses “7.3” to “7.10”, inclusive, to “7.4” to “7.11”, respectively.

7. Part 1 Clause 1.2 amended

(1) In the definition of “carriageway” delete the words “means the paved or made portion of a thoroughfare used or intended for use by vehicles” and replace with the words “has the meaning given to it in the *Road Traffic Code 2000*”.

(2) In the definition of “footpath” delete the words “means the paved or made portion of a thoroughfare used or intended for use by pedestrians and cyclists” and replace with the words “has the meaning given to it in the *Road Traffic Code 2000*”.

(3) In the definition “thoroughfare” delete, after the word “Act”, the full stop and insert the following “, but does not include a private thoroughfare which is not under the management control of the local government”;

(4) In the appropriate alphabetical order insert the following definitions –

“charitable organisation” means an institution, association, club, society or body whether incorporated or not, the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature and from which any member does not receive any pecuniary profit except where the member is an employee or the profit is an honorarium;

“crossover” has the same meaning as “crossing”;

“local planning scheme” means a local planning scheme of the local government made under the Planning and Development Act 2005;

(5) Delete the definition “town planning scheme”;

8. Part 2 Clause 2.1 amended

Subclause (g) is amended by inserting, after the word “any”, the word “bicycle,”.

9. Part 2 Clause 2.2 amended

Delete subclause (2) and substitute the following –

- “(2) The local government may exempt a person from compliance with subclause (1):
- (a) if that person complies with a policy issued by the local government issued under clause 7.5 in relation to a specific activity in a thoroughfare, verge or footpath; or
 - (b) on the application of that person.”

10. Part 3 Amended

- (1) Delete the heading “Part 3” and substitute “Division 2”;
- (2) Delete the sub heading “Division 1” and substitute “Subdivision 1”;
- (3) Delete the sub heading “Division 2” and substitute “Subdivision 2”;
- (4) Renumber clauses “3.1 to 3.6” to “2.4 to 2.9” respectively;

11. Part 2 Clause 2.8 amended

- (1) In subclause (b) delete the word “and”;
- (2) In the appropriate alphabetical order, insert the following new subclauses –
 - “(d) ensure the verge treatment does not cause a sight distance obstruction to any person using a footpath on the verge or a carriageway or crossing adjoining the verge or in proximity to it;
 - (e) ensure that the verge treatment does not damage or obstruct a drain, manhole, gully, inspection pit, channel, kerb, or tree planted by the local government; and
 - (f) ensure that any sprinklers or pipes installed to irrigate a verge treatment:
 - (i) do not protrude above the level of the lawn when not in use,
 - (ii) are not used at such times so as to cause unreasonable inconvenience to pedestrians or other persons, and
 - (iii) do not otherwise present a hazard to pedestrians or other persons.”.

12. Part 2 New Subdivision 3

After renumbered Clause 2.9, insert the following new subdivision –

“ Subdivision 3 – Existing verge treatments

2.10 Transitional provision

- (1) In this clause –

“former provisions” means the local law of the local government which permitted certain types of verge treatments, whether with or without the consent of the local government, and which was repealed by this local law.
- (2) A verge treatment which -
 - (a) was installed prior to the commencement day; and
 - (b) on the commencement day is a type of verge treatment which was permitted under and complied with the former provisions, is to be taken to be a permissible verge

treatment for so long as the verge treatment remains of the same type and continued to comply with the former provisions.”

13. Part 2 New Subdivision 3

After renumbered Clause 2.9, insert the following new subdivision –

“ Subdivision 3 – Existing verge treatments

2.10 Transitional provision

(1) In this clause –

“former provisions” means the local law of the local government which permitted certain types of verge treatments, whether with or without the consent of the local government, and which was repealed by this local law.

(2) A verge treatment which -

- (a) was installed prior to the commencement day; and
- (b) on the commencement day is a type of verge treatment which was permitted under and complied with the former provisions, is to be taken to be a permissible verge treatment for so long as the verge treatment remains of the same type and continued to comply with the former provisions.”

14. Part 2 Division 3 amended

- (1) Delete the sub heading “Division 3” and substitute “Subdivision 4”;
- (2) Renumber clause “3.7” to “2.11”.

15. Part 2 New Divisions 3, 4, 5 and 6

After renumbered clause 2.11, insert the following new divisions –

“ *Division 3 – Property numbers*
Subdivision 1—Preliminary

2.12 Interpretation

In this Division, unless the context requires otherwise—

“Number” means a number of a lot with or without an alphabetical suffix indicating the address of the lot by reference to a thoroughfare.

Subdivision 2—Assignment and marking of numbers

2.13 Assignment of numbers

The local government may assign a Number to a lot in the district and may assign another Number to the lot instead of that previously assigned.

Division 4—Fencing

2.14 Public place—Item 4(1) of Division 1, Schedule 3.1 of Act

The following places are specified as a public place for the purpose of item 4(1) of Division 1 of Schedule 3.1 of the Act—

- (a) a public place, as that term is defined in clause 1.2; and
- (b) local government property.

Division 5—Signs erected by the local government

2.15 Signs

- (1) A local government may erect a sign on a public place specifying any conditions of use which apply to that place.
- (2) A person shall comply with a sign erected under subclause (1).
- (3) A condition of use specified on a sign erected under subclause (1) is to be for the purpose

of giving notice of the effect of a provision of this local law.

2.16 Transitional

Where a sign erected on a public place has been erected under a local law of the local government repealed by this local law, then on and from the commencement day, it is to be taken to be a sign erected under clause 2.15 if—

- (a) the sign specifies a condition of use relating to the public place which gives notice of the effect of a provision of this local law; and
- (b) the condition of use specified is not inconsistent with any provision of this local law.

Division 6—Driving on a closed thoroughfare

2.17 No driving on closed thoroughfare

- (1) A person shall not drive or take a vehicle on a closed thoroughfare unless—
 - (a) that is in accordance with any limits or exceptions specified in the order made under section 3.50 of the Act; or
 - (b) the person has first obtained a permit.
- (2) In this clause—
“closed thoroughfare” means a thoroughfare wholly or partially closed under section 3.50 or 3.50A of the Act.”

16. Part 4 amended

- (1) In the heading, delete the number “4” and substitute the number “3”;
- (2) Renumber clauses “4.1 to 4.5” to “3.1 to 3.5” respectively.

17. Part 5 amended

- (1) In the heading, delete the number “5” and substitute the number “4”;
- (2) Renumber clauses “5.1 to 5.2” to “4.1 to 4.2” respectively;

18. Part 4 Renumbered Clause 4.1 amended

After subclause (2), insert the following new subclause –

“(3) A person will not contravene subclause (1) where the vehicle is left for a period not exceeding 24 hours.”.

19. Part 4 Renumbered Clause 4.2 amended

- (1) In subclause (2)(b) delete, after the word “place;” the word “or”;
- (2) In subclause (2)(c) insert, after the word “thoroughfare;”, the word “or”;
- (3) In subclause (2), insert in the appropriate alphabetical order a new paragraph (d) as follows –
“(d) subject to subclause (4), allow an animal to excrete on a thoroughfare.”.
- (4) In the appropriate numerical order, insert a new subclause (4) as follows –
“(4) An owner of an animal does not commit an offence if the excreta is immediately removed.”.

20. Part 4 New Clause 4.3

Insert, in the appropriate numerical order, a new clause 4.3 as follows –

“4.3 Removal of Vehicle or Animal

An authorised person may impound an animal or vehicle left in contravention of clause 4.1.”.

21. Renumbered Part 4 Division 2 amended

Renumber clauses "5.3" to "5.7", inclusive, to "4.4" to "4.8", respectively.

22. New Clause 4.9

Insert, after renumbered clause 4.8, the following –

"4.9 Impounding of abandoned trolley

An authorised person may impound a shopping trolley that is –

- (a) left on a thoroughfare, verge or local government property that is not marked in accordance with clause 4.5; or
- (b) not removed by a retailer after having been so advised under clause 4.7(2)."

23. New Part 5

Immediately after new Clause 4.9, insert a new Part 5 as follows –

"

PART 5—ROADSIDE CONSERVATION

Division 1—Preliminary

5.1 Interpretation
In this Part—
"MRWA" means Main Roads Western Australia;
"protected flora" has the meaning given to it in section 6(1) of the *Wildlife Conservation Act 1950*;
"rare flora" has the meaning given to it in section 23F of the *Wildlife Conservation Act 1950*;
"Roadside Conservation Committee" means the Roadside Conservation Committee established under the Land Resource Policy Council within the Office of Premier and Cabinet; and
"special environmental area" means an area designated as such under clause 5.7.

5.2 Application
This Part does not apply to the townsite.

Division 2—Flora roads

5.3 Declaration of flora road
The local government may declare a thoroughfare which has, in the opinion of the local government, high quality roadside vegetation to be a flora road.

5.4 Construction works on flora roads
Construction and maintenance work carried out by the local government on a flora road is to be in accordance with the "Code of Practice for Roadside Conservation and Road Maintenance" prepared by the Roadside Conservation Committee.

5.5 Signposting of flora roads
The local government may signpost flora roads with the standard MRWA "flora road" sign.

5.6 Driving only on carriageway of flora roads
(1) A person driving or riding a vehicle on a flora road shall only drive or ride the vehicle on the carriageway.
(2) Subclause (1) does not apply where—
(a) conditions on the thoroughfare do not reasonably permit a vehicle to remain on the carriageway;
(b) there is no carriageway; or
(c) an exemption from the application of subclause (1) has been obtained from the local

government.

Division 3—Special environmental areas

5.7 Designation of special environmental areas

The local government may designate a thoroughfare, or any part of a thoroughfare, as a special environmental area which—

- (a) as protected flora or rare flora; or
- (b) in the opinion of the local government, has environmental, aesthetic or cultural significance.

5.8 Marking of special environmental areas

The local government is to mark and keep a register of each thoroughfare, or part of a thoroughfare, designated as a special environmental area.

Division 4—Planting in thoroughfares

5.9 Permit to plant

A person shall not plant any plant or sow any seeds in a thoroughfare without first obtaining a permit.

5.10 Relevant considerations in determining application

In determining an application for a permit for the purpose of clause 5.9, the local government is to have regard to—

- (a) existing vegetation within that part of the thoroughfare in which the planting is to take place; and
- (b) the diversity of species and the prevalence of the species which are to be planted or sown.

Division 5—Clearance of vegetation

5.11 Permit to clear

A person shall not clear and maintain in a cleared state, the surface of a thoroughfare within 1m of that person's land without first obtaining a permit and any other approvals which may be required under any written law.

5.12 Application for permit

In addition to the requirements of clause 7.1(2), a person making an application for a permit for the purpose of clause 5.11 shall submit a sketch plan clearly showing the boundary of the person's land and the portions of the thoroughfare joining that person's land which are to be cleared.

Division 6—Fire management

5.13 Permit to burn thoroughfare

A person shall not burn part of a thoroughfare without first obtaining a permit or unless acting under the authority of any other written law.

5.14 Application for permit

In addition to the requirements of clause 7.1(2), an application for a permit for the purposes of clause

5.13 shall—

- (a) include a sketch plan showing the portions of a thoroughfare which are proposed to be burned; and
- (b) advise of the estimated fire intensity and the measures to be taken to protect upper

storey vegetation from the burn.

5.15 When application for permit can be approved

The local government may approve an application for a permit for the purpose of clause 5.13 only if the burning of the particular part of the thoroughfare will—

- (a) reduce a fire hazard and alternative means of reducing that hazard, such as slashing or the use of herbicides, are considered by the local government to be not feasible or more detrimental to native flora and fauna than burning; or
- (b) in the opinion of the local government, be beneficial for the preservation and conservation of native flora and fauna.

5.16 Prohibitions on burning

Subject to any other written law and notwithstanding anything to the contrary in this local law, an application for a permit for the purpose of clause 5.13 is not to be approved by the local government—

- (a) for burning between 31 August and 1 May of the following year where the intensity of the burn could damage native flora and fauna; or
- (b) in any year to any person for any part of a thoroughfare which is on the opposite side of the carriageway to that portion of the thoroughfare for which a permit to burn has been approved in the same year.

Division 7—Firebreaks

5.17 Permit for firebreaks on thoroughfares

A person shall not construct a firebreak on a thoroughfare without first obtaining a permit.

5.18 When application for permit cannot be approved

- (1) The local government is not to approve an application for a permit for the purpose of clause 5.17 where the thoroughfare is less than 20m wide.
- (2) Subclause (1) does not apply where the firebreak is, in the opinion of the local government, desirable for the protection of roadside vegetation.

Division 8—Commercial wildflower harvesting on thoroughfares

5.19 General prohibition on commercial wildflower harvesting

Subject to clause 5.20, a person shall not commercially harvest native flora on a thoroughfare.

5.20 Permit for revegetation projects

- (1) A person shall not collect seed from native flora on a thoroughfare without first obtaining a permit.
- (2) The local government may approve an application for a permit under subclause (1) only where—
 - (a) the seed is required for a revegetation project in any part of the district; and
 - (b) the thoroughfare, or the relevant part of it, is not a special environmental area.
- (3) Unless the local government specifically provides to the contrary on a permit, if the local government approves an application for a permit for the purpose of subclause (1) it is to be taken to be approved subject to the following conditions—
 - (a) the collection of the seed is to be carried out so as not to endanger the long time survival of the native flora on the thoroughfare; and
 - (b) any licence or approval which may be required under any other written law is to be obtained by the applicant.

24. Part 6 Clause 6.1 amended

Paragraph (g) of the definition “trading” is amended by inserting, after the words “which are”, the word “only”.

25. Part 6 Clauses 6.5 and 6.6 deleted

- (1) Delete clauses 6.5 and 6.6;
- (2) Renumber clauses “6.7 to 6.15” inclusive to “6.5 to 6.13” respectively.

26. Part 6 Renumbered clause 6.6 amended

In renumbered clause 6.6 –

- (1) amend the second subclause numbered (1), by deleting the number “1” and substituting the number “2”;
- (2) in renumbered subclause (2),
 - (a) insert a new paragraph (a), in the appropriate alphabetical order, as follows –

“ (a) attempt to conduct a business within a distance of 300m of any shop or permanent place of business that is open for business and has for sale any goods or services of the kind being offered for sale by the stall holder or trader;”
 - (b) renumber paragraphs “(a) to (c)” to “(b) to (d)” respectively.

27. Part 6 Division 3 deleted

In Part 6, delete all of Division 3.

28. Part 7 Clause 7.1 amended

- (1) In subclause (2)(c), delete the word “and”;
- (2) In subclause (2), insert, in the appropriate alphabetical order, a new paragraph (d) as follows –

“(d) contain any other information required, for that particular type of permit, under this local law; and”;
- (3) Renumber paragraph “(d)” to “(e)”.

29. Part 7 Division 1 New Clause 7.3

- (1) In Division 1, insert, in the appropriate numerical order, a new clause 7.3 as follows –

“7.3 Relevant consideration in determining application for permit

 - (1) In determining an application for a permit, the local government is to have regard to -
 - (a) any relevant policy of the local government;
 - (b) the National Competition Principles Agreement;
 - (c) the desirability of the proposed activity;
 - (d) the location of the proposed activity; and
 - (e) such other matters as the local government may consider to be relevant in the circumstances of the case;
 - (2) The local government may refuse to approve an application for a permit on any one or more of the following grounds –
 - (a) that the applicant has committed a breach of any provision of this local law or of any written law relevant to the activity in respect of which the permit is sought;
 - (b) that the applicant is not a desirable or suitable person to hold a permit;

(c) such other grounds as the local government may consider to be relevant in the circumstances of the case."

(2) Renumber clauses "7.3 to 7.10" inclusive to "7.4 to 7.11" respectively;

30. Part 7 Renumbered Clause 7.8 amended

In renumbered clause 7.8, amend subclause (2) by deleting the words "mutatis mutandis" and substituting the words "with appropriate modifications".

31. Schedule 1 amended

Delete Schedule 1 and substitute the following –

"

SCHEDULE 1

LOCAL GOVERNMENT ACT 1995

Shire of Cunderdin

**ACTIVITIES ON THOROUGHFARES AND TRADING IN THOROUGHFARES
AND PUBLIC PLACES LOCAL LAW**

PRESCRIBED OFFENCES

ITEM NO.	CLAUSE NO.	DESCRIPTION	MODIFIED PENALTY \$
1	2.1(a)	Plant of 0.75m in height on thoroughfare within 10m of intersection	125
2	2.1(b)	Damaging lawn or garden	125
3	2.1(c)	Plant (except grass) on thoroughfare within 2m of carriageway	125
4	2.1(d)	Placing hazardous substance on footpath	200
5	2.1(e)	Damaging or interfering with signpost or structure on thoroughfare	350
6	2.1(f)	Playing games so as to impede vehicles or persons on thoroughfare	125
7	2.1(g)	Riding of bicycle, skateboard or similar device on mall or veranda of shopping centre	125
8	2.2(1)(a)	Digging a trench through a kerb or footpath without a permit	200
9	2.2(1)(b)	Throwing or placing anything on a verge without a permit	200
10	2.2(1)(c)	Causing obstruction to vehicle or person on thoroughfare without a permit	200
11	2.2(1)(d)	Causing obstruction to water channel on thoroughfare without a permit	250
12	2.2(1)(e)	Placing or draining offensive fluid on thoroughfare without a permit	250
13	2.2(1)(g)	Lighting a fire on a thoroughfare without a permit	350

14	2.2(1)(h)	Felling tree onto thoroughfare without a permit	200
15	2.2(1)(i)	Installing pipes or stone on thoroughfare without a permit	200
16	2.2(1)(j)	Installing a hoist or other thing on a structure or land for use over a thoroughfare without a permit	350
17	2.2(1)(k)	Creating a nuisance on a thoroughfare without a permit	200
18	2.2(1)(l)	Placing a bulk rubbish container on a thoroughfare without a permit	200
19	2.2(1)(m)	Interfering with anything on a thoroughfare without a permit	200
20	2.3(1)	Consumption or possession of liquor on thoroughfare	200
21	2.7(1)	Installation of verge treatment other than permissible verge treatment	250
22	2.8	Failure to maintain permissible verge treatment or placement of obstruction on verge	200
23	2.9	Failure to comply with notice to rectify default	200
24	2.15(2)	Failure to comply with sign on public place	125
25	2.17(1)	Driving or taking a vehicle on a closed thoroughfare	350
26	3.2(1)	Placing advertising sign or affixing any advertisement on a thoroughfare or verge	125
27	3.2(3)	Erecting or placing of advertising sign in a prohibited area	125
28	4.1(1)	Animal or vehicle obstructing a public place or local government property	125
29	4.2(2)(a)	Animal on thoroughfare when not led, ridden or driven	125
30	4.2(2)(b)	Animal on public place with infectious disease	125
31	4.2(2)(c)	Training or racing animal on thoroughfare in built-up area	125
32	4.2(2)(d)	Failure to remove animal excreta	125
33	4.2(3)	Horse led, ridden or driven on thoroughfare in built-up area	125
34	5.6(1)	Driving a vehicle on other than the carriageway of a flora road	300
35	5.9	Planting in a thoroughfare without a permit	300
36	5.11	Failure to obtain a permit to clear a thoroughfare	600
37	5.13	Burning of a thoroughfare without a permit	600

38	5.17	Construction of firebreak on thoroughfare without a permit	600
39	5.19	Commercial harvesting of native flora on thoroughfare	600
40	5.20(1)	Collecting seed from native flora on thoroughfare without a permit	350
41	6.2(1)	Conducting of stall in public place without a permit	350
42	6.3(1)	Trading without a permit	350
43	6.6(1)(a)	Failure of stallholder or trader to display or carry permit	125
44	6.6(1)(b)	Stallholder or trader not displaying valid permit	125
45	6.6(1)(c)	Stallholder or trader not carrying certified scales when selling goods by weight	125
46	6.6(2)	Stallholder or trader engaged in prohibited conduct	125
47	6.8	Establishment or conduct of outdoor eating facility without a permit	350
48	6.10	Failure of permit holder of outdoor eating facility to comply with obligations	200
49	6.12(1)	Use of equipment or outdoor eating facility without purchase of food or drink from facility	125
50	6.12(2)	Failure to leave outdoor eating facility when requested to do so by permit holder	125
51	7.5	Failure to comply with a condition of a permit	200
52	7.9	Failure to produce permit on request of authorized person	125
53	10.1	Failure to comply with notice given under local law	200
54		All other offences not specified	125

”

Dated: [date].

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

R CARTER, Shire President.

G TUFFIN, Chief Executive Officer.

9.6 Proposed Parking Local Law 2010

Location:	Cunderdin
Applicant:	Administration
Date:	18th August 2010
Author	G Tuffin
Item Approved by:	Chief Executive Officer

Disclosure of Interest:

No disclosure of interest has been tabled.

Attachments:

A copy of the proposed Parking Local Law 2010 is attached.

Proposal:

To allow:

- (11) the Presiding Person to give notice to the meeting of the intent to make a new Parking local law 2010;
- (12) the Presiding Person to give notice of the purpose and effect of the proposed Parking local law 2010;
- (13) for the Council to adopt the proposed Parking local law 2010; and
- (14) for advertising of the Parking local law 2010 for public comment.
- (15) to align SEAVROC/RTG council Local Laws

Background:

Currently the Shire of Cunderdin does not have a local law that regulates the stopping and parking of vehicles or certain classes of vehicles within the district.

To comply with the provisions of section 3.16 of the *Local Government Act 1995*, SEAVROC member council's commenced a review of their local laws on 27 October 2009 jointly as a group. As a consequence it was decided that given the RTG and move towards amalgamation, our Local Laws should be based on the same models to align them as closely as possible to assist with a smoother transition should an amalgamation proceed.

At the conclusion of the review process it was identified that a local law regulating the stopping and parking of vehicles in the main street of Cunderdin was required.

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 Parking Local Law 2010; and
- (2) give notice of the purpose and effect of the proposed Parking Local Law 2010;
- (3) for the Council to adopt the proposed Parking Local Law 2010; and
- (4) to allow for advertising of the Parking Local Law 2010 for public comment.

Comment:

The proposed Parking Local Law 2010 is set out in the attachment to this report.

In general, the proposed new local law deals with the provisions of the Road Traffic Code 2000, under which 'No Standing' becomes 'No Stopping' and other changes. 'No Stopping' provisions of the Code also deal with distances within which the restriction applies to children's crossings, pedestrian crossings and the like.

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 Parking local law 2010 is to constitute a parking region, enable the Shire to regulate the parking of vehicles within the parking region, provide for the management and operation of parking facilities operate by the Shire and the issuing of infringement noticed for parking offences.

The effect of the proposed Parking local law 2010 is that all persons parking a vehicle within the parking region are to comply with the provision in this local law.

The other five members of the current RTG (Beverley, Cunderdin, Quairading, Tammin & York) will all be adopting the same model.

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 Parking Local Law, (gazettal copy), and the National Competition Policy review must be sent to the relevant Minister for comment.

Policy Implications:

There are no policy implications for this item.

Statutory Environment:

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.

Road Traffic Code 2000

Strategic Implications:

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.

Recommendation 9.6

That Council:

- (1) adopt the proposed Shire of Cunderdin Parking Local Law 2010, as contained in the Attachment 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 Parking Local Law 2010, as contained in the Attachment:
 - (a) the purpose of which is to constitute a parking region, enable the Shire to regulate the parking of vehicles within the parking region, provide for the management and operation of parking facilities operate by the Shire and the issuing of infringement noticed for parking offences; and
 - (b) the effect is that all persons parking a vehicle within the parking region are to comply with the provision in this local law.

Moved Cr _____ Seconded Cr _____

Vote – **Simple Majority** Carried/Lost ____ / ____

Note: Refer to item 9.1 - That items 9.1 to 9.6 and 9.8 be received in block

LOCAL GOVERNMENT ACT 1995

SHIRE OF CUNDERDIN

PARKING LOCAL LAW 2010

LOCAL GOVERNMENT ACT 1995

SHIRE OF CUNDERDIN

PARKING LOCAL LAW 2010

ARRANGEMENT

PART 1—DEFINITION AND OPERATION

- 1.1 Commencement
- 1.2 Interpretation
- 1.3 Application and pre-existing signs
- 1.4 Classes of vehicles
- 1.5 Part of thoroughfare to which sign applies

PART 2—PARKING BAYS AND PARKING STATIONS

- 2.1 Determination of parking bays and parking stations
- 2.2 Vehicles to be within parking bay on thoroughfare
- 2.3 Parking prohibitions and restrictions

PART 3—PARKING GENERALLY

- 3.1 Prohibition and regulation of parking by signs
- 3.2 Restrictions on parking in particular areas
- 3.3 Parking vehicle on a carriageway
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- 3.5 When parallel and right-angled parking apply
- 3.6 When angle parking applies
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- 3.9 Limitation on parking of vehicles with tare in excess of 2,000 kgs on carriageway
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- 3.11 Authorized person may order vehicle on thoroughfare to be moved
- 3.12 Authorized person may mark tyres
- 3.13 No movement of vehicles to avoid time limitation
- 3.14 No parking of vehicles exposed for sale and in other circumstances
- 3.15 Parking on private land
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- 3.17 Suspension of parking limitations for urgent, essential or official duties

PART 4—STOPPING GENERALLY

- 4.1 No Stopping
- 4.2 No Parking
- 4.3 Stopping in a parking bay for people with disabilities

PART 5 - MISCELLANEOUS

- 5.1 Removal of notices on vehicle
- 5.2 Unauthorized signs and defacing of signs
- 5.3 Signs must be complied with
- 5.4 General provisions about signs
- 5.5 Special purpose and emergency vehicles
- 5.6 Vehicles not to obstruct a public place

PART 6—PENALTIES

- 6.1 Offences and penalties
- 6.2 Averment on complaint as to clause 1.4(2) agreement
- 6.3 Form of notices

SCHEDULE 1—PARKING REGION

SCHEDULE 2—PRESCRIBED OFFENCES

SCHEDULE 3—FORM 1 FORM 2 FORM 3 FORM 4

LOCAL GOVERNMENT ACT 1995

SHIRE OF CUNDERDIN

PARKING LOCAL LAW 2010

Under the powers conferred by the Local Government Act 1995 and under all other powers, the Council of the Shire of Cunderdin resolved on [insert adoption resolution date here] to make the following local law.

PART 1—DEFINITION AND OPERATION

1.1 Citation

This local law is cited as the *Shire of Cunderdin Parking Local Law 2010*.

1.2 Commencement

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

1.3 Interpretation

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

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

“**Authorized Person**” means a person authorized by the local government under section 9.10 of the Act, to perform any of the functions of an Authorized Person under this Local Law;

“**authorized vehicle**” means a vehicle authorized by the local government, Chief Executive Officer, Authorized Person or by any written law to park on a thoroughfare or parking facility;

“**bicycle**” means any wheeled vehicle that is designed to be propelled solely by human power;

“**bus**” means an omnibus as defined by the Code;

“**bus stop**” has the meaning given to it in the Code;

“**bus embayment**” has the meaning given to it in the Code;

“**caravan**” means a vehicle that is fitted or designed to allow human habitation and which is drawn by another vehicle, or which is capable of self-propulsion;

“**carriageway**” has the meaning given to it in the Code;

“**centre**” in relation to a carriageway, means a line or a series of lines, marks or other indications placed at, or near, the middle of the carriageway or, in the absence of any such lines, marks or other indications, the middle of the main travelled portion of the carriageway;

“**children’s crossing**” has the meaning given to it in the Code;

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

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

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

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

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

“**emergency vehicle**” has the meaning given to it in the Code;

“**footpath**” includes every footpath, pedestrian access way or other place—

- (a) intended for the use of pedestrians only, or in the case of a dual use path, for the use of pedestrians and bicyclists only; or

- (b) habitually used by pedestrians and not by vehicles or, in the case of a dual use path, by pedestrians and bicyclists and not by vehicles other than bicycles;
- “Loading Zone”** means a parking bay which is set aside for use by commercial vehicles if there is a sign referable to that bay marked ‘Loading Zone’;
- “local government”** means the Shire of Cunderdin;
- “median strip”** has the meaning given to it in the Code;
- “motorcycle”** means a motor vehicle that has two wheels or, where a sidecar is attached, three wheels;
- “motor vehicle”** means a self-propelled vehicle that is not operated on rails; and the expression includes a trailer, semi-trailer or caravan while attached to a motor vehicle, but does not include a power assisted pedal cycle;
- “no parking area”** means a portion of a carriageway that lie—
- (a) between two consecutive signs inscribed with the words “No Parking” or with an equivalent symbol depicting this purpose and each with an arrow pointing generally towards the other of them; or
 - (b) between a sign inscribed with the words “No Parking” or with an equivalent symbol depicting this purpose, and the end of the carriageway or an area in which parking is prohibited and that lies in the general direction indicated by an arrow inscribed on the sign;
- “no parking sign”** means a sign with the words ‘no parking’ in red letters on a white background, of the letter ‘P’ within a red annulus and a red diagonal line across it on a white background;
- “no stopping area”** has the meaning given to it by the Code;
- “no stopping sign”** means a sign with the words ‘no stopping’ or ‘no standing’ in red letters on a white background, of the letter ‘S’ within a red annulus and a red diagonal line across it on a white background;
- “occupier”** has the meaning given to it in the Act;
- “owner”** where used in relation to a vehicle, means a person who is the registered holder of the requisite vehicle licence under the Road Traffic Act in respect of that vehicle, or if the vehicle is not licensed under that Act, the person who owns the vehicle or is entitled to its possession; and where used in relation to land has the meaning given to it by the Act;
- “park”**, in relation to a vehicle, means to permit a vehicle, whether occupied or not by any person, to remain stationary for any period of time except for the purpose of—
- (a) avoiding conflict with other traffic; or
 - (b) complying with the provisions of any law when the vehicle is being driven;
- “parking area”** means a portion of a carriageway—
- (a) between two consecutive signs inscribed with the word “Parking” or with an equivalent symbol depicting this purpose and each with an arrow pointing generally towards the other of them; or
 - (b) extending from a sign inscribed with the word “Parking” or with an equivalent symbol depicting this purpose in the general direction indicated by the arrow inscribed on the sign, to any other sign inscribed with the words “No Parking” or with an equivalent symbol depicting this purpose, or to the end of the carriageway or an area in which the parking of vehicles is prohibited, and is on that side of the carriageway of the thoroughfare nearest the sign;
- “parking facilities”** includes land, buildings, shelters, parking bays and other facilities open to the public generally for the parking of vehicles, and signs, notices and facilities used in connection with the parking of vehicles;
- “parking region”** means the area described in the First Schedule;
- “parking bay”** means a section or part of a thoroughfare or of a parking station which is marked or defined by painted lines, metallic studs, coloured bricks or pavers or similar devices for the purpose of indicating where a vehicle may be parked;
- “parking station”** means any land, or structure provided for the purpose of accommodating vehicles;
- “public bus”** has the meaning give to it by the Code;
- “public place”** means any place to which the public has access whether or not that place is on private property;
- “reserve”** means any land—
- (a) which belongs to the local government;

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

“right of way” means a portion of land that is –

- (a) shown and marked “Right of Way” or “R.O.W”, or coloured or marked in any other way to signify that the portion of land is a right of way, on any plan or diagram deposited with the Registrar of Titles that is subject to the provisions of section 167A of the *Transfer of Land Act 1893*;
- (b) shown on a diagram or plan of survey relating to a subdivision that is created as a right of way and vested in the Crown under section 152 of the *Planning and Development Act 2005*; or
- (c) shown and marked as a right of way on a map or plan deposited with the Registrar of Titles and transferred to the Crown under the *Transfer of Land Act 1893*, but does not include -
 - (i) a private driveway; or
 - (ii) a right of way created by easement between two parties;

“Road Traffic Act” means the Road Traffic Act 1974;

“Schedule” means a Schedule to this Local Law;

“sign” includes a traffic sign, inscription, mark, structure or device approved by the local government on which may be shown words, numbers, expressions or symbols, and which is placed on or near a thoroughfare or within a parking station or reserve for the purpose of prohibiting, regulating, guiding, directing or restricting the parking of vehicles;

“special purpose vehicle” means a public utility service truck, a tow truck, a vehicle being used for official duties by a member of the Police Service, a motor breakdown service vehicle or a vehicle being used by a government authority or a local government in connection with its functions, but does not include an emergency vehicle;

“symbol” includes any symbol specified by Australian Standard 1742.11-1989 and any symbol specified from time to time by Standards Australia for use in the regulation of parking and any reference to the wording of any sign in this Local Law shall be also deemed to include a reference to the corresponding symbol;

“thoroughfare” has the meaning given to it in the Act;

“traffic island” has the meaning given to it by the Code;

“trailer” means any vehicle without motive power of its own, designed for attachment to a motor vehicle for the purpose of being towed, but does not include the rear portion of an articulated vehicle, or a side car;

“vehicle” includes every conveyance not being a train, vessel or aircraft, and every object capable of being propelled or drawn on wheels by any means; and “verge” means the portion of a thoroughfare which lies between the boundary of a carriageway and the adjacent property line but does not include a footpath.

“verge” has the same meaning as “nature strip”.

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

1.4 Application and pre-existing signs

- (1) Subject to subclause (2), this Local Law applies to the parking region.
- (2) This Local Law does not apply to a parking facility or a parking station that is not occupied by the local government, unless the local government and the owner or occupier of that facility or station have agreed in writing that this Local Law will apply to that facility or station.
- (3) The agreement referred to in subclause (2) may be made on such terms and conditions as the parties may agree.
- (4) Where a parking facility or a parking station is identified in the Fourth Schedule, then the facility or station shall be deemed to be a parking station to which this Local law applies and it shall not be necessary to prove that it is the subject of an agreement referred to in subclause (2).
- (5) A sign that—

- (a) was erected by the local government or the Commissioner of Main Roads prior to the coming into operation of this Local Law; and
 - (b) relates to the parking of vehicles within the parking region,
- shall be deemed for the purposes of this Local Law to have been erected by the local government under the authority of this Local Law.
- (6) An inscription or symbol on a sign referred to in subclause (5) operates and has effect according to its tenor, and where the inscription or symbol relates to the standing of vehicles, it shall be deemed for the purposes of this Local Law to operate and have effect as if it related to the parking of vehicles.

1.5 Classes of vehicles

For the purpose of this Local Law, vehicles are divided into classes as follows—

- (a) buses;
- (b) commercial vehicles;
- (c) motorcycles and bicycles;
- (d) taxis; and
- (e) all other vehicles.

1.6 Part of thoroughfare to which sign applies

Where under this Local Law the parking of vehicles in a thoroughfare is controlled by a sign, the sign shall be read as applying to that part of the thoroughfare which—

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

PART 2—PARKING BAYS AND PARKING STATIONS

2.1 Determination of parking bays and parking stations

The local government may by resolution constitute, determine and vary and also indicate by signs—

- (a) parking bays;
- (b) parking stations;
- (c) permitted time and conditions of parking in parking bays and parking stations which may vary with the locality;
- (d) permitted classes of vehicles which may park in parking bays and parking stations;
- (e) permitted classes of persons who may park in specified parking bays or parking stations; and
- (f) the manner of parking in parking bays and parking stations.

2.2 Vehicles to be within parking bay on thoroughfare

- (1) Subject to subclause (2), a person shall not park a vehicle in a parking bay in a thoroughfare otherwise than—
 - (a) parallel to and as close to the kerb as is practicable;
 - (b) wholly within the bay; and
 - (c) headed in the direction of the movement of traffic on the side of the thoroughfare in which the bay is situated.
- (2) Where a parking bay in a thoroughfare is set out otherwise than parallel to the kerb, then a person must park a vehicle in that bay wholly within it.

2.3 Parking prohibitions and restrictions

- (1) A person shall not—
 - (a) park or attempt to park a vehicle in a parking bay in which another vehicle is parked but this paragraph does not prevent the parking of a motorcycle and a bicycle together in a bay marked "M/C", if the bicycle is parked in accordance with subclause (2).
- (2) No person shall park any bicycle—
 - (a) in a parking bay other than in a bay marked "M/C"; and

- (b) in such bay other than against the kerb.
- (3) Notwithstanding the provisions of subclause (1)(a) a driver may park a vehicle in a permissive parking bay (except in a parking area for people with disabilities) for twice the length of time allowed, provided that:
 - (a) the driver's vehicle displays an ACROD sticker; and
 - (b) a person with disabilities to which that ACROD sticker relates is either the driver of or a passenger in the vehicle.

PART 3—PARKING GENERALLY

3.1 Prohibition and regulation of parking by signs

The local government may by resolution prohibit or regulate by signs or otherwise the parking of any vehicle or class of vehicles in any part of the parking region but must do so consistently with the provisions of this Local Law.

3.2 Restrictions on parking in particular areas

- (1) A person shall not park a vehicle in a thoroughfare or part of a thoroughfare,—
 - (a) if by a sign it is set apart for the parking of vehicles of a different class;
 - (b) if by a sign it is set apart for the parking of vehicles by persons of a different class; or
 - (c) during any period when the parking of vehicles is prohibited by a sign.
- (2) A person shall not park a vehicle—
 - (a) in a no parking area;
 - (b) in a parking area, except in accordance with both the signs associated with the parking area and with this Local Law;
 - (c) in a bay marked "M/C" unless it is a motorcycle without a sidecar or a trailer, or it is a bicycle.
- (3) A person shall not park a motorcycle without a sidecar or a trailer, or a bicycle in a parking bay unless the bay is marked "M/C".
- (4) A person shall not, without the prior permission of the local government, the CEO, or an Authorized Person, park a vehicle in an area designated by a sign stating "Authorized Vehicles Only".
- (5) In a Loading Zone, a person shall not—
 - (a) park a vehicle other than a commercial vehicle which is being loaded or unloaded with goods; or
 - (b) park a commercial vehicle which is being loaded or unloaded with goods for more than 30 minutes.
- (6) In paragraph (b) of subclause (5) "goods" means an article or collection of articles weighing at least 13.6kg and of which the cubic measurement is not less than 0.17m³.

3.3 Parking vehicle on a carriageway

Unless otherwise permitted by a sign, a person parking a vehicle on a carriageway other than in a parking bay shall park it—

- (a) in the case of a two-way carriageway, so that it is as near as practicable to and parallel with, the left boundary of the carriageway and headed in the direction of the movement of traffic on the side of the thoroughfare on which the vehicle is parked;
- (b) in the case of a one-way carriageway, so that it is as near as practicable to and parallel with either boundary of the carriageway and headed in the direction of the movement of traffic on the side of the thoroughfare on which the vehicle is parked;
- (c) so that at least 3 metres of the width of the carriageway lies between the vehicle and the farther boundary of the carriageway, or between the vehicle and a vehicle parked on the farther side of the carriageway;
- (d) so that it is not less than 1.2 metres from any other vehicle, except a motorcycle without a trailer, or a bicycle parked in accordance with this Local Law;
- (e) so that it does not obstruct any vehicle on the carriageway; and
- (f) so that it is entirely within the confines of any parking bay marked on the carriageway.

3.4 Vehicle to be wholly within parking area

A person shall not park a vehicle partly within and partly outside a parking area.

3.5 When parallel and right-angled parking apply

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

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

3.6 When angle parking applies

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

3.7 General prohibitions on parking

- (1)
 - (a) This clause does not apply to a vehicle parked in a parking bay nor to a bicycle in a bicycle rack.
 - (b) Paragraphs (c), (e) and (g) of subclause (2) do not apply to a vehicle which parks in a bus embayment.
- (2) A person shall not park a vehicle so that any portion of the vehicle is—
 - (a) between any other stationary vehicles and the centre of the carriageway;
 - (b) on or adjacent to a median strip;
 - (c) obstructing a right of way, private drive or carriageway or so close as to deny a vehicle reasonable access to or egress from the right of way, private drive or carriageway;
 - (d) alongside or opposite any excavation, works, hoarding, scaffolding or obstruction on the carriageway, if the vehicle would obstruct traffic;
 - (e) on or within 10 metres of any portion of a carriageway bounded by a traffic island;
 - (f) on any footpath or pedestrian crossing;
 - (g) on a bridge or other elevated structure or within a tunnel or underpass;
 - (h) between the boundaries of a carriageway and any double longitudinal line consisting of two continuous lines or between a double longitudinal line consisting of a continuous line and a broken or dotted line and the boundary of a carriageway nearer to the continuous line, unless there is a distance of at least 3 metres clear between the vehicle and the double longitudinal line;
 - (i) on an intersection, except adjacent to a carriageway boundary that is not broken by an intersecting carriageway;
 - (j) within 1 metre of a fire hydrant or fire plug, or of any sign or mark indicating the existence of a fire hydrant or fire plug; or
 - (k) within 6 metres of the nearer property line of any thoroughfare intersecting the thoroughfare on the side on which the vehicle is parked.
- (3) A person shall not park a vehicle so that any portion of the vehicle is within 10 metres of the departure side of—
 - (a) a children's crossing or pedestrian crossing; or
 - (b) the nearest rail of a railway level crossing.
- (4) A person shall not park a vehicle so that any portion of the vehicle is within 20 metres of the approach side of—
 - (a) a pedestrian crossing or children's crossing; or
 - (b) the nearest rail of a railway level crossing.

3.8 Parking on verges

- (1) A person shall not—
 - (a) park a vehicle;

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

3.9 Limitation on parking of vehicles with tare in excess of 2,000 kgs on carriageway

A person shall not park a vehicle having a tare in excess of 2,000 kgs on a carriageway for more than two hours consecutively.

3.10 Limitation on parking of over length vehicles on carriageway

A person shall not park a vehicle or any combination of vehicles that together with anything in or on that vehicle is more than 8 metres in length, on a carriageway for more than two hours consecutively.

3.11 Authorized person may order vehicle on thoroughfare to be moved

The driver of a vehicle shall not park that vehicle on any part of a thoroughfare in contravention of this Local Law after an Authorized Person has directed the driver to move it.

3.12 Authorized person may mark tyres

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

3.13 No movement of vehicles to avoid time limitation

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

3.14 No parking of vehicles exposed for sale and in other circumstances

A person shall not park a vehicle on any portion of a thoroughfare—

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

3.15 Parking on private land

- (1) In this clause a reference to "land" does not include land—
 - (a) which belongs to the local government;
 - (b) of which the local government is the management body under the Land Administration Act 1997;
 - (c) which is an "otherwise unvested facility" within section 3.53 of the Act;
 - (d) which is the subject of an agreement referred to in clause 1.4 (2); or
 - (e) which is identified in the Fourth Schedule.
- (2) A person shall not park a vehicle on land without the consent of the owner or occupier of the land on which the vehicle is parked.
- (3) Where the owner or occupier of the land, by a sign referable to that land or otherwise, consents to the parking of vehicles of a specified class or classes on the land for a limited period, a person shall not park a vehicle on the land otherwise than in accordance with the consent.

3.16 Parking on reserves

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

3.17 Suspension of parking limitations for urgent, essential or official duties

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

PART 4 – STOPPING GENERALLY

4.1 No stopping

A driver shall not stop on a part of a carriageway, or in an area –

- (a) to which a 'no stopping' sign applies; or
- (b) during the times a sign specifies a 'no stopping' restriction is in operation.

4.2 No Parking

- (1) A driver shall not stop on a length of carriageway or in an area to which a 'no parking' sign applies, unless the driver is-
 - (a) dropping off, or picking up, passengers or goods;
 - (b) does not leave the vehicle unattended; and
 - (c) completes the dropping off, or picking up, of the passengers or goods within 2 minutes of stopping and drives on.
- (2) For the purposes of subclause (1) – “unattended”, in relation to a vehicle, means that the driver has left the vehicle so that the driver is more than 3 metres from the closest point of the vehicle.

4.3 Stopping in a parking bay for people with disabilities

- (1) A driver shall not stop in a parking area for people with disabilities unless:
 - (a) the driver's vehicle displays an ACROD sticker; and
 - (b) either the driver or the passenger in that vehicle is a person with disabilities.
- (2) In this clause a 'parking area for people with disabilities' is a length or area:
 - (a) to which a 'permissive parking' sign displaying a “people with disabilities” symbol applies;
 - (b) to which a 'people with disabilities parking' sign applies;
 - (c) indicated by a road marking that consists of, or includes, a “people with disabilities” symbol; or
 - (d) set aside within a parking region as a 'parking bay for use of a disabled person' under the *Local Government (Parking for Disabled Persons) Regulations 1988*.

PART 5 — MISCELLANEOUS

5.1 Removal of notices on vehicle

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

5.2 Unauthorized signs and defacing of signs

A person shall not without the authority of the local government—

- (a) mark, set up or exhibit a sign purporting to be or resembling a sign marked, set up or exhibited by the local government under this Local Law;
- (b) remove, deface or misuse a sign or property, set up or exhibited by the local government under this Local Law or attempt to do any such act; or

- (c) affix a board, sign, placard, notice or other thing to or paint or write upon any part of a sign set up or exhibited by the local government under this Local Law.

5.3 Signs must be complied with

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

5.4 General provisions about signs

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

5.5 Special purpose and emergency vehicles

Notwithstanding anything to the contrary in this Local Law, the driver of—

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

5.6 Vehicles not to obstruct a public place

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

PART 6 —PENALTIES

6.1 Offences and penalties

- (1) Any person who fails to do anything required or directed to be done under this Local Law, or who does anything which under this Local Law that person is prohibited from doing, commits an offence.
- (2) An offence against any provision of this Local Law is a prescribed offence for the purposes of section 9.16(1) of the Act.
- (3) Any person who commits an offence under this Local Law shall be liable, upon conviction, to a penalty not exceeding \$5,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.
- (4) The amount appearing in the final column of the Second Schedule directly opposite a clause specified in that Schedule is the modified penalty for an offence against that clause.

6.2 Averment on complaint as to clause 1.4 (2) agreement

An averment on a complaint that this Local Law applies to a parking facility or a parking station under an agreement referred to in clause 1.4 (2), shall be sufficient proof that this Local Law applies to that facility or station, unless there is proof to the contrary that such an agreement does not exist.

6.3 Form of notices

For the purposes of this Local Law—

- (a) the form of the notice referred to in section 9.13 of the Act is that of Form 1 in the Third Schedule;
- (b) the form of the infringement notice referred to in section 9.17 of the Act is that of Form 2 in the Third Schedule;
- (c) the form of the infringement notice referred to in section 9.17 of the Act which incorporates the notice referred to in section 9.13 of the Act, is that of Form 3 in the Third Schedule; and
- (d) the form of the notice referred to in section 9.20 of the Act is that of Form 4 in the Third Schedule.

FIRST SCHEDULE
LOCAL GOVERNMENT ACT 1995
 Shire of Cunderdin
PARKING LOCAL LAW 2010

PARKING REGION

The parking region is the area of the Shire of Cunderdin enclosed by the following roads—

That portion of Main Street, from the intersection of Baxter Road to the intersection of Carter Road, and includes both sides of the above named roads within that area, but excludes the following portions of the district —

- (a) the approach and departure prohibition areas of all existing and future traffic control signal installations as determined by the Commissioner of Main Roads;
- (b) prohibition areas applicable to all existing and future bridges and subways as determined by the Commissioner of Main Roads; and
- (c) any thoroughfare which comes under the control of the Commissioner of Main Roads unless the control of parking and parking facilities on that thoroughfare has been delegated by the Commissioner of Main Roads to the local government.

SECOND SCHEDULE

LOCAL GOVERNMENT ACT 1995
 Shire of Cunderdin
PARKING LOCAL LAW 2010

PRESCRIBED OFFENCES

ITEM NO.	CLAUSE NO.	NATURE OF OFFENCE	MODIFIED PENALTY \$
1	2.2	Failure to park wholly within parking bay	60
2	3.2 (1)(a)	Parking wrong class of vehicle	100
3	3.2 (1)(b)	Parking by persons of a different class	100
4	3.2 (1)(c)	Parking during prohibited period	100
5	3.2 (2)(a)	Parking in no parking area	80
6	3.2(2)(b)	Parking contrary to signs or limitations	60
7	3.2(2)(c)	Parking vehicle in motor cycle only area	60
8	3.2(3)	Parking motor cycle in bay not marked 'M/C'	60
9	3.2(4)	Parking without permission in an area designated for 'Authorised Vehicles Only'	65
10	3.3(a)	Failure to park on the left of two-way carriageway	80
11	3.3(b)	Failure to park on boundary of one-way carriageway	60

12	3.3(a) or 3.3(b)	Parking against the flow of traffic	80
13	3.3(c)	Parking when distance from farther boundary less than 3 metres	60
14	3.3(e)	Causing obstruction	125
15	3.5(a) or (b)	Failure to park at approximate right angle or parallel to carriageway	60
16	3.6(2)	Failure to park at an appropriate angle	60
17	3.7(2)(a)	Double parking	125
18	3.7(2)(b)	Parking on or adjacent to a median strip	80
19	3.7(2)(c)	Denying access to private drive or right of way	125
20	3.7(2)(d)	Parking beside excavation or obstruction so as to obstruct traffic	125
21	3.7(2)(e)	Parking within 9 metres of traffic island	60
22	3.7(2)(f)	Parking on footpath/pedestrian crossing	150
23	3.7(2)(h)	Parking contrary to continuous line markings	60
24	3.7(2)(i)	Parking on intersection	150
25	3.7(2)(j)	Parking within 1 metre of fire hydrant or fire plug	80
26	3.7(2)(k)	Parking within 6 metres of intersection	60
27	3.7(3)(a) or (b)	Parking vehicle within 9 metres of departure side of children's crossing	60
28	3.7(4)(a) or (b)	Parking vehicle within 18 metres of approach side of children's crossing	60
30	3.8(2)(a)	Parking commercial vehicle, bus or caravan on verge	60
31	3.8(2)(b)	Parking on verge contrary to sign	60
32	3.9	Parking vehicle with tare of over 2000kgs for over 2 hours	100
33	3.10	Parking over length vehicle in excess of 2 hours	100
34	3.11	Parking contrary to direction of Authorized Person	60

35	3.14(c)	Parking a trailer/caravan on a thoroughfare	100
36	3.15(2)	Parking on land that is not a parking facility without consent	125
37	3.15(3)	Parking on land not in accordance with consent	125
38	3.16	Driving or parking on reserve	125
39	4.1(1)	Stopping contrary to a 'no stopping' sign	125
40	4.1(2)	Parking contrary to a 'no parking' sign	85
41	4.1(3)	Stopping within continuous yellow lines	125
42	4.3	Stopping in disabled parking area	120
43	5.6	Leaving vehicle so as to obstruct a public place	80
44		All other offences not specified	80

THIRD SCHEDULE
LOCAL GOVERNMENT ACT 1995
 Shire of Cunderdin
PARKING LOCAL LAW 2010
 Form 1
NOTICE TO OWNER OF VEHICLE INVOLVED IN OFFENCE

Date / / To: ⁽¹⁾

..... of: ⁽²⁾

It is alleged that on / / at ⁽³⁾ at ⁽⁴⁾ your vehicle— make: ; model: ; registration: , was involved in the commission of the following offence—

contrary to clause of the Parking and Parking Facilities Local Law. You are required under section 9.13 of the Local Government Act 1995 to identify the person who was the driver or person in charge of the vehicle at the time when the offence is alleged to have been committed.

If you do not prove otherwise, you will be deemed to have committed the offence unless—

- (a) within 28 days after being served with this notice—
 - (i) you inform the Chief Executive Officer or another authorized officer of the local government as to the identity and address of the person who was the driver or person in charge of the vehicle at the time the offence is alleged to have been committed; and
 - (ii) you satisfy the Chief Executive Officer that the vehicle had been stolen, or was being unlawfully used, at the time the offence is alleged to have been committed; or
- (b) you were given an infringement notice for the alleged offence and the modified penalty specified in it is

paid within 28 days after the notice was given or such further time as is allowed.

- (5)
- (6).....

Insert—

- (1) Name of owner or “the owner”
- (2) Address of owner (not required if owner not named)
- (3) Time of alleged offence
- (4) Location of alleged offence
- (5) Signature of authorized person
- (6) Name and title of authorized person giving notice

THIRD SCHEDULE
LOCAL GOVERNMENT ACT 1995
 Shire of Cunderdin
PARKING LOCAL LAW 2010
 Form 2
INFRINGEMENT NOTICE

Serial No

Date / / To: ⁽¹⁾
..... of: ⁽²⁾

It is alleged that on / / at ⁽³⁾ at ⁽⁴⁾ in respect of vehicle—

make: ;
model: ;

registration: ,

you committed the following offence—

.....
.....
.....

contrary to clause of the Parking and Parking Facilities Local Law. The modified penalty for the offence is \$ If you do not wish to have a complaint of the alleged offence heard and determined by a court, the amount of the modified penalty may be paid to an authorized person at ⁽⁵⁾

within a period of 28 days after the giving of this notice. If you take no action this infringement notice may be registered with the Fines Enforcement Registry after which your driver’s licence or any vehicle licence held by you may be suspended. If the matter is registered with the Registry additional costs will also be payable.

If the above address is not your current address, or if you change your address, it is important that you advise us immediately. Failure to do so may result in your driver’s licence or any vehicle licence you hold being suspended without your knowledge.

- (6)
- (7)

Insert—

- (1) Name of alleged offender or “the owner”
- (2) Address of alleged offender
- (3) Time of alleged offence
- (4) Location of alleged offence
- (5) Place where modified penalty may be paid
- (6) Signature of authorized person

(7) Name and title of authorized person giving notice

THIRD SCHEDULE
LOCAL GOVERNMENT ACT 1995
Shire of Cunderdin
PARKING LOCAL LAW 2010
Form 3
INFRINGEMENT NOTICE

Serial No

Date / / To: ⁽¹⁾

..... of: ⁽²⁾
.....

It is alleged that on / / at ⁽³⁾ at ⁽⁴⁾ in respect of
vehicle— make: ; model: ; registration:
..... , you committed the following offence—
.....
.....

..... contrary
to clause of the Parking and Parking Facilities Local Law.

The modified penalty for the offence is \$ If you do not wish to have a complaint of the alleged offence
heard and determined by a court, the amount of the modified penalty may be paid to an authorized person at
⁽⁵⁾ within a period of 28 days after the giving of this notice.

Unless within 28 days after being served with this notice—

(a) you pay the modified penalty; or

(b) you—

(i) inform the Chief Executive Officer or another authorized officer of the local government as to the
identity and address of the person who was the driver or person in charge of the above vehicle at
the time the offence is alleged to have been committed; or

(ii) satisfy the Chief Executive Officer that the above vehicle had been stolen or was being unlawfully
used at the time the offence is alleged to have been committed,

you will, in the absence of proof to the contrary, be deemed to have committed the above offence and
court proceedings may be instituted against you.

If you take no action this infringement notice may be registered with the Fines Enforcement Registry after which
your driver's licence or any vehicle licence held by you may be suspended. If the matter is registered with the
Registry additional costs will also be payable.

If the above address is not your current address, or if you change your address, it is important that you advise us
immediately. Failure to do so may result in your driver's licence or any vehicle licence you hold being suspended
without your knowledge.

(6)

(7)

Insert—

(1) Name of owner or "the owner"

(2) Address of owner (not required if owner not named)

(3) Time of alleged offence

(4) Location of alleged offence

(5) Place where modified penalty may be paid

(6) Signature of authorized person

(7) Name and title of authorized person giving notice

THIRD SCHEDULE
LOCAL GOVERNMENT ACT 1995
Shire of Cunderdin
PARKING LOCAL LAW 2010
Form 4
WITHDRAWAL OF INFRINGEMENT NOTICE

Serial No Date
..... / /

To: ⁽¹⁾

of: ⁽²⁾

Infringement Notice No.dated / /

in respect of vehicle— make: ; model: ;
registration:

for the alleged offence of
.....
.....

has been withdrawn.

The modified penalty of \$

has been paid and a refund is enclosed.

has not been paid and should not be paid.

delete as appropriate.

(3)

(4)

Insert—

(1) Name of alleged offender to whom infringement notice was given or “the owner”.

(2) Address of alleged offender.

(3) Signature of authorized person

(4) Name and title of authorized person giving notice

Dated: [date].

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

R CARTER, Shire President.

G TUFFIN, Chief Executive Officer.

9.7 Sale of Proposed Lot 23 Centenary Place, Cunderdin

Location:	Cunderdin
Applicant:	Administration
Date:	18th August 2010
Author	G Tuffin
Item Approved by:	Chief Executive Officer

Disclosure of Interest:

No disclosure of interest has been tabled.

Attachments:

Cunderdin Industrial Park proposed lot design/layout.
Letter dated 3rd February 2010 – Donovan Engineering
Letter dated 24th October 2007 – Shire of Cunderdin

Proposal:

To consider a valuation and possible sale of proposed Lot 23 to Mr Troy Donovan.

Background:

Ordinary Council meeting held 18th October 2007- Report No. 12.2

Council resolved at its meeting held on 18th February 2010;

(a) *To inform Donovans Engineering as follows;*

(i) That before Council can proceed with the potential sale of Lot 23 Centenary Place, Cunderdin it is required to obtain a valuation of the land. Section 3.58 (4) (c) of the Local Government Act 1995 require that a valuation be carried out not more than 6 months before the proposed disposition.

(ii) Subject to (i) above the selling price may be subject to variation.

(b) *Subject to (a) above Donovans Engineering be requested to inform the Council of their intentions to proceed with the potential purchase of Lot 23 Centenary Place, Cunderdin.*

(c) *Subject to (b) above the Chief Executive Officer be authorised to obtain a valuation of Lot 23 Centenary Place, Cunderdin.*

Comment:

A valuation has now been provided for the proposed Lot 23 Centenary Place, Cunderdin.

It is recommended that Council offer the proposed Lot 23 for sale to Mr Troy Donovan on the same terms and conditions as previously offered;

- 1) Selling price be set at \$30,000.00 (below estimated market value provided by Bob Davey).
- 2) That instalments be made over three years at \$10,000 per year.
- 3) That the buyer be responsible for all costs associated with the creation of the proposed lot 23 – boundary readjustment
- 4) That the proposed lot 23 be no greater in size then 2,244m² as drawn in the proposed subdivision drawing prepared by D Considine & G Foster.

Note if the above terms and conditions are agreed upon there will be a requirement to advertise the sale in accordance with section 3.58 (3).

Consultation:

Council's Planners (City of Canning) have advised that it will be possible to create the proposed Lot 23 by undertaking a boundary readjustment/align and amalgamating it with Mr Donovan's current Lot 22.

Policy Implications:

There are no policy implications in considering this item.

Statutory Implications

Section 3.58 of the local Government Act 1995 states;

(1) In this section -

“**dispose**” includes to sell, lease, or otherwise dispose of, whether absolutely or not;

“**property**” includes the whole or any part of the interest of a local government property, but does not include money.

(2) Except as stated in this section, a local government can only dispose of property to -

(a) the highest bidder at public auction; or

(b) the person who at public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender.

(3) A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property –

(a) it gives local public notice of the proposed disposition -

(i) describing the property concerned;

(ii) giving details of the proposed disposition; and

(iii) inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given; and

(b) it considers any submission made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.

(4) The details of a proposed disposition that are required by subsection (a) (ii) include

(a) the names of all other parties concerned;

(b) the consideration to be received by the local government for the disposition; and

(c) the market value of the disposition as ascertained by a valuation carried out not more than 6 months before the proposed disposition.

Strategic Implications:

Foster further commercial development in the Shire's Industrial park.

Financial Implications

A market valuation has been undertaken by Direct Property Valuations (Licensed Valuers & Property consultants) – report attached.

DPV have valued proposed Lot 23 (vacant land) at \$31,000.00

In light of the costs associated with the proposed boundary realignment, it is recommended that the selling price be set at \$30,000.00.

Resolution9.7

That Council resolve:

- (a) to offer to sell the proposed Lot 23, Centenary Place, Cunderdin subject to Mr Troy Donovan agreeing to the following terms and conditions;
 - Selling price be set at \$30,000.00
 - That the CEO be authorised to negotiate finance terms, if required.
 - That the buyer be responsible for all costs associated with the boundary adjustment to create lot 23, which is to be amalgamated with the existing lot 22.
 - That the proposed lot 23 be no greater in size then 2,244m² as drawn in the proposed subdivision drawing prepared by D Considine & G Foster
- (b) That if Mr. Troy Donovan agrees to the terms above in (a) that public notice of these terms be published for public information & submission in accordance with section 3.58 of the Act prior to entering into a contract for sale.
- (c) That subject to not receiving any adverse submissions the Chief Executive Officer be granted delegated authority to finalise the matter.

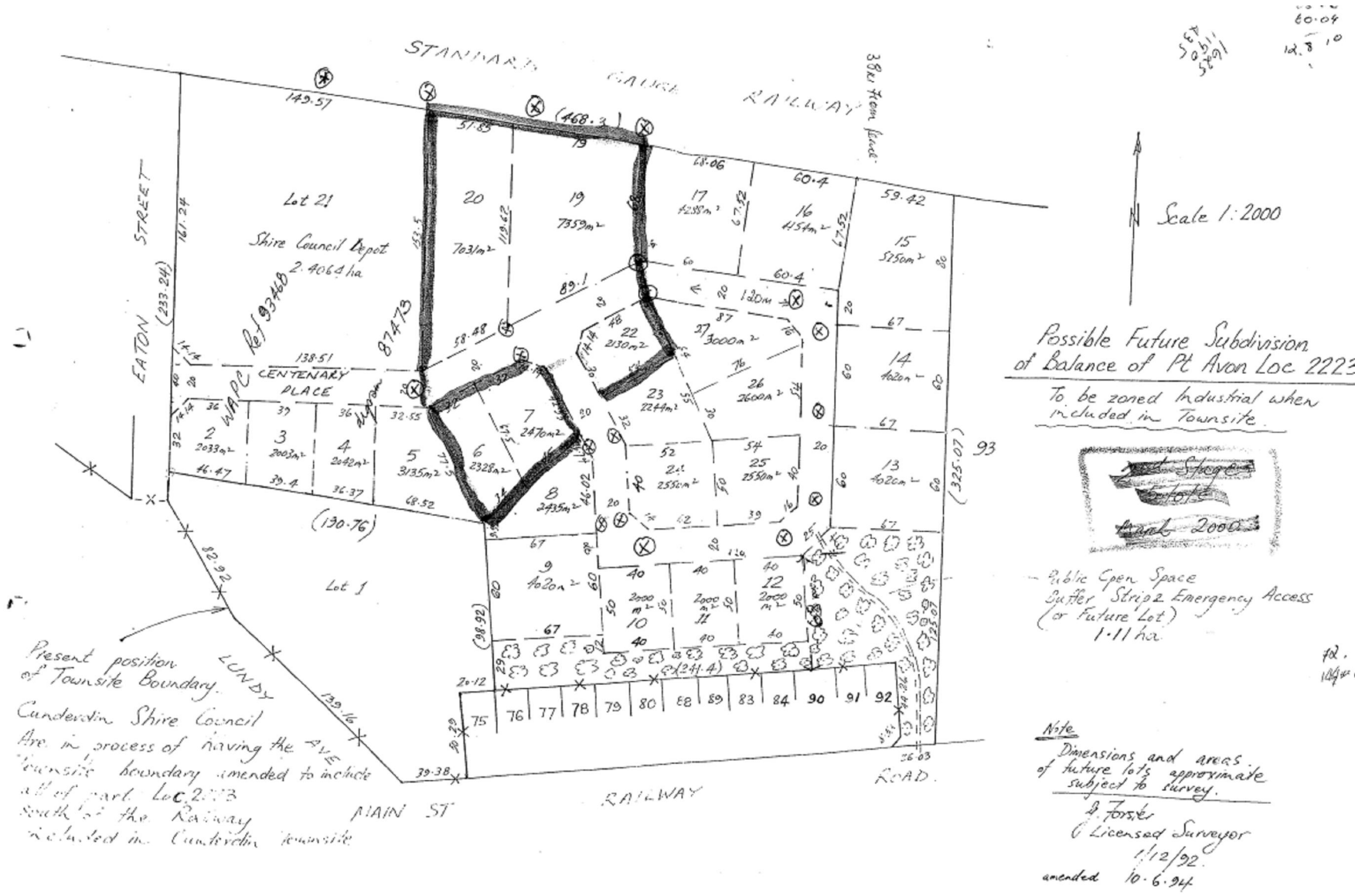
Moved Cr Dennis Whisson

Seconded Cr Todd Harris

Vote – **Simple Majority**

Carried 8/0

Note: Council requested that if finance is offered an interest rate of 8.5% will be used.



Scale 1:2000

Possible Future Subdivision
of Balance of Pt Avon Loc 2223
To be zoned Industrial when
included in Townsite.



Public Open Space
Buffer Strip Emergency Access
(or Future Lot)
1.11 ha

Note
Dimensions and areas
of future lots approximate
subject to survey.
D. Forster
Licensed Surveyor
1/12/92
amended 10.6.94

Present position
of Townsite Boundary.
Cunderdin Shire Council
Are in process of having the
Townsite boundary amended to include
all of part Loc 2223
south of the Railway
included in Cunderdin townsite

D. Considine & G. Forster (M.I.S.A.)

55 Gillatt Drive
Kardinye 6153

LICENSED LAND, ENGINEERING & MINING SURVEYORS, TOWN PLANNING

9 M^cEv 51 0 220 0111

RECEIVED
 19 JUL 2010 LF
 20219

COMMERCIAL VALUATION AND REPORT

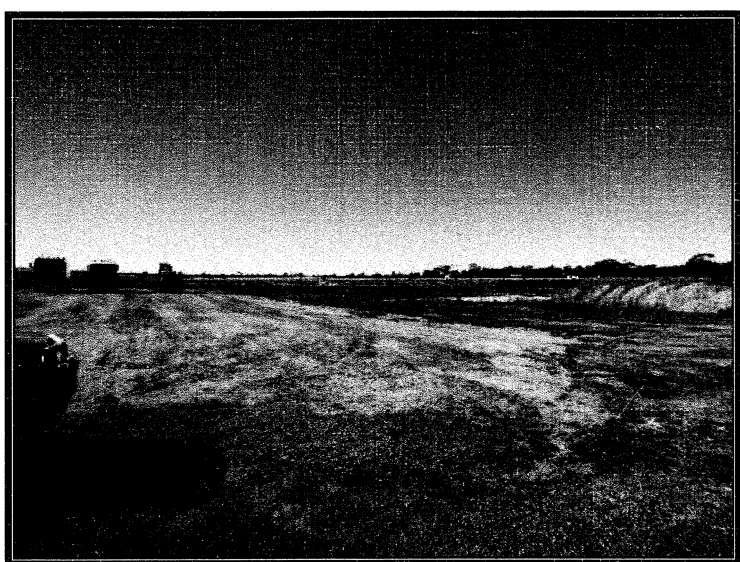
PURPOSE OF VALUATION: Fair Market Value

CLIENT: Cunderdin Shire Council
 Attention: Jaynee Gray
 Administration Officer
 P O Box 100
 Cunderdin WA 6407

PROPERTY VALUED: Proposed Lot 23 Centenary Place
 Cunderdin WA

DATE: 13 JULY 2010

OUR REFERENCE: 24417



Direct Property Valuations Pty Ltd t/a Direct Property Valuations ABN 82 079 180 064
 Suite 5, 1924 Beach Road, Malaga WA 6090 Mail Address: PO Box 2293, Malaga WA 6944
 T: (08) 9248 4402 F: (08) 9248 4410 M: 0403 580 444 E: reception@dpvals.com.au

1. CLIENT: Shire of Cunderdin

2. ADDRESS OF PROPERTY: Lot 23 Centenary Place Cunderdin
Western Australia 6407

3: PURPOSE OF VALUATION To establish the fair market value of the subject property.

Market value is defined as "the estimated amount for which an asset should exchange on the date of valuation between a willing buyer and a willing seller, in an arm's length transaction after proper marketing, wherein the parties had each acted knowledgeably, prudently and without compulsion".

We certify that this valuation is not precluded under the terms of our current Professional indemnity Insurance.

4. LEGAL DESCRIPTION:

REGISTERED PROPRIETOR:	To Be Advised
TITLE DESCRIPTION:	Proposed Lot 23 Plan to issue. Certificate of Title to be issued.
ENCUMBRANCES:	Nil

5. ZONING:

LOCAL AUTHORITY:	Shire of Cunderdin
ZONING & AFFECT:	Industrial Permitted use

6. DESCRIPTION OF LAND:

FRONTAGE:	32m	DEPTH:	52m	AREA:	2244m ²
TOPOGRAPHY & ASPECT:	Irregular shaped lot being tapered to the front boundary. Land is level. Soils are medium loams in nature and appear to be well drained. Lot has a westerly aspect.				

7. SERVICES:

	WATER	ELECTRICITY	DEEP SEWERAGE	TELEPHONE
AVAILABLE	Yes	Yes	No	Yes
CONNECTED	No	No	No	No
ROADS:	Bitumen sealed.			
DISTANCE FROM GPO.	156 kilometres east of the Perth Central Business District			

8. LOCATION:

Cunderdin is located approximately 156 kilometres east of the Perth Central Business District. Property is located within the Cunderdin Industrial area and lies north of Main Street and Great Eastern Highway. The subject property is located on the southern side of Centenary Place being a quiet cul-de-sac. Nearest intersection is Carter Drive which lies approximately 150 metres west. Surrounding properties comprise mixture of light industrial uses in a predominately owner occupied area.
Access to western or eastern areas is via Great Eastern Highway or Railway.

9. DESCRIPTION OF IMPROVEMENTS: NIL

10. CONSTRUCTION:

FOOTINGS:	N/A	FLOORS:	N/A
CEILINGS:	N/A	EXTERNAL WALLS:	N/A
ROOF:	N/A	INTERNAL WALLS:	N/A

11. ENVIROMENTAL, HERITAGE AND CUTURAL ISSUES:

SOIL CONTAMINATION:	There are no visible signs of contamination to the subject land. However, as the Environmental Protection Authority in Western Australia does not currently maintain a list or register of contaminated sites, the only way it could be certified that there was no contamination is by an independent environmental survey by an appropriate expert. This valuation is made subject to the assumption that there is no contamination of the land.
ASBESTOS:	The subject property appeared to contain material containing asbestos fibre. We must point out, however, that we are not experts in the area and therefore, in the absence of an environmental consultant's report concerning the presence of any asbestos fibre within the subject property, this valuation is made on the assumption that there is no health risk from that source.
HERITAGE CONSIDERATION:	NIL.

12. GENERAL COMMENTS:

Property is located 156 kilometres east of Perth CBD.
Cunderdin is adjacent to Great Eastern Highway and the Trans Australian Rail Line providing easy access to the Goldfields and Perth.

It is situated within a small industrial park which services the Cunderdin community. Surrounding developments comprises a mixture of uses ranging from small workshops, bulk co-operative wheat bins, shire depot and vacant land.
Centenary Place is a quiet location with little exposure carrying low level of traffic. Investigations reveal there is very little interest or demand for industrial lots.

The subject property is a proposed lot within the estate and details regarding the lot have been based on information supplied by the Shire on the proposed subdivision of the land containing the subject lot.

The valuation is subject to the satisfactory issue of a certificate of title for the subject property.

Research reveals little comparable sales evidence within Cunderdin despite our best efforts. Comparable sales evidence of similar vacant land has been utilised from Northam and Merredin and reveals rates/sqm in the range of \$4/m² - \$29/m² depending on size and location. No sales in Kellerberrin found.
Market activity is weak.
In light of the above made comments an extended selling period is anticipated.

VALUATION

Land area 2244m² @ \$14/m² = \$31,416
Adopt \$31,000

16. SALES EVIDENCE:

Sale Date	Sale Price	Address	Improvements & Comparison with Subject
20/09/09	\$34,000	Lot 7 Centenary Place Cunderdin	Vacant Land. Irregular shape. Land area 2495m ² . Overall rate \$13.60/m ² . Overall slightly better. Earlier sale
31/12/09	\$125,000	32 Oliver Street Northam	Vacant Land. Regular shape. Level. Land area 1012m ² . Overall rate \$126.50/m ² . Better located. Overall better.
22/05/09	\$88,000	Lot 20 Centenary Place Cunderdin	Vacant land. Regular shape, Land area 7031m ² Larger, slightly below road. Overall Rate \$12.51/m ² Earlier sale. Overall better.
23/02/08	\$102,500	Lot 2 Centenary Place Cunderdin	2000 Iron/Iron workshop Land 2000m ² Approximate Area 250m ² . Earlier sale. Analysis Improvements \$70,000 Land \$32,500 Overall rate \$16.25/m ² . Earlier sale. Overall better.
20/11/08	\$70,000	29 Hay Street Merredin	1988 Iron/Iron shed Area 1012m ² Smaller site better located Analysis Improvements \$40,000 Land \$30,000 Overall Rate \$29/m ² Earlier sale. Overall better.
20/10/08	\$79,000	32 Railway Avenue Merredin	1930 Weatherboard/Fibro/Iron Residence Zoned light industrial. Land 2238m ² . Analysis Improvements \$20000 Land \$50,000 Overall rate \$22/m ² . Earlier sale. Overall better.
15/04/09	\$50,000	22 Railway Avenue Merredin	1970 Office/ Factory area 205m ² poor condition Land 1472m ² Analysis Improvements \$20,000 Land \$30000 Overall comparable \$20/m ² . Overall slightly better.
5/05/09	\$95,000	89 Barrack Street Merredin	Vacant land. Regular shape. Area 24350m ² Larger site, good exposure Overall Rate \$4.00/m ² Overall better.
27/01/10	\$53,900	26 Insignia Way Merredin	Vacant Land. Regular shape. Area 1.7ha. Larger site. Inferior location. Poor to moderate exposure. Overall Rate \$3.01/m ² Overall better.
10/02/10	\$12,000	Lot 7 Mather Rd Kellerberrin	Vacant Land. Irregular shape. Area 4842m ² . Larger site. Bought by adjoining owner. Inferior location. Overall rate \$2.48/m ² Overall not as good.

17. MERREDIN INDUSTRIAL ESTATE VACANT LAND

Land Size	Asking Price	Address	Comparison with Subject
6711sqm	\$45,000	1316 Mackenzie Crescent Merredin	Industrial, vacant land, larger. Overall rate \$6.7 per sqm.
4680sqm	\$37,500	1318 Mackenzie Crescent Merredin	Industrial, vacant land, larger. Overall rate \$8.0 per sqm.
5023sqm	\$40,000	1319 Mackenzie Crescent Merredin	Industrial, vacant land, larger. Overall rate \$8.0 per sqm.

18. CERTIFICATE OF VALUATION:

The valuation approach utilised has been by the comparison of the subject property with available comparable sales evidence of similar nearby properties based on a rate per square metre of land area.	
LAND:	2244m ²
	\$31,000 Thirty One Thousand Dollars plus GST if applicable
DATE OF VALUATION:	7 JULY 2010

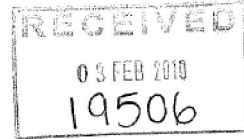
19. QUALIFICATIONS:

This report is regarded to the party to whom it is addressed, and is intended for the use of that party only and for no other purpose. Consequently, and in accordance with current practice, no responsibility is accepted to any third party, which may use or rely upon the whole or any part of its contents. Before this report or any part therein is reproduced or referred to in any document, circular or statement, our written approval as to the form and context of such publication must be obtained.

DIRECT PROPERTY VALUATIONS



R. J. SZCZUROWSKI
API ASSOC DIP (VAL)
CERTIFIED PRACTISING VALUER
 Associate Director
 Direct Property Valuations



DONOVANS

Engineering

22 Centenary
Place
Cunderdin W.A. 6407

PH/ (08) 9635 1022
FAX/ (08) 9635 1916
MOB/ 0428 916434
Email/ donovansengineering@bigpond.com

Council Report

TO: Shire of Cunderdin FROM: Troy Donovan
EMAIL: admin@cunderdin.wa.gov.au PAGES: 1
PH: 96351005 DATE: 03/02/10
FAX: 96351464
RE: Land Purchase ATT: Gary Tuffin

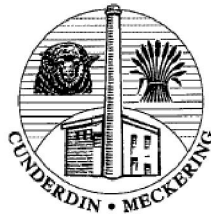
Shire of Cunderdin

Dear Sir Madam,

I would like to express my interest in amalgamating land south of **BLOCK 22 CENTENARY PLACE**.

The proposal would be similar as our previous correspondence Dated 24 October 2007 Shire ref: 16024

Regards Troy Donovan
DONOVAN'S ENGINEERING
22 Centenary Place Cunderdin WA 6407
Mob 0428 916 434 W/S (08) 9635 1022
FAX (08) 9635 1916
donovansengineering@bigpond.com



Shire of Cunderdin

Incorporating the districts of Cunderdin and Meckering

Our Ref: 16024

(CONFIDENTIAL)

24th October 2007

Troy Donovan
Dovovans Engineering
22 Centenary Place
Cunderdin WA 6407

Dear Troy,

PROPOSED LOT 23 CENTENARY PLACE, CUNDERDIN

Council gave consideration to your letter dated 12th September 2007 at its last Ordinary meeting held on the 18th October 2007 and resolved as follows;

- (a) *Council resolve to make a counter offer for the sale of the proposed Lot 23 subject to Mr Troy Donovan on the following terms and conditions;*
- *Selling price be set at \$30,000.00*
 - *That the buyer be responsible for all costs associated with the creation of the proposed Lot 23.*
 - *That the proposed lot 23 be no greater in size then 2,244m² as drawn in the proposed subdivision drawing prepared by D Considine & G Foster*
 - *That the purchaser acknowledges and accepts that there may not be a bitumen road in front of the proposed lot 23, until such time as Council chooses to construct one when it releases further industrial land.*
- (b) *That if Mr. Troy Donovan agrees to the terms above in (a) that public notice of these terms be published for public information & submission in accordance with section 3.58 of the Act, before any contract for the sale of the block is entered into.*

Should you require any further information in regards to this matter, please do not hesitate to contact me on 9635 1005

Yours faithfully,

G.M Tuffin
Chief Executive Officer

P.O.Box 100 Cunderdin Western Australia 6407
Tel: (08) 9635.1005 Fax (08) 9635.1464
Email admin@cunderdin.wa.gov.au

9.8 Proposed Local Government Property Amendment Local Law 2010

Location:	Cunderdin
Applicant:	Administration
Date:	19 August 2010
Author	G Tuffin
Item Approved by:	Chief Executive Officer

Disclosure of Interest:

No disclosure of interest has been tabled.

Attachments:

A copy of the proposed Local Government Property Amendment Local Law 2010 is attached.

Proposal:

To allow:

- (11) the Presiding Person to give notice to the meeting of the intent to make a new Local Government Property Amendment local law 2010;
- (12) the Presiding Person to give notice of the purpose and effect of the proposed Local Government Property Amendment local law 2010;
- (13) for the Council to adopt the proposed Local Government Property Amendment local law 2010; and
- (14) for advertising of the Local Government Property Amendment local law 2010 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 series of amendments were required to the principal Local Government Property local law.

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

- (5) give notice to the meeting of the intent to make a new Local Government Property Amendment Local Law 2010; and
- (6) give notice of the purpose and effect of the proposed Local Government Property Amendment Local Law 2010;
- (7) for the Council to adopt the proposed Local Government Property Amendment Local Law 2010; and
- (8) to allow for advertising of the Local Government Property Amendment Local Law 2010 for public comment.

Comment:

The proposed amendments to Shire of Cunderdin Local Government Property Local Law are 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 Local Government Property amendment Local Law is to restrict and prohibit certain activities on reserves and review the modified penalties.

The effect of the proposed Local Government Property Amendment Local Law is to control the use of local government property and create offences for inappropriate behaviour in or on local government property.

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), and the National Competition Policy review must be sent to the relevant Minister for comment.

Policy Implications:

There are no policy implications for this item.

Statutory Environment:

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.

Strategic Implications:

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.

Recommendation 9.8

That Council:

- (1) adopt the proposed Shire of Cunderdin Local Government Property Amendment Local Law 2010, as contained in the Attachment;
- (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 Amendment Local Law 2010, as contained in the Attachment:
 - (a) the purpose of which is to restrict and prohibit certain activities on reserves and review the modified penalties; and
 - (b) the effect is to control the use of local government property and create offences for inappropriate behaviour in or on local government property.

Moved Cr _____ Seconded Cr _____

Vote – **Simple Majority** Carried/Lost ____ / ____

(Note) : Refer to item 9.1 - *That items 9.1 to 9.6 and 9.8 be received in block.*

LOCAL GOVERNMENT ACT 1995

SHIRE OF CUNDERDIN

LOCAL GOVERNMENT PROPERTY AMENDMENT LOCAL LAW 2010

Under the powers conferred by the *Local Government Act 1995* and by all other powers enabling it, the Council of the Shire of Cunderdin resolved on [insert adoption resolution date here] to make the following local law.

1. Citation

This local law is cited as the *Shire of Cunderdin Local Government Property Amendment Local Law 2010*.

2. Commencement

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

3. Principal Local Law

In this Local Law, the *Shire of Cunderdin Local Government Property Local Law* published in the *Government Gazette* on 26 March 2002 is referred to as the principal Local Law. The principal Local Law is amended as follows –

4. Preliminary

- (1) In construing the following modifications, where a modification requires the renumbering of a clause, subclause or paragraph, subsequent modifications have been drafted on the basis that the renumbering has been effected.
- (2) Wherever the words "*Liquor Licensing Act 1988*" appears in the local law substitute the words "*Liquor Control Act 1988*".

5. Table of Contents amended

The Table of Contents is amended as follows -

- (1) Insert, immediately after item 1.5, the following text "1.6 Overriding power to hire or agree"
- (2) Amend item 2.9 by deleting the word "determined" and substituting the word "determinations";
- (3) Amend item 3.6 by deleting the words "and variation of";
- (4) Insert immediately after item 4.5, the following text "4.6 Refusal of entry to local government property";
- (5) Renumber item "4.6" to "4.7";
- (6) Insert, immediately after 5.1, the following text "5.2 Consumption of food or drink may be prohibited";
- (7) Renumber items "5.2" to "5.3", inclusive, to "5.3" to "5.4", respectively;
- (8) Insert, immediately after renumbered item 5.4, the following text "5.5 Use of shower facilities"
- (9) Under Part 5, insert after item 5.5 the following text-

"*Division 4 – Aerodrome (airport)*

5.6 Access of animals restricted".

6. Part 1 Clause 1.2 amended

- (1) Insert, in the appropriate alphabetical order the following definitions –

“Code” means the Code of Practice for the Design, Operation, Management and Maintenance of Aquatic Facilities, as published by the Executive Director Public Health, from time to time, pursuant to the provisions of section 344A (2) of the Health Act 1911;

“Health Act” means the Health Act 1911, as amended;”

7. Part 1 New Clause 1.6

Insert, in the appropriate alphabetical order, a new clause 1.6 as follows –

“1.6 Overriding power to hire or agree

Despite anything to the contrary in this local law, the local government may –

- (a) hire local government property to any person; or
- (b) enter into an agreement with any person regarding the use of any local government property.”

8. Part 2 Clause 2.7 amended

In paragraph (g) of subclause (1) delete the word “and”;

9. Part 2 Clause 2.8 amended

- (1) In subclause (1), delete paragraph (g) and substitute the following -

“(g) bring, ride or drive an animal.”.

10. Part 3 Clause 3.2 amended

In subclause (5), insert, after the number “(2)”, the words “ or where the requirements of subclause (3) or (4) have not been satisfied.”.

11. Part 3 Clause 3.3 amended

Insert, in the appropriate numerical order, a new subclause (4) as follows –

“(4) The local government may, at any time, amend a condition of approval and the amended condition takes effect when written notice of it is given to the permit holder.”.

12. Part 3 Clause 3.4 amended

- (1) In subclause (1) delete the words “Without limiting the generality of clause 3.3(1)(a), the local government may approve an application for a permit subject to conditions relating to— “ and substitute “Examples of the conditions that the local government may impose on a permit are conditions relating to –”.
- (2) In subclause (2) delete the words “Without limiting clause 3.3(1)(a) and subclause (1), the following paragraphs indicate the type and content of the conditions on which a permit to hire local government property may be issued—” and substitute “Examples of the type and content of the conditions on which a permit to hire local government property may be issued –”.

13. Part 3 Clause 3.6 amended

- (1) In the title of clause 3.6, delete the words “and variation of”;
- (2) In subclause (1) delete the number “(1); and
- (3) Delete subclause (2).

14. Part 3 Clause 3.9 amended

In subclause (2), delete the words “mutatis mutandis” and substitute “as though it were an application for a permit”.

15. Part 3 Clause 3.13 amended

Insert, in the appropriate alphabetical order, new paragraphs (p), (q) and (r) as follows –

- “(p) deposit or store any thing on local government property;
- (q) conduct or take part in any gambling game, context or bet, or offer to bet, publicly; or
- (r) erect, install, operate or use any broadcasting, public address system, loud speaker or other device for the amplification of sound on local government property;”.

16. Part 4 New Clause 4.6

(1) Insert, in the appropriate alphabetical order, a new clause 4.6 as follows –

“4.6 Refusal of entry to local government property

- (1) An authorised person may refuse to allow entry, or suspend admission, to any local government property by any person who he or she believes has behaved or is likely to behave in a manner contrary to the provisions of this Part;
- (2) This refusal or suspension can be for any period of up to 12 months as decided by that authorised person;
- (3) A decision made under this clause is a decision to which clause 7.1 applies.”

(2) Renumber clause “4.6” to “4.7”.

17. Part 5 Clause 5.1 amended

(1) Subclause (1) is amended by deleting the words “may direct to leave or shall remove or cause to be removed from,”;

(2) In subclause (1)(a), delete subparagraph (i) and substitute the following –

“(i) under the minimum age of that specified in the Code and who is unaccompanied by a responsible person over the age of that specified in the Code;

(3) In subclause (1)(a), insert a new subparagraph (ii) as follows -

(ii) under the minimum age of that specified in the Code and who is accompanied by a responsible person over the age of that specified in the Code where the responsible person is incapable or, or not providing, adequate supervision of, or care, for that person;”

(4) Renumber subparagraphs “(ii) and (iii)” inclusive to “(iii) to (iv)” respectively;

(5) Insert, in the appropriate numerical order, a new subclause (2) as follows –

“(2) If a person referred to in paragraph (a) or (b) of subclause (1) is in a pool area, a Manager or an authorised person must –

- (a) direct the person to leave; and
- (b) if the person refuses to leave or fails to leave, remove the person or arrange for the person to be removed, from the pool area.”.

18. Part 5 New Clause 5.2

(1) Insert, in the appropriate numerical order, a new clause 5.2 as follows -

“5.2 Consumption of food or drink may be prohibited

A person must not consume any food or drink in an area where consumption is prohibited by a sign.”

(2) Renumber Clause “5.2 to 5.3” inclusive to “5.3 to 5.4” respectively.

19. Part 5 Renumbered Clause 5.4 amended

(1) In subclause (1), insert a new paragraph (c) as follows –

“(c) families – then where the toilet block or change room is being used by a family, only an immediate member of that family may use that entry of the toilet block or change room.”

(2) Insert, in the appropriate numerical order, a new subclause (2) as follows –

“(2) Paragraphs (a) and (b) of subclause (1) do not apply to a child, when accompanied by an parent, guardian, or care giver, where the child is –

(a) Under the age of 7 years; or

(b) Otherwise permitted by an authorised person to use the relevant entry.”

20. Part 5 New Clause 5.5

Insert, in the appropriate numerical order, a new clause 5.5 as follows –

“5.5 Use of Shower Facilities

A person may use a shower facility in change rooms only on condition that –

(a) The facilities must be used by the person only for the purposes of cleansing and washing themselves;

(b) Use of the facilities must be restricted to a maximum period of 15 minutes, or such lesser time as required by an attendant; or

(c) The facilities must not be used for the purposes of laundering or washing any clothing or other articles.”

21. Part 5 New Division 4 amended

Insert a new Division 4 as follows –

“ *Division 4 – Aerodrome (Airports)*

5.6 Access of animals restricted

(1) Subject to section 8 of the Dog Act 1976 and section 66J of the Equal Opportunity Act 1984, a person shall not bring an animal on to an aerodrome unless –

(a) the animal is being air freighted from the aerodrome;

(b) the animal has been air freighted to the aerodrome; or

(c) the person is authorised to do so by the local government.

(2) A person in charge of an animal shall keep the animal under control and shall not allow it to wander at large on the aerodrome.

(3) If an animal is at any time on an aerodrome in contravention of subclause (2), in addition to the person specified in that subclause, the owner of the animal at that time commits an offence against subclause (2).”

22. Part 7 Clause 7.1 amended

Amend clause 7.1 by -

(a) deleting the words “When the local government makes a decision as to whether it will –” and substituting “Division 1 of Part 9 of the Act applies to a decision under this local law –”; and

- (b) deleting the words “, the provisions of Division 1 of Part 9 of the Act and regulations 33 and 34 of the Regulation apply to that decision”.

23. Schedule 1 amended

Delete Schedule 1 and substitute the following –

“

SCHEDULE 1
LOCAL GOVERNMENT ACT 1995
SHIRE OF CUNDERDIN
LOCAL GOVERNMENT PROPERTY LOCAL LAW
PRESCRIBED OFFENCES

CLAUSE	DESCRIPTION	MODIFIED PENALTY \$
2.4	Failure to comply with determination	125
3.6	Failure to comply with conditions of permit	125
3.13(1)	Failure to obtain a permit	125
3.14(3)	Failure to obtain permit to camp outside a facility	125
3.15(1)	Failure to obtain permit for liquor	125
3.16	Failure of permit holder to comply with responsibilities	125
4.2(1)	Behaviour detrimental to property	350
4.4 and 4.5	Under influence of liquor or prohibited drug	125
4.7(2)	Failure to comply with sign on local government property	125
5.3	Unauthorised entry to fenced or closed local government property	125
5.4	Gender not specified using entry of toilet block or change room	125
6.1(1)	Unauthorised entry to function on local government property	125
9.1	Failure to comply with notice	250
	All other offences not specified	125

”

24. Schedule 2 New Part 2

Insert a new Part 2 as follows –

“

PART 2 – APPLICATION

2.1 Animals on local government property

- (1) Unless authorised by a written law, or by a permit or a determination, a person must not:

- (a) tether any animal to:
 - (i) a tree, shrub, tree guard, or
 - (ii) a wall or fence, unless it is an approved tethering point so indicated by a sign; or
 - (b) permit any animal to enter into any local government property.
- (2) Subclause (1) does not apply to a guide dog used for the assistance of visually impaired persons.

2.2 Vehicles on local government property

- (1) Unless authorised by a permit or determination, a person must not take or cause a vehicle to be taken onto or drive on local government property unless –
- (a) subject to subclause (3), the local government property is clearly designated as a road, access way or car park;
 - (b) the vehicle is driven by a local government employee, authorised person or contractor engaged by the local government, who is engaged in –
 - (i) providing a service or making a delivery in connection with the local government property; or
 - (ii) maintaining the local government property;
 - (c) the person is driving an emergency vehicle in the course of his or her duties; or
 - (d) the vehicle is a motorised wheel chair, and the driver of that vehicle is a disabled person.
- (2) A person must not drive a vehicle or allow a vehicle to be driven on local government property at a speed exceeding 10 kilometres per hour, or in such a manner as to cause danger, inconvenience or annoyance to any person;
- (3) Other than in accordance with paragraphs (b), (c) or (d) of subclause (1), a person must not drive a vehicle on local government property or part of it that is being used for a function for which a permit has been obtained unless permitted to do so by the permit holder of an authorised person

2.3 Activities prohibited on local government property

- (1) A person must not play or practise archery, pistol or rifle shooting on local government property except on land which is reserved by the Local government for that purpose, or as otherwise provided by a determination or permit.
- (2) A person must not, on any local government property, use or ride a bicycle or wheeled recreational device, or skateboard –
- (a) inside or on the curtilage to, a building;
 - (b) in a pool area;
- (3) Unless authorised by a permit or by an authorised person, a person must not take a glass container—
- (a) within 5m of the edge of a swimming pool on local government property;
 - (b) on to a children’s playground; or
 - (c) within any area of local government property where a sign prohibits glass containers.

2.4 Deposit of refuse, rubbish or liquid waste

- (1) A person must not, on local government property deposit or discard the waste or rubbish from any animal.
 - (2) A person must not, on local government property, deposit or discard refuse, rubbish or liquid waste, except in a place or receptacle set aside by the local government for that purpose and subject to any conditions that may be specified on the receptacle or a sign in relation to the type of waste that may be deposited or other conditions.”.
-

Dated: [date]

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

R CARTER, Shire President.

G TUFFIN, Chief Executive Officer.

9.9 2009/10 Annual Report

Location:	Cunderdin
Applicant:	Administration
Date:	18 th August 2010
Author:	G Tuffin
Item Approved by:	Chief Executive Officer

Disclosure of Interest

No disclosure of interest has been tabled.

Proposal

To accept the 2009/10 Annual Report.

Attachment

Audit Report 2009/10 for the year ended 30th June 2010. (Macri Partners) – dated 17th August 2010.

Independent Audit Report to the Electors of the Shire of Cunderdin (Macri Partners)

Background

Council is required to produce an Annual Financial report covering its activities for the period 1st July to 30th June each year.

Commentary

The 2009/10 Audit has been completed by council's auditors, Macri Partners.

A copy of the annual report for 2009/2010 financial year is attached and Council is requested to give consideration to accepting the report.

Statutory Implications

Section 5.53 and 5.54 of the Local Government Act 1995 states as follows:

Section 5.53 Annual reports

- (1) The local government is to prepare an annual report for each financial year.
- (2) The annual report is to contain —
 - (a) a report from the mayor or president;
 - (b) a report from the CEO;
 - [(c), (d) deleted]*
 - (e) an overview of the plan for the future of the district made in accordance with section 5.56, including major initiatives that are proposed to commence or to continue in the next financial year;
 - (f) the financial report for the financial year;
 - (g) such information as may be prescribed in relation to the payments made to employees;
 - (h) the auditor's report for the financial year;

- (ha) a matter on which a report must be made under section 29(2) of the *Disability Services Act 1993*; and
- (i) such other information as may be prescribed.

5.54. Acceptance of annual reports

- (1) Subject to subsection (2), the annual report for a financial year is to be accepted* by the local government no later than 31 December after that financial year.

* Absolute majority required.

- (2) If the auditor's report is not available in time for the annual report for a financial year to be accepted by 31 December after that financial year, the annual report is to be accepted by the local government no later than 2 months after the auditor's report becomes available.

Policy Implications

There are no policy implications in considering this item.

Financial Implications

There are no financial implication in considering this item.

Strategic Implications

Council must maintain a focus on consolidation and reducing the high levels of debt.

Resolution9.9

That Council resolve pursuant to Section 5.54 of the Local Government Act 1995, to accept the Annual Report for 2009/2010.

Moved Cr Graham Cooper Seconded Cr Dianne Kelly

Vote – **Absolute Majority** Carried 8/0

Note – Send copy of the Annual report to the Department.

INDEPENDENT AUDITOR'S REPORT

TO: RATEPAYERS OF SHIRE OF CUNDERDIN

We have audited the financial report of the Shire of Cunderdin, which comprises the Statement of Financial Position as at 30 June 2010 and the Statement of Comprehensive Income, Statement of Changes in Equity, Statement of Cash Flows and Rate Setting Statement for the year ended on that date and a summary of significant accounting policies and other explanatory notes.

Council's Responsibility for the Financial Report

Council is responsible for the preparation and fair presentation of the financial report in accordance with Australian Accounting Standards (including the Australian Accounting Interpretations), the Local Government Act 1995 (as amended) and the Local Government (Financial Management) Regulations 1996 (as amended). This responsibility includes establishing and maintaining internal controls relevant to the preparation and fair presentation of the financial report that is free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances.

Auditor's Responsibility

Our responsibility is to express an opinion on the financial report based on our audit. Our audit has been conducted in accordance with Australian Auditing Standards. These Auditing Standards require that we comply with the relevant ethical requirements relating to audit engagements and plan and perform the audit to obtain reasonable assurance whether the financial report is free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial report. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial report, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial report in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the Council, as well as evaluating the overall presentation of the financial report.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Independence

In conducting our audit, we followed applicable independence requirements of Australian professional ethical pronouncements.



Auditor's Opinion

In our opinion, the financial report of the Shire of Cunderdin:

- (i) gives a true and fair view of the financial position of the Shire of Cunderdin as at 30 June 2010 and of its financial performance for the year ended on that date; and
- (ii) complies with the Local Government Act 1995 (as amended), the Local Government (Financial Management) Regulations 1996 (as amended) and the Australian Accounting Standards (including the Australian Accounting Interpretations).

Statutory Compliance

We did not during the course of our audit become aware of any instances where the Council did not comply with the requirements of the Local Government Act 1995 (as amended) and the Local Government (Financial Management) Regulations 1996 (as amended).



**MACRI PARTNERS
CERTIFIED PRACTISING ACCOUNTANTS
28 THOROGOOD STREET
BURSWOOD WA 6100**



**A MACRI
PARTNER**

**PERTH
DATED THIS 17th DAY OF AUGUST 2010.**



9.10 Annual General Electors Meeting

Location:	Cunderdin
Applicant:	Administration
Date:	18 th August 2010
Author:	G Tuffin
Item Approved by:	Chief Executive Officer

Disclosure of Interest

No disclosure of interest has been tabled.

Proposal

To set the meeting date for the electors meeting in relation to the 2009/10 Annual Report.

Attachment

Notice of 2009/10 Annual Report

Background

Council resolved to accept the 2009/10 Annual Report 18th August 2009 – Report 9.9.

Commentary

It is proposed that two meetings be held one in Cunderdin (Electors Meetings) and another public meeting in Meckering to review the 2009/10 annual report.

In order to comply with section 5.27 of the Act the Annual General Electors Meeting must be held by the 14th October 2010 (56 days after acceptance of the Annual Report).

It is recommended that the Annual General Meeting of Electors be held at the Cunderdin Telecentre on the Thursday 9th September 2010, commencing at 6:30 pm and that the availability of the Annual Report be advertised in conjunction with the Notice of the Meeting.

Statutory Implications

Section 5.27 and 5.55 of the Local Government Act 1995 and Local Government (Administration) Regulation No 15 states as follows:

Section 5.27 - Electors' general meetings

- (1) A general meeting of the electors of a district is to be held once every financial year.
- (2) A general meeting is to be held on a day selected by the local government but not more than 56 days after the local government accepts the annual report for the previous financial year.
- (3) The matters to be discussed at general electors' meetings are to be those prescribed.

Regulation 15 - Matters for discussion at general electors' meetings — s. 5.27(3)

For the purposes of section 5.27(3), the matters to be discussed at a general electors' meeting are, firstly, the contents of the annual report for the previous financial year and then any other general business.

Section 5.55 - Notice of annual reports

The CEO is to give local public notice of the availability of the annual report as soon as practicable after the report has been accepted by the local government.

Policy Implications

There are no policy issues in considering this item.

Financial Implications

There are no policy issues in considering this item.

Strategic Implications

There are no strategic implications in considering this item.

Resolution9.10

- (a) That the Annual General Meeting of Electors is to be held at the Cunderdin Telecentre on Thursday 9th September 2009 commencing at 6:30 pm
- (b) That pursuant to Section 5.55 of the Local Government Act 1995 the Chief Executive Officer place an advertisement advising of the availability of the 2009/2010 Annual Report.

Moved Cr Graham Cooper Seconded Cr Doug Kelly

Vote - Simple majority Carried 8/0



SHIRE OF CUNDERDIN

ANNUAL GENERAL MEETING OF ELECTORS

In accordance with section 5.27 of the Local Government Act (1995), notice is hereby given that the Annual Meeting of Electors of the Shire of Cunderdin will be held at the Cunderdin Telecentre on Thursday 9th September 2010 commencing at 6:30 pm.

Order of Business

1. To receive the Annual Report for the year ended 30th June 2010.
2. General Business
Electors are invited to raise items of general business, which they may wish the meeting to discuss. To allow complex questions to be answered, notice of questions must be lodged in writing at this office to the attention of the Chief Executive Officer at least two working days before the meeting.

Another public meeting will also be held in the Meckering Sports Club on the 9th September 2010 commencing at 4:00 pm to discuss the 2009/10 Annual Report.

Any person requiring information relating to the meeting or Annual Report should contact the Chief Executive Officer on (08) 9635 1005 prior to 9th September 2010.

Copies of the Annual Report are available upon request at the Shire office during normal business hours.

G M (Gary) Tuffin
CHIEF EXECUTIVE OFFICER

9.11 Annual 2009/10 Audit Report

Location:	Cunderdin
Applicant:	Administration
Date:	18 th August 2010
Author:	G Tuffin
Item Approved by:	Chief Executive Officer

Disclosure of Interest

No disclosure of interest has been tabled.

Proposal

To consider the Independent Audit Report for 2009/10.

Attachment

Copy of the Independent Audit Report for 2009/10 dated 17th August 2010.

Background

The final end of year audit for the 2009/10 financial year was conducted on the 10th & 11th August 2009.

Commentary

No matters of non-compliance were reported.

Statutory Implications

7.12A. Duties of local government with respect to audits

- (1) A local government is to do everything in its power to —
 - (a) assist the auditor of the local government to conduct an audit and carry out his or her other duties under this Act in respect of the local government; and
 - (b) ensure that audits are conducted successfully and expeditiously.
- (2) Without limiting the generality of subsection (1), a local government is to meet with the auditor of the local government at least once in every year.
- (3) A local government is to examine the report of the auditor prepared under section 7.9(1), and any report prepared under section 7.9(3) forwarded to it, and is to —
 - (a) determine if any matters raised by the report, or reports, require action to be taken by the local government; and
 - (b) ensure that appropriate action is taken in respect of those matters.
- (4) A local government is to —
 - (a) prepare a report on any actions under subsection (3) in respect of an audit conducted in respect of a financial year; and
 - (b) forward a copy of that report to the Minister, by the end of the next financial year, or 6 months after the last report prepared under section 7.9 is received by the local government, whichever is the latest in time.

Policy Implications

Nil.

Financial Implications

Nil.

Strategic Implications

Nil.

Resolution9.11

That Council resolve to receive and note report 9.11 – Annual 2009/10 Audit Report.

Moved Cr Todd Harris

Seconded Cr David Beard

Vote - Simple majority

Carried 8/0

Note: Send copy to the Department.

10.0 Manager of Environmental Services Report

10.1 Application to keep livestock in town - (Late item)

Location:	Lot 60 Togo Street, Cunderdin Lot 56 Togo Street, Cunderdin
Applicant:	Mr David McEwen and Mr Ross McEwen
Date:	18 August 2010
Author:	J Anderson
Item Approved by:	Environmental Health Officer

Proposal

To consider the application from Mr Ross McEwen requesting permission from Council to keep 8 sheep and 1 cow on Lot 60 Togo St, Cunderdin (the property).

Background

Lot 60 Togo St is zoned residential R20 under Shire of Cunderdin Local Planning Scheme No 3 and is 1.102 ha in area and is situated within the Cunderdin Townsite.

As a result of a dog attack on the animals being kept at the property on the 11 July 2010 a complaint has been forwarded to Council that these animals should not be kept on residential zoned land by the owner of the dog who attacked the animals.

Council officers responded to the complaint by letter to the owner of the property, Mr David McEwen on the 16 July 2010.

The owner of the large animals was requested in writing to remove the animals from the property or make the application to Council to keep the animals within 28 days.

The Shire's Environmental Health Officer inspected the property on 12 August 2010 and found that the animals on the property were not been kept in accordance with Local Health Laws as there is more than one animal on the property, the animals are able to approach within 30 m of residential dwellings and no provision has been made for a stable or a manure receptacle.

Correspondence has now been received on 17 August 2010 from Mr Ross McEwen requesting permission from Council to keep 8 sheep and 1 cow on Lot 60 Togo St, Cunderdin.

Comments

The keeping of large animals in the Cunderdin Townsite is likely to continue to create problems due to incompatibility of rural activities with residential activities. For example the build up of animal waste encourages flies and objectionable odours and the use materials such as electric fencing that presents an unreasonable hazard in a residential area.

The complaint is a direct result of unsuitable landuse activity within the Cunderdin Townsite.

Council can only approve the keeping of one approved animal at the property and the owner must comply with the conditions of the Council's Local Health Laws in relation to the keeping of large animals. The conditions are as follows;

- Animal not to approach 30m of a residential dwelling
- A stable must be constructed in accordance with the Council's Local Health Laws
- A manure receptacle must be provided in accordance with the Councils Local Health Laws

It is recommended that the most desirable course of action is to have the owner of the property relocate the animals to a rural area.

Statutory Environment

Statutory Planning

The activity on the property can be described as a hobby farm. The Shire of Cunderdin's Local Planning Scheme No3 District Zoning Scheme does not permit a Hobby Farm on a residential lot.

There are no Local Laws controlling the use of electric fences in the Cunderdin Townsite.

Local Health Laws

Division 3 - Keeping of Large Animals

Interpretation

5.3.1 In this Division, unless the context otherwise requires -

"**approved animal**" includes a horse, cow or large animal the subject of an approval by Council under Section 5.3.2;

"**cow**" includes an ox, calf, or bull;

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

"**large animal**" includes a pig, sheep, goat, deer or camel.

Conditions for keeping of an animal

5.3.2 (1) An owner or occupier of premises, within a townsite shall not keep a horse, cow or large animal on those premises without approval of the Council.

(2) An owner or occupier of premises who has an approved animal shall ensure -

(a) the premises has an area of not less than 0.2 hectares for the exclusive use of the approved animal; and

(b) the approved animal does not approach within 30 metres of a dwelling.

Stables

5.3.3 (1) The owner or occupier of premises within a townsite, who has an approved animal shall provide for its use a stable which shall -

(a) not be situated within 30 metres of a house or other premises;

(b) have a proper separate stall -

(i) for each horse or cow; and

(ii) with walls measuring not less than 3 metres, both horizontally and vertically, unless it has a sand floor provided in accordance with subsection (2);

(iii) with a floor area of not less than 11 square metres, unless it has a sand floor provided in accordance with subsection (2);

(c) have each wall and roof constructed of an approved impervious material;

(d) have a roof that covers the entire floor area of the stall;

(e) have on all sides of the building between the wall and the roof a clear opening of at least 150 millimetres in height;

(f) subject to subsection (2), have a floor, the upper surface of which shall -

(i) be at least 75 millimetre above the surface of the ground;

(ii) be constructed of cement, concrete or other similar impervious materials;

(iii) have a fall of 1 in 100 to a drain, which shall empty, into a trapped gully situated outside the stable and shall discharge in a manner approved by the Council.

(2) A stable constructed with a sand floor may be permitted by the Council, subject to the following-

(i) the site must be well drained with the highest known water table at least 1.5 metres below the sand floor level, which may be achieved artificially;

(ii) a 300mm thick bed of crushed limestone shall be layed under the sand of the stable

- (iii) sand, whether natural or imported, must be clean, coarse and free from dust;
- (iv) footings to each stable shall be a minimum of 450mm below ground level;
- (v) the stable design must allow for the access of small earth moving machinery, such as a skid steer loader, into each individual stall, to maintain the correct floor height;
- (vi) the minimum floor area of each stall shall be not less than 28 square metres and walls shall not be less than 3 metres vertically or 4 metres horizontally;
- (vii) the roofed area of each stall shall not be less than 50 percent of the floor area of the stall.

Division 3 - Keeping of Large Animals Continued

- (3) The owner or occupier of any premises on which a stable is located shall -
 - (a) maintain the stable in a clean condition and when so directed by an Environmental Health Officer, clean, wash and disinfect it;
 - (b) keep all parts of the stable so far as possible, free from flies or other vectors of disease by spraying with a residual insecticide or other effective means; and
 - (c) when so ordered by an Environmental Health Officer, spray the stable or such parts as may be directed, with a residual insecticide.

Manure Receptacle

- 5.3.4 An owner or occupier of premises on which an approved animal is kept shall -
- (a) provide in a position convenient to the stable a receptacle for manure, which is constructed of smooth, impervious, durable, easily cleanable materials and, provided with a tight-fitting cover, and with no part of the receptacle base being lower than the surface of the adjoining ground;
 - (b) keep the lid of the receptacle closed except when manure is being deposited or removed;
 - (c) cause the receptacle to be emptied at least once a week and as often as may be necessary to prevent it becoming offensive or a breeding place for flies or other vectors of disease;
 - (d) keep the receptacle so far as possible free from flies or other vectors of disease by spraying with a residual insecticide or other effective means; and
 - (e) cause all manure produced on the premises to be collected daily and placed in the receptacle.

Health Local Laws

Division 3 of Council's Health Local Law (1998) states -

Division 3 - Keeping of Large Animals Interpretation

5.3.1 *In this Division, unless the context otherwise requires -*

"approved animal" *includes a horse, cow or large animal the subject of an approval by Council under section 5.3.2;*

"cow" *includes an ox, calf, or bull;*

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

"large animal" *includes a pig, sheep, goat, deer or camel.*

Conditions for keeping of an animal

5.3.2(1) *An owner or occupier of premises, within a townsite shall not keep a horse, cow or large animal on those premises without approval of the Council.*

5.3.2(2) *An owner or occupier of premises who has an approved animal shall ensure -*

- (a) *the premises has an area of not less than 0.2 hectares for the exclusive use of the approved animal; and*
- (b) *the approved animal does not approach within 30 metres of a dwelling.*

Stables

5.3.3 (1) The owner or occupier of premises within a townsite, who has an approved animal shall provide for its use a stable

Manure Receptacle

5.3.4 An owner or occupier of premises on which an approved animal is kept shall -
(a) provide in a position convenient to the stable a receptacle for manure, which is constructed of smooth, impervious, durable, easily cleanable materials and, provided with a tight-fitting cover, and with no part of the receptacle base being lower than the surface of the adjoining ground;
(b) keep the lid of the receptacle closed except when manure is being deposited or removed;
(c) cause the receptacle to be emptied at least once a week and as often as may be necessary to prevent it becoming offensive or a breeding place for flies or other vectors of disease;
(d) keep the receptacle so far as possible free from flies or other vectors of disease by spraying with a residual insecticide or other effective means; and
(e) cause all manure produced on the premises to be collected daily and placed in the receptacle.

Policy Implications

There are no notable policy implications in considering this item.

Financial Implications

There are no notable financial implications in considering this item at the current time.

Strategic Implications

This landuse contravenes Council’s Local Planning Scheme No 3.

This problem will continue if the matter is not rectified by relocating the animals completely.

Recommendation 10.1

That Council RESOLVE that the owner of Lot 60 Togo St Cunderdin relocate the animals forthwith.

Moved Cr _____ Seconded Cr _____

Vote – Simple majority Carried/Lost ___/___

Recommendation lost for want of a mover

Resolution 10.1

(a) That a further 28 days be granted for the applicant to comply with the requirements of the Cunderdin Health Local Laws 1998 in accordance with sections 5.32, 5.3.3 & 5.3.4.
(b) That the applicant be advised that should they not comply with these requirements in this time, no further extensions will be granted and all livestock will need to be removed immediately without further notice, or action will be taken by council.

Moved Cr David Beard

Seconded Cr Todd Harris

Carried 5/3

10.2 Manager of Environmental Services report for July 2010 (Late report)

Location:	Cunderdin
Applicant:	Shire of York
Meeting Date:	18 th August 2010
Author:	G Tester
Item Approved by:	Chief Executive Officer

BUILDING REPORT

Building Approval for July

<u>Building Number</u>	<u>Application</u>	<u>Address</u>	<u>Type of Construction</u>
1 10/11	Craig Buegge	26 Pemberton Street	Shed
2 10/11	Pauline Schrueder	18 Knight street Meckering	Swimming Pool

Building Issues

Lot 200 Mitchell Street, Meckering

Working with the owner by providing the correct procedures to complete their dwelling within a timely manner, due to the Building Licence Approval information does not appear to be in accordance with our building requirements.

Stop Unlawful Work

Lot 220 Egeberg Street Cunderdin.

On 29 July 2010 at 9am a Notice to Stop Work was served on Miss Ratechade (Nicky) Chiawtade for starting to construct a Shed without applying for a Building Licence.

Miss Chiawatde was advised that the Shire of Cunderdin would not approve her proposed shed at Lot 202 Egeberg Street without her first obtaining a Building Licence for a dwelling.

As Sheds and Caravans are classified as Class10a (a non habitable building) under the Building Code of Australia Part A3.2 and the uses of these buildings are for storage only and not for human habitation.

Therefore the property can not be deemed as a Storage Yard for the keeping of personal items such as caravans which under the Town Planning Scheme Table 1 (Zoning Table) is not a permitted use in a residential area and will not comply with Town Planning Scheme 2 Part 4.2 the Objective of the Zones.

In summary Miss Chiawtade is required to remove all building material from Lot 220 Egeberg Street within Twenty Eight (28) Days from the 29 July 2010

ENVIRONMENTAL HEALTH REPORT

July 2010

Complaint; Keeping of animals at Lot 60 Togo St Cunderdin
Provided advise on subdivision of lot in relation to provision of septic

August 2010

Complaint; Keeping of animals at Lot 60 Togo St Cunderdin

(see Agenda Item - August council Meeting)

Completed Department of Health, Food Access and Cost Survey (FACS) at the Cunderdin IGA

No recommendation – general information report.

11.0 Works Supervisor's Report

11.1 Work Supervisors Report

Location:	Cunderdin
Applicant:	Manger of Works and Services
Date:	18 th August 2010
Author:	Mark Burgess
Item Approved by:	Chief Executive Officer

Proposal

Council to agree in principal to purchase of a Vibrating Roller and possibly a Multi in lieu of the Loader

Comment

Recent discussions with the CEO has revealed justified concerns in the cost in hiring of rollers for council's construction and maintenance operations.

It is understood that Council have limited funds not only for Plant replacement but for every part of the budget, therefore, making it imperative that every dollar that is spent is spent wisely.

As a Work Manager it is essential that any road that we build receives compaction, otherwise desired results cannot be achieved.

It is understood that Council have in the 10/11 budget to trade the Cat Loader which is a 1999 model, Given the Loader is still in good condition and Council have no compaction plant that is serviceable, therefore it is suggested Council defer the grader for another year and purchase at least a 10 to 12 ton Vib roller and if funds permit a Multi Tyre.

Council is presently paying around \$10,000.00 per month in hire.

I would reiterate to Council in any construction the most important part of the operation is our compaction, if this is not achieved then the roads will fail and resulting in costly repairs.

Statutory Implications

Nil

Financial Implications

Nil – As long as purchase price does not exceed budget provision

Strategic Implications

Better road network for future constructions

Recommendation 11.1

That Council agree to amending its Budget to remove the purchase of the new Front End Loader and replace it with the purchase of a one 10 -12 ton Vibrating Roller and 1x Multi Tyred Roller if funds permit.

Moved : Cr _____ Seconded: Cr _____

Vote – Simple majority Carried/Lost: ___/___

Recommendation lost for want of mover

Resolution 11.1

That the

- (1) CEO be authorised to call Tenders for a replacement vibrating roller.
- (2) a further report be presented to council comparing outright purchase to hiring option.

Moved : Cr Graham Cooper

Seconded: Cr Doug Kelly

Vote – Simple majority

Carried: 8/0

11.2 Work Supervisors Report – (late item)

Location:	Cunderdin
Applicant:	Manger Works and Services
Date:	18 th August 2010
Author:	Mark Burgess
Item Approved by:	Chief Executive Officer

Proposal

Council is to receive the Manager of Works and Services Report for August 2010

Comment

Please find below a brief update in relation to the Works Program

Construction

No major construction work has been started at this point; however the program below is still relevant

As a guide to Council over the next few months the plan of attack is:

Meckering Dowerin Rd – Pavement Repairs, Shoulder works and some formation works

Wilding Rd – Gravel Sheet

Wilding Rd / Dowerin Meckering RD Intersection – Blackspot

Bulgin Rd – Shoulders, Gravel Sheeting

Gravel Sheeting Works

Watercarrin Rd has started and will be finished in the near future

Maintenance Grading

The following roads have received a full grade since the last report.

Fleay Rd	Moore Rd
Hardy Rd	Mills Rd
Warding Rd	Watercarrin Rd
Green Rd	Doodenanning Rd
Tama Locking Rd	Youndegin Keller Rd
Taylor South Rd	Rabbit Proof Fence
8 mile gate rd	

Unfortunately condition have not been good for maintenance grading

Plant Report

P2677 Volvo Back Hoe
Machine Hrs 967 to date
Fan belt, A/C belt replacement
Static throttle adjustment
4:1 bucket cutting edge replaced
VHF aerial replaced
Quick release bucket hydraulic line replaced
1000hr service.

P2599 Caterpillar 12H Grader
Machine Hrs 8100 to date
Speedo wiring loom spiced and soldered
“A” Frame mounting bolts re torqued
250hr service
New mechanical seat and suspension fitted
Wiper blades replaced

P6000 Dual Cab Truck
20,000 km service
Beacon light wiring problem rectified
Hoist wiring problem rectified
Machine K's 163812 to date

P1922 Caterpillar 938G Loader
New batteries fitted
Machine Hrs 5609 to date

P878 Volvo Loader
New batteries fitted
Major wiring problem rectified by bypassing standard system
Hydraulic ram oil leak rectified
Transmission range shift lever replaced
Machine Hrs 3885 to date

P1450 Bull nose Iveco Truck
10,000 km service
Machine K's 209486 to date

P789 Dual Cab Ute
Diesel pod fitted to rear tray
Machine K's 128445 to date

P2565 670d John Deere Grader
500 hr service
VHF Aerial replaced

P292 John Deere Tractor
L/H door replaced with poly carbonate
Brake bled and adjusted

P990 Land cruiser Ute
New radiator fitted
Rocker cover gasket replaced
New A/C and fan belts fitted
New beacons wired in
Machine K's 351811 to date

P1800 Iseki Deck Mower
New radiator fitted
New battery fitted
New blades fitted
New beacon fitted
Machine Hrs 3296 to date

New Holland Deck Mower
500 hr service
Machine Hrs 519 to date

P2646 Transpac Multi Tired Roller
New steering head fitted
Machine is uncontrollable and hazardous when in transport or work mode as all linkages and ram are passed serviceable time.

Transmission has multiple oil leaks which are unreachable with out total removal of motor trans unit.

Brakes on unit are extremely unreliable and hazardous.

Cab ventilation is extremely hazardous as flumes from engine compartment enter through every gap in plate floor and fire wall.

Air conditioner unit is in operative and passed serviceability.

Unit has been tagged out.

Machine Hrs 8285 to date.

P.00 Iveco Rubbish Truck

20,000 Service

Machine K's 165104 to date.

P1139 Toyota Dyna Light Truck

Machine K's 115632 to date.

P1163 McDonald Imperial Steel Roller

Machine Hrs 1168 on new hour meter to date.

Unit has been tagged out.

Small Plant and Chainsaws

Various services

Chain and bar replacements.

Outside Staff

Clinton is on annual leave

Works Manager will be on leave as from the 26th of August until the 19th of September

Plant Maintenance

Please attach

General

We have undertaken some small shoulder repairs on the Dowerin Wyalkatchem rd and removed some tree roots.

Have carried an intensive patching program

We will be doing some minor shoulder works for Downers in the coming weeks

Statutory Implications

Nil

Financial Implications

Nil

Strategic Implications

Nil

Resolution11.2

That the Manager of Works and Services Report for July 2010 be received.

Moved : Cr Dianne Kelly

Seconded: Cr Clive Gibsone

Vote – Simple majority

Carried: 8/0

12.0 Community Development Officer

12.1 Information Bulletin – CDO Report

Location:	N/A
Applicant:	N/A
Date:	18th August 2010
Author:	S McQuistan
Item Approved by:	Community Development Officer

Proposal

Council is to receive the Community Development Officers Report for July/August 2010.

Comment

Cunderdin Museum Chimney Restoration

- final stage of the Chimney restoration has been completed

Cunderdin Community Gym

- Current members have been notified of extended Gym memberships
- Memberships have increased by half since the new fees came into effect
- Further advertising is being promoted on the website and Bandicoot

Emergency Management

- held Local Emergency Management Committee exercise of Prevention, Preparedness, Response and Recovery elements of Local Emergencies.
- Attended 'Recovery' course @ FESA Belmont & 2010 Bush Fire Forum

RLCIP

- Progress report submitted for Round 2 funding
- Application submitted for Round 3 funding

Gliding Club of WA

- Met to discuss proposed works to Clubhouse as funded by Lotterywest

Cunderdin Trotting Club

- Met with trotting club to discuss alternative site for training

Healthy Communities Initiative

- Attended workshop with CDO's from Tammin/Quairding to investigate viability of applying for shared funding
- Received health demographic report, which does not support the Health Communities Initiative target group

Sport and Recreation

- Received information on the upcoming round of CSRFF funding available from the Department of Sport and Recreation
- Attended Kulin Recreation Facilities Conference
- Held first Facilities Design Workshop

FASCIA Grant

- Assisted Cunderdin Rotary in obtaining \$4,650 in funding for projector, projector screen and laptop computer.

Statutory Implications

There are no statutory implications in considering this item.

Policy Implications

There are no policy implications in considering this item.

Financial Implications

There are no financial implications in considering this item.

Strategic Implications

There are no strategic implications in considering this item.

Resolution12.1

That Council receive and note report 12.1;

Moved Cr Todd Harris

Seconded Cr David Beard

Vote – Simple majority

Carried 8/0

Note: Follow-up meeting with trotting club required

Cr Gibsone advised he had received complaints about the untidy state of the equipment.

CEO to discuss with the Gym committee

13.0 Environmental Project Officer Report

13.1 SEAVROC Environmental Project Officer Report

Location:	Cunderdin
Applicant:	Administration
Date:	18th August 2010
Author:	J Vincent
Item Approved by:	Chief Executive Officer

Disclosure of Interest

No disclosure of interest has been tabled.

Proposal

To receive the Environmental Project Officers Report for July 2010.

Attachments

None

Background

Ordinary Council meeting 18th February 2010 – Report 9.10

Commentary

Caring for our Country Wind Erosion Project

Perennial farming systems targeting wind erosion within the North Eastern and Southern Wheatbelt regions of WA

Researched and distributed current articles and media releases to Project Staff for placement in local newsletters/papers to continue extension of the project.

Monthly meetings with CFoC Project Officers from NEWROC and WEROC.

Organised speaker Paul Blackwell to present at the Young Farmer Field Days in Westonia, Bencubbin and Beverley. Paul will be presenting information on Biochar and tramlining within precision agriculture.

Organised venue, catering, set-up and promotional material for the Beverley Young Farmer Field Day (Paddock Options for Proactive Farmers) to be held on September 2 at the Amenities Building.

Wrote and sent out sponsorship letters to local Beverley Businesses requesting sponsorship for the Young Farmer Field Days.

Advertised the Young Farmer Field Day though local and state newspapers, websites, email newsletters and SEAVROC Shires.

Created a Facebook profile for WEROC NEWROC SEAVROC Natural Resource Management and a Facebook Group page for the Wind Erosion Project. This page will be updated regularly with Project information and events and will assist in engaging young farmers to become involved in the Project and NRM.

Distributed website Project updates to all SEAVROC Shires.

Regular watering of seedlings waiting for planting for Project trials.

Visited York case study site and interviewed farmer – Catherine Jane about their Sandalwood plantation.

Drafted 5 case studies for the Project. 1 case study per Shire per year of the Project will be written and produced together in a booklet along with Case Studies from WEROC and NEWROC. The case studies focus on management strategies for tree cropping and perennial pastures.

Beverley – Brendan McLean – Sandalwood plantation
Brookton – George and Pat Hambly – Oil Mallees and alley farming
Cunderdin – David Beard – Oil Mallees and alley farming
Quairading – Roger and Judy Elt – Brushwood tree cropping
York – Catherine Jane – Sandalwood plantation

Edited the Post-Project Farmer Survey for the final site visit for the year to planting sites. The survey will be filled out by all Project Officers when they undertake final site inspections in September/October this year.

Edited and distributed the Expression of Interest for the 2011 planting season. This EOI will be distributed in September for farmers to register their interest in receiving seedlings and seed for planting in 2011.

Currently organising collection of seedling trays for nurseries from farmers who received seedlings this year.

Designed and organised the production of polo shirts for Project Officers to wear at field days, meetings etc. Also designed and organised production of Project stubby holders to hand out to participating farmers at field days and events.

SEAVROC Environmental Services – Cunderdin

Submitted Environment News section for the Cunderdin Shire Newsletter

Invited Cunderdin residents to receive regular environment updates via email.

Have undertaken baiting for rabbits in the Cunderdin cemetery reserve with Pindone oat baits. Baiting has been done weekly since 13th July and will continue for a few more weeks. Observations suggest baits are being taken by rabbits regularly.

Contacted the Principal of Cunderdin District High School and discussed the SEAVROC environmental services and offered assistance with any school environmental projects.

Native Vegetation Clearing

Liaison with DEC regarding clearing permits CPS3221/1 and CPD1558/1. The offset proposal for both permits needs to be revised and re-submitted.

Responded to enquiry by Councillor regarding Shire responsibilities for ratepayers clearing vegetation illegally.

Facilitated and attended the Roadside Conservation Training for SEAVROC CEO's and Works Staff run by the Roadside Conservation Committee (RCC). Training was successful with at least one representative from each SEAVROC Shire. Much positive feedback received but the training did reflect the need for more training on roadside clearing legislation. There are more opportunities to work with the RCC through creating 'Flora Roads' and mapping roadside conservation values.

Landholder advice

The SEAVROC Environmental team is available to provide general environment and NRM advice to landholders. No calls have been received from Cunderdin landholders in July.

Meetings/training

Attended July Project Officer meeting for the Wind Erosion Project.

Attended DEC Threatened Flora Meeting in Tammin.

Meeting with Samantha Pickering from Nungarin/Trayning Shires to discuss Communications within the Wind Erosion Project.

Have completed requirements and received Reg 17 licence from DEC for the removal and relocation of reptiles.

Attended the Drought Pilot Information session in Merredin on 27th July.

Attended Pastures Australia Workshop in Quairading on 28th July.

Upcoming tasks

Attending Grant Writing Seminar – Perth, 18th August.

Revise and re-submit offset proposal for clearing permits 3221/1 and 1558/1.

Send out the first SEAVROC E-news for those who have responded to the 'E-news' EOI.

Distribute Native Vegetation Clearing Guidelines to SEAVROC residents and Shires.

Statutory Implications

There are no statutory implications in considering this report

Policy Implications

There are no policy implications in considering this report

Financial Implications

There are no financial implications in considering this item.

Strategic Implications

There are no strategic implications in considering this item.

Resolution13.1

That Council receive and note report 13.1

Moved Cr David Beard

Seconded Cr Clive Gibsone

Vote - Simple majority

Carried 8/0

14.1 Matters for which the meeting may be closed

None.

General Business

Cunderdin Airfield Committee

Cr Carter requested nominations for the airfield committee to replace Robert Fulwood.

Cr Gibsone was nominated.

There were no further nominations.

Cr Gibsone accepted.

Country Local Government Fund (CLGF) – Local component

General discussion was held in regards to concerns with the move away from a 50/50 split of funds under the CLGF local component to 100% Regional component.

Moved Cr Graham Cooper

Seconded Cr David Beard

That council lobby the Minister for Regional Development, WALGA and other relevant persons to ensure the retention of the Local Component of the Country Local Government Fund.

Carried 8/0

15.0 Closure of meeting 7:05pm