

**Shire of Moora  
Ordinary Council Meeting  
20<sup>th</sup> September 2017**

**NOTICE OF MEETING**

Dear Elected Member

The next Ordinary Council Meeting of the Shire of Moora  
will be held on **Wednesday 20<sup>th</sup> September 2017**  
in the **Watheroo Pavilion, Watheroo**  
commencing at **6.30 pm**



AJ Leeson  
Chief Executive Officer

14<sup>th</sup> September 2017

## **The Shire of Moora Vision and Mission Statement**

### **Vision**

Our vision is that:

***The Moora region will be a place of brilliant opportunity over the next twenty years. Sustainable growth will result in a vibrant, healthy, wealthy and diverse community.***

### **Mission**

Our mission is:

***To identify and stimulate growth through creative leadership and a willingness to get things done.***

**SHIRE OF MOORA****WRITTEN DECLARATION OF INTEREST IN MATTER BEFORE COUNCIL**

Chief Executive Officer  
 Shire of Moora  
 PO Box 211  
 MOORA WA 6510

Dear Sir/Madam,

**Re: Written Declaration of Interest in Matter Before Council**

I, <sup>(1)</sup> \_\_\_\_\_ wish to declare  
 an interest in the following item to be considered by Council at its meeting to be held on <sup>(2)</sup>  
 \_\_\_\_\_ .

Agenda Item <sup>(3)</sup> \_\_\_\_\_

The type of interest I wish to declare is: <sup>(4)</sup>

- Financial pursuant to Section 5.60A of the Local Government Act 1995
- Proximity pursuant to Section 5.60B of the Local Government Act 1995
- Indirect Financial pursuant to Section 5.61 of the Local Government Act 1995
- Impartiality pursuant to Regulation 11 of the Local Government (Rules of Conduct) Regulations 2007.

The nature of my interest is <sup>(5)</sup>

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

The extent of my interest is <sup>(6)</sup>

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

I understand that the above information will be recorded in the Minutes of the meeting and recorded by the Chief Executive Officer in an appropriate Register.

Yours faithfully,

\_\_\_\_\_  
 Signed

\_\_\_\_\_  
 Date

1. Insert your name.
2. Insert the date of the Council Meeting at which the item is to be considered.
3. Insert the Agenda Item Number and Title.
4. Tick box to indicate type of interest.
5. Describe the nature of your interest.
6. Describe the extent of your interest (if seeking to participate in the matter under S. 5.68 of the Act).

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**SHIRE OF MOORA**  
**ORDINARY COUNCIL MEETING AGENDA**  
**20 SEPTEMBER 2017**  
 COMMENCING AT 6.30PM

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- \* Separate Attachments
  - 9.1.1 *List of Payments Authorised Under Delegation 1.31*
  - 9.1.2 *Statement of Financial Activity for Period Ended 31 August 2017*
  - 9.1.3 *Letter & Central Midlands Construction Constitution “marked up”*
  - 9.2.1 *Plans*
  - 9.2.2 *Plans*

**1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS****1.1 DECLARATION OF OPENING****1.2 DISCLAIMER READING**

*No responsibility whatsoever is implied or accepted by the Shire of Moora 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 decision, which will be provided within fourteen (14) days of this meeting.*

**2. ATTENDANCE / APOLOGIES / APPROVED LEAVE OF ABSENCE****APOLOGIES**

TG Humphry	-	Councillor
PF Nixon	-	Councillor

**3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE****4. PUBLIC QUESTION TIME****5. PETITIONS AND PRESENTATIONS****6. APPLICATIONS FOR LEAVE OF ABSENCE****7. ANNOUNCEMENTS BY THE PRESIDING MEMBER****8. CONFIRMATION OF MINUTES****8.1 ORDINARY COUNCIL MEETING - 16 AUGUST 2017**

*That the Minutes of the Ordinary Meeting of Council held on 16 August 2017 be confirmed as a true and correct record of the meeting.*

## **9. REPORTS OF OFFICERS**

### **9.1 GOVERNANCE AND CORPORATE SERVICES**

#### **9.1.1 LIST OF PAYMENTS AUTHORISED UNDER DELEGATION 1.31**

**REPORT DATE:** 14 September 2017

**OFFICER DISCLOSURE OF INTEREST:** Nil

**AUTHOR:** David Trevaskis, Deputy Chief Executive Officer

**SCHEDULE PREPARED BY:** Alida Fitzpatrick, Finance Officer

**ATTACHMENTS:** Accounts Paid Under Delegated Authority

#### **PURPOSE OF REPORT**

Payments have been made under delegated authority and a listing of these payments is attached for Council to note and endorse.

#### **BACKGROUND**

At the December 2005 Ordinary Meeting of Council resolution 276/2005 delegated the authority of payments from Municipal and Trust Funds to the Chief Executive Officer.

#### **COMMENT**

Accounts Paid under delegated authority are periodically presented to Council.

#### **POLICY REQUIREMENTS**

Delegation 1.31 – Payments from Municipal and Trust Funds.

#### **LEGISLATIVE REQUIREMENTS:**

Local Government Act 1995 - Section 6.10

Local Government (Financial Management) Regulations 1996 – Regulations 12 & 13.

#### **STRATEGIC IMPLICATIONS**

There are no known strategic implications associated with this proposal.

#### **SUSTAINABILITY IMPLICATIONS**

##### ➤ **Environment**

There are no known significant environmental implications associated with this proposal.

##### ➤ **Economic**

There are no known significant economic implications associated with this proposal.

##### ➤ **Social**

There are no known significant social implications associated with this proposal.

#### **FINANCIAL IMPLICATIONS**

Payments are in accordance with the adopted budget.

#### **VOTING REQUIREMENTS**

Simple Majority Required



**RECOMMENDATION**

***That Council notes and endorses the Payments from the Municipal and Trust Funds made under delegation 1.31***

<b><i>Municipal Fund</i></b>	<b><i>Cheques 62282 to 62290</i></b>	<b><i>\$18,335.70</i></b>
	<b><i>EFT 17950 to 18114</i></b>	<b><i>\$505,128.82</i></b>
	<b><i>Credit Card 04/07/17 to 02/08/17</i></b>	<b><i>\$1,606.99</i></b>
	<b><i>Net Pays – PPE 08/08/17</i></b>	<b><i>\$96,037.65</i></b>
	<b><i>Net Pays – PPE 22/08/17</i></b>	<b><i>\$100,447.33</i></b>
	<b><i>DD 11371.1 to 11402.10</i></b>	<b><i>\$46,131.95</i></b>
<b><i>Trust Fund</i></b>	<b><i>Cheques 5282 to 5283</i></b>	<b><i>\$1,020.00</i></b>
<b><i>Total</i></b>		<b><i><u>\$767,688.44</u></i></b>

**9.1.2 STATEMENT OF FINANCIAL ACTIVITY FOR PERIOD ENDED 31 AUGUST 2017**

**REPORT DATE:** 14 September 2017

**OFFICER DISCLOSURE OF INTEREST:** Nil

**PREVIOUS MEETING REFERENCES:** Nil

**AUTHOR:** David Trevaskis, Deputy Chief Executive Officer

**ATTACHMENTS:** Statement of Financial Activity for the Period Ended 31 August 2017

**PURPOSE OF REPORT:**

To note and receive the Statement of Financial Activity for the period ended 31 August 2017.

**BACKGROUND:**

Council is provided with monthly financial reports to enable monitoring of revenues and expenditures against the adopted budget.

**COMMENT:**

The Statement of Financial Activity for the Period Ended is provided as a separate attachment in Program format.

**POLICY REQUIREMENTS:**

Nil

**LEGISLATIVE REQUIREMENTS:**

Local Government Act 1995, Section 6.4

Local Government (Financial Management) Regulations 1996, Clause 34

**STRATEGIC IMPLICATIONS:**

Monitoring of actual revenues and expenditures against the adopted budget assists Council in being informed as to the financial health of the organisation.

**SUSTAINABILITY IMPLICATIONS:**

➤ **Environment**

There are no known significant environmental implications associated with this proposal.

➤ **Economic**

There are no known significant economic implications associated with this proposal.

➤ **Social**

There are no known significant social implications associated with this proposal.

**FINANCIAL IMPLICATIONS:**

Year to date income and expenditure is provided by program to enable comparison to 2017/18 adopted budget.

**VOTING REQUIREMENTS**

Simple Majority Required

**RECOMMENDATION**

***That Council notes and receives the Statement of Financial Activity for the period ended 31 August 2017.***

### **9.1.3 PROPOSED CONSTITUTION CHANGE TO CENTRAL MIDLANDS CONSTRUCTION PTY LTD**

**FILE REFERENCE:** ED/ICM1

**REPORT DATE:** 14 September 2017

**APPLICANT/PROPONENT:** Central Midlands Construction Pty Ltd

**OFFICER DISCLOSURE OF INTEREST:** Nil

**PREVIOUS MEETING REFERENCES:** Nil

**AUTHOR:** Alan Leeson, Chief Executive Officer

**ATTACHMENTS:** Letter & Central Midlands Construction Constitution “marked up”

#### **PURPOSE OF REPORT:**

Approve amendments of a minor nature to the constitution of Central Midlands Construction Pty Ltd.

#### **BACKGROUND:**

As detailed in the attached letter. The Board of Central Midlands Construction Pty Ltd (CMC) has reviewed the Company’s Constitution identifying some anomalies/errors within the document.

#### **COMMENT:**

All changes/amendments are shown in the Constitution “marked up”. Summarily the main changes other than typographical changes are;

- Deletion of (WA) from the title, in conformity with the registered name of the Company;
- Amending the definition of a Special Resolution such that as well as 75% of the total votes cast in favour, there must be a majority of votes in favour by each class of shares (this amendment is critical to ensuring that the Shire’s involvement as a shareholder is fully compliant with the requirements of the *Local Government Act 1995*);
- Clarifying the intention that only A Class shareholders receive dividends while only B Class shareholders participate in a distribution of capital;
- Inserting a provision to allow for the maximum term of any Alternate Directors to be fixed;
- Removing the stipulation that dividends can only be paid out of profits.

#### **POLICY REQUIREMENTS:**

There are no known policy implications in relation to this item;

#### **LEGISLATIVE REQUIREMENTS:**

Subject to Councils agreement to the changes as detailed as a 33.33% stake shareholder in CMC, any amendments to the CMC constitution must be approved by a Special Resolution of Shareholders (requiring 75% to vote in favour).

#### **STRATEGIC IMPLICATIONS:**

There are no known strategic implications associated with this proposal.

#### **SUSTAINABILITY IMPLICATIONS:**

##### ➤ **Environment**

There are no known significant environmental implications associated with this proposal.

- **Economic**  
There are no known significant economic implications associated with this proposal.
- **Social**  
There are no known significant social implications associated with this proposal.

**FINANCIAL IMPLICATIONS:**

There are no financial implications to Council in relation to this item.

**VOTING REQUIREMENTS**

Simple Majority Required

**RECOMMENDATION**

*That Council approve the changes to the Constitution of Central Midlands Construction Pty Ltd as shown marked in the attached Constitution circulated with the Agenda of the Ordinary Meeting of the Council of the Shire of Moora Council 20<sup>th</sup> September 2017.*

#### **9.1.4 PURCHASE OF NEW BICYCLES – JOINT VENTURE-W. A POLICE SERVICE**

**FILE REFERENCE:** LO/CCSII & GA/POLI

**REPORT DATE:** 14 September 2017

**APPLICANT/PROPONENT:** Chief Executive Officer

**OFFICER DISCLOSURE OF INTEREST:** Nil

**PREVIOUS MEETING REFERENCES:** Nil

**AUTHOR:** Alan Leeson, Chief Executive Officer

**ATTACHMENTS:** Nil

##### **PURPOSE OF REPORT:**

For Council to consider approval to purchase two bicycles for the Moora Station of the W.A Police Service to be used for local bicycle patrols.

##### **BACKGROUND:**

Over the past three to four years the Shire has discussed several times sponsoring the purchase of two bicycles for the Moora Police to assist them with night patrols, in particular over the summer months when late night/early morning anti-social behaviour is at its highest.

Pleasingly Moora Police Officer in Charge Sgt Tom Louden has been given approval to commence bicycle patrols from the Moora Police Station and has been given approval to go ahead and purchase uniforms for the patrols.

##### **COMMENT:**

This report seeks Councils agreement to sponsor the purchase of two new bicycles. The cost of the bicycles with necessary accessories such as lights is anticipated to be in the vicinity of \$1,700 to \$2,500 depending on which model bicycles are purchased.

##### **POLICY REQUIREMENTS:**

There are no known policy requirements in relating to this matter.

##### **LEGISLATIVE REQUIREMENTS:**

There are no known legislative requirements related to this item.

##### **STRATEGIC IMPLICATIONS:**

There are no known strategic implications associated with this proposal.

##### **SUSTAINABILITY IMPLICATIONS:**

- **Environment**  
There are no known significant environmental implications associated with this proposal.
- **Economic**  
There are no known significant economic implications associated with this proposal.
- **Social**  
This initiative is aimed at strengthening cooperation between the Shire of Moora and the Moora Police and demonstrating to the community there is a healthy and mutually cooperative relationship between the two parties.

**FINANCIAL IMPLICATIONS:**

As detailed above. Council has an allocation of \$5,000 in its 2017/2018 budget to go toward community and crime prevention initiatives.

**VOTING REQUIREMENTS:**

Simple Majority Required

**OFFICER RECOMMENDATION**

*That Council approve an allocation not exceeding \$2,500 for the provision of two new bicycles to the Moora Police to enable them to conduct bicycle patrols in the Moora townsite, furthermore that on launching the joint initiative a media release be compiled promoting the initiative and the mutually strong and cooperative relationship between the Moora W.A Police Service and the Shire of Moora.*

## **9.2 DEVELOPMENT SERVICES**

### **9.2.1 LOT 160 LONG STREET, MOORA - SHED**

**FILE REFERENCE:** TP/PA03/1718  
**REPORT DATE:** 23 August 2017  
**APPLICANT/PROPONENT:** Wendy Dunn  
**OFFICER DISCLOSURE OF INTEREST:** Nil  
**PREVIOUS MEETING REFERENCES:** Nil  
**AUTHOR:** Peter Williams, Manager Development Services  
**ATTACHMENTS:** Plans

#### **PURPOSE OF REPORT:**

The Shire is in receipt of a development application from Mrs Wendy Dunn of Lot 160 Long Street, Moora requesting Council permission to construct a 17.0m x 5.0m x 2.43m steel framed and colour bond clad shed.

#### **BACKGROUND:**

Lot 160 Long Street is owned by Wendy Dunn and the property is zoned Rural Residential 3 (RR3) and comprises of 34 Hectares of land. The property is located within the Town of Moora flood affected area and is required to comply with flood provisions requirement of finished floor levels being at least 300mm above the highest known flood level according to 1999 May flood for that area. The property currently has an ancillary dwelling and a shed on the property.

Minimum Building setbacks:-

Front: 15.0m  
Rear: 15.0m  
Side: 10.0m

Development in a Rural Residential zone shall comply with the requirements of the following:

- (a) planning approval is required for all development including a single house and such application shall be made in writing to the local government and be subject to the provisions of clause 7.2.
- (b) not more than 1 dwelling shall be erected on a lot but the local government may, at its discretion, approve ancillary accommodation.
- (c) when the first application for planning approval is made for building on a lot under clause 3.13.4 (a) the applicant shall nominate for the local government's approval a building envelope of regular shape and not exceeding 4000 square metres in area and which complies with minimum building setbacks in clause 3.13.2. All building(s) including the building(s) subject of the first application shall be contained within the building envelope approved by the local government.
- (d) to conserve the rural environment or features of natural beauty all trees shall be retained unless their removal is authorised by the local government.
- (e) to enhance the rural amenity of the land in areas the local government considers deficient in tree cover it may require as a condition of any planning approval the



planting of such trees and/or groups of trees and species as specified by the local government.

- (f) a person who keeps an animal or animals or who uses any land for the exercise or training of an animal or animals shall be responsible for appropriate measures to prevent noise, odour, or dust pollution or soil erosion to the satisfaction of the local government.

**COMMENT:**

The applicant advises that the shed is to be used for storage purposes only, therefore the building cannot be used for habitable purposes as there is already an ancillary dwelling on the property.

It is recommended that this application be approved subject to compliance with setback provisions; a letter from Department of Water stating the Finished Floor Level for that area within the Moora flood zone and the shed is not to be used for habitable purposes. Council may exercise its right to reduce Finished Floor Level height by 150mm below the required 300mm above the highest known flood level in that area if the building is a I0A building, being an out building that is not habitable.

**POLICY REQUIREMENTS:**

There are no policy requirements for this item.

**LEGISLATIVE REQUIREMENTS:**

There are no known legislative requirements related to this item.

**STRATEGIC IMPLICATIONS:**

There are no known strategic implications associated with this proposal.

**SUSTAINABILITY IMPLICATIONS:**

- **Environment**  
There are no known significant environmental implications associated with this proposal.
- **Economic**  
There are no known significant economic implications associated with this proposal.
- **Social**  
There are no known significant social implications associated with this proposal.

**FINANCIAL IMPLICATIONS:**

There are no financial implications to Council in relation to this item.

**VOTING REQUIREMENTS**

Simple Majority Required

**RECOMMENDATION**

*That Council approve the application from Mrs Wendy Dunn to construct a 17m x 5m x 2.4m steel framed and colour bond clad shed to be constructed at her property located at Lot 160 Long Street, Moora subject to the following conditions:*

- *Shed is not to be used for habitable purposes;*

- ***Letter from Department of Water advising Finished Floor Level for Lot 160 Long Street;***
- ***Council may exercise its right to reduce Finished Floor Level height by 150mm below the required 300mm above the highest known flood level in that area if the building is a 10A building being an out building that is not habitable;***
- ***Compliance with setback provisions for the Rural Residential Zone;***
- ***Shed is not to be constructed of second hand materials; and***
- ***This is not a Building Approval; a separate building application is required to be submitted to Councils Building Surveyor for approval.***

## 9.2.2 **HOME BUSINESS - LOT 118 CARRICK STREET, MOORA**

**FILE REFERENCE:** TP/PA05/17/18

**REPORT DATE:** 28 August 2017

**APPLICANT/PROPONENT:** Robert Climas

**OFFICER DISCLOSURE OF INTEREST:** Nil

**PREVIOUS MEETING REFERENCES:** Nil

**AUTHOR:** Peter Williams, Manager Development Services

**ATTACHMENTS:** Plans

### **PURPOSE OF REPORT:**

An application has been received from Mr Robert Climas requesting Council permission to construct 16.0m x 12.0m x 4.77m steel framed and steel clad shed on his property at Lot 118 Carrick Street to be used for storage of wool. Mr Climas wishes to operate a small part time wool buying business from his property in Carrick Street Moora.

### **BACKGROUND:**

Lot 118 Carrick Street is in the Rural Residential 3 (RR3) area on the corner of Long and Carrick Streets and is located within the Town of Moora Flood Zone and will be subject to the imposed flood provision requirements.

### **Objectives of Rural Residential 3 (RR3)**

- (a) to select areas wherein closer subdivision will be permitted to provide for such uses as hobby farms, horse breeding, rural-residential retreats.
- (b) to make provision for retention of the rural landscape and amenity in a manner consistent with the orderly and proper planning of such areas.

### Site Requirements:

The minimum building setbacks shall be:

Front: 15.0m

Rear: 15.0m

Side: 10.0m

### **Development Requirements**

Development in a Rural Residential zone shall comply with the requirements of the following:

- (a) planning approval is required for all development including a single house and such application shall be made in writing to the local government and be subject to the provisions of clause 7.2.
- (b) not more than 1 dwelling shall be erected on a lot but the local government may, at its discretion, approve ancillary accommodation.

**'Home Business'** means a business, service or profession carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which:-

- (a) does not employ more than 2 people not members of the occupier's household;
- (b) will not cause injury to or adversely affect the amenity of the neighbourhood;
- (c) does not occupy an area greater than 50 square metres;

*(d) does not involve the retail sale, display or hire of goods of any nature;*

*(e) in relation to vehicles and parking, does not result in traffic difficulties because of the inadequacy of parking or an increase in traffic volumes in the neighbourhood, and does not involve the presence, use or calling of a vehicle more than 3.5 tonnes tare weight; and*

*(f) does not involve the use of an essential service of greater capacity than normally required in the zone.*

**COMMENT:**

Mr Climas is constructing a shed on his property in Carrick Street as he is looking to set up a small part time wool buying business he can operate to be able to work part time and spend more time with family.

The wool he plans to purchase will be entirely contained within the shed, baled and then sent on to wool buyers in Fremantle. Wool will comprise of mostly part bales purchased from Farmers of locks, crutchings, pieces and oddment fleeces. He advises that there will be no retail involved and no clients with deliveries to the property.

The plans submitted could be reduced after feasibility & financial study has been completed. This will require an amended plan to be submitted.

Council has discretion to consider a minimum finished floor level less than 300mm above the March 1999 flood levels where the local government determines that:

- (i) The non-habitable buildings and structures are infill development in the Town Centre zone (with a minimum FFL of 0.15 metres above the March 1999 flood levels); or
- (ii) The proposed development is a minor extension to an existing building or structure already approved and constructed; or
- (iii) The non-habitable building or structure is ancillary development to a dwelling on the same lot inclusive of a carport, garage, patio, pergola, gazebo, and outbuilding; and
- (iv) The local government considers fill is impractical and/or will have a negative impact on an established streetscape.

**POLICY REQUIREMENTS:**

Shire of Moora, Home Occupation & Home Business Policy.

**LEGISLATIVE REQUIREMENTS:**

Planning & Development (local Planning Schemes) Regulations 2014

**STRATEGIC IMPLICATIONS:**

There are no known strategic implications associated with this proposal.

**SUSTAINABILITY IMPLICATIONS:**

➤ **Environment**

There are no known significant environmental implications associated with this proposal.

- **Economic**  
There are no known significant economic implications associated with this proposal.
- **Social**  
There are no known significant social implications associated with this proposal. Mr Climas has paid the necessary \$147.00 fee.

**FINANCIAL IMPLICATIONS:**

There are no financial implications to Council in relation to this item.

**VOTING REQUIREMENTS**

Simple Majority Required

**RECOMMENDATION**

*That Council approve the application for Mr Robert Climas to construct a 16.0m x 12.0m x 4.77m steel framed and clad shed on his property for storage of wool, and to approve his application to operate a Home Occupation for a Wool Buying business from his premises located at Lot 118 Carrick Street Moora. This will be subject to:*

- *Shed not being used for habitable purposes*
- *No second-hand materials to be used in the construction of the shed*
- *All wool is to be stored in the shed,*
- *There is to be no potential nuisance caused by the operations of wool storage to the surrounding neighbourhood*
- *No animal skins are to be stored in the shed that will cause a nuisance;*
- *The operations of the business are to be confined to the hours between 08.00am and 5.30pm.*
- *No extra staff are to be employed other than family members,*
- *This is not a Building Permit a separate application shall be required to be submitted to the Shire Building Surveyor for approval.*
- *Compliance with Shire of Moora Flood Provisions to ensure that the shed Finished Floor Level (FFL) is raised at least 150mm above the 1999, May Flood Level for that area. This can be obtained by contacting the Department of Environment and Water.*

### **9.2.3 REQUEST FOR AMENDMENTS OF THE SHIRE OF MOORA WASTE LOCAL LAW 2016 AND DOGS LOCAL LAW 2016 BY THE JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION**

**FILE REFERENCE:** PR/ADVI & PL/LOLI

**REPORT DATE:** 1 September 2017

**APPLICANT/PROPONENT:** Shire of Moora

**OFFICER DISCLOSURE OF INTEREST:** Nil

**PREVIOUS MEETING REFERENCES:** 9/12/15 (170/15), 19/06/2013 (86/13) & 17/2/16 (7/16), 17/8/16 (107/16), 19/10/16 (107/16 – Rescinded), 19/10/16 (141/16), 7/12/16 (171/16)

**AUTHOR:** Consultant, Phil Swain

**ATTACHMENTS:** Nil

#### **PURPOSE OF REPORT:**

The purpose of this report is for Council to grant approval for the President to write to the Joint Standing Committee on Delegated Legislation (JSCDL) confirming, that in accordance with the Committee's request, that the Shire will progress necessary amendments to its recently adopted Dogs Local Law 2016 and Waste Local Law 2016.

#### **BACKGROUND:**

At its meeting of 7 December 2016 Council resolved; *That, in accordance with section 3.12 of the Local Government Act 1995, Council makes the following local laws as contained in Attachment A;*

- a) *the Shire of Moora Waste Local Law 2016;*
- b) *the Shire of Moora Local Government (Council Meetings) Local Law 2016;*
- c) *the Shire of Moora Dogs Local Law 2016;*
- d) *the Shire of Moora Fencing Local Law 2016;*
- e) *the Activities in Thoroughfares and Public Places and Trading Local Law 2016; and,*
- f) *the Shire of Moora Amendment Local Law 2016.*
- g) *the Shire of Moora Health Local Law 2016;*

The Laws had been developed following an initial review of the Shire's Local Laws in 2013/14 and were finally gazetted on 27 March 2017. There had been several impediments to finalising the Local Laws, including various Act changes, proposed Bills and the Shire Administration exercising some caution due to other local governments experiencing difficulties with enacting new legislation, with the intervention of the JSCDL.

The Committee has now reviewed the Shire's Local Laws, as adopted, and the Shire has received advice requesting amendments to the Waste Local Law 2016 and the Dogs Local Law 2016.

#### **COMMENT:**

The advice from the JSCDL has highlighted the following problems with two (2) Local Laws:

##### **Waste Local Law**

The Department of Environmental Regulation (now known as the Department of Water and Environmental Regulation) developed a template waste local laws in conjunction with the Western Australian Local Government Association (WALGA), with advice from the Joint Standing Committee on Delegated Legislation (JSCDL). The Committee was extensively involved with inquiring into WALGA's (then) proposed Waste Local Law template in September 2014.

Although the Shire of Moora Waste Local Law 2016 is based on this model, the WALGA had circulated a version of the local law, as template, which has been amended after final advice from the JSCDL. The removal of provisions which explicitly outline appeal rights was not in accordance with the Committees agreed template as the following appeal clause had been removed;

*5.1 Objection and appeal rights*

*Division 1 of Part 9 of the LG Act applies to a decision under the local law to grant, renew, vary or cancel -*

- (a) an approval under clause 27(b);*
- (b) an exemption under clause 2.8(2);*
- (c) an approval under clause 2.10(1);*
- (d) an authorisation under clause 3.2(1)(c);*
- (e) an approval under clause 3.2(2); and*
- (f) an approval under clause 3.3.*

The view of the Committee is that, although Part 9, Division 1 of the Act applies to any decision made by a local government, it (the Committee) prefers that statutory appeal rights be expressly provided for in the body of a local law. The Committee has advised that by including it in this Local Law there is an 'effective', highly visible mechanism for review of an administrative decision, rather than an implicit review.

The JSCDL has further advised that due to the Committee's extensive participation in developing excellence in the template, it would be inappropriate for clause 5.1 to remain omitted until the Shire's Local Law is next reviewed which will be due in 2021-22. The Committee has indicated that it has no objection to the inclusion of the appeal provision as a new Clause 6 to simplify the amendment of the existing local law.

**Dogs Local Law 2016**

The Shire of Moora Dogs Local Law 2016 is based on the WALGA model. The Shire received advice from the DLGC in relation to the original draft of its Local Law and minor amendments, formatting and modifications were made in line with advice, at the time of adoption. Changes included additional clarification of definitions, references and the removal of some clauses due to changes to the Act and Regulations. This included Clause 4.9 titled "compliance with conditions of approval" because compliance with conditions of approval and penalties are now contained in the Dog Act 1976 and the Dog Regulations 2013. Inadvertently, this omission has led to numbering errors in several clauses in the adopted local law and the Schedule of penalties at the end of the law.

The Committee has therefore requested that the Council of the Shire of Moora provide undertakings to make the following amendments to the Dogs Local Law 2016:

- Amend clause 4.11(2) so that the reference to clause 4.10(2) is 4.9(2)*
- Amend clause 4.13(1)(d)(ii) so that the reference to clause 4.10(3) is 4.9(3)*
- Amend clause 4.13(4) so that the reference to clause 4.15(b) is 4.14(b)*
- Amend clause 4.14(c) so that the reference to clause 4.13(1) is 4.12(1)*
- Amend clause 4.140 so that the reference to clause 4.13(2)(a) is 4.12(2)(a)*
- Amend clause 4.14(g) so that the reference to clause 4.13(2) is 4.12(2)*
- Amend clause 5.6(2) so that the reference to clause 7.3 is 5.3*
- Amend the reference to clause 7.2 on the right hand side of the Schedule to 5.2*
- Delete Schedule 3 and insert a rectified Schedule 3.*

It is proposed that the Shire draft and progress a general amendment local law to rectify these matters. It is noted, that at this point, the JSCDL is seeking an undertaking from the Shire to amend the relevant provisions rather than disallowing the laws in their entirety. The JSCDL is requesting this undertaking be provided by 6 October 2017 and include;

- That all consequential amendments arising from the undertaking will be made;
- That the Local Law will not be enforced in a manner contrary to the undertaking given;
- That the undertaking will be completed within six months of the date of the letter giving the undertaking;
- That the Shire will provide a copy of the finalised Minutes of the meeting at which the Shire of Moora Council resolved to provide the undertaking after they are confirmed;
- Where the Local Law is made publicly available, whether in hard copy or electronic form, it be accompanied by a copy of these undertakings.

It should be noted that the letter providing the undertakings is to be signed by the President, because, pursuant to section 2.8(1)(d) of the Local Government Act 1995, the Shire President speaks on behalf of the Local Government to the Parliament of Western Australia and the JSCDL is a committee of the Parliament.

#### **POLICY REQUIREMENTS:**

There are no current Council policies relating to the two (2) Local Laws.

#### **LEGISLATIVE REQUIREMENTS:**

The Shire will need to give notice, in accordance with the requirements of the Local Government Act 1995, of its intention to make an amendment local law to rectify the matters, and that local law will have to be adopted in accordance with the Act requirements. This will include state wide advertising with a submission period of six (6) weeks and referral of the waste local law amendment to the Department of Environmental Regulation for approval, prior to Council adoption of the amendment local law.

#### **STRATEGIC IMPLICATIONS:**

Goal 5: Good governance and an effective and efficient organisation.

Scope: Governance, corporate and administrative services, financial management, statutory compliance and customer services.

#### **SUSTAINABILITY IMPLICATIONS:**

- **Environment**  
There are various environmental implications associated with this proposal, including the ability to provide for refuse and recycling services.
- **Economic**  
All local laws are required to be consistent with the National Competition Policy and, unless justified under the Public Benefit Test, should not contain provisions that restrict competition.
- **Social**  
Community consultation will need to be undertaken in accordance with legislative requirements during the development of the amendment local law.



**FINANCIAL IMPLICATIONS:**

Direct costs associated with this report are limited to consultant fees to draft the amendment Local Law, advertising, correspondence and reports, including the preparation of an Explanatory Memoranda for the amendment Local Law. These costs will be borne via budgeted expenditure.

Once adopted the Shire will incur gazettal costs, as all local laws need to be published in the government gazette. The current gazettal cost for bulk notices is \$268.50 per page, however, as an amendment only, the total gazettal pages will be small. The Shire must also give local public notice of the adoption in a publication circulating in the Shire to satisfy the Act requirements following the adoption.

**VOTING REQUIREMENTS**

Simple Majority Required

**RECOMMENDATION**

*That the Council of the Shire of Moora;*

- 1. undertakes to within six months, amend the Shire of Moora Waste Local Law 2016 to include an “Objection and appeal rights clause” as per the corrected Western Australian Local Government Association Model template;*
- 2. undertakes to within six months, amend the Shire of Moora Waste Dogs Local Law 2016 in the following manner:*
  - Amend clause 4.11(2) so that the reference to clause 4.10(2) is 4.9(2)*
  - Amend clause 4.13(1)(d)(ii) so that the reference to clause 4.10(3) is 4.9(3)*
  - Amend clause 4.13(4) so that the reference to clause 4.15(b) is 4.14(b)*
  - Amend clause 4.14(c) so that the reference to clause 4.13(1) is 4.12(1)*
  - Amend clause 4.140 so that the reference to clause 4.13(2)(a) is 4.12(2)(a)*
  - Amend clause 4.14(g) so that the reference to clause 4.13(2) is 4.12(2)*
  - Amend clause 5.6(2) so that the reference to clause 7.3 is 5.3*
  - Amend the reference to clause 7.2 on the right hand side of the Schedule to 5.2*
  - Delete Schedule 3 and insert a rectified Schedule 3.*
- 3. resolves that in relation to the undertakings described in 1. & 2. above*
  - That all consequential amendments arising from the undertakings will be made;*
  - That the Local Laws will not be enforced in a manner contrary to the undertakings given;*
  - That the undertakings will be completed within six months of the date of the letter giving the undertaking;*
  - That the Shire will provide a copy of the finalised Minutes of this meeting after they are confirmed to the Joint Standing Committee on Delegated Legislation; and*
  - That until the relevant amendments are finalised, whenever the Local Law is made publicly available, whether in hard copy or electronic form, it will be accompanied by a copy of the relevant undertaking.*

**10. ELECTED MEMBER MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Cr Clydesdale-Gebert gave notice of the following motion to be considered at the Ordinary Meeting of Council on the 20<sup>th</sup> September 2017.

**Star Gazing**

*That the Shire of Moora support the concept of Moora becoming the “Scientific Hub” of the Wheatbelt.*

**11. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF COUNCIL**

**12. MATTERS FOR WHICH THE MEETING MAY BE CLOSED**

**13. CLOSURE OF MEETING**