



## Shire of Cunderdin

### Notice of an Ordinary Council Meeting

Dear Council Member,

The next Ordinary Meeting of the Cunderdin Shire Council will be held on **Thursday 24<sup>th</sup> March 2022** in the Cunderdin Shire Council Chambers, WA, 6407 **commencing at 5.00pm.**

Stuart Hobley  
**Chief Executive Officer**  
18<sup>th</sup> March 2022

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## AGENDA

### 1. Declaration of Opening

The Shire President declared the meeting open at \_\_\_\_pm

The Shire of Cunderdin disclaimer will be read aloud by

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. Record of Attendance, Apologies and Approved Leave of Absence

#### 2.1 Record of attendances

##### Councillors

Cr AE (Alison) Harris	Shire President
Cr A (Tony) Smith	Deputy Shire President
Cr TE (Todd) Harris	
Cr B (Bernie) Daly	
Cr W (Sam) Stewart	
Cr NW (Norm) Jenzen	
Cr N (Natalie) Snooke	

##### In Attendance

Stuart Hobley	Chief Executive Officer
Hayley Byrnes	Deputy Chief Executive Officer
Emma McMiles	Governance and Compliance Officer

##### Guests of Council

##### Members of the Public

#### 2.2 Apologies

#### 2.3 Leave of Absence Previously Granted

### 3. Public Question Time

Declaration of public question time opened at:

Declaration of public question time closed at:

### 4. Petitions, Deputations & Presentations

### 5. Applications for Leave of Absence

#### **Recommendation 5.1**

That Council approve Leave of Absence for Cr \_\_\_\_\_ from \_\_\_\_\_ to \_\_\_\_\_ inclusive

Moved: Cr \_\_\_\_\_

Seconded: Cr \_\_\_\_\_

Vote – Simple Majority

Carried/Lost: \_\_/\_\_

### 6. Confirmation of the Minutes of Previous Meetings

#### **6.1 Ordinary Meeting of Council held on 17<sup>th</sup> February 2022**

#### **Recommendation 6.1**

That the Minutes of the Ordinary Council Meeting held on Thursday 17<sup>th</sup> February 2022 be confirmed as a true and correct record.

Moved: Cr \_\_\_\_\_

Seconded: Cr \_\_\_\_\_

Vote – Simple Majority

Carried/Lost: \_\_/\_\_

#### **Note to this item:**

The President will sign the minute declaration on the previous minutes.

### 7. Declaration of Members and Officers Interests

### 8. Announcements by President without Discussion

## 9. Finance & Administration

### 9.1 Financial Reports for February 2022

<b>Location:</b>	Cunderdin
<b>Applicant:</b>	Deputy Chief Executive Officer
<b>Date:</b>	11th March 2022
<b>Author:</b>	Hayley Byrnes
<b>Item Approved by:</b>	Stuart Hobley, Chief Executive Officer
<b>File Reference:</b>	Nil
<b>Attachment/s:</b>	2 attachments – Monthly Report February 2022 & February Rates Report

#### **Proposal/Summary**

The financial reports as at 28th February 2022 are presented for Councils consideration.

#### **Background**

The financial reports have been circulated to all Councillors.

#### **Comment**

Nil.

#### **Consultation**

Nil.

#### **Statutory Environment**

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

#### **Policy Implications**

Nil.

#### **Financial Implications**

All financial implications are contained within the reports.

#### **Strategic Implications**

Nil.

#### **Recommendation 9.1**

That Council receives the monthly financial reports for the periods ending 28th February 2022.

Moved: Cr \_\_\_\_

Seconded: Cr \_\_\_\_

Vote – Simple Majority

Carried/Lost: \_\_/\_\_

## 9.2 Accounts Paid – 28th February 2022

<b>Location:</b>	Cunderdin
<b>Applicant:</b>	Deputy Chief Executive Officer
<b>Author:</b>	Hayley Byrnes
<b>Report Date:</b>	11th March 2022
<b>Item Approved By:</b>	Stuart Hobley, Chief Executive Officer
<b>Disclosure of Interest:</b>	Nil
<b>File Reference:</b>	Nil
<b>Attachment/s:</b>	2 attachments – Creditor's list of payments February 2022 Credit Card Statement February 2022

### **Proposal/Summary**

Council is requested to confirm the payment of Accounts totalling:

Total for Municipal -	\$411,461.31
Total for Trust -	\$0.00
TOTAL -	\$411,461.31

For February 2022 as listed in the Warrant of Payments for the period 1<sup>st</sup> to 28th February 2022.

### **Background**

Nil.

### **Comment**

Nil.

### **Consultation**

Nil.

### **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).

Financial Management Regulations 12 & 13.

### **Policy Implications**

Nil.

### **Financial Implications**

All financial implications are contained within the reports.

### **Strategic Implications**

Nil.

**Recommendation 9.2**

1. That Council's payment of accounts amounting to \$411,461.31 being from Municipal Account for February, as follows:

<b>Municipal Account</b>	<b>\$</b>	<b>Total</b>
Electronic Funds Transfer: EFT 5844 - 5915	\$383,561.45	
Direct Debit (Inc Bank Charges):	\$17,391.29	
Cheques: 11779 - 11782	\$10,508.57	
<b>TOTAL</b>		<b>\$411,461.31</b>

be confirmed and noted; and,

2. That the Payments List as presented be incorporated in the Minutes of the Meeting.

Moved: Cr \_\_\_\_\_

Seconded: Cr \_\_\_\_\_

Vote – Simple Majority

Carried/Lost: \_\_ / \_\_

### 9.3 Council Investments – As at 28th February 2022

<b>Location:</b>	Cunderdin
<b>Applicant:</b>	Deputy Chief Executive Officer
<b>Author:</b>	Hayley Byrnes
<b>Report Date:</b>	11th March 2022
<b>Item Approved By:</b>	Stuart Hobley, Chief Executive Officer
<b>Disclosure of Interest:</b>	Nil
<b>File Reference:</b>	Nil
<b>Attachment/s:</b>	1 Attachment- Bank Statements February 2022

#### Proposal/Summary

To inform Council of its investments as at 28th February 2022.

#### 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; and
- 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.

#### Comment

In addition to the Shire's Municipal Operating Accounts, the below investment accounts are held as at 28th February 2022.

COUNCIL ACCOUNTS					
Institution	Amount	Investment type/ Account details	Municipal Funds	Reserve Funds	Trust Funds
Westpac Bank	\$340,685.63	Municipal- 0000030	\$340,685.63		
Bendigo Bank	\$2,044,984.16	Municipal- 155971377	\$2,044,984.16		
Westpac Bank	\$146.78	Business Cash Reserve 22-3647 0.50%		\$146.78	
Bendigo Bank	\$2,578.00	Bendigo Trust Account 164 488 686			\$2,578.00
Westpac Bank	\$1.00	Trust Working Account 12-2981			\$1.00
Bendigo Bank	\$1,228,299.01	Term Deposit 0.45% Exp 28 June 2022		\$1,228,299.01	
<b>TOTAL INVESTMENTS</b>	<b>\$3,616,694.58</b>		<b>\$2,385,669.79</b>	<b>\$1,228,445.79</b>	<b>\$2,579.00</b>

In addition to the above Shire funds, the Shire administers the Cunderdin Community Centre Trust Accounts being Westpac Account #000073 \$0.00, Bendigo Term Deposits# 3864633 \$369,862.05 & # 3864655 - \$169,855.00

**CUNDERDIN COMMUNITY TRUST DETAILS**  
**INTEREST ACCOUNT**  
**28 February 2022**

Opening Balance as per Bank Statement & Term		
Deposits		
	Term Deposit# 3864655	169,855.00
	<b>TOTAL</b>	<b>169,855.00</b>
	Credits	0.00
	Debits	0.00
Closing Balance as Per Bank Statements & Term		
Deposits	<b>TOTAL</b>	<b>169,855.00</b>
<b>INCOMING</b>		
		0.00
		0.00
<b>OUTGOING</b>		
		0.00
<b>Balance as at end of month</b>		
	<b>TOTAL</b>	<b>169,855.00</b>

**CUNDERDIN COMMUNITY TRUST DETAILS**  
**CAPITAL ACCOUNT**  
**28 February 2022**

Opening Balance as per Bank Statement & Term		
Deposits		
	Term Deposit# 3864633	369,862.05
	<b>TOTAL</b>	<b>369,862.05</b>
	Credits	0.00
	Debits	0.00
Closing Balance as Per Bank Statements & Term		
Deposits	<b>TOTAL</b>	<b>369,862.05</b>
<b>INCOMING</b>		
		0.00
		0.00
<b>OUTGOING</b>		
		0.00
<b>Balance as at end of month</b>		
	<b>TOTAL</b>	<b>369,862.05</b>

**Consultation**

Nil.

**Statutory Implications**

Financial Management Regulation 19.

**Policy Implications**

Nil.

**Financial Implications**

There are no financial implications in considering this item.

**Strategic Implications**

This item related to the Integrated Planning and Reporting Framework, which feeds into the Long Term Financial Plan when determining annual Council Budgets.

**Recommendation 9.3**

That the report on Council investments as at 28th February 2022 be received and noted.

Moved: Cr \_\_\_\_\_

Seconded: Cr \_\_\_\_\_

Vote – Simple Majority

Carried/Lost: \_\_/ \_\_

## 9.4 Mid Year Budget Review 2021/22

<b>Location:</b>	Cunderdin
<b>Applicant:</b>	Deputy Chief Executive Officer
<b>Author:</b>	Hayley Byrnes
<b>Report Date:</b>	12 <sup>th</sup> March 2022
<b>Item Approved By:</b>	Chief Executive Officer
<b>Disclosure of Interest:</b>	Nil
<b>File Reference:</b>	Nil
<b>Attachment/s:</b>	2 attachments – Budget Review Document and Detailed Income and Expenditure Statement

### **Proposal/Summary**

The purpose of this report is for the Shire of Cunderdin to consider and adopt the Budget Review Report, with any amendments, for the period 1 July 2021 to 31 December 2021.

### **Background**

The Local Government (Financial Management) Regulations 1996 require local governments to undertake a review of its Annual Budget.

#### *33A. Review of Budget*

- (1) Between 1 January and 31 March in each financial year a local government is to carry out a review of its annual budget for that year.*
- (2A) The review of an annual budget for a financial year must —*
  - (a) consider the local government's financial performance in the period beginning on 1 July and ending no earlier than 31 December in that financial year; and*
  - (b) consider the local government's financial position as at the date of the review; and*
  - (c) review the outcomes for the end of that financial year that are forecast in the budget.*
- (2) Within 30 days after a review of the annual budget of a local government is carried out it is to be submitted to the council.*
- (3) A council is to consider a review submitted to it and is to determine\* whether or not to adopt the review, any parts of the review or any recommendations made in the review.*

*\*Absolute majority required.*

- (4) Within 30 days after a council has made a determination, a copy of the review and determination is to be provided to the Department.*

A detailed analysis at account level incorporating year to date actual results and budget projections to 30<sup>th</sup> June 2021, for the period ending 31 December 2021, is presented for consideration.

### **Comment**

The budget review has been prepared to include the information required by the *Local Government Act 1995*, the *Local Government (Financial Management) Regulations 1996*, and the Australian Accounting Standards.

The adopted budget contained an opening surplus of \$1,700,000.00 with a closing surplus at 30 June 2022 of \$52.00. The actual opening surplus is now anticipated to be \$2,013,098 and the closing surplus is estimated to be \$499,165.

A brief summary of each operating programme is provided below detailing any significant predicted variances to the original budget, including the variance in depreciation applicable as a result of the Depreciation review, Total variation is a reduction in Depreciation expenditure of \$4,814,177.

### **General Purpose Funding**

Rates – (Income over budget \$643) ex gratia rates received slightly higher than budgeted.

Depreciation variance - reduction of \$34

#### Law Order and Public Safety

Depreciation variance - reduction of \$21,623

#### Health

Depreciation variance - reduction of \$35,401

#### Education and Welfare

Depreciation variance - reduction of \$86

#### Housing

Depreciation variance - reduction of \$6,110

#### Community Amenities

Depreciation variance - reduction of \$2,724

#### Recreation and Culture

Expenses Relating to Ovals- (Expenses are predicted to be over original budget \$25,000) This is due to water being higher than budgeted for as the Dam was expected to be fully operational.

Depreciation variance - reduction of \$226,089

#### Transport

\* Based on facts know at this time and calculations being made with regards to the current rise in fuel prices, we believe we will be close to budget regarding fuel procurement however wanted to bring this to councils' attention.

Depreciation variance - reduction of \$4,321,731

#### Other Property and Services

IT costs have been higher than originally predicted due to unknown licence and agreement requirements when upgrading the server. (Predicted over expenditure \$30,000)

Depreciation variance - reduction of \$200,379

#### Capital Works

It is suggested that the following projects be removed from this year's budget as we have not been able to secure contractors to complete the works, It is anticipated that the projects will able to be completed next financial year.

#### Capital Expenditure

Housing Project Expenditure \$600,000

(loan of \$200,000 will be obtained in preparation )

Housing Project Transfer from Building reserve ( -\$400,000)

Meckering Sporting Club roof \$30,000

This review has been based on the facts know at this time and has been calculated using the predictive trends. A prudent view has been taken when calculating the estimated amounts.

### Current Budget Amendments

The following previously adopted Budget amendments have been included in the budget review:

#### **Resolution 9.8 OCM February 2022**

That Council:

1. Accepts the Tender submitted by WetDeck Pools for the amount of \$274,450.00 as per the attached schedule.
2. That the President and Chief Executive Officer be authorised to sign and affix the Common Seal to the Contract Agreement for Tender 03 – 2021/2022 Resurfacing and upgrade of the Cunderdin War Memorial Olympic Pool Basin.
3. That all other tenders be advised of (1) above; and
4. That an amount of \$104,450 be transfer from the capital expenditure of the Industrial Land to capital expenditure of the Pool Development.

Moved: Cr B (Bernie) Daly

Seconded: Cr N (Natalie) Snooke

Vote – Simple majority

Carried: 6/0

#### **Resolution 9.9 OCM February 2022**

That Council:

1. Accepts the Tender submitted by Airport Alliance Contracting for the amount of \$388,781.64 as per the attached schedule.
2. That the President and Chief Executive Officer be authorised to sign and affix the Common Seal to the Contract Agreement for Tender 04 – 2021/2022 Cunderdin Runway Lighting Upgrade.
3. That all other tenders be advised of (1) above.
4. That the difference of \$68,78.64 be transferred from the Airport Reserve.

Moved: Cr W (Sam) Stewart

Seconded: Cr B (Bernie) Daly

Vote – Simple majority

Carried: 6/0

### **Consultation**

Nil.

### **Statutory Environment**

*Local Government Act 1995 Section 6.2*

*Local Government (Financial Management) Regulations 1996, Regulation 33A*

### **Policy Implications**

Nil.

### **Financial Implications**

All financial implications are contained within the reports.

### **Strategic Implications**

Nil.

**Recommendation 9.4**

That Council:

1. Adopt the 2021/22 Annual Budget Review, as presented in the Attachments, and notes that the estimated closing funds are based on current revenue and expenditure trends.
2. That a copy of the review be sent to the Department of Local Government Sport and Cultural Industries within 30 days.

Moved: Cr

Seconded: Cr

Vote – Absolute majority

Carried/Lost: \_

### 9.5 Application to keep three (3) Dogs

<b>Location:</b>	14/18 Johnston Street, Meckering
<b>Applicant:</b>	Kayla and Ashley Burges
<b>Date:</b>	22 <sup>nd</sup> February 2022
<b>Author:</b>	Lauren Cole
<b>Item Approved by:</b>	Chief Executive Officer
<b>Disclosure of Interest:</b>	Nil
<b>File Reference:</b>	
<b>Attachment/s:</b>	2 Attachments

#### **Proposal/Summary**

An application has been received requesting permission to keep three (3) dogs on the property on 14/18 Johnston Street, Meckering.

#### **Background**

It is a requirement of the Shire of Cunderdin Dogs Local Law 2015 that the maximum number of dogs that can be kept on a premise within a townsite is two (2) unless an exemption is granted by Council under the provisions of section 26(3) of the *Dog Act 1976* (as amended).

Application was received from Kayla Burges on Wednesday 16<sup>th</sup> February 2022 via email to the shire administration email. In the email, it stated that they had recently purchased a third border collie puppy to replace their older dog “Mack”, who has now retired from farm work. Mrs Burges has advised that Mack will be desexed in the next few weeks.

Mrs Burges has advised that the dogs are contained at night inside the house to ensure minimal disturbance to neighbours and that they have a large yard, enclosed by 6 foot fences, and 2 kennel runs at the rear of the property.

During the day, the dogs will usually be working at their farm, and return home at night.

#### **Comment**

The Ranger, Kylie Spark of WA Contract Ranger Services has inspected the property and has no issues to discuss.

“Nala” and “Mack” are both registered with the Shire of Cunderdin; however, the puppy has not been registered yet. Mrs Burges has been in contact with the Shire of Cunderdin in regard to registering the puppy and has requested a dog registration form.

The size of 14 Johnston is 4047m<sup>2</sup> and 18 Johnston is 4047m<sup>2</sup>. The combined size of the two Lots are more than adequate to keep three dogs.

The Burges property has adjoining neighbours at 22/26 Johnston St, 10 Johnston St, 1 Clifton St and 17 Clifton St. Only 22/26 has an occupied dwelling.

Adjacent to the Burges Property on Johnston St there are occupied dwellings at Numbers 13 and 15.

Should Council be in favour of granting an exemption it may be appropriate for certain conditions to be imposed to provide an opportunity for the exemption to be revoked or varied, in accordance with the provisions of the *Dog Act 1976*, as mentioned above.

#### **Consultation**

Immediate neighbours by ranger, nil objections  
Kylie Spark – WA Contract Ranger Services.

## **Statutory Implications**

### **Dog Act 1976 (as amended)**

#### **Part V — The keeping of dogs**

##### **6. Limitation as to numbers**

- (1) *A local government may, by a local law under this Act —*
  - (a) *limit the number of dogs that have reached 3 months of age that can be kept in or at premises in the local government's district; or*
  - (b) *limit the number of dogs of a breed specified in the local law that can be kept in or at premises in the local government's district.*
- (2) *A local law mentioned in subsection (1) —*
  - (a) *may limit the number of dogs that can be kept in or at premises to 2, 3, 4, 5 or 6 only; and*
  - (b) *cannot prevent the keeping in or at premises of one or 2 dogs that have reached 3 months of age and any pup of either of those dogs under that age; and*
  - (c) *cannot apply to dogs kept at premises that are licensed under section 27 as an approved kennel establishment; and*
  - (d) *cannot apply to dangerous dogs (declared) or dangerous dogs (restricted breed).*
- (3) *Where by a local law under this Act a local government has placed a limit on the keeping of dogs in any specified area but the local government is satisfied in relation to any particular premises that the provisions of this Act relating to approved kennel establishments need not be applied in the circumstances, the local government may grant an exemption in respect of those premises but any such exemption —*
  - (a) *may be made subject to conditions, including a condition that it applies only to the dogs specified in the exemption; and*
  - (b) *cannot authorise the keeping in or at those premises of —*
    - (i) *more than 6 dogs that have reached 3 months of age; or*
    - (ii) *a dog under that age unless it is a pup of a dog whose keeping is authorised by the exemption;**and*
    - (c) *may be revoked or varied at any time.*
  - (4) *A person must not keep in or at any premises, not being licensed under section 27 as an approved kennel establishment —*
    - (a) *in the case of dogs that have reached 3 months of age, other than dangerous dogs (declared) or dangerous dogs (restricted breed), more than the number of dogs than the limit imposed under —*
      - (i) *a local law mentioned in subsection (1); or*
      - (ii) *an exemption granted under subsection (3);**or*
    - (b) *more than —*
      - (i) *2 dangerous dogs (declared); or*
      - (ii) *2 dangerous dogs (restricted breed); or*
      - (iii) *one of each of those kinds of dangerous dogs, that have reached 3 months of age; or*
    - (c) *any pup, of a dangerous dog (restricted breed), that is under 3 months of age.*

##### **Penalty:**

- (a) *for an offence relating to a dangerous dog —*
  - (i) *a fine of \$10 000, but the minimum penalty is a fine of \$500;*
  - (ii) *for each separate and further offence committed by the person under the Interpretation Act 1984 section 71, a fine of \$500;*
- (b) *for an offence relating to a dog other than a dangerous dog —*
  - (i) *a fine of \$5 000;*
  - (ii) *for each separate and further offence committed by the person under the Interpretation Act 1984 section 71, a fine of \$100.*

- (5) *Any person who is aggrieved —*
- (a) *by the conditions imposed in relation to any exemption under subsection (3); or*
  - (b) *by the refusal of a local government to grant such an exemption, or by the revocation of an exemption, may apply to the State Administrative Tribunal for a review of the decision.*
- (6) *An application under subsection (5) cannot be made later than the expiry of a period of 28 days after the day on which a notice of the decision is served on the person affected by that decision.*

## **Shire of Cunderdin Dogs Local Law 2015**

### **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, unless the gate or door is temporarily opened in a manner that ensures that the dog remains confined;
  - (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.

#### **Policy Implications**

Nil

#### **Financial Implications**

Nil

#### **Strategic Implications**

Shire of Cunderdin Strategic Community Plan 2022 -2032

#### **5. Civic Leadership**

- 5.1 Shire communication is consistent, engaging and responsive.  
Residents and community groups believe they are being listened to and fairly treated.

**Recommendation 9.10**

That Council approves the application from Kayla Burges to keep three (3) dogs at Johnston St, Meckering, subject to the following conditions:

- 1) That the exemption be reviewed by the ranger in twelve months' time to ensure that no adverse problems have been experienced as a result of the exemption;*
- 2) That Council reserves the right to withdraw the exemption at any time if any major or substantial problems are experienced prior to the review period;*
- 3) The exemption applies only to the dogs nominated by the applicant;*
- 4) Each dog must be registered with the Shire of Cunderdin; and*
- 5) Upon the death or permanent removal of any of the nominated dogs a maximum of two dogs only will be permitted to be kept on this property.*

Moved: Cr

Seconded: Cr

Vote – Simple majority

Carried/Lost: \_/\_

## 9.6 Application to keep six (6) Dogs

<b>Location:</b>	225 Bourke Street, Meckering
<b>Applicant:</b>	Ioan Valcan
<b>Date:</b>	4 <sup>th</sup> March 2022
<b>Author:</b>	Emma McMiles
<b>Item Approved by:</b>	Chief Executive Officer
<b>Disclosure of Interest:</b>	Nil
<b>File Reference:</b>	
<b>Attachment/s:</b>	1 Attachments

### Proposal/Summary

An application has been received requesting permission to keep six (6) dogs on the property on Lot 225 Bourke Street Meckering WA 6405.

### Background

It is a requirement of the Shire of Cunderdin Dogs Local Law 2015 that the maximum number of dogs that can be kept on a premise within a townsite is two (2) unless an exemption is granted by Council under the provisions of section 26(3) of the *Dog Act 1976* (as amended).

Mr Ioan Valcan has attended the Shire office twice in regard to seeking approval to keep six (6) dogs on a property in Meckering. He was seeking approval before purchasing the property.

Mr Valcan has notified staff that he intends to build a colour bond fence around the property, once purchased.

### Comment

Mr Valcan has advised in his application that currently;

- None of the six (6) dogs are registered with any Shire.
- None of the six (6) dogs are sterilised.
- Does not yet own the property, nor does he have approval from the owner.
- All dogs are female.
- Four (4) of the dogs are standard poodles, one (1) is a groodle (golden retriever cross poodle) and one (1) is a cavoodle (kind charles cavalier cross poodle).

The size of Lot 225 Bourke is 1.7945 hectares. It is concluded that this block is large enough to have six (6) small dogs.

Lot 225 has adjoining neighbours on Lot 226, Lot 223 and Lot 234. Lots 226 and 223 both have occupied dwellings on them. Lot 234 is owned by the same person as Lot 223 and has an outbuilding located on it.

Lots 227, 235 and 236 are located adjunct to Lot 225 across Bourke Street. All of these Lots have occupied dwellings on them.

Should Council be in favour of granting an exemption it may be appropriate for certain conditions to be imposed to provide an opportunity for the exemption to be revoked or varied, in accordance with the provisions of the *Dog Act 1976*, as mentioned above.

### Consultation

Stuart Hobley, Chief Executive Officer  
Emma McMiles, Governance and Compliance Officer  
Hayley Byrnes, deputy Chief Executive Officer  
Kylie Spark – WA Contract Ranger Services.

## **Statutory Implications**

### **Dog Act 1976 (as amended)**

#### **Part V — The keeping of dogs**

##### **6. Limitation as to numbers**

- (1) *A local government may, by a local law under this Act —*
  - (a) *limit the number of dogs that have reached 3 months of age that can be kept in or at premises in the local government's district; or*
  - (b) *limit the number of dogs of a breed specified in the local law that can be kept in or at premises in the local government's district.*
- (2) *A local law mentioned in subsection (1) —*
  - (a) *may limit the number of dogs that can be kept in or at premises to 2, 3, 4, 5 or 6 only; and*
  - (b) *cannot prevent the keeping in or at premises of one or 2 dogs that have reached 3 months of age and any pup of either of those dogs under that age; and*
  - (c) *cannot apply to dogs kept at premises that are licensed under section 27 as an approved kennel establishment; and*
  - (d) *cannot apply to dangerous dogs (declared) or dangerous dogs (restricted breed).*
- (3) *Where by a local law under this Act a local government has placed a limit on the keeping of dogs in any specified area but the local government is satisfied in relation to any particular premises that the provisions of this Act relating to approved kennel establishments need not be applied in the circumstances, the local government may grant an exemption in respect of those premises but any such exemption —*
  - (a) *may be made subject to conditions, including a condition that it applies only to the dogs specified in the exemption; and*
  - (b) *cannot authorise the keeping in or at those premises of —*
    - (i) *more than 6 dogs that have reached 3 months of age; or*
    - (ii) *a dog under that age unless it is a pup of a dog whose keeping is authorised by the exemption;**and*
    - (c) *may be revoked or varied at any time.*
  - (4) *A person must not keep in or at any premises, not being licensed under section 27 as an approved kennel establishment —*
    - (a) *in the case of dogs that have reached 3 months of age, other than dangerous dogs (declared) or dangerous dogs (restricted breed), more than the number of dogs than the limit imposed under —*
      - (i) *a local law mentioned in subsection (1); or*
      - (ii) *an exemption granted under subsection (3);**or*
    - (b) *more than —*
      - (i) *2 dangerous dogs (declared); or*
      - (ii) *2 dangerous dogs (restricted breed); or*
      - (iii) *one of each of those kinds of dangerous dogs, that have reached 3 months of age; or*
    - (c) *any pup, of a dangerous dog (restricted breed), that is under 3 months of age.*

##### **Penalty:**

- (a) *for an offence relating to a dangerous dog —*
  - (i) *a fine of \$10 000, but the minimum penalty is a fine of \$500;*
  - (ii) *for each separate and further offence committed by the person under the Interpretation Act 1984 section 71, a fine of \$500;*
- (b) *for an offence relating to a dog other than a dangerous dog —*
  - (i) *a fine of \$5 000;*
  - (ii) *for each separate and further offence committed by the person under the Interpretation Act 1984 section 71, a fine of \$100.*

- (5) *Any person who is aggrieved —*
- (a) *by the conditions imposed in relation to any exemption under subsection (3); or*
  - (b) *by the refusal of a local government to grant such an exemption, or by the revocation of an exemption, may apply to the State Administrative Tribunal for a review of the decision.*
- (6) *An application under subsection (5) cannot be made later than the expiry of a period of 28 days after the day on which a notice of the decision is served on the person affected by that decision.*

## **Shire of Cunderdin Dogs Local Law 2015**

### **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 -
- (f) 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;
  - (g) 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;
  - (h) ensure that every gate or door in the fence or wall is kept closed at all times when the dog is on the premises, unless the gate or door is temporarily opened in a manner that ensures that the dog remains confined;
  - (i) maintain the fence or wall and all gates and doors in the fence or wall in good order and condition; and
  - (j) 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.

#### **Policy Implications**

Nil

#### **Financial Implications**

Nil

#### **Strategic Implications**

Shire of Cunderdin Strategic Community Plan 2022 -2032

#### **5. Civic Leadership**

- 5.1 Shire communication is consistent, engaging and responsive.  
Residents and community groups believe they are being listened to and fairly treated.

### **Recommendation 9.6**

That Council approve application from Ioan Valcan to keep six (6) dogs at Lot 225 Bourke Street Meckering, subject to the following conditions:

- 6) That Mr Valcan has full ownership of the property, or has the owners approval;*
- 7) That an appropriate fence will be erected and inspected by the ranger;*
- 8) That the exemption be reviewed by the ranger in twelve months' time to ensure that no adverse problems have been experienced as a result of the exemption;*
- 9) That Council reserves the right to withdraw the exemption at any time if any major or substantial problems are experienced prior to the review period;*
- 10) The exemption applies only to the dogs nominated by the applicant;*
- 11) Each dog must be registered with the Shire of Cunderdin;*
- 12) Upon the death or permanent removal of any of the nominated dogs a maximum of two dogs only will be permitted to be kept on this property;*

Moved: Cr

Seconded: Cr

Vote – Simple majority

Carried/Lost: \_/\_

## 9.7 Shire of Cunderdin Compliance Audit Return 2021

<b>Location:</b>	Shire of Cunderdin
<b>Applicant:</b>	Governance and Compliance Officer
<b>Date:</b>	25 <sup>th</sup> February 2022
<b>Author:</b>	Lauren Cole
<b>Item Approved by:</b>	Stuart Hobley, Chief Executive Officer
<b>Disclosure of Interest:</b>	Nil
<b>File Reference:</b>	Nil
<b>Attachment/s:</b>	Compliance Audit Report

### **Proposal/Summary**

The Council is required to review and give consideration to the Shire of Cunderdin Compliance Audit Return 2021, as presented.

### **Background**

It is a requirement of all Local Governments to complete the annual Compliance Audit Return as part of its regulatory obligations to the Department of Local Government, Sport and Cultural Industries.

The Compliance Audit Return (CAR) is completed for the period 1 January to 31 December, and is required to be submitted to the Audit Committee for review prior to being presented to Council.

### **Comment**

The Compliance Audit Return (CAR) for the Shire of Cunderdin for period 1 January 2021 to 31 December 2021 has been completed and a copy circulated to Councillors the Audit Committee Meeting held on the 10<sup>th</sup> of March 2022. The CAR is to be submitted to the Department of Local Government by 31 March each year.

While completing the Compliance Audit it was noted that the Shire has not complied with the following part of the Compliance Audit:

*Finance, Question 3:*

*Reference – S7.9(1)*

*Was the auditor's report for the financial year ended 30 June 2021 received by the local government by 31 December 2021?*

*Response: No*

*Comments: Audit report was not received until the 17<sup>th</sup> February 2022.*

### **Consultation**

Mr Stuart Hobley, Chief Executive Officer  
Mrs Hayley Byrnes, Deputy Chief Executive Officer  
Miss Emma McMiles, Governance and Compliance Officer

### **Statutory Implications**

*Local Government Act 1995, section 7.13 (1)(i)*

#### **7.13. Regulations as to audits**

*(1) Regulations may make provision —*

- (i) requiring local governments to carry out, in the prescribed manner and in a form approved by the Minister, an audit of compliance with such statutory requirements as are prescribed whether those requirements are —*
  - (i) of a financial nature or not; or*
  - (ii) under this Act or another written law.*

**13. Prescribed statutory requirements for which compliance audit needed (Act s. 7.13(1)(i))**

*For the purposes of section 7.13(1)(i) the statutory requirements set forth in the Table to this regulation are prescribed.*

**14. Compliance audits by local governments**

- (1) *A local government is to carry out a compliance audit for the period 1 January to 31 December in each year.*
- (2) *After carrying out a compliance audit the local government is to prepare a compliance audit return in a form approved by the Minister.*
- (3A) *The local government's audit committee is to review the compliance audit return and is to report to the council the results of that review.*
- (3) *After the audit committee has reported to the council under subregulation (3A), the compliance audit return is to be —*
  - (a) *presented to the council at a meeting of the council; and*
  - (b) *adopted by the council; and*
  - (c) *recorded in the minutes of the meeting at which it is adopted.*

**15. Compliance audit return, certified copy of etc. to be given to Executive Director**

- (1) *After the compliance audit return has been presented to the council in accordance with regulation 14(3) a certified copy of the return together with —*
  - (a) *a copy of the relevant section of the minutes referred to in regulation 14(3)(c); and*
  - (b) *any additional information explaining or qualifying the compliance audit,*  
*is to be submitted to the Executive Director by 31 March next following the period to which the return relates.*
- (2) *In this regulation —*  
***certified*** *in relation to a compliance audit return means signed by —*
  - (a) *the mayor or president; and*
  - (b) *the CEO.*

**Policy Implications**

Nil

**Financial Implications**

Nil

**Strategic Implications**

Shire of Cunderdin Strategic Community Plan 2022 -2032

**5. Civic Leadership**

- 5.3 Implement systems and processes that meet legislative and audit obligations.
- External Audits and Reviews confirm compliance with relevant legislation.

**Recommendation 9.7**

That Council adopts the Audit Committees recommendation of;

- Receives the Shire of Cunderdin Compliance Audit Return for the period 1 January 2021 to 31 December 2021, as prepared; and,
- Recommends to Council that the Shire of Cunderdin Compliance Audit Return 2021, as prepared, be adopted and submitted to the Department of Local Government.

Moved:

Seconded: Cr

Vote - Simple majority

Carried:

## 9.8 Shire of Cunderdin Workforce Plan

<b>Location:</b>	Shire of Cunderdin
<b>Applicant:</b>	Chief Executive Officer
<b>Date:</b>	3 <sup>rd</sup> March 2022
<b>Author:</b>	Lauren Cole/Emma McMiles
<b>Item Approved by:</b>	Chief Executive Officer
<b>Disclosure of Interest:</b>	Nil
<b>File Reference:</b>	Nil
<b>Attachment/s:</b>	1 Attachment.

### **Proposal/Summary**

To receive the updated Shire of Cunderdin Workforce Plan as attached.

### **Background**

The Local Government Act 195 Section 5.56(1) and 5.56(2) requires that each local government is 'to Plan for the Future of the district', by developing plans in accordance with the regulations. The Workforce Plan forms part of the Integrated Planning and Reporting Framework which is an essential planning tool not only for today but beyond tomorrow.

### **Comment**

The Local Government Act 1995 and the Department of Local Government Advisory Standard on Integrated Planning and Reporting (IPR) Framework provides the direction for planning activities, including engagement and review.

Workforce Planning is one of the four key components of the Integrated Planning and Reporting Framework and Guidelines. Workforce planning is a continuous process of shaping the workforce to ensure it is capable of delivering organisational objectives into the future. It provides the framework for assessing the demand and supply of the workforce and aims to have the right people in the right place at the right time to affect the delivery of organisational goals, resourced through effective long term financial and business plans.

At the strategic level, the Integrated Workforce Plan should take into account the community aspirations, priorities and objectives identified in the Strategic Community Plan. The Integrated Workforce Plan is an essential component of the Corporate Business Plan, where it identifies the workforce requirements and strategies for current and future operations over the next four years or more.

### **Consultation**

Stuart Hobley, Chief Executive Officer  
Hayley Byrnes, Deputy Chief Executive Officer  
Emma McMiles, Governance and Compliance Officer

### **Statutory Implications**

*Local Government (Administration) Regulations 1996*  
*Local Government Act 1995 – Section 5.56*

### **Policy Implications**

Nil

### **Financial Implications**

There will be ongoing financial implications to Council in relation to this item as the Workforce Plan integrates with the Corporate Business Plan. To achieve these outcomes necessary resources will be identified in the Shire's Long Term Financial Plan and as determined during annual budget deliberations.

### **Strategic Implications**

#### **Strategic Priority 5: Civic Leadership**

Our Councillors and community leaders have vision, are accessible, act with transparency and integrity, and act in good faith on behalf of their constituents.

##### **Civic Leadership**

CL5.1 Deliver sustainable governance through transparent and robust policy and processes.

CL5.2 Undertake the civic duties of Council with the highest degree of ethics.

CL5.3 Provide community leadership and lobby Federal and State Governments to strengthen services provisions within the Shire.

CL5.4 Ensure sound long term financial management and deliver value for money.

CL5.5 Improve organisational planning, processes and systems.

#### **Recommendation 9.8**

That Council receives and adopt the Shire of Cunderdin Workforce Plan.

Moved : Cr \_\_\_\_\_

Seconded: Cr \_\_\_\_\_

Vote – Simple majority

Carried/Lost: \_\_/\_\_

<b>Location:</b>	Cunderdin
<b>Applicant:</b>	Administration
<b>Date:</b>	18 <sup>th</sup> March 2022
<b>Author:</b>	Emma McMiles
<b>Item Approved by:</b>	Stuart Hobley, Chief Executive Officer
<b>File Reference:</b>	Nil
<b>Attachment/s:</b>	LEMC Meeting Minutes

### **Proposal/Summary**

For Council to receive the minutes for the Local Emergency Management Committee held on the 1<sup>st</sup> March 2022.

### **Background**

The Minutes listed above have been attached for Councillor Review and they have been made available to the public.

### **Comment**

There are no recommendations to Council from the Local Emergency Management Committee Meeting.

### **Consultation**

Mr Simon Bell – CESM

### **Statutory Implications**

Nil.

### **Policy Implications**

Nil.

### **Financial Implications**

Nil.

### **Strategic Implications**

Nil.

### **Recommendation 9.9**

That the Minutes of the Local Emergency Management Committee Meeting held on the 24th March 2022 be received.

Moved: Cr

Seconded: Cr

Vote – Simple majority

Carried/Lost: \_\_\_\_\_

#### **9.10 Move Behind Closed Doors**

##### **Recommendation 9.10**

That Council move behind closed doors in accordance with s.5.23 of the Local Government Act.

Moved: Cr

Seconded: Cr

Vote – Simple Majority

Carried/Lost: 0/0

#### **9.11 Offer to Purchase – 44 Lundy Avenue**

#### **9.12 Move from behind closed doors**

##### **Recommendation 9.12**

That Council move from behind closed doors in accordance with s.5.23 of the Local Government Act.

Moved: Cr

Seconded: Cr

Vote – Simple Majority

Carried/lost: 0/0

### 9.13 Chief Executive Officers Report

<b>Location:</b>	Cunderdin
<b>Applicant:</b>	Chief Executive Officer
<b>Date:</b>	18 <sup>th</sup> March 2022
<b>Author:</b>	Stuart Hobley
<b>Item Approved by:</b>	Stuart Hobley, Chief Executive Officer
<b>File Reference:</b>	Nil
<b>Attachment/s:</b>	2 x attachments

#### **Proposal/Summary**

To provide an update on the matters the Chief Executive Officer has been addressing over the past month.

#### **Background**

##### Old Hospital Site

Western Australian Country Health Service (WACHS) have advised that the Tender for the demolition of old hospital building is currently being advertised closing on the 29th March 2022. It has been advised that contractors will be onsite before the end of the financial year.

There have been reports of vandalism and fire at the old hospital site and WACHS have arranged for the broken windows to be boarded up. They will also investigate doing some minor maintenance on the grounds.

##### Local Roads and Community Infrastructure Program Projects

###### Round 1 Projects

Basketball Courts – Retaining Wall and Fencing \$30,000 – Completed.

AAA Garden - \$160,000 – Completed.

Oval Lights - \$270,000 (\$180,000 LRCIP) – Completed.

###### Cunderdin Irrigation Project (Part 1) \$20,000

This project has commenced and expected to be completed before the end of June 2022. Manager of Works is liaising with contractors.

###### Round 2 Projects

Cunderdin Swimming Pool - \$170,000

Tenders to complete the repair works at the pool were considered at the February 2022 Council.

The tenderers have been advised the outcome.

A meeting with the successful contractor was held on site Thursday 17<sup>th</sup> March works are scheduled to commence at the conclusion of the pool season in April.

###### Cunderdin Irrigation Project (Part 2) \$40,000

This project has commenced and expected to be completed before the end of June 2022. Manager of Works is liaising with contractors.

###### Round 3 Projects

Project nominations have been submitted we are waiting on confirmation before works can commence.

##### Restricted Burning Period

The Shire has entered the Restricted Burning Period and several permits have been issued. Additional requirements have been included on the permits this year. With the heavy fuel load and dry conditions permit holders must issue extreme caution this year when burning and take note of long-range weather

forecasts. Additional information has been sent out via the Whatsapp groups and advertised on Facebook providing clarification.

DFES have already placed two Total Fire Bans over the Wheatbelt area whilst we have been in the Restricted period. The Shire will advertise these as best we can through Public Notices, social media and communication groups, however ultimately it is the responsibility of the permit holder to abide by the conditions of the permit.

#### Ian Roberts Lodge

Due to a hold up with regards to the connection of the utilities to Ian Roberts Lodge the expression of interest has not yet been advertised. It is anticipated the Expression of Interest will be advertised in April with the submissions returning to Council for a decision.

#### Bushfire Risk Mitigation Plan

In 2019 the Shires of Cunderdin, Toodyay, Goomalling and Wongan Hills entered into an agreement with the Department of Fire and Emergency Services (DFES) to receive support to develop Bushfire Risk Mitigation (BRM) plans for the Shires. The objective of the BRM is to identify high risk areas with the Shire and develop plans to mitigate the bushfire risk. The plan will be used to obtain grant funding to complete the mitigation identified in the plan.

Council was advised at the February 2022 Council Meeting that the Shire had been advised that work on their plan was about to commence. The Shire was also advised that the funding for the position and the agreement expires on the 30 June 2022.

It has since been advised that the Bush Fire Risk Mitigation Officer who was scheduled to complete our plan has resigned. Council is working with DFES to ensure that Cunderdin's BRM Plan is completed as soon as possible.

#### Light Industrial Land – Stage 2

Development WA have advised the Shire that the Development WA Board has approved funding to allow Stage 2 of the Cunderdin Light Industrial Area to proceed to a feasibility and detailed civil design, which is required to bring Stage 2 of the Light Industrial Area to a 'shovel ready' state.

The Shire has commenced negotiations with CBH for a small land transfer that will bring about a better design outcome. CBH have advised that the request has been forwarded to the Projects Studies team and Operations GM & Area Manager for the Kwinana South area 10 for their consideration.

To help support the Shires industrial development, CBH in principle would agree for the small triangle sections to be excised out of CBH Lot 400 by the Shire of Cunderdin and included in the Shire land adjoining. This is on the basis that the:

- Shire to incur (& undertake) full costs of subdivision, survey & settlement costs (ie not to cost CBH)
- Shire seek valuation for the land and provide acceptable CBH offer for purchase of land
- CBH would also seek the Shire/DevWA placing a covenant on the industrial lot titles created in close proximity to CBH in this location advising of proximity to CBH's grain receival site and that there may be associated impacts from time to time of noise, dust, light emissions from the operational CBH site. (Within appropriate governing limits of course).

CBH do not wish to find that by giving up an area of land, which reduces the buffer zone between CBH use and other future sensitive land uses receptors (as example panel beaters/spray-paints etc) causes CBH issues in the longer term with potential neighbours developing in the triangular areas bring them

This advice has been forwarded to Councils' planner and Development WA for comment. Subject to no issues being identified that will affect the development the project will be progressed.

### Grants Commission

The WA Local Government Grants Commission have advised Council that they would like to arrange an online meeting with your local government for the purpose of a public hearing in accordance with section 11(2)(c) of the Local Government (Financial Assistance) Act 1995 (Commonwealth Act). The proposed hearing has been scheduled to commence at 9:00am on Wednesday 30 March 2022 and will run for approximately two hours.

The Grants Commission would normally visit individual local governments in person, as part of their regular visiting program schedule, however, due to the impact of COVID-19, it is considered prudent to hold the hearings online.

The Commission has arranged this hearing in accordance with a pre-planned schedule and the availability of the Commissioners. They would appreciate if Councillors and relevant staff could attend the proposed online meeting.

### Regional Airports Development Scheme (RADS)

Council received a grant under the RADS program to upgrade the lighting at the Cunderdin airport. Tenders were called for the project and were considered at the February Council Meeting. Due to recent price increases the cost of the project was greater than the budgeted amount.

During discussions with RADS it was determined that it may be possible to request that the Federal Government increase the amount of their funding to cover any shortfall. Correspondence has been forwarded to RADS requesting they meet the budgeted shortfall.

### Comment

Nil.

### Consultation

Nil.

### Statutory Implications

Nil.

### Policy Implications

Nil.

### Financial Implications

Nil.

### Strategic Implications

Nil.

### **Recommendation 9.13**

That the Chief Executives Officers Report be received.

Moved: Cr

Seconded: Cr

Vote – Simple majority

Carried/Lost: \_\_\_\_\_

## **10. Environmental Health and Building**

Nil Items

## **11. Planning & Development**

### **11.1 Development Application – Proposed New Carport Structure**

<b>Location:</b>	Lot 225 (No.11) Egeberg Street, Cunderdin
<b>Applicant:</b>	John & Robyn Lynn (Landowners)
<b>Date:</b>	14 March 2022
<b>Author:</b>	Mr Joe Douglas – Town Planner
<b>Item Approved by :</b>	Mr Stuart Hobley - CEO
<b>File Reference:</b>	
<b>Attachment/s</b>	Attachment 1 – Development Application Documentation & Plans

#### **Proposal / Summary**

This report recommends that a development application submitted by John and Robyn Lynn (Landowners) to construct a new 56.47m<sup>2</sup> steel framed and clad carport on Lot 225 (No.11) Egeberg Street, Cunderdin be approved subject to conditions.

#### **Background**

The applicants are seeking Council's development approval to construct a new 56.47m<sup>2</sup> steel framed and Colorbond clad carport on Lot 225 (No.11) Egeberg Street, Cunderdin for vehicle parking purposes. The proposed carport will replace an existing carport structure in the same general location on the property, which is proposed to be demolished in its entirety, and has been designed to match the architectural design, dimensions and finish of the existing dwelling to improve the development's visual appearance when viewed from the street.

Lot 225 is located centrally in the Cunderdin townsite in a designated low density residential precinct. The subject land comprises a total area of approximately 1,012m<sup>2</sup> and has direct frontage and access to Egeberg Street along its front boundary to the south and an existing public right-of-way along its rear boundary to the north.

Lot 225 has historically been developed and used for low density residential purposes. The property contains an older style single storey dwelling in good habitable condition in its front half, including a 21m<sup>2</sup> steel framed and clad freestanding carport structure on the dwelling's eastern side that is proposed to be demolished in its entirety to accommodate the new carport structure the subject of this application.

Immediately adjoining and other nearby land uses include:

- Low density residential development (i.e. single houses and domestic outbuildings) immediately north;
- Residential zoned land immediately west comprising undeveloped Vacant Crown Land;
- Crown Reserve No.37631 immediately east which has been set aside for local government employee housing purposes and low density residential development beyond; and
- A community purpose facility immediately south on the opposite side of Egeberg Street and low density residential development immediately adjacent and beyond.



Location & Lot Configuration Plan (Source: Landgate)

Full details of the development proposal, including correspondence and plans, are provided in Attachment 1.

### **Comment**

Lot 225 is classified 'Residential' zone in the Shire of Cunderdin Local Planning Scheme No.4 (LPS4) with a density coding of R15/30.

Under the terms of LPS4 and the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* the development and use of a carport in association with a single house is listed as being a permitted (i.e. 'P') use on any land classified 'Residential' zone provided it satisfies the deemed-to-comply requirements of the Residential Design Codes of Western Australia (i.e. the 'R-Codes').

Council should note demolition of the existing 21m<sup>2</sup> freestanding carport structure on the dwelling's eastern side to accommodate the proposed new carport is exempt from the need for Council's development approval as per clause 61(1) of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and has not therefore been considered as part of this application.

An assessment of the proposal for Lot 225 has confirmed it satisfies all of the deemed-to-comply requirements of the R-Codes except for the minimum required setback to the land's eastern side boundary.

Under the terms of the R-Codes the proposed new carport structure on Lot 225 is required to have a minimum setback of one (1) metre to the land's eastern side boundary due to the carport being greater than 10 metres long and 2.7 metres high.

Under the terms of the plans submitted in support of the application the proposed carport will have a zero lot line (i.e. nil) setback to the land's eastern side boundary (i.e. columns / posts only) with the gutters and roof being one (1) metre from the same boundary which is 550mm greater than that required by the R-Codes.

In considering whether or not to approve the proposed side boundary setback variation to the deemed-to-comply requirements of the R-Codes, Council must decide whether such variation is likely to have a detrimental impact upon the amenity, character, functionality and safety of the immediate locality or any immediately adjoining or other nearby properties.

It is concluded, following a detailed assessment of the application, that the proposed variation to the deemed-to-comply requirements of the R-Codes as they apply to side boundary setbacks for carports and other incidental residential structures such as patios and verandahs is unlikely to have any adverse impacts and may therefore be supported and approved by Council for the following reasons:

- i) The proposed carport will not compromise the ability to provide adequate direct sun and ventilation to the existing dwelling and open spaces on Lot 225 or any adjoining or other nearby properties with existing dwellings or future residential development potential;
- ii) The proposed carport will not result in any overlooking and resultant loss of privacy on any adjoining properties;
- iii) The reduced setback will allow for the effective use of all available space along the eastern side of the existing dwelling for the benefit of the dwelling's occupants;
- iv) The proposed carport has been professionally designed to tie into the existing dwelling on the land in terms of its architectural design, dimensions, external materials and colours and could not reasonably be expected to have any adverse impact on the amenity of any adjoining property or the local streetscape; and
- v) The proposed carport will replace an existing carport structure in the same general location on the land that is in a poor state of repair due to its age and does not therefore make a positive contribution to the local streetscape.

In light of the above findings and conclusions, it is recommended Council exercise its discretion and approve the application subject to a number of conditions to ensure the development proceeds in a proper and orderly manner.

### **Consultation**

Not required or deemed necessary.

### **Statutory Environment**

- *Planning and Development Act 2005 (as amended)*
- *Planning and Development (Local Planning Schemes) Regulations 2015*
- *Shire of Cunderdin Local Planning Scheme No.4*

### **Policy Implications**

- State Planning Policy 7.3 – *Residential Design Codes (Volume 1) 2021*

### **Financial Implications**

Nil immediate financial implications for the Shire aside from the administrative costs associated with processing the application which are provided for in Council's annual budget and have been partially offset by the development application fee paid by the applicants/landowners.

All costs associated with the proposed development will be met by the applicants/landowners.

It is significant to note that should the applicants/landowners be aggrieved by Council's final decision in this matter, they have the right seek a formal review of that decision by the State Administrative Tribunal. Should this occur for whatever reason, which is considered highly unlikely in this particular instance, the Shire would need to respond, the cost of which cannot be determined at this preliminary stage but could be expected, based on the recent experience of other local government authorities in Western Australia, to range anywhere from \$5,000 to \$60,000 excluding GST depending upon how far the matter proceeds through the review process.

### **Strategic Implications**

The development proposal for Lot 225 is generally consistent and does not conflict with the following strategic planning documents:

- i) Shire of Cunderdin Local Planning Strategy as it applies specifically to the provision of housing and associated improvements to suit the needs of all sectors of the community; and
- ii) Shire of Cunderdin Strategic Community Plan 2022-2032 and Corporate Business Plan 2021/22-2024/25 as they apply specifically to social and community, economic, built environment, natural environment and civic leadership objectives and outcomes.

### **Recommendation 11.1**

That Council approve the development application submitted by John and Robyn Lynn (Landowners) to construct a new 56.47m<sup>2</sup> steel framed and Colorbond clad carport on Lot 225 (No.11) Egeberg Street, Cunderdin subject to the following conditions and advice notes:

#### **Conditions**

1. The proposed carport shall be constructed strictly in accordance with the information and plans submitted in support of the application subject to any modifications required as a consequence of any condition/s of this approval or otherwise approved by Council.
2. Any additional development which is not in accordance with the application the subject of this approval or any condition of approval will require the further approval of Council.
3. The proposed development shall be substantially commenced within a period of two (2) years from the date of this approval. If the development is not substantially commenced within this period this approval shall lapse and have no further effect. Where an approval has so lapsed, the proposed development shall not be carried out without the further approval of Council having first being sought and obtained.

4. The proposed carport shall be constructed using new materials only and clad with Colorbond roof sheeting to match the roof of the existing dwelling.
5. All stormwater drainage from the proposed carport shall be retained and managed on-site unless otherwise approved by the Shire's Chief Executive Officer in consultation with the Shire's Manager of Works and Services.

Advice Notes

1. This approval is not an authority to ignore any constraint to development on the land which may exist through contract or on title, such as an easement or restrictive covenant. It is the responsibility of the applicant and landowner and not the Shire to investigate any such constraints before commencing development. This approval will not necessarily have regard to any such constraint to development, regardless of whether or not it has been drawn to the Shire's attention.
2. This is a development approval of the Shire of Cunderdin under its Local Planning Scheme No.4. It is not a building permit or an approval to commence or carry out development under any other law. It is the responsibility of the applicants / landowners to obtain any other necessary approvals, consents, permits and licenses required under any other law, and to commence and carry out development in accordance with all relevant laws.
3. In accordance with the *Building Act 2011* and *Building Regulations 2012*, suitable demolition and building permit applications must be submitted to and approved by the Shire's Building Surveyor prior to the commencement of any demolition, construction or earthworks on the land.
4. The proposed carport is required to comply in all respects with the National Construction Code of Australia. Plans and specifications which reflect these requirements are required to be submitted with the building permit application.
5. No construction works shall commence on the land prior to 7am without the Shire's written approval. No construction works are permitted on Sundays or Public Holidays.
6. Failure to comply with any of the conditions of this development approval constitutes an offence under the provisions of the *Planning and Development Act 2005* and the Shire of Cunderdin Local Planning Scheme No.4 and may result in legal action being initiated by the local government.
7. If the applicants / landowners are aggrieved by this determination there is a right of review by the State Administrative Tribunal in accordance with the *Planning and Development Act 2005* Part 14. An application must be submitted within 28 days of the determination.

Moved: Cr

Seconded: Cr

Vote – Simple majority

Carried/Lost: \_\_/\_\_

## 11.2 Proposed Rural Subdivision

<b>Location:</b>	Lot 2195 (No.40) Coronation Street, Cunderdin
<b>Applicant:</b>	Urbanista Town Planning on behalf of SM & CJ Tindal (Landowners)
<b>Date:</b>	14 March 2022
<b>Author:</b>	Mr Joe Douglas – Town Planner
<b>Item Approved by :</b>	Mr Stuart Hobley - CEO
<b>File Reference:</b>	
<b>Attachment/s</b>	Attachment 1 – Copy of Subdivision Application Documentation

### **Proposal / Summary**

This report recommends that Council advise the Western Australian Planning Commission it does not support the proposed subdivision of Lot 2195 (No.40) Coronation Street, Cunderdin in accordance with the information and plans submitted in support of the application due to its inconsistencies with State policy and the Shire's local planning framework.

### **Background**

The Western Australian Planning Commission (WAPC) has, in accordance with the procedural requirements of section 142(1) of the *Planning and Development Act 2005*, referred a subdivision application for Lot 2195 (No.40) Coronation Street, Cunderdin to the Shire of Cunderdin for review and comment.

Under the terms of the application Lot 2195 is proposed to be subdivided into two (2) new separately titled lots (i.e. Proposed Lots 11 & 12) with shared rights of access via an existing driveway from the land's Coronation Street frontage.

Lot 2195 is located immediately adjacent to the eastern boundary of the Cunderdin townsite and comprises a total area of approximately 56.66 hectares.

The land has direct frontage to Great Eastern Highway along its northern boundary which is a controlled access State road under the care, control and management of Main Roads WA, Coronation Street along its western boundary which is a local road that has been partially constructed to a basic rural standard (i.e. unsealed road carriageway), and Fiegert Road along its southern boundary which is also an unsealed local road under the care, control and management of the Shire.

The subject land is gently sloping throughout, with the natural ground level ranging from approximately 220 metres AHD in its northern extremities, 230 metres AHD in its central parts and 240 metres AHD in its southern extremities.

Lot 2195 has been extensively cleared throughout, with the exception of a number of small stands of remnant native vegetation that have been retained in various parts for aesthetic and land management purposes, and is characterised by a shallow, intermittent creek line in its central and northern parts (i.e. Kitto Creek). Whilst the property is not identified as being subject to major flooding or inundation during extreme storm events, a significant proportion of the land has been designated by the Fire and Emergency Services Commissioner of WA as being bushfire prone which has implications for any future possible habitable-type development both now and if the property is ultimately subdivided as proposed.

Lot 2195 has historically been developed and used for extensive agricultural purposes (i.e. broadacre cropping and grazing) and continues to be used for this purpose. Key improvements associated with the land's current rural use include a single storey dwelling and associated outbuildings, stables, fenced horse paddock and holding pens, and farms sheds, all of which are located centrally adjacent to the land's eastern side boundary. The land also contains unsealed vehicle accessways, cleared paddocks for cropping and grazing, firebreaks and boundary fencing throughout.

It is understood from the information submitted in support of the application that proposed Lots 11 and 12, which will comprise areas of approximately 24.412 and 32.248 hectares respectively if ultimately approved by the WAPC, will continue to be used for extensive agricultural purposes (i.e. broadacre cropping and grazing).

A full copy of the subdivision application, including a justification letter and plans, is provided in Attachment 1.

### **Comment**

Lot 2195 is classified 'Rural' zone in the Shire of Cunderdin Local Planning Scheme No.4 (LPS4).

The objectives for all land classified 'Rural' zone which are prescribed in clause 16(2) of LPS4 are as follows:

- *To provide for the maintenance or enhancement of specific local rural character;*
- *To protect broadacre agricultural activities such as cropping and grazing and intensive uses such as horticulture as primary uses, with other rural pursuits and rural industries as secondary uses in circumstances where they demonstrate compatibility with the primary use;*
- *To maintain and enhance the environmental qualities of the landscape, vegetation, soils and water bodies, to protect sensitive areas, especially the natural valley and watercourse systems from damage;*
- *To provide for the operation and development of existing, future and potential rural land uses by limiting the introduction of sensitive land uses in the Rural zone; and*
- *To provide for a range of non-rural land uses where they have demonstrated benefit and are compatible with surrounding rural uses.*

The applicant has contended the proposed subdivision is consistent with all objectives applicable to the land's current 'Rural' zoning classification in LPS4. Whilst most objectives appear capable of being satisfied, the applicant has failed to recognise that if the subdivision is ultimately approved by the WAPC, there is significant scope for a new single house to be lawfully constructed on proposed Lot 12 without the need for Council's development approval given such use is listed in the Zoning Table of LPS4 as being permitted on any land classified 'Rural' zone and the exemption to the need for development approval afforded by Schedule A of LPS4 (i.e. Supplemental provisions to the Deemed Provisions). As such, the applicant's suggestion the proposed subdivision will not lead to the introduction of a new sensitive land use is not technically correct (i.e. a new single house is classified as a sensitive land use). This also raises questions regarding the applicant's claim the proposed subdivision will not result in any increase to the number of residents on the land and the proposal is therefore exempt from the provisions and requirements of State Planning Policy 3.7 as it applies specifically to Planning in Bushfire Prone Areas. It is expected the WAPC will consider these issues when assessing and finally determining the subdivision application.

Furthermore, clause 3(a) in Schedule 3 of LPS4 entitled 'Additional Site and Development Requirements' as it applies specifically to all land classified 'Rural zone states all subdivision and development shall comply with the requirements of Table 8 of LPS4, the objectives for the zone outlined above, as well as any relevant State Planning Policies.

It is contended the proposed subdivision does not comply with the requirements of Table 8 as it applies to minimum required lot boundary setbacks. Under the terms of Table 8 all buildings and structures within the 'Rural' zone are required to have a minimum setback of 20 metres to all lot boundaries. Under the terms of the subdivision plan submitted, two (2) existing sheds, one on Proposed Lot 11 and the other on Proposed Lot 12, will only have a 15 metre setback to the proposed new common boundary between these two lots.

In relation to the proposal's compliance with State Planning Policy 2.5 – *Rural Planning* and associated Development Control Policy 3.4 – *Subdivision of Rural Land*, which are also relevant considerations under clause 3(a) in Schedule 3 of LPS4 as mentioned previously above, Council should note the following key points:

- i) The creation of new rural lots through ad hoc, unplanned subdivision is inconsistent with the objectives of State Planning Policy 2.5 as well as the provisions contained in Development Control Policy 3.4 and is not therefore generally supported by the WAPC;
- ii) The Shire's newly endorsed Local Planning Strategy expressly states in section 6.5.1 that productive agricultural land shall be protected from ad hoc subdivision, incompatible development and land degradation and Council will support the WAPC's position whereby there is a general presumption against the further subdivision of agricultural land except in limited circumstances, including the creation of homestead lots, consistent with State Planning Policies;
- iii) The Shire's new Local Planning Strategy classifies all land comprising Lot 2195 as being suitable for rural purposes only with no indication or suggestion of any further subdivision or development for rural living or residential purposes, despite its location immediately adjacent to the eastern boundary of the Cunderdin townsite; and
- iv) The applicant has not justified the proposed subdivision with due regard for the exceptional circumstances prescribed in section 6 of Development Control Policy 3.4 and has submitted justifications that are not relevant or applicable in the context of this policy's specific requirements.

In light of the above findings, it is concluded the proposed subdivision is not consistent with the Shire's local planning framework or the relevant State Planning and Development Control Policies and should not therefore be supported by Council. As such, it is recommended Council advise the WAPC it does not support the proposed subdivision for the various reasons described above.

Council should note the WAPC is not bound by any advice provided by the Shire and will draw its own conclusions regarding the suitability of the proposed subdivision before making any final determination. It is open to the applicant to amend or withdraw the subdivision application following further discussion and negotiation with the Department for Planning, Lands and Heritage prior to any final determination by the WAPC.

It is also suggested there may be scope for the applicant to secure the WAPC's approval if the subdivision application is amended to create a suitable size homestead lot containing the existing dwelling and all associated improvements (i.e. 1 to 4 hectares or up to 20 hectares where suitable justification can be provided), plus one (1) balance-of-title rural lot for broadacre agricultural purposes in accordance with the criteria contained in section 6.6 of Development Control Policy 3.4.

### **Consultation**

The Shire is not obliged to consult with the local community or any government agency or essential service provider when determining the suitability of the proposed subdivision. All consultation regarding the proposal is being undertaken by the WAPC in its capacity as the determining authority for subdivision applications of this type.

Council should note the reporting officer did have preliminary discussions with the applicant and Mr Sandy Tindal in December 2021 regarding the proposal prior to the subdivision application being lodged with the WAPC and alerted them to the concerns and possible alternative subdivision option outlined above.

### **Statutory Environment**

- *Planning and Development Act 2005 (as amended)*
- *Planning and Development (Local Planning Schemes) Regulations 2015*
- *Shire of Cunderdin Local Planning Scheme No.4*

### **Policy Implications**

- State Planning Policy 2.5 – *Rural Planning*
- State Planning Policy 3.7 – *Planning in Bushfire Prone Areas*
- Development Control Policy 3.4 – *Subdivision of Rural Land*

### **Financial Implications**

Nil immediate financial implications for the Shire aside from the administrative costs associated with processing the application which are provided for in Council's annual budget.

All costs associated with the proposed subdivision will be met by the landowners.

### **Strategic Implications**

Whilst the subdivision proposal for Lot 2195 is not inconsistent with the Shire of Cunderdin Strategic Community Plan 2022-2032 and Corporate Business Plan 2021/22-2024/25 which make no direct reference to the subdivision of agricultural land, it is inconsistent with the Shire of Cunderdin, Quairading & Tammin Joint Local Planning Strategy for the reasons explained previously above.

#### **Recommendation 11.2**

That Council advise the Western Australian Planning Commission it does not support the proposed subdivision of Lot 2195 (No.40) Coronation Street, Cunderdin in accordance with the information and plans submitted in support of the application due to its inconsistencies with the specific requirements of State Planning Policy 2.5 – *Rural Planning*, Development Control Policy 3.4 – *Subdivision of Rural Land*, the Shire of Cunderdin, Quairading & Tammin Joint Local Planning Strategy, and the Shire of Cunderdin Local Planning Scheme No.4 as they apply specifically to all 'Rural' zoned land in the Shire.

Moved: Cr

Seconded: Cr

Vote – Simple majority

Carried/Lost: \_\_/\_\_

**12. Works & Services**

Nil Items

**13. Urgent Items**

Nil Items

**14. Scheduling of Meeting****14.1 April 2022 Ordinary Meeting**

The next ordinary meeting of council is scheduled to take place on Thursday 21<sup>st</sup> April 2022 commencing at 5pm at the Cunderdin Shire Council Chambers, Cunderdin, WA 6407

**15. Closure of meeting**

There being no further business the Shire President will declare the meeting closed at \_\_: \_\_pm.

**16. Certification****DECLARATION**

I, Alison Harris, certify that the minutes of the Ordinary Council Meeting held on 24<sup>th</sup> March 2022 as shown were confirmed at the ordinary meeting of Council held on 21<sup>st</sup> April 2022.

Signed: \_\_\_\_\_

Date: \_\_\_\_\_