



Shire of Cunderdin

The Ordinary Meeting of the Cunderdin Shire Council was held on **Thursday 20 December 2018** in the Cunderdin Shire Chambers, Cunderdin, WA, 6407 **commencing at 5.00pm.**

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AGENDA

1. Declaration of Opening

The President declared the meeting open at 5.00pm

The Shire of Cunderdin disclaimer was read aloud by Cr Bernie Daly.

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 DA (Dennis) Whisson	Shire President
Cr DB (Doug) Kelly	Deputy President
Cr AE (Alison) Harris	
Cr TE (Todd) Harris	
Cr B (Bernie) Daly	
Cr NW (Norm) Jenzen	
Cr D (Di) Kelly	

In Attendance

Neville Hale	Chief Executive Officer
Stuart Hobley	Manager of Corporate Services and Finance
Kayla James	Governance and Compliance Officer
Fabian Houbrechts	Acting Manager of Works and Services

Guests of Council

Members of the Public

2.2 Apologies

2.3 Leave of Absence Previously Granted

Cr J (Jayson) Goldson

3. Public Question Time

No members of the public were present.

4. Petitions, Deputations & Presentations

Nil

5. Applications for Leave of Absence

Nil

6. Confirmation of the Minutes of Previous Meetings

6.1 Ordinary Meeting of Council held on 23 October 2018

Resolution 6.1 December 2018

That the Minutes of the Ordinary Council Meeting held on Thursday 15 November 2018 be confirmed as a true and correct record.

Moved: Cr Norm Jenzen

Seconded: Cr Alison Harris

Vote – Simple Majority

Carried: 7/0

Note to this item:

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

7. Declaration of Members and Officers Financial Interests

The following Councillors declared a financial interest in agenda item 9.10 Elected Members – Recognition of Service, as they have a direct financial gain from the policy provisions.

Cr Bernie Daly

Cr Todd Harris

Cr Doug Kelly

Cr Alison Harris

Cr Norm Jenzen

Cr Dianne Kelly

Cr Dennis Whisson

Cr Jayson Goldson

8. Announcements by President without Discussion

The President thanked all those who attended the Christmas Party held at Meckering on Wednesday 19th December 2018 to celebrate the 2018 year.

8.1 Bring Items 12.1 – 12.2 Forward

Resolution 8.1 December 2018

That items 12.1 – Proposed RAV Upgrade and 12.2 Memorial Rose Garden, Lundy Ave, be brought forward as the first items of business.

Moved: Cr Todd Harris

Seconded: Cr Alison Harris

Vote – Simple Majority Carried: 7/0

12. Works & Services

Cr Norm Jenzen declared a financial interest due to being one of the applicants for RAV rating. Cr Jenzen did not vote but remained in the room.

12.1 Proposed RAV Upgrade

Location:	Shire of Cunderdin
Applicant:	A/Manager of Works and Services
Date:	10 th December 2018
Author:	Fabian Houbrechts
Item Approved by:	Chief Executive Officer
Disclosure of Interest:	Nil
File Reference:	Nil
Attachment/s:	Nil

Proposal/Summary

Council is requested to consider the proposed RAV upgrade of the Shire of Cunderdin’s road network as detailed below.

Background

Heavy Vehicle Services (HVS) has received applications to add the following section of road onto the Restricted Access Vehicle (RAV) Network:

Road No.	Road Name	From Location (SLK)	To Location (SLK)	Current Network	Requested Network
4060075	Ygnattering Rd	Cunderdin - Wyalkatchem Rd (0.00)	Flowery Patch Rd (2.49)	Nil	4
4060020	Flowery Patch Rd	Scaddan Rd (0.00)	Wilson Rd (3.8)	Nil	4
COMMENT from MRWA: Section of road previously assessed in 2017 and access was declined. Please advise if the road width has been increased, roadworks completed to remove scouring to the road and vegetation clearing works completed at the intersection with Scaddan Rd to improve entering sight distance since the 2017 assessment.					
4060148	Carter Dr	Eaton St (0.24)	Olympic Av & Eaton St (0.77)	4	N4.3
4060167	Dunlop St	Great Eastern Hwy (0.00)	Loton Rd & Richardson St (0.17)	4	N4.3

AMMS

Accredited Mass Management Scheme (AMMS) is a concessional loading scheme, similar to the schemes it replaced, i.e. the Certified Weighbridge Mass Management Scheme (CWMMS) and the Concessional Loading Bulk Products Scheme (CLBPS). Other existing concessional loading schemes include the Concessional Livestock Scheme and the Import / Export Containerised Cargo Concessional Scheme.

AMMS Mass Levels

There are three (3) approved mass levels under AMMS, as shown in the table.

	Single Steer Axle	Tandem Axle Group	Tri Axle Group
Level1	6.0 -7.0 t	17.0t	21.5t
Level 2	6.0 -7.0 t	17.0t	22.5t
Level 3	6.0 -7.0 t	17.5t	23.5t

Any of the three levels are available to transport operators provided appropriate loading control methods are in place to ensure compliance with the allowable mass limits. The decision which level to apply for is determined by the mass requirements of the operator.

Heavy Vehicle Services is committed to providing efficient service to its customers by finalising route assessment applications within reasonable timeframes and ensures both applicants and road owners are kept informed of progress or delays at regular intervals.

*More information is supplied on the attachment and additional information on the Main Roads website

Comment

Main Roads HVS have asked if the Shire will support amending the classification of these roads under the Restricted Access Vehicle (RAV) Network.

For the process to move ahead the Shire will need:

- Support to have the roads assessed with the view to upgrading the RAV classification of these roads; Or
 - Decline the request.
1. If the Shire is in favour of supporting the request, HVS will assess the mentioned roads and a condition report will be sent to the Shire on its findings.
 2. If the roads are suitable and are to the RAV requirements they then will be added to the network as per the requested RAV rating.
 3. Any roads that require maintenance or works will not be added to the network until the condition of the road is to the requirements of the assessment (noting that either the applicant or the Shire will need to get the road to the required standard) for it to be upgraded to the RAV rating.

Any upgrade will require increased on-going maintenance.

Consultation

Main Roads Heavy Vehicle Service (HVS)
Kayla James – Governance and Compliance Officer

Statutory Implications

Nil

Policy Implications

Nil

Financial Implications

Cost of road widening (to the applicant) and ongoing maintenance as per revised road specification.

Strategic Implications

Environmental – roadside vegetation

Infrastructure – appropriate for local business operations

Resolution 12.1 December 2018

That Council:

Agree to the amendment of the RAV rating of current approved roads in the Restricted Access Vehicle (RAV) Network

Road No.	Road Name	From Location (SLK)	To Location (SLK)	Current Network	Requested Network
4060075	Ygnattering Rd	Cunderdin - Wyalkatchem Rd (0.00)	Flowery Patch Rd (2.49)	Nil	4
4060020	Flowery Patch Rd	Scaddan Rd (0.00)	Wilson Rd (3.8)	Nil	4
4060148	Carter Dr	Eaton St (0.24)	Olympic Av & Eaton St (0.77)	4	N4.3
4060167	Dunlop St	Great Eastern Hwy (0.00)	Loton Rd & Richardson St (0.17)	4	N4.3

subject to:

1. Advise Main Roads – Heavy Vehicle services that Council supports having it assess the above mentioned roads.
2. Any roads that require maintenance or works, not be added to the network until the condition of the road is to the requirements of the assessment.
3. Require the applicant to fund the necessary works if they wish the upgrade to proceed and be added to the network for the applied RAV rating.

Moved: Cr Todd Harris

Seconded: Cr Bernie Daly

Vote – Absolute majority

Carried: 6/0

12.2 Memorial Rose Garden Lundy Avenue

Location:	Lundy Avenue, Cunderdin
Applicant:	Acting Works Manager
Date:	10 th December 2018
Author:	Fabian Houbrechts / Anja Walker
Item Approved by:	N Hale, CEO
Disclosure of Interest:	Nil
File Reference:	Nil
Attachment/s:	Nil

Summary

For Council to consider what action if any should be undertaken to address the issues regarding the Memorial Rose Garden on Lundy Avenue, Cunderdin.

Background

Councillors have commented about the health of some rose bushes in the Memorial Rose Garden on Lundy Avenue. The Works department has undertaken investigation to discover the contributing factors to the poor health of the roses and other plants.

The Memorial Rose Garden was created many years ago to pay respect to, and remember those whom have been part of the Cunderdin Community. Given the significance of the Memorial Gardens to the Cunderdin Community, and previous comments by Councillors, Council input on what action should be taken is requested.

When established, two rows of bottle brush were planted on each side of the raised bricked garden. These bottlebrushes have been trimmed and looked after over the years and are now well established. As a consequence of the size of their canopies and root systems, they require a lot of water and nutrients and compete with the roses and other plants surrounding them.

Moreover, the root systems are now so developed that they suffocate the root system of the rose bushes and other plants in the garden bed, causing them to become unhealthy and perish. The hard landscaping is also affected by the root system, as roots are getting under the kerbing and brick wall to get to the water and nutrients of the garden beds. See the pictures attached.







As visible on the 2 pictures above, the rose bushes are struggling to get enough nutrient and water.

Comment

After consultation with our gardeners, possible solutions are:

1. Serious pruning of the trees and also pruning of the roots system, including the installation of root barrier to stop the further invasion by the bottle brush root system. This will include excavation of the area and reinstatement of the hard landscaping. This process is time consuming and expensive. A solid week of work for a crew of 3 men, a small hired excavator and the fibrocement sheet to install as root barrier to a depth of approximately 1m. The cost of such work should be in the vicinity of \$12,000. This would include the tree pruning and reinstatement of excavated areas. This process could also be detrimental to the trees as major roots could be cut and send the tree to its demise.
2. Removal of the bottlebrush trees, grinding of the stumps to avoid re-shoots. That can be done by our crew in a day for an approximate cost of \$2,500. However, this would have a visual impact on the area and remove shade. A compromise of removing every second bottle brush or other such reduction, made be appropriate.
3. It was also suggested by Councillor A. Harris some months ago that maybe the Memorial Rose Garden could be moved to another more suitable location. However, it is noted that the Memorial Gardens are an extension of Memorial Drive.

Consultation

Shire of Cunderdin Gardening Crew
Shire of Cunderdin Acting Works Manager

Statutory Implications

Nil

Policy Implications

Nil

Financial Implications

To be identified a later stage upon decision made by Council

Strategic Implications

Nil

Recommendation 12.2

That Council:

1. Provides feedback on the possible outcome for the future of the Memorial Rose Garden and associated Bottlebrush trees; and,
2. Suggest an alternative to the solutions proposed and request the Works Manager to investigate and prepare a cost schedule for any such alternative.

Resolution 12.2 December 2018

That Council:

1. Authorises staff to remove the Bottlebrush trees within the Memorial Garden on Lundy Avenue and replace and repair the current garden bed structures.

Moved: Cr Bernie Daly

Seconded: Cr Norm Jenzen

Vote – Simple majority

Carried: 7/0

Fabian Houbrechts left the room at 5.29pm and did not return.

9. Finance & Administration

9.1 Financial Reports for November 2018

Location:	Cunderdin
Applicant:	Manager of Corporate Services and Finance
Date:	14 December 2018
Author:	Stuart Hobley
Item Approved by:	Chief Executive Officer
File Reference:	Nil
Attachment/s:	1 attachment – Monthly Report

Proposal/Summary

The financial reports as at November 2018 are presented for 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

<u>Resolution 9.1 December 2018</u>	
That Council receives the monthly financial reports for the period ending 30 November 2018	
Moved: Cr Doug Kelly	Seconded: Cr Norm Jenzen
Vote – Simple Majority	Carried: 7/0

9.2 Accounts Paid – November 2018

Location:	Cunderdin
Applicant:	Manager of Corporate Service and Finance
Author:	Stuart Hobley
Report Date:	14 December 2018
Item Approved By:	Chief Executive Officer
Disclosure of Interest:	Nil
File Reference:	Nil
Attachment/s:	1 attachment – Creditors list of payments

Proposal/Summary

Council is requested to confirm the payment of Accounts totalling:

Total for Municipal -	\$390,226.42
Total for Trust -	\$1,048.98
TOTAL -	\$391,275.40

for November 2018 as listed in the Warrant of Payments for the period 1st to 30th November 2018.

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

Resolution 9.2 December 2018

1. That Council's payment of accounts amounting to \$390,226.42 from Municipal Account and \$1,048.98 from Trust Account for November 2018, from :

Municipal Account	\$	Total
Electronic Funds Transfer: EFT 2545 - 2681	\$357,454.31	
Direct Debit: DD1273.1 – 1311.12	\$14,870.54	
Cheques: 11440 - 11454	\$17,450.72	390,226.42
Trust Account		\$1,048.98
TOTAL		\$391,275.40

be confirmed and noted; and,

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

Moved: Cr Alison Harris

Seconded: Cr Doug Kelly

Vote – Simple Majority

Carried: 7/0

9.3 Council Investments – As at 30th November 2018

Location:	Cunderdin
Applicant:	Manager of Corporate Services
Author:	Stuart Hobley
Report Date:	14 December 2018
Item Approved By:	Chief Executive Officer
Disclosure of Interest:	Nil
File Reference:	Nil
Attachment/s:	Nil

Proposal/Summary

To inform Council of its investments as at 30th November 2018.

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 totaling \$864,769.18 (Westpac - \$ 632,039.18 & Bendigo - \$ 232,730.00) as per attached statements, the following investment accounts are held as at 30th November 2018.

COUNCIL INVESTMENTS					
Institution	Amount Invested	Investment type	Municipal Funds	Reserve Funds	Trust Funds
Bendigo Bank	\$993,725.07	Reserves Term Deposit 2.75% Expires : 14/03/2019		\$993,725.07	
Westpac Bank	\$1,116,152.62	Business Cash Reserve 22-3647 0.50%	\$1,116,152.62		
Westpac Bank	\$141,966.90	Trust Working Account 12-2981			\$141,966.90
TOTAL INVESTMENTS	\$2,251,844.59		\$1,116,152.62	\$993,725.07	\$141,966.90

In addition to the above Shire funds, the Shire administers the Cunderdin Community Centre Trust Account being Westpac Account 000 073 - \$ 52,732.48 and Bendigo Term Deposit Ref: 2640625 - \$ 432,705.08

Consultation

Nil

Statutory Implications

Financial Management Regulation 19.

Policy Implications

Nil

Financial Implications

There are no financial implications in considering this item.

Strategic Implications

There are no strategic implications in considering this item.

Resolution 9.3 December 2018

That the reports on Council investments as at 30th November 2018 be received and noted.

Moved: Cr Bernie Daly

Seconded: Cr Todd Harris

Vote – Simple Majority

Carried: 7/0

9.4 Adoption of the Lease Agreement between the Shire of Cunderdin and the Cunderdin Sport and Recreation Centre

Location:	Cunderdin Sport and Recreation Centre
Applicant:	Cunderdin Sport and Recreation Committee
Date:	29 November 2018
Author:	Kayla James
Item Approved by:	Chief Executive Officer
Disclosure of Interest:	
File Reference:	
Attachment/s:	3 attachments

Proposal/Summary

For Council to consider the adoption of the revised Cunderdin Sport and Recreation Inc. Management (Lease) Agreement.

Background

The original Management (Lease) Agreement between the Shire of Cunderdin and the Cunderdin Sport and Recreation Centre Inc. commenced July 2014. The lease was meant to be reviewed annually, however this is the first time the lease has been assessed since the original agreement

Acting Chief Executive Officer Gary Martin, Governance and Compliance Officer Kayla James and Acting Shire President Doug Kelly, met with the Cunderdin Sport and Recreation Centre Committee on 11 September 2018 to discuss the lease agreement.

The committee presented the attached lease agreement for the Shire's consideration. During this meeting the committee also expressed their feeling of being unsupported by the Shire.

Research was undertaken in relation to the current levels of expenditure by the Shire of Cunderdin in support of the Cunderdin Sport and Recreation Centre which for 2017/18 was \$173,243.

The proposed Lease Agreement will add additional expenditure to the Shire's Budget requirements and with the removal of the annual lease payment, would have a minimum impact of approximately \$9,921 plus costs associated with requested additional changes to responsibility for various repair, maintenance and replacement cost of equipment.

Comment

The current lease apportions the costs of fixtures, fittings and equipment along the lines that the Shire is responsible for the buildings and its permanent fixtures and fittings whilst the CSRC is responsible for various items of equipment such as refrigerators, replacement of light globes etc.

It is noted that cl 10.8 of the current Lease Agreement which was to list equipment and its ownership/responsible entity has not been initiated and no specific equipment has been identified. The lack of clarity has created some uncertainty as to responsibility therefore It is proposed to now update this clause.

The list of items reflecting the proposed changes to the lease agreement include (with recommended responsibility shown in brackets)

- Annual Licence for the grease trap (CSRC)
- Repair and replace damaged plumbing fixtures (Shire)

- Repair refrigeration units (CSRC)
- Repair gas fixtures and fittings (Shire)
- Replace worn window treatments, fitted floor coverings (CSRC)
- Repair/replace doors and window locks (Shire)
- Maintain the internal painting of the premises (CSRC)
- Repair and replace defective light globes and fittings (e.g. covers) including flood lights, power points and switches (CSRC)
- Repair defective electrical appliances (CSRC) and fixtures (Shire)
- The Shire to clean and repair and take responsibility of the Cunderdin Change Room Building (Shire)
- Covers 50% of any excess costs incurred to repair or replace mechanical or electrical equipment following accidental damage or breakdown where items can be claimed on insurance. (CSRC note that the Shire holds contents insurance)
- The Shire to pay 100% of the costs incurred to repair or replace mechanical or electrical equipment following accidental damage or breakdown where items cannot be claimed by insurance. (CSRC)
- The Shire is to pay 25% of electricity towards the change rooms usage and all water costs (Shire)
- Any repair costs over \$200.00 (CSRC)
- The Shire is to receive a peppercorn lease only of \$1 per annum

Effectively, the above proposed changes would see the Shire removing cl 6.5 of the existing Lease Agreement and transferring those responsibilities to the Shire as per cl 5.4 of the proposed Agreement.

It is further proposed that the Shire pay for all insurances and repairs of equipment to be listed in schedule 10.8, inclusive of the Sport and Recreation Centre and;

- 25% of the CSRC power
- Repair of refrigeration units (as listed in schedule 10.8)
- Pays for the cleaning of the change room building
- Confirm that the Shire continues to meet the cost of water

Details of immediate additional costs of the proposed lease are:

Changerooms Cleaning	- \$2,880
Power CSRC (25% of actual, estimate)	<u>- \$2,404</u>
	\$5,284

Add Lease income foregone	<u>- \$4,637</u>
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Total Additional cost	\$9,921
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With the addition of the above costs, the Shire's commitment to the CSRC will be in the order of \$183,164, inclusive of general maintenance of \$67,353 (average over 3 years) and Loan servicing costs of \$105,889. This is in addition to any costs incurred for the requested repair or replacement of mechanical or electrical equipment following accidental damage or breakdown where items cannot be claimed by CSRC insurance.

Moreover, should the Shire accept a peppercorn rental of \$1 it would set a precedent whereby other sporting groups may seek similar release from the annual user fee.

The CSRC is seeking the additional assistance to off-set average annual operating losses of \$4,813 over its first three financial years of operation. The removal of the lease payment obligation and additional assistance would enable the CSRC to generate an annual profit (\$5,571 based on average losses).

However, it is noted that recently, the CSRC has become more profitable making \$23,175 in 2017/18.

Considering that the Cunderdin Sport and Recreation Centre (CSRC) have begun to make a profit, and the Shires financial status, for the Shire to accept more cost responsibility is considered unnecessary.

Consultation

Cunderdin Sport and Recreation Committee

Statutory Implications

Nil

Policy Implications

Nil

Financial Implications

Depending on Council decision the Shire of Cunderdin may incur costs in excess of \$10,384.08 per annum.

Strategic Implications

Good Governance for the community.

Cr Bernie Daly left the room at 5.48pm

Cr Bernie Daly returned to the room at 5.51pm

Resolution 9.4 December 2018

That Council adopt the revised Lease Agreement between the Shire and the Cunderdin Sports & Recreation Centre (CSRC) as attached with the following amendments:

The Organisation (CSRC) to:

- Retain responsibility for cl 6.5 with the exclusion of the repair of gas fittings & fixtures and repair and replacement of door and window locks;
- The Cunderdin Sport and Recreation Centre pay for the lease of the facility, subject to the review of the annual lease and Shire costs during the 2019/20 budget deliberations; and,
- Add Schedule 10.9 – Map of areas of responsibility and make reference where applicable.

The Shire agree to accept responsibility for:

- To clean and repair the Cunderdin Change Room Building;
- Contribute 25% of the CSRC power cost to reflect the usage of the change rooms; and,
- Confirm that the Shire will continue to meet the cost of water.

Moved: Cr Todd Harris

Seconded: Cr Bernie Daly

Vote – Simply Majority

Carried:7/0

9.5 Appointments – Bush Fire Act 1954

Location:	Shire of Cunderdin
Applicant:	Shire of Cunderdin
Date:	14 th October 2018
Author:	Simon Bell
Item Approved by:	Chief Executive Officer
Disclosure of Interest:	Nil
File Reference:	
Attachment/s:	Nil

Proposal/Summary

This report is provided to Council to consider and endorse appointments in accordance with the Bush Fire Act 1954.

Background

In accordance with legislative requirements the Council is required to formally appoint its Bush Fire Control Officers. This is done to ensure compliance and lawfully legitimise their authorisation under the Bush Fires Act 1954, in fulfilling their duty. The Annual General meeting of the Cunderdin Bushfire Brigade was held in October 2018 and included the appointments of officers. Council is required to endorse the appointments in order to meet requirements as an appointed Bush Fire Control Officer under the Bush Fire Act 1954.

Comment

Appointments remain unchanged.

Consultation

Cunderdin Bushfire Brigade Committee
Chief Executive Officer – Neville Hale
Community Emergency Services Manager – Simon Bell
Manager of Works & Services – Fabian Houbrechts

Statutory Implications

Bush Fire Act 1954

Policy Implications

Shire of Cunderdin Policy Manual – Section 5, Fire Control

Financial Implications

There are no financial implications in relation to this item.

Strategic Implications

Outcome 1.2 A growing, healthy and safe community

- 1.2.1 Maintain and enhance sport and recreation facilities
- 1.2.2 Improve recreation for all ages
- 1.2.3 Support provision of emergency services and encourage community volunteers

Resolution 9.5 December 2018

That Council makes the following appointments under section 38 of the Bush Fire Act 1954:

1. That Ashley Burges be appointed as the Shire of Cunderdin Chief Bush Fire Control Officer.
2. That Ashley Teakle be appointed as the Shire of Cunderdin Deputy Chief Bush Fire Control Officer.

Moved: Cr Doug Kelly

Seconded: Cr Todd Harris

Vote: Simple Majority

Carried: 7/0

9.6 Appointment of Dual Fire Control Officers

Location:	Shire of Cunderdin
Applicant:	Simon Bell
Date:	14 th October 2018
Author:	Simon Bell
Item Approved by:	Chief Executive Officer
Disclosure of Interest:	Nil
File Reference:	
Attachment/s:	

Proposal/Summary

Council is to consider the appointment of Dual Bush Fire Control Officers with the Shire of Tammin for the 2018/2019 Bush Fire Season.

Background

The Shire of Cunderdin considers annually the appointment of locally based Bush Fire Control Officers recommended by the Bush Fire Advisory Committee.

For the efficiency of bush fire responses in areas near to the boundary of local governments, Shires have the capacity to formally appoint dual fire control officers with their neighbouring Shires to act in an emergency if local fire control officers are unavailable or delayed in attending an emergency.

Comments

The Shire of Tammin is seeking Council endorsement of the following Fire Control Officers to act in a Dual FCO capacity with the Shire of Cunderdin, in accordance with S40 of the Bush Fires Act 1954.

- Mr Haydn Dixon – Chief Bush Fire Control Officer
- Mr Shayne Mackin – Deputy Chief Bush Fire Control Officer
- Mr Tim York – Deputy Chief Bush Fire Control Officer

Consultation

Correspondence from the Shire of Tammin

Statutory Implications

Bush Fires Act 1954

38. Local government may appoint bush fire control officer

- (1) A local government may from time to time appoint such persons as it thinks necessary to be its bush fire control officers under and for the purposes of this Act, and of those officers shall subject to section 38A(2) appoint 2 as the Chief Bush Fire Control Officer and the Deputy Chief Bush Fire Control Officer who shall be first and second in seniority of those officers, and subject thereto may determine the respective seniority of the other bush fire control officers appointed by it.
- (2A) The local government shall cause notice of an appointment made under the provisions of subsection (1) to be published at least once in a newspaper circulating in its district.
- (2C) The local government shall fill any vacancy occurring in the office of Chief Bush Fire Control Officer or Deputy Chief Bush Fire Control Officer within one month after the vacancy occurs and if the local government fails or neglects to do so within that time, the FES Commissioner may by

notice in writing require the local government to appoint a person to the vacant office within one month after service on it of such notice.

- (2D) Where a local government that has been served with a notice pursuant to subsection (2C) fails or neglects to comply with the requirements of that notice, the FES Commissioner may appoint a person who is not employed in the Department to the vacant office.
- (2E) A bush fire control officer appointed by a local government under the provisions of this section shall be issued with a certificate of appointment by the local government or, if he is appointed by the FES Commissioner, by the FES Commissioner.
- (3) The local government may, in respect to bush fire control officers appointed under the provisions of this section, exercise so far as they can be made applicable the same powers as it may exercise in respect to its other officers, under the provisions of the Acts under which those other officers are appointed.
- (4) A bush fire control officer appointed under the provisions of this section shall, subject to such directions as may be given by the local government, and subject to this Act take such measures as appear to him to be necessary or expedient and practicable for —
- (a) carrying out normal brigade activities;
 - [(b), (c) deleted]*
 - (d) exercising an authority or carrying out a duty conferred or imposed upon him by any of the provisions of Part III;
 - (e) procuring the due observance by all persons of the provisions of Part III.
- (5A) A local government may issue directions to a bush fire control officer appointed by the local government, or to an officer of a bush fire brigade registered by the local government to burn, subject to the provisions of this Act, bush on, or at the margins of, streets, roads, and ways, under the care, control and management of the local government.
- (5B) The bush fire control officer, or officer of the bush fire brigade, may by authority of any directions issued under subsection (5A) carry out the directions but subject to the provisions of this Act.
- (5C) The provisions of subsections (5A) and (5B) are not in derogation of those of subsection (4).

Policy Implications

Shire of Cunderdin Policy Manual – Section 5, Fire Control

Financial Implications

Nil

Strategic Implications

Outcome 1.2 A growing, healthy and safe community

- 1.2.1 Maintain and enhance sport and recreation facilities
- 1.2.2 Improve recreation for all ages
- 1.2.3 Support provision of emergency services and encourage community volunteers

Resolution 9.6 December 2018

That Council endorse the appointment of the following Fire Control Officers as Dual Fire Control Officers for the Shires of Tammin and Cunderdin for the 2018/2019 Bush Fire Season.

- Mr Haydn Dixon – Chief Bush Fire Control Officer
- Mr Shayne Mackin – Deputy Chief Bush Fire Control Officer
- Mr Tim York – Deputy Chief Bush Fire Control Officer

Moved: Cr Doug Kelly

Seconded: Cr Todd Harris

Vote: Absolute majority

Carried: 7/0

9.7 Adoption of the Strategic Community Plan and Corporate Business Plan

Location:	Cunderdin
Applicant:	Administration
Author:	Kayla James - Governance & Compliance Officer
Report Date:	9 November 2018
Item Approved By:	Chief Executive Officer
Disclosure of Interest:	Nil
File Reference:	Nil
Attachment/s:	2 attachments (SCP CBP)

Proposal/Summary

Council to adopt its Corporate Business Plan 2018 - 2022 and Community Strategic Plan 2017 – 2026 prepared in accordance with the Integrated Planning and Reporting Framework.

Background:

A revised Strategic Community Plan (SCP) for the period 2017-2026 was adopted by Council in June 2017 following extensive Community Engagement as a part of its Major Review.

Aligned with the strategies and priorities in the SCP, a Corporate Business Plan (CBP) was developed for the period 2018 - 2022. This medium term plan outlines the services, major projects and priority activities needed to be delivered to support the SCP direction.

During the review workshop of the CBP conducted Tuesday 23 October by staff and elected members, Consultants Megan Shirt and Celeste Smith reformatted the Strategic Directions, deleted any duplications or completed/voided directions. This included combining the Housing and Facilities Strategy into Infrastructure and Transport.

Comments:

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.

The Corporate Business Plan is the Council's 4-year planning document. It gives effect to the first four years of the Strategic Community Plan and is pivotal in ensuring that the medium term commitments are both strategically aligned and affordable. This is achieved through rigorous scrutiny and prioritisation in the Strategic Review process

As a part of the Major Review of the Corporate Business Plan and desktop review of the Strategic Community Plan legislative requirements, the CBP and SCP was advertised for comment for 3 weeks following its draft adoption at the Ordinary Meeting of Council on 15 November 2018. Having received no feedback from the community it is recommended that Council proceed with the adoption of these two documents.

Policy Implications

Nil

Financial Implications

Nil

Legal Compliance

The four-yearly Major Strategic Review is a regulatory requirement under Section 5.56(4) (5) of the *Local Government Act 1995* which outlines the minimum requirements of this review:

a) (4) A local government is to review the current strategic community plan for its district at least once every 4 years.

Strategic Implications

This will result in the adoption of a more uniform directive Strategic Community Plan.

Resolution 9.7 December 2018

That Council:

1. Adopt the Corporate Business Plan 2018-2022; and,
2. Adopt the Strategic Community Plan 2017-2026.

Moved: Cr Dianne Kelly

Seconded: Cr Bernie Daly

Vote – Absolute Majority

Carried: 7/0

9.8 Adoption of the Workforce Plan

Location:	Shire of Cunderdin
Applicant:	Chief Executive Officer
Date:	9 November 2018
Author:	Kayla James
Item Approved by:	Chief Executive Officer
Disclosure of Interest:	Nil
File Reference:	Nil
Attachment/s:	1 attachment (Workforce Plan)

Proposal/Summary

All local governments are required by the WA Department of Local Government and Communities (DLGC) to develop a Workforce Plan as part of the State's Integrated Planning and Reporting Framework. This report presents the Draft Workforce Plan for Council's information and endorsement.

This report recommends for Council to adopt the draft Shire of Cunderdin Corporate Business Plan 2018-2022.

Background

The Shire of Cunderdin is required to comply with the Integrated Planning and Reporting Framework (IPRF).

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.

Comment

The Shire of Cunderdin recently engaged consultants Megan Shirt and Celeste Smith to complete plans inclusive of the Corporate Business Plan and Workforce Plan.

The consultants changed the statistics to reflect the current workforce and regional statistics.

Consultation

Nil

Statutory Implications

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 intergrates 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

Implementation of the Strategic Community Plan is achieved through the development of priority actions and projects as part of the Corporate Business Planning process inclusive of the Workforce Plan as previously discussed.

Resolution 9.8 December 2018

That Council adopts the Shire of Cunderdin Workforce Plan.

Moved: Cr Dianne Kelly

Seconded: Cr Doug Kelly

Vote – Absolute majority

Carried: 7/0

9.9 Review of Local Government Act 1995

Location:	Shire of Cunderdin
Applicant:	Chief Executive Officer
Date:	12 November 2018
Author:	Kayla James
Item Approved by:	Chief Executive Officer
Disclosure of Interest:	Nil
File Reference:	Nil
Attachment/s:	1 attachment (info page WALGA)

Proposal/Summary

For Council to consider the WALGA recommendations for the Review of the Local Government Act 1995 And provide comment where necessary.

Background

The Minister for Local Government commenced a review of the Local Government Act with both a community and a Local Government Consultation process in 2017.

WALGA has since conducted a comprehensive consultation process with member Local Governments (including the Shire of Cunderdin), resulting in the adoption of policy positions on Phase One (1) of the Local Government Act by State Council in December 2017 and March 2018.

It is noted that the Department of Local Government also met with Local Members and CEO nominated staff in late October of 2018 as a part of Phase two (2), inclusive of the Great Eastern Country Zone at Bruce Rock on the 24th of October 2018.

Kayla James attended this forum and noted that the only other matter raised that has gone unmentioned is the reformation of Statutory Documents around Integrated Planning and Reporting. The general consensus is to make one uniform document under a tier arrangement based on metro or country.

This would mean there is less expectation on Country Local Governments with these documents and more expectation of metro Local Governments rather than one process for all.

It is expected that this will come up as a part of the Phase two (2) review.

Comment

WALGA is offering a further opportunity for member Local Governments to provide submissions to consider, review, amend and add to the advocacy positions endorsed by the State Council in March 2018 following the Phase 1 review process, see attached.

The intention of WALGA is to offer Local Governments an opportunity to comment on the 11 themes discussed under the 'Smart, Agile Inclusive' headings of its Report or any other matters of interest that can feed into the Act review process.

- Agile
 - Beneficial Enterprises
 - Financial Management
 - Rates
- Smart
 - Administrative Efficiencies
 - Local Laws
 - Council Meetings
 - Interventions
- Inclusive
 - Community Engagement
 - Integrated Planning and Reporting
 - Complaints Management
 - Elections

Consultation

WALGA

Department of Local Government

Statutory Implications

Local Government Act 1995, these changes will effect legislation over the functions of Local Government.

Policy Implications

Nil

Financial Implications

Changes to the Local Government Act could affect the Shire of Cunderdin's budget, most likely in a positive way.

Strategic Implications

Strategic Community Plan 2017-2022

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.

Cr Norm Jenzen left the room at 6.02pm

Cr Norm Jenzen returned to the room at 6.03pm

<u>Resolution 9.9 December 2018</u>	
Council endorse the following positions on WALGA's Position Statement;	
WALGA Position	Council Position
The Local Government Act 1995 should be amended to enable Local Governments to establish Beneficial Enterprises (formerly known as Council Controlled Organisations).	Supported
WALGA Supports an increase in the tender threshold to align with the State Government tender threshold of \$250 000, with a timeframe of one financial year for individual vendors.	Supported
That Regulation 30(3) be amended to delete any financial threshold limitation (currently \$75, 000) on a disposition where it is used exclusively to purchase other property in the course of acquiring goods and services, commonly applied to a trade-in activity.	Supported
That a review be undertaken to remove fees and charges from legislation and Councils be empowered to set fees and charges for local government services.	Supported
Legislation should be amended so rate equivalency payments made by LandCorp and other Government Trading entities are made to the relevant Local Governments instead of the State Government.	Supported
That Section 6.56 be amended to clarify that all debt recovery action costs incurred by a Local Government in pursuing recovery of unpaid rates and services charges be recoverable and not be limited by reference to the cost of proceedings'.	Supported
Resource projects covered by State Agreement Acts should be liable for Local Government rates	Supported
Section 5.27 of the Local Government Act 1995 should be amended so that Electors' General Meetings are not compulsory.	Supported
The Local Government Act 1995 should be amended to allow the Australian Electoral Commission (AEC) and or any other third party provider to conduct postal elections.	Supported
Voting in Local Government elections should	Supported

remain voluntary.	
Local Governments should determine whether their Mayor or President will be elected by the Council or elected by the community	Supported
Elections should be conducted utilising the first-past-the-post (FPTP) method of voting.	Supported

Moved: Cr Todd Harris	Seconded: Cr Bernie Daly
Vote – Absolute majority	Carried: 7/0

9.10 Policy – Elected Member Recognition of Service

Location:	Shire of Cunderdin
Applicant:	Chief Executive Officer
Date:	11 December 2018
Author:	Niel Mitchell, Consultant
Item Approved by:	CEO
Disclosure of Interest:	All Councillors
File Reference:	
Attachment/s:	Draft Policy – Elected Member Recognition of Service

Proposal/Summary

Consideration of a draft Policy for Elected Member Recognition of Service.

Background

Many Councils have a policy for recognition of the service given by elected members to the community.

Comments

The *Local Government Act 1995* s.5.100A specifies that a gift cannot be given to a Council member except as prescribed. The Administration Regulations r.34AC restricts the gift to –

- elected members who have completed at least one 4 year term.
- maximum amount of gifts is up to \$100 per year of service to a maximum of \$1,000.

It should be noted that a decision to make a gift is a financial interest for any person who may benefit from the adoption of the policy, and must therefore be declared under the Act. For the Councillors to consider the matter, the approval of the Minister will be required under the Act s.5.69, and if to be a Policy, a draft policy submitted.

Application under s.5.69 may be made by individual councillors or by the CEO on their behalf.

Consultation

Niel Mitchell, Conway – Highbury Pty Ltd
Neville Hale, CEO

Statutory Implications

Local Government Act 1995 –

- s.5.60 – when a person has an interest.
- s.5.60A – financial interest.
- s.5.69 – Minister may allow members disclosing interests to participate etc. in meetings.
- s.5.100A – gifts to elected members may only be made in prescribed circumstances.

Local Government (Administration) Regulations 1996 –

- r.34AC – gifts to council members, when permitted etc.
(1) at least one 4 year term must be completed.
(2) maximum gift of \$100 per year of service to maximum of \$1,000.

Policy Implications

None

Financial Implications

Cost of gifts to departing councillors.

Strategic Implications

Nil

Recommendation 9.10

That Council consider the attached draft Policy for Elected Members Recognition of Service.

Item lapsed due to Councillor Declared Interests.

The following Councillors declared an interest in the draft Policy for Elected Members Recognition of Service.

Cr Bernie Daly
Cr Todd Harris
Cr Doug Kelly
Cr Alison Harris
Cr Norm Jenzen
Cr Dianne Kelly
Cr Dennis Whisson
Cr Jayson Goldson

Resolution 9.10 December 2018

That approval of the Minister for Local Government under the *Local Government Act 1995* s.5.69 be sought to enable disclosing persons to participate and vote on the proposed Policy for Elected Members Recognition of Service when presented to Council for consideration.

Moved: Cr Norm Jenzen Seconded: Cr Dianne Kelly

Vote – Simple Majority Carried: 7/0

9.11 Policy Manual – Adoption 2018

Location:	Shire of Cunderdin
Applicant:	Chief Executive Officer
Date:	13 December 2018
Author:	Niel Mitchell, Consultant
Item Approved by:	Neville Hale, Chief Executive Officer
Disclosure of Interest:	Nil
File Reference:	
Attachment/s:	Draft Policy Manual

Proposal/Summary

For Council to adopt the Policy Manual as revised in December 2018.

Background

Council's Policy Manual is being reviewed in detail to –

- remove unnecessary policies that were of a delegations or operational nature,
- amend those that require change to reflect changes in legislation, and
- propose new policies to comply with legislative requirements or considered advisable.

As with the Delegations Register, the Policy Manual will fit into a hierarchy of requirements, which are noted within the Appendix to the draft document. Accordingly, it is necessary that it integrates with legislative requirements and the local laws, planning policy and delegations as made by Council.

Comments

Policy may be made, amended or revoked at any time by simple majority.

The general hierarch of authority is –

1. legislation – including regulations and local planning scheme
2. local laws
3. delegations – being under direct authority of legislation or local laws, and being made by absolute majority
4. policy – as it outlines how the above three authorities are to be implemented and being made by simple majority

Although every policy is at Council's discretion, they are essential for the effective and efficient operation of the Shire. As noted, delegation is about "who is permitted", whereas policy is more directed at "how it is to be done".

Local Planning Policy should be kept separate from general or administrative policy as it is made under the authority of the Planning Scheme, has particular adoption and advertising requirements, is often referred to the WA Planning Commission in case of an appeal, and is able to be enforced.

A number of policies are highlighted for Council's attention –

- Policy 3.2 – Regional Purchasing Preference
 - o While it may be adopted now, it does not become operative until after Statewide advertising for public consultation and consideration of any submissions by Council

- Policy 7.1 – Australia Day Award
 - o In (4)(a), the date change of opening and closing of nominations to fit with the requirements of the Australia Day Committee
- Policy 7.3 – Cunderdin Museum – Donations, loan of items etc
 - o Clause (1) and (2) inserted to clarify lines of authority and responsibility
 - o If a Committee appointed by Council, then compliance with the Local Government Act sections covering committees is required
 - o However, if an *ad hoc* group of volunteers, then there needs to be some certainty and security surrounding items donated and loaned.
 - o Disposal of any items from the museum will need to comply with the Function and General Regulations.
- Policy 8.4 – Employees – Recognition of Service
 - o While it may be adopted now, it does not become operative until after Statewide advertising for public consultation and consideration of any submissions by Council

A number of policies remain to be finalised, as information is still to come or is being sought.

Consultation

Niel Mitchell, Conway – Highbury Pty Ltd
 Neville Hale, Chief Executive Officer
 Kayla James, Executive Assistant
 Jacky Jurmann - Planner

Statutory Implications

Compliance with various Local Government Act requirements.

Policy Implications

None

Financial Implications

Minor to finalise if adopted.

Strategic Implications

The Policy Manual is to enable the effective and efficient implementation of Council’s instructions, adopted annual budget, and legislative and local law obligations.

Resolution 9.11 December 2018

That –

- a) the attached Policy Manual be adopted; and
- b) Policies 3.2 and 8.4 be advertised as required –
 - i) to become operative at conclusion of the public consultation period if no objections received, or
 - ii) if objections received, referred to Council for decision.

Moved: Cr Doug Kelly Seconded: Cr Alison Harris

Vote – Simple Majority Carried: 7/0

10. Environmental Health and Building

Nil

11. Planning & Development

11.1 Purchase – Portion of Lot 800 Lundy Avenue, Cunderdin

Location:	Lot 800, Lundy Avenue, Cunderdin
Applicant:	M Fissioli, Cunderdin Tourist Park
Date:	11 December 2018
Author:	Chief Executive Officer
Item Approved by:	Chief Executive Officer
Disclosure of Interest:	nil
File Reference:	Property File
Attachment/s:	1 Valuation 2 Letter of Offer 3 Survey Plan

Notice of Motion

Mr Fissioli has expressed interest in the purchase of a third parcel of land within Lot 800 Lundy Avenue, Cunderdin. However, as this land parcel was the subject of an earlier decision of Council, it must first agree to revoke point 2 of its earlier “Resolution 11.3 November 2018”. Before it can consider a motion to revoke, it must first have the support of one third of the officers of Council, i.e. three councillors.

Moved and supported by one third of Council being:

Cr Dennis Whisson, Cr Bernie Daly, Cr Jayson Goldson

That the Notice of Motion be heard.

The above notice of motion was signed and submitted in accordance with Local Government (Administration) Regulations, 1996 – R.10

Motion to consider

“That Council consider a motion to revoke Part 2 of resolution 11.3 of November 2018. being

“Not to approve the sale of Area 5 (98m²) identified on the Survey Plan prepared by Jurovich Surveying (DWG: 78218-01, Rev. D) dated 3 October 2018”.

Moved: Cr Todd Harris

Seconded: Cr Doug Kelly

Absolute Majority

Carried:7/0

Motion to revoke

That Council revoke Part 2 of resolution 11.3 of November 2018, being

“Not to approve the sale of Area 5 (98m²) identified on the Survey Plan prepared by Jurovich Surveying (DWG: 78218-01, Rev. D) dated 3 October 2018”.

Moved: Cr Norm Jenzen

Seconded: Cr Dianne Kelly

Absolute Majority

Carried:7/0

Proposal/Summary

to For Council to consider and offer of \$100 from Mr M Fissioli to purchase a portion of Lot 800, Lundy Avenue, Cunderdin.

Background

Council will recall that at its November 2018 Ordinary Meeting it considered the sale of two areas of the Shire's Recreation ground and resolved as follows:

1. *Approve the sale of Area 1 (1061m²) and Area 2 (325m²) identified on the Survey Plan prepared by Jurovich Surveying (DWG: 78218-01, Rev. D) dated 3 October 2018 on Lot 800 Lundy Avenue, Cunderdin to the Applicant, Mr Michael Fissioli of the Cunderdin Tourist Park for an agreed amount of \$5,000.00 plus GST, subject to:
 - a. *the Applicant is responsible for all costs associated with the sale including valuation; and*
 - b. *Advise the Applicant that the areas of Shire owned land currently occupied by the caravan park that are not within the portions proposed for sale shall be returned to their original condition.**
2. *Not to approve the sale of Area 5 (98m²) identified on the Survey Plan prepared by Jurovich Surveying (DWG: 78218-01, Rev. D) dated 3 October 2018.*

Mr Fissioli has since approached the Shire to purchase the 98m² parcel of land as it will enable the Cunderdin Tourist Park to improve the existing accommodation without the constraint of setback requirements that would otherwise apply.

Comment

Notwithstanding the Council's earlier resolution, Mr Fissioli is keen to obtain the 98m² parcel of land.

The original letter of offer of \$5,000 to purchase 2 areas, marked on the attached Site Plan, made reference to the third parcel of land but failed to provide any consideration for that land.

Accordingly, that area of land was not included in the advertised disposal notwithstanding that it had been included in the Valuation Report

The 98m² area is valued by LMW Valuers at \$100.

Whilst the Local Government Act, 1995 makes provisions for the disposal of property, given the proximity and value of the land transaction, should the Council accept the offer from Mr Fissioli it would be an exempt disposition and the requirements of s3.58 of the Act would not apply, i.e. the proposed sale does not require further advertising/submissions nor does it need to be the subject of auction or tender.

Previous comments made regarding the sale of this portion of land were:

"A third area was identified in the Valuation Report and on the Applicant's survey (noted as Area 5), which has an area of 98m², which the Applicant proposed to fence along the boundary of the old trotting track and maintain the area, but was not included in his offer for purchase.

Although the size of this area could be considered minor and the offer of maintenance beneficial, it is inappropriate due to public liability risks to allow a person to fence Shire land and therefore should not be supported. The current setback of the existing boundary from the fence enables the Shire to maintain the area, including the old trotting track fence. A second recommendation for Council's consideration has been made to this effect.

If Council was of the mind to consider sale of this area of the reserve, then careful consideration would need to be given to the implications associated with maintenance of the recreation area and the trotting track fence that could have a degree of historical importance to the community.”

The fence is the remaining portion related to the trotting activities conducted in the past at the site and although the fence is not listed in the Cunderdin Municipal Heritage Inventory, the cultural significance of the fence has not been the subject of community consultation. Whilst not obliged to do so, Council may wish to consult the community before making its decision.

Consultation

Shire President
Mr M Fissioli & Ms B Fissioli

Statutory Implications

Local Government (Administration) Regulations, 1996

10. Revoking or changing decisions (Act s. 5.25(1)(e))

- (1) If a decision has been made at a council or a committee meeting then any motion to revoke or change the decision must be supported —
 - (a) in the case where an attempt to revoke or change the decision had been made within the previous 3 months but had failed, by an absolute majority; or
 - (b) in any other case, by at least $\frac{1}{3}$ of the number of offices (whether vacant or not) of members of the council or committee,
inclusive of the mover.
- (1a) Notice of a motion to revoke or change a decision referred to in sub-regulation (1) is to be signed by members of the council or committee numbering at least $\frac{1}{3}$ of the number of offices (whether vacant or not) of members of the council or committee, inclusive of the mover.
- (2) If a decision has been made at a council or a committee meeting then any decision to revoke or change the first-mentioned decision must be made —
 - (a) in the case where the decision to be revoked or changed was required to be made by an absolute majority or by a special majority, by that kind of majority; or
 - (b) in any other case, by an absolute majority.
- (3) This regulation does not apply to the change of a decision unless the effect of the change would be that the decision would be revoked or would become substantially different.

Local Government Act , 1995

3.58. Disposing of property

- (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 in property, but does not include money.

Local Government (Functions and General) Regulations, 1996

30. Dispositions of property excluded from Act s. 3.58

- (1) A disposition that is described in this regulation as an exempt disposition is excluded from the application of section 3.58 of the Act.

(2) A disposition of land is an exempt disposition if —

(a) the land is disposed of to an owner of adjoining land (in this paragraph called the transferee) and

— (i) its market value is less than \$5 000; and

- (ii) the local government does not consider that ownership of the land would be of significant benefit to anyone other than the transferee;

Policy Implications

Nil

Financial Implications

There are no additional costs to be incurred.

Strategic Implications

Cunderdin Community Strategic Plan

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

Social

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

Environmental

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

Economic

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

The formalisation of the use of the land will support the operations of a local business, which is a key objective of the CSP.

Resolution 11.1 December 2018

That Council:-

1. Approve the sale of Area 5 (98m²) identified on the Survey Plan prepared by Jurovich Surveying (DWG: 78218-01, Rev. D) dated 3 October 2018 on Lot 800 Lundy Avenue, Cunderdin to the Applicant, Mr Michael Fissioli of the Cunderdin Tourist Park for an agreed amount of \$100.00 plus GST. Subject to;
 - a. the Applicant is responsible for all costs associated with the sale including valuation;

Moved: Cr Bernie Daly

Seconded: Cr Norm Jenzen

Vote – Absolute majority

Carried: 7/0

11.2 Proposed Local Planning Policy – Construction of Dams

Location:	Shire of Cunderdin
Applicant:	Shire of Cunderdin
Date:	13 December 2018
Author:	J Jurmann, Contract Planner
Item Approved by:	N Hale, CEO
Disclosure of Interest:	Nil
File Reference:	-
Attachment/s:	1 – Draft LPP

Proposal/Summary

Council at its Ordinary Meeting held on 23 October 2018 resolved to:

1. *“Prepare and advertise the Local Planning Policy – Construction of Dams (attached to this Report) in accordance with clause 4 of the Planning and Development (Local Planning Schemes) Regulations 2015;*
2. *Receive a further report following the advertising period to review the policy in light of any submissions received.”*

The Policy has been advertised and no submissions were received. It is therefore recommended that Council adopt the draft Local Planning Policy – Construction of Dams as attached to this Report.

Background

The policy has been developed following the recent determination of a development application for the construction of a dam on a small Rural zoned property within the Cunderdin townsite.

The application highlighted the need for better guidance for Council and the community on the determination of development applications for the construction of dams in the Shire due to the local planning scheme being silent on the issue.

Existing local planning policies adopted by other regional and rural local governments have been utilised in the development of the policy, including Augusta-Margaret River, Denmark and Swan.

Comment

All current local planning policies will be reviewed following approval of the new Regional Local Planning Strategy and the Cunderdin Local Planning Scheme No. 4. As an interim measure, a transitional clause has been included in LPS4 to carry over policies that were adopted under the provisions of LPS3.

Consultation

Clause 4 of the Deemed Provisions (Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* sets out the procedures for making a local planning policy as follows:

- (1) *“If the local government resolves to prepare a local planning policy the local government must, unless the Commission otherwise agrees, advertise the proposed policy as follows –*
 - (a) *publish a notice of the proposed policy in a newspaper circulating in the Scheme area, giving details of –*
 - (i) *the subject and nature of the proposed policy; and*
 - (ii) *the objectives of the proposed policy; and*
 - (iii) *where the proposed policy may be inspected; and*

- (iv) to whom, in what form and during what period submissions in relation to the proposed policy may be made;
 - (b) if, in the opinion of the local government, the policy is inconsistent with any State planning policy, give notice of the proposed policy to the Commission;
 - (c) give notice of the proposed policy in any other way and carry out any other consultation the local government considers appropriate.
- (2) The period for making submissions in relation to a local planning policy must not be less than a period of 21 days commencing on the day on which the notice of the policy is published under subclause (1)(a).
- (3) After the expiry of the period within which submissions may be made, the local government must —
- (a) review the proposed policy in the light of any submissions made; and
 - (b) resolve to —
 - (i) proceed with the policy without modification; or
 - (ii) proceed with the policy with modification; or
 - (iii) not to proceed with the policy.
- (4) If the local government resolves to proceed with the policy, the local government must publish notice of the policy in a newspaper circulating in the Scheme area.
- (5) A policy has effect on publication of a notice under subclause (4).
- (6) The local government —
- (a) must ensure that an up-to-date copy of each local planning policy made under this Scheme is kept and made available for public inspection during business hours at the offices of the local government; and
 - (b) may publish a copy of each of those local planning policies on the website of the local government.”

The draft Policy was advertised in accordance with the Regulations for a minimum period of 21 days in the Bandicoot, website and noticeboards.

No submissions were received from the community or any other interested persons during the consultation period.

Statutory Implications

Planning and Development Act 2005

The Act defines ‘development’ as:

- “development** means the development or use of any land, including —
- (a) any demolition, erection, construction, alteration of or addition to any building or structure on the land;
 - (b) the carrying out on the land of any excavation or other works;
 - (c) in the case of a place to which a Conservation Order made under section 59 of the Heritage of Western Australia Act 1990 applies, any act or thing that —
 - (i) is likely to change the character of that place or the external appearance of any building; or
 - (ii) would constitute an irreversible alteration of the fabric of any building.”

Planning and Development (Local Planning Schemes) 2015

Clause 60 of Schedule 2 (the Deemed Provisions) states:

- “A person must not commence or carry out any works on, or use, land in the Scheme area unless —
- (a) the person has obtained the development approval of the local government under Part 8; or
 - (b) the development is of a type referred to in clause 61.”

Dams are not a land use that is listed in clause 61 as development exempt from approval.

Cunderdin Local Planning Scheme No. 3 (LPS3)

Dams are not listed in the Zoning Table and therefore must be assessed as a 'use not listed' in accordance with clause 3.4.2 of LPS3, which states:

"If a person proposes to carry out on land any use that is not specifically mentioned in the Zoning Table and cannot reasonably be determined as falling within the type, class or genus of activity of any other use category the local government may —

- (a) determine that the use is consistent with the objectives of the particular zone and is therefore permitted;*
- (b) determine that the use may be consistent with the objectives of the particular zone and thereafter follow the advertising procedures of clause 64 of the deemed provisions in considering an application for development approval; or*
- (c) determine that the use is not consistent with the objectives of the particular zone and is therefore not permitted."*

Policy Implications

At present Council does not have any local planning policies regulating the construction of dams within the Shire. The adoption of the draft policy will provide a better regulatory framework for the construction of dams in the Shire, including the ability to exempt from development approval dams constructed on rural properties in conjunction with broad hectare agricultural activities.

Financial Implications

There are minor financial implications associated with the advertising process for the adoption of local planning policies.

Strategic Implications

Cunderdin Strategic Community Plan

The Goals of the SCP are:

Social

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

Environmental

- Nurture and enhance our natural environment and prioritise the protection of our natural resources;
- Manage resource consumption and reduce waste, preserve and protect buildings and places of heritage and indigenous significance;

Economic

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

The proposed policy is consistent with the goals of the SCP.

Officer Recommendation

That Council resolve to:

1. Adopt the Local Planning Policy – Construction of Dams (as attached to this Report) in accordance with the provisions of Clause 4 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.
2. Advertise the adoption of the LPP in accordance with the provisions of Clause 4 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.”

Resolution 11.2 December 2018

That Council resolve to:

3. Adopt the Local Planning Policy – Construction of Dams (as attached to this Report) in accordance with the provisions of Clause 4 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.
4. Advertise the adoption of the LPP in accordance with the provisions of Clause 4 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.”
5. Include in the advertisement, the following exemption Clause of the Local Planning Policy:

“The construction of dams in Rural and Rural Smallholding Zones are exempt from development approval from the Shire of Cunderdin where the dam:

(a) has been approved or does not require approval from any State Government agency or authority; and,

(b) the lower edge of the dam wall, and any other part of the dam including the stored water is further than 20 metres from all boundaries of the subject lot.”

Moved: Cr Bernie Daly

Seconded: Cr Doug Kelly

Vote – Simple majority

Carried: 7/0

Note: Council requested additional information within its resolution to clarify that the Local Planning Policy generally does not apply to broad acre agricultural activities.

13. Urgent Items

Nil

14. Scheduling of Meeting

14.1 February 2018 Ordinary Meeting

The next ordinary meeting of council is scheduled to take place on Thursday 21 February 2018 commencing at 5pm at the Cunderdin Shire Council Chambers, Cunderdin, WA 6407

15. Matters for which the meeting may be closed – as per Local Government Act 1995 (s.5.23)

16. Closure of meeting

There being no further business the Shire President declared the meeting closed at 6.28pm.

17. Certification

DECLARATION

I, Dennis Whisson, certify that the minutes of the Ordinary Council Meeting held on 20th December 2018 as shown were confirmed at the ordinary meeting of Council held on 20 December 2018.

Signed: _____

Date: _____