



## Shire of Cunderdin

### Minutes of an Ordinary Council Meeting

Dear Council Member,

The Ordinary Meeting of the Cunderdin Shire Council was held on **Wednesday 17<sup>th</sup> August 2016** in the Council Chambers, Lundy Avenue Cunderdin commencing at **5:02pm**.

A handwritten signature in black ink, appearing to read 'Peter Naylor'.

Peter Naylor  
**Chief Executive Officer**

## Table of Contents

<b>1.</b>	<b>Declaration of opening</b> .....	<b>3</b>
<b>2.</b>	<b>Public Question Time</b> .....	<b>3</b>
<b>3.</b>	<b>Record of Attendance, Apologies and Approved Leave of Absence</b> .....	<b>3</b>
<b>4.</b>	<b>Petitions, Deputations, Presentations</b> .....	<b>4</b>
<b>5.</b>	<b>Announcements by President without discussion</b> .....	<b>4</b>
<b>6.</b>	<b>Confirmation of the Minutes of Previous Meetings</b> .....	<b>5</b>
6.1	Ordinary Meeting of Council held on Thursday 21 <sup>st</sup> July 2016 .....	5
<b>7.</b>	<b>Finance &amp; Administration</b> .....	<b>7</b>
7.1.	Financial Reports for July 2016 .....	7
7.2	Accounts Paid – July 2016 .....	9
7.3	Council Investments – As at 31 <sup>st</sup> July 2016 .....	15
7.4	‘Changing Places’ Funding Grant.....	17
7.5	Making of Shire of Cunderdin Health Local Law 2016 .....	19
7.6	Making of Shire of Cunderdin Animals, Environment and Nuisance Local Law 2016 .....	28
<b>8</b>	<b>Environmental Health &amp; Building</b> .....	<b>37</b>
<b>9.</b>	<b>Works &amp; Services</b> .....	<b>38</b>
9.1	Works & Services Report.....	38
9.2	Application to keep three (3) Dogs .....	41
<b>10</b>	<b>Planning &amp; Development</b> .....	<b>45</b>
	Nil	
<b>11</b>	<b>Urgent Items</b> .....	<b>45</b>
<b>12.</b>	<b>Matters for which the meeting may be closed</b> .....	<b>45</b>
12.1	CONFIDENTIAL – Deputy Chief Executive Officer Extension of Contract.....	45
<b>13.</b>	<b>Closure of meeting</b> .....	<b>46</b>

## AGENDA

### 1. Declaration of opening

**The President will declare the meeting open at 5.02pm**

**The Shire of Cunderdin disclaimer was read aloud.**

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

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

### 2. Public Question Time

**Response to previous public questions taken on notice**

**Declaration of public question time opened at 5.01pm**

**Declaration of public question time closed at 5.02pm**

### 3. Record of Attendance, Apologies and Approved Leave of Absence

#### Record of attendances

##### Councillors

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

#### Apologies

#### On Leave of Absence

Cr DG (Dianne) Kelly	Granted OCM 21 <sup>st</sup> July 2016
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#### Staff

Peter Naylor	Chief Executive Officer
Paul Godfrey	Deputy Chief Executive Officer
Ian Bartlett	Manager Works & Services
Meredith Lee-Curtis	Governance/Compliance Officer

**Guests of Council**

**Members of the Public**

### **3.1 Applications for leave of absence**

**Resolution 3.1.1**

**That Leave of Absence be granted to:**

**Councillor Norm Jenzen for the Ordinary Meeting of Council scheduled to be held on Thursday 15<sup>th</sup> September 2016.**

**Moved: Cr Dennis Whisson      Seconded: Cr Bernie Daly**

**Vote: Simple Majority      Carried: 6/0**

**Resolution 3.1.2**

**That Leave of Absence be granted to:**

**Councillor Todd Harris for the Ordinary Meeting of Council scheduled to be held on Thursday 15<sup>th</sup> September 2016.**

**Moved: Cr Bernie Daly      Seconded: Cr Doug Kelly**

**Vote: Simple Majority      Carried: 7/0**

### **Declaration of Members and Officers Financial Interests**

Item 12.1

Paul Godfrey, Deputy CEO

### **4. Petitions, Deputations, Presentations**

**Deputations**

**Presentations**

### **5. Announcements by President without discussion**

## 6. Confirmation of the Minutes of Previous Meetings

### 6.1 Ordinary Meeting of Council held on Thursday 21<sup>st</sup> July 2016

<b>Location:</b>	Cunderdin
<b>Applicant:</b>	Administration
<b>Date:</b>	12 <sup>th</sup> August 2016
<b>Author:</b>	Peter Naylor
<b>Item Approved by:</b>	Chief Executive Officer
<b>Disclosure of Interest:</b>	N/A
<b>File Reference:</b>	Nil
<b>Attachment/s:</b>	53 pages

#### **Proposal/Summary**

Council to confirm the minutes of the Ordinary Council Meeting held on Thursday 21<sup>st</sup> July 2016.

#### **Background**

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

#### **Comment**

No business arising.

#### **Consultation**

Nil

#### **Statutory Environment**

*Local Government Act 1995 Part 5 Division 2 Subdivision 3 - Section 5.22 (2)*

The minutes of a meeting of a council or a committee are to be submitted to the next ordinary meeting of the council or the committee, as the case requires, for confirmation.

#### **Policy Implications**

Nil

#### **Financial Implications**

There are no financial implications in considering this item.

#### **Strategic Implications**

Nil

**Resolution 6.1**

**That:**

- 1. The Minutes of the Ordinary Council Meeting held on Thursday 21<sup>st</sup> July 2016, be confirmed as a true and correct record.**

**Moved: Cr Alison Harris**

**Seconded: Cr Norm Jenzen**

**Vote – Simple majority**

**Carried: 7/0**

**Note to this item:**

The President will sign the minute declaration.

## 7. Finance & Administration

### 7.1. Financial Reports for July 2016

<b>Location:</b>	Cunderdin
<b>Applicant:</b>	Deputy Chief Executive Officer
<b>Date:</b>	12 <sup>th</sup> August 2016
<b>Author:</b>	Paul Godfrey
<b>Item Approved by:</b>	Chief Executive Officer
<b>File Reference:</b>	Nil
<b>Attachment/s:</b>	**Pages

#### **Proposal/Summary**

The financial position as at 31<sup>st</sup> July 2016 is presented for consideration.

#### **Appendices - Financial Statements**

#### **Statutory Environment**

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

#### **Commentary**

Nil

#### **Policy Implications**

Nil

#### **Financial Implications**

All financial implications are contained within the reports

#### **Strategic Implications**

Nil

**Resolution 7.1**

**That Council receives the monthly financial reports to 31<sup>st</sup> July 2016.**

**Moved: Cr Bernie Daly**

**Seconded: Cr Dennis Whisson**

**Vote – Simple majority**

**Carried: 7/0**



## 7.2 Accounts Paid – July 2016

<b>Location:</b>	Cunderdin
<b>Applicant:</b>	Deputy Chief Executive Officer
<b>Author:</b>	Paul Godfrey
<b>Report Date:</b>	12 <sup>th</sup> August 2016
<b>Item Approved By:</b>	Chief Executive Officer
<b>Disclosure of Interest:</b>	Nil
<b>File Reference:</b>	Nil
<b>Attachment/s:</b>	Nil

### **Proposal/Summary**

Council is requested to confirm the payment of Accounts totalling \$ 381,228.92 for July 2016 as listed in the Warrant of Payments for the period 1<sup>st</sup> July to 31<sup>st</sup> July 2016.

### **Attachments**

Warrant of Payments for 1<sup>st</sup> July to 31<sup>st</sup> July 2016.

### **Statutory Environment**

Financial Management Regulations 12 & 13

### **Commentary on Statutory Environment**

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

### **Policy Implications**

Nil

### **Financial Implications**

All financial implications are contained within the reports

### **Strategic Implications**

Nil

**Resolution 7.2**

**(a) That Council's payment of accounts amounting to \$ 381,228.92 for the month of July 2016, from the Municipal Fund be confirmed and noted.**

**(b) The Payments List as presented where incorporated in the Minutes of the Meeting.**

**Moved: Cr Dennis Whisson**

**Seconded: Cr Todd Harris**

**Vote – simple majority**

**Carried: 7/0**

Listing of Accounts Paid During July 2016

Cheque /EFT No	Date	Supplier Name	Description	Amount
EFT803	01/07/2016	Structerre Consulting Engineers	Investigation and Report Cubbine St Cunderdin	6,622.00
EFT804	06/07/2016	Cunderdin Co-Op	Bulk Distillate and Unleaded Petrol	10,460.00
EFT837	19/07/2016	Landgate	Valuation Roll- Mining Tenements	164.35
EFT838	19/07/2016	Cunderdin Co-Op	Builders film and lock	1,442.73
EFT839	19/07/2016	AIR LIQUIDE	Gas Cylinder Fees	103.64
EFT840	19/07/2016	Avon Waste	RUBBISH SERVICES	11,530.16
EFT841	19/07/2016	Goodfield Quality Meats	Water and Casserole	139.50
EFT842	19/07/2016	Glenwarra Development Services	town planning consultancy	5,500.00
EFT843	19/07/2016	Australia Post	Postal Services	116.65
EFT844	19/07/2016	IT Vision	Synergy Soft Mapping and annual licence fee	4,839.45
EFT845	19/07/2016	George Johnson EHO Consultant	Branding and Return Trip Ag College 10/6 and 27/6	660.00
EFT846	19/07/2016	Shire of Northam	old quarry tipping fees	7,092.80
EFT847	19/07/2016	Crowe Certification	Health and Building Services	2,278.32
EFT848	19/07/2016	Regional Concrete & Plumbing	First stage of wash bay works	4,950.00
EFT849	19/07/2016	Contract Aquatic Services	Digital test kit and tablets to replace rotameter type	990.00
EFT850	19/07/2016	Shire of Quairading	CESM Costs	3,630.74
EFT851	19/07/2016	WALGA	Making Local Laws Short course Meredith Lee	429.00

			Curtis	
EFT852	19/07/2016	Western Australian Treasury Corporation	Government Guarantee Fee	5,135.93
EFT853	19/07/2016	Local Government and Communities	Grant funds workforce planning 12/13	121.00
EFT854	19/07/2016	Eastern Hills Saws and Mowers	Picco Mini Chain	85.00
EFT855	19/07/2016	Marketforce	Advertising Local Govt Tenders	1,449.89
EFT856	19/07/2016	Hutton & Northey Sales	parts for service fire truck	3,937.10
EFT857	19/07/2016	Solargain PV Pty Ltd	RENEWABLE ENERGY CERTIFICATES	8,712.00
EFT858	19/07/2016	Diamler Trucks Perth	FUSO TRUCK	68,398.00
EFT859	19/07/2016	Ricky Buxton	Reimbursement for batteries purchased	19.82
EFT860	19/07/2016	VERSO Consulting	housing needs analysis	7,150.00
EFT861	19/07/2016	Immaculate Holdings PTY LTD	Road sweeping June Cunderdin and Meckering	4,440.00
EFT862	19/07/2016	MItre 10 Northam	Pine	59.49
EFT863	19/07/2016	P&G Body Builders	Replace Hoist on Tipper	2,854.50
EFT864	19/07/2016	Tox Free Australia Pty Ltd	Receive Pesticides	3,440.80
EFT865	19/07/2016	Earthstyle Contracting Pty Ltd	grader and roller winter grading	86,366.50
EFT866	19/07/2016	Courier Australia	Freight	70.71
EFT867	19/07/2016	Australian Tax Office	BAS for May	3,299.00

EFT868	19/07/2016	Kayla James	Reimbursement for travel costs to attend training	84.24
EFT869	19/07/2016	JR & A Hersey	Red Road delineator and wolf cleanse	216.70
EFT870	19/07/2016	Earthstyle Contracting Pty Ltd	various earthmoving works	2,266.00
EFT871	28/07/2016	Cr Dennis Whisson	OCM Sitting Fee 21/7/2016	225.00
EFT872	28/07/2016	Cr Todd Harris	OCM Sitting Fee 21/7/2016	225.00
EFT873	28/07/2016	Cr Norm Jenzen	OCM Sitting Fee 21/7/2016	225.00
EFT874	28/07/2016	LGIS	Motor Vehicle Insurance Policy np. 63 4006688 VFT	29,743.81
EFT875	28/07/2016	Adina apartment hotel	Accommodation LG Convention	4,380.00
EFT876	28/07/2016	Alison Harris	OCM Sitting Fee 21/7/2016	225.00
EFT877	28/07/2016	Cr. Bernard Daly	OCM Sitting Fee 21/7/2016	225.00
EFT878	28/07/2016	LGISWA	LGIS Property Insurance Policy No. 000154	76,911.83
DD427.1	15/07/2016	SG Fleet	Cesm vehicle and leases	1,071.53
DD427.2	15/07/2016	Westnet	Staff Internet	49.95
11062	19/07/2016	Water Corporation	Standpipe goldfields road	424.20
11063	19/07/2016	Synergy	street lights	4,204.80
11064	19/07/2016	Jason Signmakers	Width Markers and Street name Plates	500.50
11065	19/07/2016	Cunderdin Newsagency	ELC Newsagency Supplies	229.33
11066	19/07/2016	Telstra	phone bills	2,219.55

11067	19/07/2016	Jason Signmakers	Signs and black/yellow rubber speed hump	279.40
11068	19/07/2016	CWA of WA Inc- Cunderdin Branch	Catering for Museum AGM	120.00
11069	28/07/2016	Cr Ronald Clive Gibson	OCM Sitting Fee 21/7/2016	463.00
11070	28/07/2016	Cr Dianne Kelly	OCM Sitting Fee 21/7/2016	225.00
11071	28/07/2016	Cr Douglas Brian Kelly	OCM Sitting Fee 21/7/2016	225.00
			TOTAL	381,228.92

### 7.3 Council Investments – As at 31<sup>st</sup> July 2016

<b>Location:</b>	Cunderdin
<b>Applicant:</b>	Deputy Chief Executive Officer
<b>Author:</b>	Paul Godfrey
<b>Report Date:</b>	12 <sup>th</sup> August 2016
<b>Item Approved By:</b>	Chief Executive Officer
<b>Disclosure of Interest:</b>	Nil
<b>File Reference:</b>	Nil
<b>Attachment/s:</b>	Nil

#### Proposal/Summary

To inform Council of its investments as at 31<sup>st</sup> July 2016.

#### Background

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

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

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

- Major Banks & Bonds Issued by Government and/ or Government Authorities.

#### Commentary

<b>COUNCIL INVESTMENTS</b>				
<b>Institution</b>	<b>Amount Invested</b>	<b>Investment type</b>	<b>Municipal Funds</b>	<b>Reserve Funds</b>
Bendigo Bank	\$775,226.94	Reserves Term Deposit 2.90% Expires : 28/12/2016		\$775,226.94
Westpac Banking Corporation	\$100,761.21	Business Cash Reserve 22-3647 1.30%	\$100,761.21	
<b>TOTAL INVESTMENTS</b>	<b>\$875,988.15</b>		<b>\$100,761.21</b>	<b>\$775,226.94</b>

**Statutory Implications**

Financial Management Regulation 19.

**Policy Implications**

Delegation #18 – Investments.

**Financial Implications**

There are no financial implications in considering this item.

**Strategic Implications**

There are no strategic implications in considering this item.

**Resolution 7.3**

**That the report on Council investments as at 31<sup>st</sup> July 2016 be received and noted.**

**Moved: Cr Doug Kelly**

**Seconded: Cr Bernie Daly**

**Vote – Simple Majority**

**Carried: 7/0**



## 7.4 'Changing Places' Funding Grant

<b>Location:</b>	Meckering
<b>Applicant:</b>	Chief Executive Officer
<b>Author:</b>	Meredith Lee-Curtis and Kayla James
<b>Report Date:</b>	12 <sup>th</sup> August 2016
<b>Item Approved By:</b>	Chief Executive Officer
<b>Disclosure of Interest:</b>	Nil
<b>File Reference:</b>	Nil
<b>Attachment/s:</b>	67 Pages

### Proposal/Summary

The Shire of Cunderdin's Disability Access and Inclusion Plan (DAIP) 2016-2021 offers strategies to ensure that people with a disability have the same opportunities as other people to access all the Shire services, events, buildings and other facilities.

Consultation during the development of the DAIP 2016-2021 identified barriers in accessing public toilets for people with profound disability. Under the Disability Discrimination Act 1992 it is considered best practice for Public Authorities to provide access to bathrooms with specialised equipment for people with severe or profound disability. This allows them and their carers / families to enjoy the day to day activities that many of us take for granted.

The Disability Services Commission (the Commission) , in partnership with the Western Australia Local Government Association (WALGA), is providing funding for Local Governments to establish a network of Changing Places facilities across metropolitan and regional WA. A condition of the grant is that the facility must be eligible for Blue Level Changing Places accreditation.

The Shire lodged an expression of interest for funding in April 2016 and has recently been advised that this was successful to an amount of \$110,000. The 'Changing Places' Type 2 facility is to be constructed in Meckering, adjacent to the already in place public convenience facilities near the Memorial Rose Garden. The 'Changing Places' facility will include a shower, toilet, an electronic hoist and a height adjustable adult sized change table, sufficient room to accommodate 2 carers and the person with disability, providing a safe clean environment.

The Meckering 'Changing Places' facility will become part of a national network, with the location added to the national public toilet and Changing Places Maps. Changing Places will be established in metropolitan locations, including Elizabeth Quay, Yagan Square, Scarborough, Perth Stadium, the new Waterbank development adjacent to the Causeway in East Perth and the City of Cockburn. In regional WA, there will be Changing Places in the Albany tourism and information hub, Broome Recreation and Aquatic Centre, cities of Greater Geraldton and Mandurah, Town of Narrogin and Shire of Toodyay. The Minister said the first Changing Place in the network to open would be at Elizabeth Quay in early 2016, with other facilities planned for construction over the next two years.

On 27<sup>th</sup> July 2016 the Minister for Planning and Disability Services (Hon. Donna Faragher) announced that the Liberal National Government has provided funding to support the development of Changing Places in the local government areas of Bunbury, Collie, Fremantle, Gingin, Joondalup, Kalgoorlie-Boulder, Katanning, Melville, Port Hedland, Moora and Cunderdin. When completed, the facility in Meckering will be officially opened by the Minister and provided media coverage.

In Australia standard accessible toilets do not meet the needs of all people with a disability or their carers. People with profound and multiple learning disabilities, as well as spinal injuries, spina bifida, motor neurone disease, multiple sclerosis or an acquired brain injury, often need extra facilities to allow

them to use the toilets comfortably. Currently, without available Changing Places toilets, carers struggle with choosing between changing their loved-ones on the floors of public toilets or being confined to the four walls of their home.

### **Statutory Environment**

Shire of Cunderdin Disability Access and Inclusion Plan (DAIP) 2016-2021.

### **Commentary on Statutory Environment**

### **Policy Implications**

Legislative changes to Access and Inclusion Plan 'Outcome 7', requiring that the Shire actively seek to provide opportunities for people with disability.

### **Financial Implications**

The Shire is required to contribute one third of the total cost by way of cash and 'in kind' support.

### **Strategic Implications**

Nil

### **Resolution 7.4**

**That Council:**

- 1. Supports the 'Changing Places' facility project, to be located in Kelly Street near the Meckering Rose Memorial Garden as the preferred location.**
- 2. Acknowledges that the \$110,000 grant offer has been received from the Western Australian Local Government Association and Disability Services Commission, as a contribution to this project.**
- 3. Approves the Shire's Chief Executive Officer to proceed to obtain three written quotations and enter into a funding agreement with the Western Australian Local Government Association.**

**Moved: Cr Doug Kelly**

**Seconded: Cr Norm Jenzen**

**Vote – simple majority**

**Carried: 7/0**

## 7.5 Making of Shire of Cunderdin Health Local Law 2016

<b>Location:</b>	Shire of Cunderdin
<b>Applicant:</b>	Chief Executive Officer
<b>Date:</b>	10 <sup>th</sup> August 2016
<b>Author:</b>	Peter Naylor
<b>Item Approved by:</b>	Chief Executive Officer
<b>Disclosure of Interest:</b>	Nil
<b>File Reference:</b>	ADM0449V2
<b>Attachment/s:</b>	49 Pages

### Proposal/Summary

The report proposes the Council give consideration to the submissions received upon closure of the public submission period on the proposed *Health Local Law 2016*; and whether to make the local law as is, or make the local law with minor amendments in response to the submissions received.

### Background

The proposed Shire of Cunderdin Health Local Law 2016 was presented to the Council at its Ordinary meeting of 19<sup>th</sup> May 2016 for adoption for advertising purposes.

The procedure for making local laws requires Council to advertise state-wide, advising of its intention to make a local law, and invite submissions to be made on the proposed local law for a six-week period. At the closure of the submission period, Council is to consider all submissions before making a local law. After resolving to make the local law, it is to publish the local law in the Government Gazette and provide a copy of it to the Minister for Local Government. Copies of the local law along with the completed Explanatory Memorandum are to be forwarded to the Joint Standing Committee on Delegated Legislation for review. Local public notice of the commencement of the local law is to occur after its gazettal.

State-wide advertising was undertaken in the West Australian on Wednesday 25<sup>th</sup> May 2016 with the submission period for public comment closing on Friday 7<sup>th</sup> July 2016.

At the closure of the submission period, two submissions were received; one from the Department of Local Government and Communities and one from the Department of Health.

### Comments

Council advertised, both locally and state-wide, for public comment on the proposed Shire of Cunderdin Health Local Law 2016. At the close of the submission period, two submissions on the local law had been received.

The key items raised by the Department of Health, and by the Department of Local Government and Communities in their submissions are addressed in the table below.

ITEM	CLAUSE NO.	HEADING	PROPOSED AMENDMENT	SHIRE'S POSITION
<b>Department of Health Submission</b>				
1	N/A	Title and Enactment Clause	Insert the title 'LOCAL GOVERNMENT ACT 1995', as Health Local Laws are jointly made under both Acts.	Noted. Title amended as suggested.
2	2.15(2)	Kitchens	Change the words 'stove, oven' to	Agreed. Clause 2.15(2)

ITEM	CLAUSE NO.	HEADING	PROPOSED AMENDMENT	SHIRE'S POSITION
			'cooking facility'.	amended as suggested.
3	3.2	Exemption for Short Term Hostels and Recreation Campsites	The reference to "Division 2 of Part 8" should be a reference to "Division 1 of Part 8" or just a reference to "Part 8".	Agreed. Clause 3.2 amended as suggested.
4	2.15(3)(a)	Kitchens	In Subclause 2.15(3)(a), change the title "Energy Safety WA" to "Energy Safety" to conform to the title used by this branch of the Department of Commerce.	Agreed. Clause 2.15(3)(a) amended as suggested.
5	4.2	Deposit of liquid refuse	With regard to clause 4.2, please note the comments in items 4 and 5 of the review of the proposed "Shire of Cunderdin Animals, Environment and Nuisance Local Law 2016". One of the provisions must be changed so that the requirement is the same in each local law.	Noted. The definitions of liquid refuse and liquid waste in clause 4.1 have been amended to exclude 'swimming pool backwash'. No further changes are required to this clause.
6	4.3(2)(c)	Disposal of liquid waste	Subclause 4.3 (2) contains an error. To correct this error, in paragraph (c), after the words "approved by" insert the missing words "the local government or"	Agreed. Clause 4.3(2)(c) amended as suggested.
7	4.6(3)(c)	Transport of butcher's waste	There is a formatting issue in subclause 4.6 (3). To correct this problem, adjust the indentation of the second line of paragraph (c) to match the first line of the paragraph.	Noted. Paragraph (c) alignment corrected.
8	5.6.1.1	N/A	Similarly, the lines of text in subclause 5.6.1.1 must be aligned. Also reconsider the numbering scheme used within clauses 5.6 and 5.7 as it does not match the format of the rest of this proposed local law.	Not supported. No such numbering system present in the draft local law. No changes made.
9	5.7.2	N/A	The second line of subclause 5.7.2 must be aligned with the first line of the subclause.	Not supported. No such numbering system present in the draft local law. No changes made.
10	5.16	Prevention of nuisances	Table 3, in the final row for "Land used to dispose of effectively treated wastes"; in column B, Council may wish to reduce the buffer distance for "isolated rural dwellings, dairies, industries" from "1000 m" to "50 m". If the waste has been effectively treated it can have a smaller buffer distance than that required for "raw, untreated waste".	Noted. Table 3 has now been included as Part of Schedule 4 in the redrafted Local Law. This buffer distance has been changed to 50m as suggested.

ITEM	CLAUSE NO.	HEADING	PROPOSED AMENDMENT	SHIRE'S POSITION
11	6.12(b)(ii)	Restrictions on keeping rodents.	Paragraph (b), subparagraph (ii) is illogical as it requires the destruction of all escaped rodents, including those that have been successfully recaptured. A better outcome is to delete subparagraphs (i) and (ii) and substitute just the text from subparagraph (i). Then paragraph (b) will be: “(b) if a rodent escapes, forthwith take all reasonable steps to recapture or destroy the rodent.”	Agreed. Paragraph (b) amended as suggested.
12	N/A	Division 7	Is Division 7 required if Council makes the proposed “Shire of Cunderdin Animals, Environment and Nuisance Local Law 2016”, which contains Part 2, Division 3 – Keeping of Bees?	Noted. Division 7 is not required and has been deleted. Bees are now addressed under the proposed Animals, Environment & Nuisance Local Law.
13	8.19(2)	Furnishing etc of sleeping apartments	After the last word “apartment”, insert the missing words: “other than in a lodging house used exclusively as a short term hostel or recreational campsite”.	Agreed. Clause 8.19(2) amended as suggested.
<b>Department of Local Government and Communities</b>				
1	N/A	N/A	The Department is aware that the <i>Public Health Bill</i> is currently being debated in Parliament. When this Bill is passed, it is likely to have multiple implications for health local laws. It is suggested that the Shire contact the Department of Health for more information on how to proceed on this issue and when the Bill is likely to progress through Parliament.	Noted. The Public Health Bill has been under consideration for a number of years. Council should proceed with the Local Law and then address any amendments once the Bill becomes law.
2	N/A	Enactment Clause	Health local laws are enacted using the powers of both the Health Act 1911 and the Local Government Act 1995. Both empowering Acts should be mentioned above the local law title, before both the Table of Contents and enactment clause.	Noted. This item has been addressed as part of item 1 of the DoH submission.
3	N/A	New Commencement Clause	It is suggested that a commencement clause be inserted between current clauses 1.1 and 1.2. Local laws made under the Health Act 1911 come into effect on the day of publication rather than 14 days after, as other local laws do.	Noted. A new Clause 1.2 has been included for clarity purposes.
4.1	N/A	N/A	The Shire should ensure that the	Noted. All AS and

ITEM	CLAUSE NO.	HEADING	PROPOSED AMENDMENT	SHIRE'S POSITION
			various Australian and Australian/ New Zealand Standards referenced throughout the local law are correct. It is important that citations are accurate and contain "AS" or "AS/NZS" where appropriate. If the citation is inaccurate, the Committee may request that the citation be amended.	AS/NZS title references have been checked to the latest versions on the SAI Global website
4.2	N/A	N/A	The Committee has also expressed that where Australian Standards are used, the general public should be informed by the Shire as to where they can freely access these standards. The Committee may inquire as to how this information is to be made available to the public.	Noted. The Shire will evaluate what information is required to be supplied if the request is made by the Committee.
5	N/A	N/A	In addition to Australian Standards, the local law makes reference to other documents, including the Building Code of Australia (BCA), the Australian Drinking Water Guidelines and Department of Health Guidelines. The Shire should ensure that copies of all external documents referred to in the local law are included when it is submitted to the Committee. The Committee may also inquire as to how these external documents will be made available to members of the public.	Noted. Copies of these documents can be supplied to the Committee and links will be available on the Shires website for the Drinking Water Guidelines and Department of Health Guidelines. The BCA can be made available for inspection at the Shire Office.
6	1.5	Interpretation	It is suggested that definitions be included for 'adequate ceiling', 'animal', local planning scheme', manufacturer's specifications', Energy Safety' and 'Police Service'. While not all these definitions are necessary, they may assist readers and reduce the possibility of misinterpretation.	Noted. Relevant definitions have been included where appropriate.
7			The local law contains a number of tables. It is suggested that the tables be placed in Schedules to the local law rather than within the body of the local law itself, so that they do not interfere with the clause structure. Placing the tables in separate schedules would also make the tables easier to amend in the	Agreed. Tables in clauses 5.11, 5.14 and 5.16 are now listed in Schedules 2, 3 and 4 accordingly.

ITEM	CLAUSE NO.	HEADING	PROPOSED AMENDMENT	SHIRE'S POSITION
			future. If the Shire chooses to move the tables to separate Schedules, the existing Schedules in the local law may need to be renumbered accordingly, and all cross-references to those Schedules would also require updating.	
8	5.1	Interpretation	It is suggested that the Shire include a definition of the term "nuisance" at 5.1 Interpretation. The term is otherwise vague and potentially difficult to enforce. It is suggested that the Shire refer to the term as it is defined in the Health Act 1911 as the Committee has previously objected to attempts to widen the definition.	Agreed. Definition included in clause 5.1 as suggested.
9	5.2	Footpaths etc to be kept clean	The Committee has previously raised issues with this clause, because the term "maintain" can imply that the owner/occupier is responsible for keeping the footpath in good repair and fixing any damage that occurs. This interpretation would be unreasonable, since the maintenance and repair of footpaths is generally a local government responsibility. In past cases, the Committee has requested that the term "maintain" be replaced with "keep".	Agreed. The word 'maintain' has been replaced with the word 'keep' in clause 5.2.
10	5.8	Slaughter of animals	Subclause (1) restricts the slaughter of any animal in the district, unless exempted under Regulation 20 of the Food Regulations 2012. Subclause (2) also exempts veterinarians and other duly authorised people, pet and game meat operations, and abattoirs from subclause (1). Regulation 20 creates an exemption for a "primary producer"; however, this definition may not include other people who live or work on farming rural properties. The Shire may wish to insert an additional exemption in subclause (2).	Agreed. An additional subclause (2)(d) has been inserted to exempt farming occupiers from the requirements of subclause (1).
11	5.12, 5.15, 6.10, 6.14	Site conditions; Measures to be taken to eradicate rodents and cockroaches.	In some cases, the owner or occupier of premises may not be able to completely control the circumstances that lead to nuisance. The Committee has previously requested that terms such as "reasonable steps" or	Agreed. The word 'effective' has been replaced with the word 'reasonable' in clauses 5.12, 5.15, 6.10 and 6.14.

ITEM	CLAUSE NO.	HEADING	PROPOSED AMENDMENT	SHIRE'S POSITION
			"reasonable measures" be inserted in clauses of this nature. The Shire may wish to replace the term "effective measures" with "reasonable measures".	
12	Division 7	Keeping of Bees	This Division deals with the keeping of bees and provides that a person cannot keep bees without the approval of the local government. The Shire should ensure that this Division is consistent with the Biosecurity and Agriculture Management (Identification and Movement of Stock and Apiaries) Regulations 2013.	Noted. This Division has been deleted as it is now addressed in the proposed Animals, Environment and Nuisance Local Law 2016.
13	8.11(b)	Kitchen	Clause 8.11(c) currently provides that a keeper of a lodging house shall provide in that lodging house a kitchen which "may be required by the local government to comply with any of the requirements of Standard 3.2.3 of the Food Standards Code". It is suggested that these matters be directly addressed in the local law. Alternatively, the Shire could make these requirements apply in all cases by replacing the word "may" to "must".	Noted. The word 'may' has been replaced with the word 'must' in clause 8.11(b).
14	9.7	Alteration to premises	The term "change or alteration" can be subject to several interpretations, including minor repairs, installations or interior refurbishment. The Shire may wish to clarify this term in further detail, depending on how the clause is intended to operate in practice.	Noted. No change made.

The gazette ready copy of the local law has been revised and amended based on the majority of comments from the Department of Health and the Department of Local Government and Communities.

In addition to the items listed in the above table, a series of minor formatting changes have been made throughout the local law. The proposed changes do not result in a local law significantly different from that which was advertised, it is therefore recommended that the Council make the local law with the changes identified.

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



for that purpose and the minutes of the meeting of the council include the purpose and effect of the proposed local law.

In drafting the amendment local law, the following purpose and effect have been prepared:

The purpose of the *Shire of Cunderdin Health Local Law 2016* is provide a statutory means of effectively controlling issues which have the potential to adversely impact on the health and well-being of the community.

The effect of the *Shire of Cunderdin Health Local Law 2016* is to allow health related issues to be sufficiently controlled so as to provide an acceptable standard for the maintenance of public health in the community and to remove obsolete and out-dated local laws relating to the district.

### **Consultation**

Consultation has been undertaken with relevant parties as part of the local law making process, including inviting comments on the content of the proposed local law from the public and the Minister for Local Government and Communities, and the Minister for Health.

### **Statutory Implications**

Section 342 of the *Health Act 1911*.

#### **342. Local laws**

- (1) *Every local government —*
  - (a) *may, if the Executive Director, Public Health consents; and*
  - (b) *shall, if the CEO or the Executive Director, Public Health so directs,*  
*make local laws in accordance with subdivision 2 of Division 2 of Part 3 of the Local Government Act 1995 for the purposes specified in this Act or generally for carrying into effect the provisions of this Act.*
- (2) *A local government shall repeal, amend or suspend the operation of a local law if directed to do so by the CEO or the Executive Director, Public Health.*
- (3) *Sections 3.14 and 3.17 of the Local Government Act 1995 do not apply in relation to local laws made under this Act.*
- (4) *Sections 3.12(3) and (4) and 3.13 of the Local Government Act 1995 do not apply if a local government is acting on the direction of the CEO or the Executive Director, Public Health under subsection (1)(b) or (2).*

Section 3.12 of the *Local Government Act 1995*.

#### **3.12. Procedure for making of local laws**

- (1) *In making a local law a local government is to follow the procedure described in this section, in the sequence in which it is described.*
- (2) *At a council meeting the person presiding is to give notice to the meeting of the purpose and effect of the proposed local law in the prescribed manner.*
- (3) *The local government is to —*
  - (a) *give statewide public notice stating that-*
    - (i) *the local government proposes to make a local law the purpose of which is summarised in the notice;*
    - (ii) *a copy of the proposed local law may be inspected or obtained at any place specified in the notice; and*

- (iii) *submissions about the proposed local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;*
- (b) *as soon as the notice is given, give a copy of the proposed local law and a copy of the notice to the Minister and, if another Minister administer the Act under which the local law is proposed to be made, to that other Minister; and*
- (c) *provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.*
- (3a) *A notice under subsection (3) is also to be published and exhibited as if it were a local public notice.*
- (4) *After the last day for submissions, the local government is to consider any submissions made and may make the local law\* as proposed or make a local law\* that is not significantly different from what was proposed.*
- \* Absolute majority required.**
- (5) *After making the local law, the local government is to publish it in the Gazette and give a copy of it to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister.*
- (6) *After the local law has been published in the Gazette the local government is to give local public notice —*
- (a) *stating the title of the local law;*
- (b) *summarizing the purpose and effect of the local law (specifying the day on which it comes into operation); and*
- (c) *advising that copies of the local law may be inspected or obtained from the local government’s office.*
- (7) *The Minister may give directions to local governments requiring them to provide to the Parliament copies of local laws they have made and any explanatory or other material relating to them.*
- (8) *In this section —*
- making** *in relation to a local law, includes making a local law to amend the text of, or repeal, a local law.*

### **Policy Implications**

Nil

### **Financial Implications**

The publication of the Local Law will result in gazettal costs.

### **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.

#### **Resolution 7.5**

##### **That Council:**

- 1. Notes the comments and suggested drafting changes from the Department of Local Government and Communities on the proposed *Shire of Cunderdin Health Local Law 2016*.**
- 2. Notes the comments and suggested drafting changes from the Department of Health on the proposed *Shire of Cunderdin Health Local Law 2016*.**
- 3. Resolve to make the *Shire of Cunderdin Health Local Law 2016*, as contained in Attachment 1, in accordance with Section 342 of the Health Act 1911 and Section 3.12 of the *Local Government Act 1995*;**
  - (a) the purpose of which is to provide a statutory means of effectively controlling issues which have the potential to adversely impact on the health and well-being of the community; and**
  - (b) the effect of this local law is to allow health related issues to be sufficiently controlled so as to provide an acceptable standard for the maintenance of public health in the community and to remove obsolete and out-dated local laws relating to the district.**
- 4. Provide a copy of the adopted *Shire of Cunderdin Health Local Law 2016* to the Executive Director, Public Health, for consent.**
- 5. Upon consent being received from the Executive Director, Public Health, publish the *Shire of Cunderdin Health Local Law 2016* as per (1) above, in the *Government Gazette* and provide copies of the local law to the Minister for Local Government and Communities, and the Minister for Health.**
- 6. Give local public notice after gazettal of the local law advising the title and summary of the purpose and effect of the gazetted local law.**
- 7. Submit a copy of the gazetted local law, explanatory memoranda and associated documentation to the Joint Standing Committee on Delegated Legislation for review.**
- 8. Authorise the affixing of the Common Seal to the *Shire of Cunderdin Health Local Law 2016*.**

**Moved: Cr Todd Harris**

**Seconded: Cr Bernie Daly**

**Vote – Simple Majority**

**Carried: 7/0**

## 7.6 Making of Shire of Cunderdin Animals, Environment and Nuisance Local Law 2016

<b>Location:</b>	Shire of Cunderdin
<b>Applicant:</b>	Chief Executive Officer
<b>Date:</b>	10 <sup>th</sup> August 2016
<b>Author:</b>	Peter Naylor
<b>Item Approved by:</b>	Chief Executive Officer
<b>Disclosure of Interest:</b>	Nil
<b>File Reference:</b>	ADM0449V2
<b>Attachment/s:</b>	24 Pages

### Proposal/Summary

The report proposes the Council give consideration to the submissions received upon closure of the public submission period on the proposed *Animals, Environment and Nuisance Local Law 2016*; and whether to make the local law as is, or make the local law with minor amendments in response to the submissions received.

### Background

The proposed *Shire of Cunderdin Animals, Environment and Nuisance Local Law 2016* was presented to the Council at its Ordinary meeting of 19<sup>th</sup> May 2016 for adoption for advertising purposes.

The procedure for making local laws requires Council to advertise state-wide, advising of its intention to make a local law, and invite submissions to be made on the proposed local law for a six-week period. At the closure of the submission period, Council is to consider all submissions before making a local law. After resolving to make the local law, it is to publish the local law in the Government Gazette and provide a copy of it to the Minister for Local Government. Copies of the local law along with the completed Explanatory Memorandum are to be forwarded to the Joint Standing Committee on Delegated Legislation for review. Local public notice of the commencement of the local law is to occur after its gazettal.

State-wide advertising was undertaken in the West Australian on Wednesday 25<sup>th</sup> May 2016, with the submission period for public comment closing on Friday 7<sup>th</sup> July 2016.

At the closure of the submission period, two submissions were received; one from the Department of Local Government and Communities and one from the Department of Health.

### Comments

Council advertised, both locally and state-wide, for public comment on the proposed *Shire of Cunderdin Animals, Environment and Nuisance Local Law 2016*. At the close of the submission period, two submissions on the local law had been received.

The key items raised by the Department of Health, and by the Department of Local Government and Communities in their submissions are addressed in the table below.

ITEM	CLAUSE NO.	HEADING	PROPOSED AMENDMENT	SHIRE'S POSITION
<b>Department of Health Submission</b>				
1	1.5	Interpretation	In the definition of ' <i>EHO</i> ' delete the word " <i>Act</i> " and substitute " <i>Health Act 1911</i> ".	Agreed. The word ' <i>Act</i> ' has been replaced with the words ' <i>Health Act</i> '

ITEM	CLAUSE NO.	HEADING	PROPOSED AMENDMENT	SHIRE'S POSITION
				<i>1911'</i>
2	1.5	Definitions	In the definition of 'pigeon' the departmental name "Department of Environment and Conservation;" should be written as "Department of Parks and Wildlife", as that is the Department that has jurisdiction in this issue."	Agreed. Definition amended as suggested.
3	2.1	Definitions	"Manure bin" is not a term used in Part 2 of the local law. Only "manure receptacle", which is already defined in subclause 1.5 (1), is used in Part 2. Therefore, delete the superfluous definition of 'manure bin' from subclause 2.1	Agreed. Definition deleted from clause 2.1
4	2.29(1)	Variation or cancellation of licence to keep farm animals and conditions of licence	Remove the superfluous spaces from "1 000". It should be printed as "1000"	Noted. Figure amended as suggested.
5	4.8(2)	Disposal of swimming pool backwash	Subclause 4.8 (2) is allowing an action (discharge of swimming pool backwash water into the street or into a storm water disposal system) that is prohibited by the provisions of clause 4.2 of the proposed Shire of Cunderdin Health Local Law 2016. One of the provisions must be changed so that the requirement is the same in each local law.	Noted. No change to this clause, as definition was changed in clause 4.1 of the Proposed Health Local Law.
6	4.9(2)	Containment of stormwater	Subclause 4.9 (2) is allowing an action (discharge of storm water into a local government approved storm water disposal system) that is prohibited by the provisions of clause 4.2 of the proposed Shire of Cunderdin Health Local Law 2016. One of the provisions must be changed so that the requirement is the same in each local law.	Noted. No change to this clause, as clause 4.2 of the Proposed Health Local Law has been amended to correct this anomaly.
<b>Department of Local Government and Communities</b>				
1	N/A	N/A	It is suggested that the local law does not include page numbers in the contents page or throughout the local law, or footer at the bottom of the document. This is because the page numbers may not remain accurate after the local law is published in the Government Gazette.	Noted. Original draft gazette ready version did not have page numbers inserted. Page numbers were added to assist staff read the document, and were not removed in the final

ITEM	CLAUSE NO.	HEADING	PROPOSED AMENDMENT	SHIRE'S POSITION
				draft version. Now removed.
2	N/A	Title	The Shire should contact the Department of Health to confirm whether the Health Act 1911 head of power is necessary for this local law.	Not required. Part 2 of the Local Law deals with the keeping of animals, which is a matter that falls within the local law making powers in section 199 of the <i>Health Act 1911</i> .
3	Enactment Clause	N/A	The date that currently appears in the enactment clause is incorrect. Under section 3.12(4) of the Local Government Act 1995, a local law can only be made after the public submission period has closed.	Noted. This date was inadvertently inserted by staff. Correct date will be inserted once Council has adopted and made the local law.
4	1.4	Purpose and Effect	This clause has no legislative effect and can be removed if the Shire wishes.	Noted. It is believed that the inclusion of the purpose and effect in the local law will assist the public in the interpretation of the local law. No change made.
5.1	1.5	Definitions	It is suggested that the Shire insert definitions of the following terms: <ul style="list-style-type: none"> <li>▪ bee hive;</li> <li>▪ premises;</li> <li>▪ Residential Design Codes of WA;</li> <li>▪ Schedule;</li> <li>▪ special rural;</li> <li>▪ vectors of disease;</li> <li>▪ vehicle;</li> <li>▪ AS; and</li> <li>▪ AS/NZS.</li> </ul>	Agreed. Definitions as suggested have been incorporated into clause 1.5.
5.2	1.5	Definitions	It is suggested that the following definitions be amended: <ul style="list-style-type: none"> <li>▪ Affiliated person – correct reference to Associations Incorporation Act 2015.</li> <li>▪ Code of Practice for Pigeon Keeping – correct reference to appropriate Code.</li> </ul>	Agreed. Definitions amended as suggested.
6	Various	Various	The local law makes several references to the Department of Environment and Conservation. The Shire should check each reference to the former DEC in the local law, determine which Department now has responsibility for the matters	Noted. Pigeon definition amended, and clause 3.5 has been amended.

ITEM	CLAUSE NO.	HEADING	PROPOSED AMENDMENT	SHIRE'S POSITION
			addressed, and update the relevant references accordingly.	
7	1.5	Definitions	The definition of "farm animal" in clause 1.5(1) provides that the local government may determine that any other animal may be classified as a farm animal. The Committee has been fairly reluctant to allow the use of determination devices as it may enable the local government to change the local law without scrutiny. The Committee may raise this as an issue.	Agreed. 'farm animal' definition amended to remove 'or any other animal so classified by the local government'.
8	2.4	Cats	It is suggested that the Shire amend subclauses (1)(a) and (b) to ensure they are consistent with the Regulations. The Shire should also amend Schedule 1 accordingly.	Noted. Subclause (1) has been re-written to address regulations 5 and 7 of the <i>Cat Regulations 2013</i> .
9	Division 3 and Division 4	Keeping of Bees and Keeping of Farm Animals	The local law currently sets out the application, determination, conditions and cancellation of a licence to keep bees under Part 2 Division 3 of the local law, and the application, determination, conditions and cancellation of a licence to keep farm animals under Part 2 Division 4.  To ensure references to licences are differentiated in the local law, the Shire may like to consider including licence definitions at the start of Part 2 Division 3 and Part 2 Division 4 respectively.	Agreed. New Clauses 2.14 and 2.24 inserted.
10	2.17	Conditions of approval	Clause 2.17 currently makes an incorrect clause reference. It is suggested that "2.17(1)(b)" is deleted and replaced with "2.16(1)(b)"	Noted. This clause has been renumbered to 2.18 as a result of item 9, and the clause reference amended to 2.17(1)(b).
11	2.27	Variation or cancellation of licence to keep farm animals and conditions of licence	In clause 2.27, there appears to be little difference between subclause (2) and (3). For example, subclause (3)(c) is the same as subclause (2)(c), and part of subclause (3)(b) is the same as (2)(b). The Shire may wish to merge these subclauses to avoid repetition.	Agreed. Subclause (3) has been deleted and relevant paragraphs incorporated into subclause (2). Clause renumbered to 2.29 as a result of item 9.
12	2.30	Keeping a miniature pig	Currently, subclause (1) prohibits the keeping of pigs on land zoned commercial or industrial or in a residential area, subject to subclause (2). Subclause (2) prohibits the keeping of pigs everywhere,	Agreed. Subclause (1) amended to remove inconsistency; subclause (2) deleted, and remaining subclauses

ITEM	CLAUSE NO.	HEADING	PROPOSED AMENDMENT	SHIRE'S POSITION
			except on premises registered as an abattoir or piggery. The Shire should review subclause (1) and (2) to ensure they are consistent and reflect the intention of the Shire.	renumbered as required. Clause renumbered to 2.32 as a result of item 9.
13	3.2	Control of refuse	Clause 3.2(1)(c) provides that an owner or occupier must "maintain" a street verge or any other reserve. The Delegated Legislation Committee has previously raised issues with clauses similar to 3.2. This is because the term "maintain" can imply that the owner is responsible for keeping the verge in good repair and fixing any damage that occurs. This interpretation would be unreasonable, since the maintenance and repair of street verges is generally a local government responsibility.	Noted. Clause 3.2(1)(c) amended by replacing the word 'maintain' with 'keep'.
14	3.2, 3.4(1) and 4.5	Various	Clauses 3.2, 3.4(1) and 4.5 are intended to prevent nuisance caused by refuse, smoke, fumes, odours, dust, and liquid waste. In some cases, the owner and occupier of premises may not be able to completely control the circumstances that lead to nuisance. Such a clause tends to attract the attention of the Delegated Legislation Committee. In previous cases, the Committee has requested that terms such as "reasonable steps" or "reasonable measures" be inserted into such clauses.	Noted. In clauses 3.2, 3.4(1) and 4.5 the words 'must take effective measures' have been replaced with 'shall take reasonable steps'.
15	3.5	Dust management	In subclause (a), delete the reference to "Department of Environment and Conservation" and replace with "Department of Environment Regulation.	Noted. Clause amended as suggested.
16	3.9	Storage of vehicles, vessels and machinery	Subclause (c) provides that a person must not store or allow to remain in public view any vehicle or vessel on a lot. As this clause is currently written, anyone who parks a car, caravan or boat on any premises may commit an offence if the vehicle is capable of being viewed by the public. Depending on how the clause is read, the mere act of storing the vehicle or vessel on the lot may qualify as an offence.	Agreed. Subclause 3.9(c) amended by including the word 'parts' after the words 'vehicle' and 'vessel'.
17	4.4(3)(c)	Burning rubbish, refuse or other material	It is suggested that the Shire delete the reference to "green garden materials" in clause 4.4(3)(c). The Committee has previously made an undertaking requiring the term be removed from <i>Shire of</i>	Noted. Clause amended as suggested.



ITEM	CLAUSE NO.	HEADING	PROPOSED AMENDMENT	SHIRE'S POSITION
			<i>Kalamunda's Keeping and Control of Animals and Nuisance Local Law.</i>	

The gazette ready copy of the local law has been revised and amended based on the majority of comments from the Department of Health and the Department of Local Government and Communities.

In addition to the items listed in the above table, a series of minor edits and formatting changes have been made throughout the local law. The proposed changes do not result in a local law significantly different from that which was advertised, it is therefore recommended that the Council make the local law with the changes identified.

Matters governed by provisions of the *Health Act 1911* are required to be made in accordance with Section 342 of the *Health Act 1911*. Such matters include those related to the keeping of animals and associated nuisances.

Section 342 of the *Health Act 1911*, requires a local government to make local laws in accordance with subdivision 2 of Division 2 of Part 3 of the *Local Government Act 1995*. Section 3.12 of the *Local Government Act 1995* specifies the requirements of the local law making process for local governments.

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

In drafting the local law, the following purpose and effect have been prepared:

The purpose of the *Shire of Cunderdin Animals, Environment and Nuisance Local Law 2016* is to provide for the regulation, control and management of animals and the prevention of environmental damage and nuisances within the district.

The effect of the *Shire of Cunderdin Animals, Environment and Nuisance Local Law 2016* is to establish the requirements with which any person keeping animals, or undertaking activities that have the potential to impact the environment or create nuisance must comply.

### **Consultation**

Consultation has been undertaken with relevant parties as part of the local law making process, including inviting comments on the content of the proposed local law from the public and the Minister for Local Government and Communities, and the Minister for Health.

### **Statutory Implications**

Section 342 of the *Health Act 1911*.

#### **342. Local laws**

- (1) *Every local government —*
- (a) *may, if the Executive Director, Public Health consents; and*
  - (b) *shall, if the CEO or the Executive Director, Public Health so directs, make local laws in accordance with subdivision 2 of Division 2 of Part 3 of the Local Government Act 1995 for the purposes specified in this Act or generally for carrying into effect the provisions of this Act.*

- (2) *A local government shall repeal, amend or suspend the operation of a local law if directed to do so by the CEO or the Executive Director, Public Health.*
- (3) *Sections 3.14 and 3.17 of the Local Government Act 1995 do not apply in relation to local laws made under this Act.*
- (4) *Sections 3.12(3) and (4) and 3.13 of the Local Government Act 1995 do not apply if a local government is acting on the direction of the CEO or the Executive Director, Public Health under subsection (1)(b) or (2).*

*Section 3.12 of the Local Government Act 1995.*

### **3.12. Procedure for making of local laws**

- (1) *In making a local law a local government is to follow the procedure described in this section, in the sequence in which it is described.*
- (2) *At a council meeting the person presiding is to give notice to the meeting of the purpose and effect of the proposed local law in the prescribed manner.*
- (3) *The local government is to —*
  - (a) *give statewide public notice stating that-*
    - (i) *the local government proposes to make a local law the purpose of which is summarised in the notice;*
    - (ii) *a copy of the proposed local law may be inspected or obtained at any place specified in the notice; and*
    - (iii) *submissions about the proposed local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;*
  - (b) *as soon as the notice is given, give a copy of the proposed local law and a copy of the notice to the Minister and, if another Minister administer the Act under which the local law is proposed to be made, to that other Minister; and*
  - (c) *provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.*
- (3a) *A notice under subsection (3) is also to be published and exhibited as if it were a local public notice.*
- (4) *After the last day for submissions, the local government is to consider any submissions made and may make the local law\* as proposed or make a local law\* that is not significantly different from what was proposed.*

**\* Absolute majority required.**
- (5) *After making the local law, the local government is to publish it in the Gazette and give a copy of it to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister.*
- (6) *After the local law has been published in the Gazette the local government is to give local public notice —*
  - (b) *stating the title of the local law;*
  - (b) *summarizing the purpose and effect of the local law (specifying the day on which it comes into operation); and*
  - (c) *advising that copies of the local law may be inspected or obtained from the local government's office.*
- (7) *The Minister may give directions to local governments requiring them to provide to the Parliament copies of local laws they have made and any explanatory or other material relating to them.*
- (8) *In this section —*

**making** *in relation to a local law, includes making a local law to amend the text of, or repeal, a local law.*

## **Policy Implications**

Nil

## **Financial Implications**

The publication of the Local Law will result in gazettal costs.

## **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.

## **Resolution 7.6**

### **That Council:**

- 1. Notes the comments and suggested drafting changes from the Department of Local Government and Communities on the proposed *Shire of Cunderdin Animals, Environment and Nuisance Local Law 2016*.**
- 2. Notes the comments and suggested drafting changes from the Department of Health on the proposed *Shire of Cunderdin Animals, Environment and Nuisance Local Law 2016*.**
- 3. Resolve to make the *Shire of Cunderdin Animals, Environment and Nuisance Local Law 2016*, as contained in Attachment 1, in accordance with Section 342 of the Health Act 1911 and Section 3.12 of the *Local Government Act 1995*;**
  - (a) the purpose of which is to provide for the regulation, control and management of animals and the prevention of environmental damage and nuisances within the district; and**
  - (b) the effect of this local law is to establish the requirements with which any person keeping animals, or undertaking activities that have the potential to impact the environment or create nuisance must comply.**
- 4. Provide a copy of the adopted *Shire of Cunderdin Animals, Environment and Nuisance Local Law 2016* to the Executive Director, Public Health, for consent.**
- 5. Upon consent being received from the Executive Director, Public Health, publish the *Shire of Cunderdin Animals, Environment and Nuisance Local Law 2016* as per (1) above, in the *Government Gazette* and provide copies of the local law to the Minister for Local Government and Communities, and the Minister for Health.**
- 6. Give local public notice after gazettal of the local law advising the title and summary of the purpose and effect of the gazetted local law.**
- 7. Submit a copy of the gazetted local law, explanatory memoranda and associated documentation to the Joint Standing Committee on Delegated Legislation for review.**
- 8. Authorise the affixing of the Common Seal to the *Shire of Cunderdin Animals, Environment and Nuisance Local Law 2016*.**

**Moved: Cr Alison Harris**

**Seconded: Cr Norm Jenzen**

**Vote – Simple Majority**

**Carried: 7/0**

**8 Environmental Health & Building**

Nil

## 9. Works & Services

### 9.1 Works & Services Report

Location:	Cunderdin
Applicant:	Manager Works and Services
Date:	July 2016
Author:	Manager Works and Services
Item Approved by:	Chief Executive Officer
Disclosure of Interest:	Nil
Attachment/s:	Nil

#### **Proposal/Summary**

Council is to receive the Works and Services Report for July 2016.

#### **Construction**

- Completed re-sheeting works on Fiegert Street and Kitto Road.

#### **General Maintenance – Roads listed have had maintenance carried out on them:-**

- Winter grading works carried out on Boland, Sheehan, Carter and Doherty Roads.
- Repaired crossovers on Cubbine, Margaret, Lundy, Baxter.
- Erected new school signs on Wilding Road.
- Repaired pot holes along the airfield road.
- Commenced shoulder grading on Quairading Road.
- Constructed new School Bus Stop and turn around signs on Beebering Road.
- Stood up (10) guide posts on Cunderdin / Wyalkatchem Roads that were knocked over.

#### **Replaced/Repaired the following signs:-**

- Stood up gravel road warning sign knocked over on RPF North Road.

#### **Parks and Gardens – Meckering**

- Carried out general mowing, slashing, whipper-snipping and general clean-up of parks, gardens and public open space.
- Extended gravel path way for the Meckering Rose Garden and supplied concrete slabs to sit machinery on.

#### **Parks and Gardens – Cunderdin and the Recreation Centre**

- Carried out general mowing, weeding, whipper-snipping and general clean-up of parks, oval and general clean up.

#### **Building and Other Maintenance**

- The new disabled toilet facility has been installed adjoining the existing toilets in Forrest Street, with the roof and cladding work also commenced.

### **Road Side and Verge Spraying**

- Spraying and slashing of Shire land in Cunderdin.

### **Cemeteries**

- No funerals for July.

### **Airfield Maintenance**

- Weekly reporting and checking water bombing building and plant.
- Weed spraying and runway inspections.
- No lights damaged.

### **Plant Maintenance**

- L.G.I.S has authorised repairs to the 6 wheel truck, except for \$3,300.00.
- The new Holland ride-on mower has a broken shaft or gear and will be out of action for a couple of weeks.
- Estimates for the sale of the:
  - a. Toyota 20 seater 1995 Commuter Bus (Registration: CMT 929; Mileage: 172,357kms) - \$10,000; and;
  - b. International ACCO 1850G 1996 Water Truck (Registration: CMT 619; Mileage: 211,015kms) - \$12,000.

### **Waste Services**

- Both transfer stations are working well and no complaints received.
- Carted out two loads of scrap steel.

### **Works and Services Staff**

- (8) Staff members have completed Load Restraint Course.
- (2) Staff members have completed Airport Reporting Officer Course.
- (2) Staff members have completed the Full Basic Traffic Management Course and (6) staff members have completed a refresher course.

### **Traffic Counters**

- Pearse Road between 29/7/2016 and 5/8/2016 = 8 days =11.5 vpd
- 3 Mile Gate = 8 days = 4.75 vpd
- RPF North = 8 days = 8.6 vpd
- Shorter Road = 8 days = 4.50 vpd

### **Other Matters**

Nil

## **Statutory Implications**

Local Government Act 1995

## **Financial Implications**

Nil

5:30PM Meredith Lee-Curtis left the meeting

### **Resolution 9.1**

#### **That Council:**

- **Receives the Works and Services Report for July 2016.**
- **Authorises the Manager of Works and Services to advertise for tender in the Bandicoot Newsletter:**
  - a. **a Toyota 20 seater 1995 Commuter Bus (Registration: CMT 929; Mileage: 172,357kms); and;**
  - b. **an International ACCO 1850G 1996 Water Truck (Registration: CMT 619; Mileage: 211,015kms)**

**Moved : Cr Dennis Whisson**

**Seconded: Cr Doug Kelly**

**Vote – Simple majority**

**Carried: 7/0**



## 9.2 Application to keep three (3) Dogs

<b>Location:</b>	20 Pemberton Street, Cunderdin
<b>Applicant:</b>	Yvonne Varris
<b>Date:</b>	12 <sup>th</sup> August 2016
<b>Author:</b>	Peter Naylor
<b>Item Approved by:</b>	Chief Executive Officer
<b>Disclosure of Interest:</b>	Nil
<b>File Reference:</b>	33341
<b>Attachment/s:</b>	1 Page

### Proposal/Summary

An application has been received from Yvonne Varris requesting permission to keep three (3) dogs on their property at 20 Pemberton Street, Cunderdin.

### 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).

### Comment

The Manager Works & Services has inspected the property of 20 Pemberton Street, Cunderdin and has found the fences to be adequate and in a suitable state of repair to contain the 3 dogs.

All three (3) dogs are currently registered with the Shire and have been microchipped.

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

Nil

### 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.

**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**

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.

**Resolution 9.2**

**That Council approves the application to keep three (3) dogs at 20 Pemberton Street, Cunderdin, subject to the following conditions:**

- 1. The applicant must maintain and hold valid registrations for each of the dogs kept at the premises.**
- 2. The exemption is only valid for the life of these three (3) dogs, should one (1) of the dogs become deceased it cannot be replaced prior to seeking further approval from Council.**
- 3. Should there be any significant breach of the *Dog Act 1976* then the exemption may be withdrawn at any time.**

**Moved: Cr Todd Harris**

**Seconded: Cr Alison Harris**

**Vote – Simple majority**

**Carried: 7/0**

**10 Planning & Development**

Nil

**11 Urgent Items**

Nil

**12. Matters for which the meeting may be closed**

**Resolution 12.0.1**

**That Council moves behind closed doors at 5:36pm.**

**Moved: Cr Todd Harris**

**Seconded: Cr Doug Kelly**

**Vote – Simple majority**

**Carried: 7/0**

5:36PM Paul Godfrey and Ian Bartlett left the meeting.

**12.1 CONFIDENTIAL – Deputy Chief Executive Officer Extension of Contract**

<b>Location:</b>	Cunderdin
<b>Applicant:</b>	Peter Naylor
<b>Date:</b>	12 <sup>th</sup> August 2016
<b>Author:</b>	Peter Naylor
<b>Item Approved by:</b>	Chief Executive Officer
<b>Disclosure of Interest:</b>	Paul Godfrey, DCEO
<b>File Reference:</b>	Nil
<b>Attachment/s:</b>	Nil

Mr Paul Godfrey, Deputy Chief Executive Officer declared a Financial Interest in this item.

**Resolution 12.1**

**That Council:**

- 1. Endorses the Chief Executive Officer proposal to enter into a new Four (4) Year Contract Extension with the Deputy Chief Executive Officer, Mr Paul Godfrey, in accordance with existing remuneration levels and contract conditions, with the contract commencement date being 29<sup>th</sup> January 2017, expiring on 28<sup>th</sup> January 2021.**

**Moved: Cr Doug Kelly**

**Seconded: Cr Norm Jenzen**

**Vote – Simple majority**

**Carried: 7/0**

**Resolution 12.0.2**

**That Council moves from behind closed doors at 5:48pm.**

**Moved: Cr Bernie Daly**

**Seconded: Cr Todd Harris**

**Vote – Simple majority**

**Carried: 7/0**

5:48PM Paul Godfrey returned to the meeting.

**13. Closure of meeting**

There being no further business the Shire President will declare the meeting closed at 5.50pm