



# Ordinary Council Meeting Minutes

**Date: 7 December 2016**

**Please Note: These minutes and the decisions recorded therein have not as yet been confirmed by Council as a true and accurate record of the meeting.**

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

### **Vision**

Our vision is that:

*Shire of Moora - a vibrant, affordable Regional Centre with a growing, caring community.*

### **Mission**

Our mission is:

*To provide the leadership, services and infrastructure that will meet the needs of the community and surrounds.*

**SHIRE OF MOORA**  
**MINUTES OF THE ORDINARY MEETING OF COUNCIL**  
**HELD IN THE COUNCIL CHAMBERS, MOORA**  
**7 DECEMBER 2016**

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**1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS****1.1 DECLARATION OF OPENING**

*The Shire President declared the meeting open at 5.32pm.*

**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****ATTENDANCE**

KM Seymour	-	Shire President / Presiding Member
MR Pond	-	Deputy Shire President
CE Gardiner	-	Councillor
TG Humphry	-	Councillor
DV Clydesdale-Gebert	-	Councillor
MR Holliday	-	Councillor
PF Nixon	-	Councillor
EI Hamilton	-	Councillor
LC House	-	Councillor

AJ Leeson	-	Chief Executive Officer
DK Trevaskis	-	Deputy Chief Executive Officer
JL Greay	-	Manager Engineering Services
PR Williams	-	Manager Development Services

**APOLOGIES**

MM Murray	-	Executive Support Officer
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**3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

Nil

**4. PUBLIC QUESTION TIME**

Nil

**5. PETITIONS AND PRESENTATIONS**

Nil

**6. APPLICATIONS FOR LEAVE OF ABSENCE**

Nil

**7. ANNOUNCEMENTS BY THE PRESIDING MEMBER**

The following engagements were attended;

Shire President, Cr Seymour

24/11 Chamber of Commerce sundowner

2/12 St Joseph's Primary School presentation evening

5/12 ICMWA meeting, Wongan Hills

Cr Pond

24/11 Chamber of Commerce sundowner

1/12 Interviews at Central Midlands Senior High school for the 2017 Shire Scholarships

2/12 Moora Historical Society Christmas social

Cr House, Cr Clydesdale-Gebert and Cr Hamilton

24/11 Chamber of Commerce sundowner

2/12 Moora Historical Society Christmas social

**8. CONFIRMATION OF MINUTES****8.1 ORDINARY COUNCIL MEETING - 16 NOVEMBER 2016****COUNCIL RESOLUTION**

*160/16 Moved Cr House, seconded Cr Nixon that the Minutes of the Ordinary Meeting of Council held on 16 November 2016 be confirmed as a true and correct record of the meeting.*

**CARRIED 9/0**

**8.2 ELECTORS GENERAL MEETING - 23 NOVEMBER 2016****COUNCIL RESOLUTION**

*161/16 Moved Cr Pond, seconded Cr Nixon that the Minutes of the Electors General Meeting of Council held on 23 November 2016 be confirmed as a true and correct record of the meeting.*

**CARRIED 9/0**

## **9. REPORTS OF OFFICERS**

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

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

At the 23<sup>rd</sup> November 2016 meeting Council received the List of Payments late, and therefore requested they have further time to peruse them before endorsing at this meeting.

**REPORT DATE:** 16 November 2016

**OFFICER DISCLOSURE OF INTEREST:** Nil

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

**SCHEDULE PREPARED BY:** Alida Fitzpatrick, Finance Creditors Debtors 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

**COUNCIL RESOLUTION**

***162/16 Moved Cr Holliday, seconded Cr House 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 62193 to 62204</i></b>	<b><i>\$18,557.23</i></b>
	<b><i>EFT 16351 to 16579</i></b>	<b><i>\$866,094.70</i></b>
	<b><i>Credit Card 15/09/16 to 14/10/16</i></b>	<b><i>\$2,627.38</i></b>
	<b><i>Net Pays – PPE 04/10/16</i></b>	<b><i>\$94,309.73</i></b>
	<b><i>Net Pays – PPE 18/10/16</i></b>	<b><i>\$95,042.57</i></b>
	<b><i>Direct Debits 10834.1 to 10873.15</i></b>	<b><i>\$51,913.60</i></b>
<b><i>Trust Fund</i></b>	<b><i>Cheques 5216 to 5226</i></b>	<b><i>\$1,406.60</i></b>
<b><i>Total</i></b>		<b><u><i>\$1,129,951.81</i></u></b>

**CARRIED 9/0****9.1.2 LIST OF PAYMENTS AUTHORISED UNDER DELEGATION 1.31****REPORT DATE:** 2 December 2016**OFFICER DISCLOSURE OF INTEREST:** Nil**AUTHOR:** David Trevaskis, Deputy Chief Executive Officer**SCHEDULE PREPARED BY:** David Trevaskis, Deputy Chief Executive 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

## COUNCIL RESOLUTION

***163/16 Moved Cr Pond, seconded Cr Holliday 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 62205 to 62214</i></b>	<b><i>\$9,230.76</i></b>
	<b><i>EFT 16580 to 16739</i></b>	<b><i>\$606,897.42</i></b>
	<b><i>Credit Card 17/10/2016 to 14/11/2016</i></b>	<b><i>\$6,694.81</i></b>
	<b><i>Net Pays – PPE 02/11/16</i></b>	<b><i>\$93,785.13</i></b>
	<b><i>Net Pays – PPE 16/11/16</i></b>	<b><i>\$95,439.26</i></b>
	<b><i>Net Pays – PPE 30/11/16</i></b>	<b><i>\$94,730.28</i></b>
	<b><i>Direct Debits 10877.1 – 10915.11</i></b>	<b><i>\$54,282.22</i></b>
<b><i>Trust Fund</i></b>	<b><i>Cheques 5227 to 5232</i></b>	<b><i>\$1,422.73</i></b>
<b><i>Total</i></b>		<b><i><u>\$962,482.61</u></i></b>

**CARRIED 9/0**



### **9.1.3 STATEMENT OF FINANCIAL ACTIVITY FOR PERIOD ENDED 30 NOVEMBER 2016**

**REPORT DATE:** 2 December 2016

**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 30 November 2016

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

To note and receive the Statement of Financial Activity for the period ended 30 November 2016.

#### **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 2016/17 adopted budget.

#### **VOTING REQUIREMENTS**

Simple Majority Required

**COUNCIL RESOLUTION**

***164/16 Moved Cr Gardiner, seconded Cr Holliday that Council notes and receives the Statement of Financial Activity for the period ended 30 November 2016.***

**CARRIED 9/0**

**9.1.4 PROPOSED LEASE – 39 ATBARA STREET, MOORA – COUNCIL RESIDENCE**

**REPORT DATE:** 1 December 2016

**OFFICER DISCLOSURE OF INTEREST:** Nil

**PREVIOUS MEETING REFERENCES:** Nil

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

**ATTACHMENTS:** Nil

**PURPOSE OF REPORT:**

For Council to approve the lease of Council residence 39 Atbara Street, Moora and delegate authority to the Chief Executive Officer to execute a formal lease.

**BACKGROUND:**

Over the past couple of years the property has been rented out to school teachers from St Josephs Primary School. It will be vacated at the end of the 2016 school year. Expressions of interest have been received to rent the property from a corporate body and education agency.

**COMMENT:**

It is proposed that Council call for formal expressions of interest to lease/rent the property by way of advertising locally.

**POLICY REQUIREMENTS:**

Council does not have a policy in relation to this matter

**LEGISLATIVE REQUIREMENTS:**

Local Government Act 1995

**3.58. Disposing of property**

(1) In this section —

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

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

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

(a) the highest bidder at public auction; or

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

- (3) A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property —
- (a) it gives local public notice of the proposed disposition —
    - (i) describing the property concerned; and
    - (ii) giving details of the proposed disposition; and
    - (iii) inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given;
- and
- (b) it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.
- (4) The details of a proposed disposition that are required by subsection (3)(a)(ii) include —
- (a) the names of all other parties concerned; and
  - (b) the consideration to be received by the local government for the disposition; and
  - (c) the market value of the disposition —
    - (i) as ascertained by a valuation carried out not more than 6 months before the proposed disposition; or
    - (ii) as declared by a resolution of the local government on the basis of a valuation carried out more than 6 months before the proposed disposition that the local government believes to be a true indication of the value at the time of the proposed disposition.
- (5) This section does not apply to —
- (a) a disposition of an interest in land under the *Land Administration Act 1997* section 189 or 190; or
  - (b) a disposition of property in the course of carrying on a trading undertaking as defined in section 3.59; or
  - (c) anything that the local government provides to a particular person, for a fee or otherwise, in the performance of a function that it has under any written law; or
  - (d) any other disposition that is excluded by regulations from the application of this section.

### **STRATEGIC IMPLICATIONS:**

**Outcome 4.1: A strong and diversified economic base.**

### **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:**

It is recommended that property be advertised on a weekly rent in the range of \$350 to \$400 per week.

**SUMMARY:**

There is no immediate need for the residence in terms of staff housing requirements.

**VOTING REQUIREMENTS**

Simple Majority Required

**COUNCIL RESOLUTION**

*165/16 Moved Cr Nixon, seconded Cr Holliday that Council approve the lease of Council residence 39 Atbara Street, Moora for a one year term in the range of \$350 to \$450 per week, and delegate authority to the Chief Executive Officer to advertise the lease by way of tender and execute a lease agreement for the property, further approving the Chief Executive Officer to select the most favourable tender provided it is not less than \$350 per week.*

**CARRIED 9/0**

**9.1.5 BROOKFIELD RAIL INTERFACE AGREEMENT**

**REPORT DATE:** 1 December 2016

**OFFICER DISCLOSURE OF INTEREST:** Nil

**PREVIOUS MEETING REFERENCES:** Nil

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

**ATTACHMENTS:** Nil

**PURPOSE OF REPORT:**

For Council to adopt a Rail Interface Agreement (RIA) with Brookfield Rail.

**BACKGROUND:**

Discussions with Brookfield Rail on the interface agreement date back to June 2014. WALGA have been negotiating with Brookfield Rail since that time on behalf on local governments to address a number of issues that were raised by individual local governments at the time. Just over 75% of the 80 Brookfield Rail interface agreements with local governments have now been signed.

Detailed hereunder is a summary which broadly outlines what a RIA is and the need for it. Referenced from the Brookfield Rail website;

<http://www.brookfieldrail.com/work-with-us/level-crossing-interface-agreements/>

### **What is a Level Crossing Interface Agreement?**

An interface agreement is a written agreement between the road manager and rail infrastructure manager, which details the management of safety risks at locations where road and railway tracks cross. The agreement can cover one or more level crossings.

The Interface Agreement may contain information on:

- Implementing and maintaining measures for managing risks
- The roles and responsibilities of each party to the agreement
- How each party will monitor compliance with their obligations under the agreement
- A process for keeping the agreement under review and how any review will be conducted and implemented.

### **Why is an Interface Agreement required?**

Interface Agreements are a new legislative requirement under the Rail Safety Act 2010 which comes into effect Saturday **1st February 2014**.

The Act places obligations on road managers and rail infrastructure managers to ensure safety risks at each level crossing are identified, assessed and managed. The Interface Agreement is a formal agreement between both parties on the management of these safety risks.

Parties who unreasonably delay negotiation or refuse to enter an agreement could face penalties from the Rail Safety Regulator.

For more information on the Rail Safety Act 2010, [click here](#).

### **Who is required to enter an interface agreement?**

Safety interface agreements involve a range of parties, including:

#### **Rail Infrastructure Managers**

This includes Brookfield Rail who manage and operate the West Australian freight rail network.

#### **Road Managers**

Road Managers include private and public road managers.

Private road managers are land owners who use a level crossing to access their property, or different parts of their property located on either side of the track.

Public roads that intersect with the track are generally managed by either Main Roads Western Australia who manage public freeways, major highways and arterial roads, or the Shire/City responsible for roads and footpaths within their Local Government area.

### **Important dates**

By **February 2014**, relevant parties should have either entered an Interface Agreement, or be in the process of pursuing negotiations or risk assessments with the intention of entering an Interface Agreement in the near future.

**For more information**

Contact Brookfield Rail at [interface.agreements@brookfieldrail.com](mailto:interface.agreements@brookfieldrail.com) for queries relating to Interface Agreement requirements.

**COMMENT:**

Section 5.2 Page 9 and 10 of the Agreement details respective agency actions and activities;  
Road Manager – Local Government

- Maintain the Road approaches up to three metres (3m) either side from the outside running rail.
- Arrange, undertake and maintain any vegetation clearing and/or removal of other physical obstructions on Roads to provide requisite driver visibility sightlines on the approaches to Level Crossings (including any negotiations with private property owners if required)
- Notify the Rail Infrastructure Manager of any road works planned, either of a temporary or permanent nature, in the vicinity of a crossing. (See section 9 of this Agreement)
- Notify the Rail Infrastructure Manager of any change in land use adjacent to an Interface or any change in Level Crossing use.
- Report to MRWA any damaged and unserviceable line marking and signage associated with a Level Crossing identified during inspection of the local road network in accordance with normal maintenance regimes.

**POLICY REQUIREMENTS:**

Council does not have a policy in relation to this matter

**LEGISLATIVE REQUIREMENTS:**

Rail Safety National Law (WA) Act 2015

**STRATEGIC IMPLICATIONS:**

There are no known strategic implications in reference to this matter.

**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 in consideration of this matter.

**SUMMARY:**

The RIA is in effect prescribed, and on that basis in order to avoid any fines/penalties the Shire of Moora must enter into this RIA.

**VOTING REQUIREMENTS**

Simple Majority Required

## COUNCIL RESOLUTION

***166/16 Moved Cr Holliday, seconded Cr Pond that Council endorse the Rail Interface Agreement between Brookfield Rail, Main Roads W.A and the Shire of Moora as required by Rail Safety National Law (WA) Act 2015 and authorise the Chief Executive Officer to sign the Agreement on Councils behalf.***

**CARRIED 9/0**

### 9.2 DEVELOPMENT SERVICES

#### 9.2.1 HOME BUSINESS – DOG GROOMING CANINE CUTZ DOG GROOMING SALON

**FILE REFERENCE:** TP/HB/CCDS1  
**REPORT DATE:** 1 December 2016  
**APPLICANT/PROPONENT:** Rodney & Tammi Leach  
**OFFICER DISCLOSURE OF INTEREST:** Nil  
**PREVIOUS MEETING REFERENCES:** Nil  
**AUTHOR:** Peter Williams, Manager Development Services  
**ATTACHMENTS:** Plans

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

Councils Manager Development Services is in receipt of an application for a dog grooming salon proposed by proponent's Rodney and Tammi Leach of Lot 10/102 Roberts Street Moora; seeking Councils permission to operate a Home Business.

#### **BACKGROUND:**

Lot 10/102 Roberts Street is located in the Residential Zone of the Town of Moora. Under the Shire Town Planning Scheme Zoning Table a Home Business has an "A" Classification which is Use not permitted except with Councils Permission after advertising in a local newspaper for a period of 14 days.



**'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 as a result 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.

The Proponents advise that it will commence as a part time business and involve grooming of dogs including clipping and washing.

The proponents have a rear concrete area at their property for the washing of animals and clipping. There is also an area to be used as a holding pen for the animals.

**COMMENT:**

The proponents have commenced the advertising in the West Australian and an advertisement has been placed on the Shire of Moora web page.

This business will only be dealing with one dog at a time so it should not impinge on neighbours. Letters of consent have been procured from neighbours who are happy for the business to go ahead.

The advertising period is for 14 days, having commenced on 24<sup>th</sup> November 2016. It is recommended that this application be approved however will be subject to no objections being received from the public.

**POLICY REQUIREMENTS:**

Home Occupation & Home Business Policy

**LEGISLATIVE REQUIREMENTS:**

Shire of Moora Town Planning Scheme No 4 (Amendment 10)

**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



## COUNCIL RESOLUTION

**167/16 Moved Cr House, seconded Cr Clydesdale-Gebert that Council approve subject to there being no objections at the conclusion of the statutory advertising period, the application for a Dog Grooming Home Business by proponents Rodney & Tammi Leach to be located at Lot 10/102 Roberts Street Moora subject to the following conditions:**

- (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 as a result 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.**

**CARRIED 9/0**

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

#### **10.1 REZONING OF LOT 68 MELBOURNE STREET TO TOWN CENTRE ZONE**

The Chief Executive Officer declared a proximity interest as he lives next door in a Council residence at 44 Melbourne Street and left the meeting at 5.53pm

**FILE REFERENCE:** TP/PA17/1617

**REPORT DATE:** 17 November 2016

**APPLICANT/PROPONENT:** Mr Chris Bein

**OFFICER DISCLOSURE OF INTEREST:** Nil

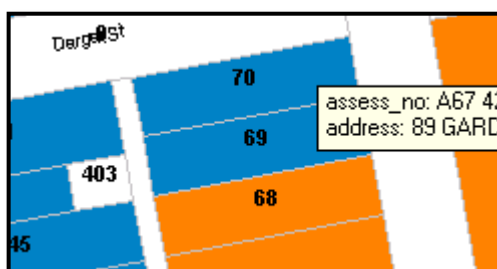
**PREVIOUS MEETING REFERENCES:** 23/11/16 (157/16)

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

**ATTACHMENTS:** Letter from Mr Chris Bein

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

Council to consider giving its assent to a request by proponent Mr Chris Bein to rezone his block of land Lot 68 Melbourne Street, Moora, from Residential Zone to Town Centre Zone.



**BACKGROUND:**

The proponent Mr Bein owns two properties in Melbourne Street Lot 69 which is zoned as Town Centre Zone on which he has his upholstering business and the block next door which is zoned as Residential Zone.

Mr Bein is looking to rezone this property in order to increase the potential to sell the property by making it more viable to purchasers.

**Town Centre Zone Objectives**

- (a) to ensure the town centre remains the principal place for retail, commercial, civic, and administrative functions within the district.
- (b) to encourage development will not adversely affect local amenities, and will enhance the character of the town centre.
- (c) to provide sufficient parking spaces for vehicles without compromising pedestrian movements through the town centre.
- (d) to provide an increased level of public amenities including public toilets, shaded areas, and street furniture.

**Residential Zone Objectives**

- (a) to provide for the predominant form of residential development to be single houses whilst providing for diversity with higher density close to the town centre.
- (b) to provide for diversity of lifestyle choice with a range of residential densities.
- (c) to allow for the establishment of non-residential uses which are compatible with the predominant residential use and which will not adversely affect local amenities.

Lot 68 is on the border of the Residential Zone and the Town Centre Zone in Melbourne Street and is currently vacant, located next door to 44 Melbourne Street which is a Shire residence.

**COMMENT:**

This zoning process is the responsibility of the owner of the property to apply for Council approval. Once Council approval is obtained the owner then engages a Planning Consultant to develop the process that will be presented to Council to enable Council to send it to the Planning Commission for approval. The application has to be advertised to the community for a period of 42 days which is also the responsibility of the owner.

**Initiation of Scheme amendment / re-zoning by Council**

The local government may formally initiate an amendment to its local town planning scheme. A formal Scheme Amendment request and amendment documents must be submitted to the Council in writing.

The Council will consider the proposed amendment and can resolve:

- (a) Not to pursue a formal amendment to the Town Planning Scheme; or
- (b) To amend the Town Planning Scheme.

Council also has to determine if the amendment is simple, standard or complex.

**Note: If a scheme amendment is not initiated by Council, the applicant can refer the amendment to the Minister for Planning. The Minister has powers to require the Council to proceed with an amendment.**

**Referral of Amendment to EPA (compulsory)**

If Council resolves to amend the Town Planning Scheme, the amendment must be referred to the Environmental Protection Authority (EPA) for consideration. The local government cannot further progress the amendment until it has received formal advice from the EPA that no formal environmental assessment is required.

**Advertising of the Amendment**

Standard Amendment - Once advice from the EPA is received, the local government will advertise a standard amendment for 42 days.

Complex Amendment –the local government must refer any complex amendment to the WAPC prior to advertising the amendment. Advertising is for 60 days.

Advertising of an amendment may include:

- (a) a notice being placed in an official local newspaper circulating in the district;
- (b) signs being placed on the subject land (optional);
- (c) nearby and affected landowners being notified in writing of the proposal and invited to lodge written submissions;
- (d) Letters to authorities such as Western Power, Water Corporation, Telstra, or any relevant authority.
- (e) Any other requirement it sees fit.

The local government may require the applicant to pay for any advertising costs.

**Referral of Amendment to Council following advertising, to consider adopting the amendment for final approval (and all submissions lodged during advertising).**

At the conclusion of the advertising period, a summary of all the submissions lodged in respect of the amendment proposal are referred to the Council for its consideration.

A Schedule of Submissions (a summary of submissions) is included as part of a report for the Council that includes an analysis of the various arguments made for and against the proposed amendment.

The Council may resolve to:

- (a) not support the amendment any further because of the strength and the validity of the submissions lodged against the proposal and seek the consent of the Minister of Planning to refuse the amendment; or
- (b) Note the submissions however adopt the amendment for final approval; or
- (c) Adopt the amendment in a modified form.

**Lodgement of the Amendment with the Western Australian Planning Commission - Seeking final approval from the Minister for Planning**

The amendment has to be lodged by the local government with the Western Australian Planning Commission, with a formal request that the Minister for Planning grant final approval to the amendment.

The local government lodges a copy of all the original submissions; the Schedule of Submissions; and Council's decision on each submission, and the Council's final decision with the WAPC. The WAPC has an amendment checklist to be completed by the local government and lodged with requests seeking final approval. The WAPC prepares a report and recommendation for the Minister of Planning to consider.

**Final Approval of the Minister of Planning**

The Minister may approve the amendment outright, may refuse to approve the amendment until modifications are undertaken or refuse the amendment outright. The WAPC will advise the local government of the Ministers decision, and of any modifications required to the amendment documents.

If modifications are required, then the WAPC will check all modifications made to the amendment document, before the amendment is re-presented to the Minister for final approval.

If the Hon. Minister grants final approval to the amendment, it takes effect from the date of publication of the final approval notice in the Government Gazette. The Gazettal of the Amendment is organised through State Law Publisher by the local government. The local government is responsible for publishing notification of the Ministers decision in an official newspaper.

**Advice given by the Shire's Planning Consultant is that the Planning Department are not in favour of granting approval for one off zoning applications. This process is better dealt with at the Town Planning Review process where it is dealt with in context with the whole of the Town and its zoning.**

**Council may vote to approve this application but it is not guaranteed to be approved by the Planning Department.**

**POLICY REQUIREMENTS:**

There are no Policy requirements for this item

**LEGISLATIVE REQUIREMENTS:**

Town Planning Act

**STRATEGIC IMPLICATIONS:**

There are no known strategic implications associated with this proposal should there be any these will be identified at the advertising stage.

**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 as the cost will be above normal beer prices so will be more attractive to Tourists.

**FINANCIAL IMPLICATIONS:**

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

**VOTING REQUIREMENTS**

Simple Majority Required

<b>COUNCIL RESOLUTION</b>
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*168/16 Moved Cr Hamilton, seconded Cr Pond that Council approve the intention by proponent Mr Chris Bein to rezone his block located at Lot 68 Melbourne Street, Moora from Residential Zone to Town Centre Zone subject to the following conditions:*

- *Proponent engages a Planning Consultant to provide the necessary expertise to provide an application for rezoning to the Shire of Moora that is acceptable to the Department of Planning requirements;*
- *Payment of necessary fees to Council, dependent on cost of project;*
- *Once an application for an amendment has been approved by the Environmental Protection Authority the Amendment is to be advertised to the public at the proponents expense for a period of 42 days;*
- *Subject to no objections, the application will be sent for approval to the Department of Planning.*

**LOST 0/9**

At 6.00pm the Chief Executive Officer rejoined the meeting.

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

The Chief Executive Officer tabled three items of urgent business titled;

1. 'Lot 20 Ferguson Street – Local Government Act Sale';
  2. 'Adoption of the Shire of Moora Waste Local Law 2016, Local Government (Council Meetings) Local Law 2016, Dogs Local Law 2016, Fencing Local Law 2016, Activities in Thoroughfares and Public Places and Trading Local Law 2016, Moora Amendment Local Law 2016 & Health Local Law 2016; and
  3. '58 Gardiner Street - Reduced Setback'
- for Councils consideration.

<b>COUNCIL RESOLUTION</b>
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*169/16 Moved Cr Holliday, seconded Cr Pond that Council consider the items of urgent business as tabled by the Chief Executive Officer titled;*

1. *'Lot 20 Ferguson Street – Local Government Act Sale';*
2. *'Adoption of the Shire of Moora Waste Local Law 2016, Local Government (Council Meetings) Local Law 2016, Dogs Local Law 2016, Fencing Local Law 2016, Activities in Thoroughfares and Public Places and Trading Local Law 2016, Moora Amendment Local Law 2016 & Health Local Law 2016; and*
3. *'58 Gardiner Street - Reduced Setback'.*

**CARRIED 9/0**

## **11.1 LOT 20 FERGUSON STREET – LOCAL GOVERNMENT ACT SALE**

**FILE REFERENCE:** PA/931  
**REPORT DATE:** 5 December 2016  
**OFFICER DISCLOSURE OF INTEREST:** Nil  
**PREVIOUS MEETING REFERENCES:** Nil  
**AUTHOR:** David Trevaskis, Deputy Chief Executive Officer  
**ATTACHMENTS:** Nil

### **PURPOSE OF REPORT:**

Council is to exercise its power of sale over Lot 20 Ferguson Street, Miling in attempt to recover outstanding rates and charges.

### **BACKGROUND:**

1. The Shire of Moora has been unable to recover the outstanding rates and service charges owing in relation to Lot 20 Ferguson Street, Miling (“**the Property**”).
2. CS Legal was appointed to recover outstanding rates and service charges and advises as follows:
  - a. Lorraine Smith (“**the Defendant**”) is the sole registered proprietor of the Property.
  - b. On 21 March 2013, the Shire lodged a General Procedure Claim against the Defendant for unpaid rates and services charges in respect of the property;
  - c. The Defendant did not respond to the claim and on 10 July 2013 default judgment was entered for the sum of \$4,680.56; and
  - d. To-date the Shire has been unable to successfully enforce judgment by way of seizure of goods, means inquiry or bailiff auction.
3. CS Legal has informed the Shire of Moora that it has exhausted all reasonable avenues for recovering rates and services charges by way of commencing and prosecuting legal proceedings.
4. In the opinion of CS Legal, the attempts referred to above would qualify as an attempt under section 6.56 of the Local Government Act 1995 (WA) (“LGA”) to recover money due to it before exercising the power of sale.

### **COMMENT:**

Council is not required to pass a resolution to exercise its power of sale where recovery attempts through the Court have occurred within the past three years.

Despite the above and in the absence of any Shire policy in relation to exercising the Shire’s power of sale, it is suggested the matter is put to Council and the reasons for the Council’s decision be recorded in the minutes of the meeting where the decision is made.

### **POLICY REQUIREMENTS:**

Nil

### **LEGISLATIVE REQUIREMENTS:**

Part 6 Subdivision 6 of the *Local Government Act 1995 (WA)*.

### **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:**

All legal costs incurred are fully recoverable from the proceeds of sale of the property.

**VOTING REQUIREMENTS**

Simple Majority Required

**COUNCIL RESOLUTION**

*170/16 Moved Cr House, seconded Cr Pond that pursuant to section 6.68(2)(b) of the Local Government Act 1995 (WA) Council resolves to exercise its power of sale under Part 6 Subdivision 6 of the Local Government Act 1995 (WA) over Lot 20 Ferguson Street, Miling, noting that the Shire of Moora has made attempts to recover the outstanding money under section 6.56 of the Local Government Act 1995 which have to date been unsuccessful.*

**CARRIED 9/0**

## **11.2 ADOPTION OF THE SHIRE OF MOORA WASTE LOCAL LAW 2016, LOCAL GOVERNMENT (COUNCIL MEETINGS) LOCAL LAW 2016, DOGS LOCAL LAW 2016, FENCING LOCAL LAW 2016, ACTIVITIES IN THOROUGHFARES AND PUBLIC PLACES AND TRADING LOCAL LAW 2016, MOORA AMENDMENT LOCAL LAW 2016 & HEALTH LOCAL LAW 2016**

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

**REPORT DATE:** 5 December 2016

**APPLICANT/PROPONENT:** Shire of Moora

**OFFICER DISCLOSURE OF INTEREST:** Nil

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

**AUTHOR:** Consultant - Phillip Swain

**ATTACHMENTS:** Attachment A – Proposed Local Laws

### **PURPOSE OF REPORT:**

The purpose of this report is for Council to make, in accordance with the Local Government Act 1995 and other relevant Acts, new and amendment local laws for the Shire of Moora.

### **BACKGROUND:**

The Shire of Moora's existing Local Laws were gazetted on various dates, dating back to 1944. Existing local laws made pursuant to the Local Government Act 1995 were made in the late 1990's. A review of the Shire of Moora Local Laws was undertaken in 2011/12.

Subsequently Council resolved in June 2013 to commence the adoption of six (6) local laws by advertising to seek public comment for the draft local laws. The drafts at that time were as follows;

- . Shire of Moora Waste Local Law 2013;
- . Shire of Moora Health Local Law 2013;
- . Shire of Moora Meeting Procedures Local Law 2013;
- . Shire of Moora Dogs Local Law 2013;
- . Shire of Moora Fencing Local Law 2013; and,
- . Shire of Moora Amendment Local Law 2013;

Since that time, and despite initial advertising that resulted in no submissions, there have been a number of impediments to finalising the local laws. These have included 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 Joint Standing Committee on Delegated Legislation (JSCDL).

Following substantial delays in the development of the laws and in particular the draft waste local law, the Shire initiated the process of adoption for both the amendments and new local laws by giving local and statewide public notice and seeking comments on the proposed legislation. On the 17 February 2016 at the full Council meeting it was resolved;

*That Council authorises Administration to give local and state-wide public notice in accordance with section 3.12 of the Local Government Act 1995, seeking public comment for the following local laws contained in Attachment A;*

- a) *the draft Shire of Moora Waste Local Law 2016;*
- b) *the draft Shire of Moora Health Local Law 2016;*
- c) *the draft Shire of Moora Meeting Procedures Local Law 2016;*
- d) *the draft Shire of Moora Dogs Local Law 2016;*



- e) *the draft Shire of Moora Fencing Local Law 2016;*
- f) *the draft Activities in Thoroughfares and Public Places and Trading Local Law 2016; and,*
- g) *the draft Shire of Moora Amendment Local Law 2016.*

The draft local laws were advertised on 16 March 2016 and comments were sought for the statutory period of six (6) weeks and closed on 6 May 2016. Comments were also sought from the Department of Local Government and relevant State Government departments in relation to the Health Local Laws (Department of Health - DoH & Department of Environmental Regulation - DER) and the Waste Local Laws (DER). In accordance with the Act, the Shire must, after the last day for submissions, 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.

At the meeting of Council on 19 October 2016, and following a rescission motion (140/16) relating to the premature making of the local laws, it was resolved (141/16);

*That Council of the Shire of Moora;*

- 1. having considered all submissions/feedback following the advertising of the draft Shire of Moora Waste Local Law 2016 and the draft Shire of Moora Health Local Law 2016 from the Department of Environmental Regulation and Department of Health respectively in accordance with Section 3.12 of the Local Government Act 1995, determines that it wishes to make both local laws, which are not significantly different from the Draft Local Laws advertised by the Shire of Moora on 16 March 2016;*
- 2. directs Administration to forward a copy of the final version of the proposed Waste Local Law 2016 to the CEO of the Department of Environmental Regulation for consent to make the local law; and*
- 3. directs Administration to forward a copy of the final version of the proposed Health Local Law 2016 to the Executive Director Public Health for consent to make the local law.*

#### **COMMENT:**

No comments were received from local residents or the general public during the discussion period. Comments were received from the Department of Local Government and Communities (DLGC) the Department of Environment Regulation (DER) and most recently the Department of Health (DoH).

#### **Waste Local Law**

The DER has developed guidelines for waste local laws in conjunction with the Western Australian Local Government Association (WALGA) and the Waste Local Law 2016 is based on this model, and the most recent advice on the subject, from the Joint Standing Committee on Delegated Legislation (JSCDL). The Shire received advice from both the DLGC and the DER in relation to the draft and minor amendments, formatting and modifications have been made in line with the most recent advice. Changes have included additional words, definitions, and the removal of some terms to provide clarity.

Contrary to advice from the Department of Local Government and Communities several requested additions to the draft local law were not acceptable to the Department of Environment Regulation. These included the following definitions in Clause 1.4 of the local law;

- Inclusion of a definition for the word 'nuisance'
- Inclusion of a definition for the term 'liquid refuse'
- Inclusion of a definition for the term 'liquid waste'
- Inclusion of a definition for the term 'reasonable period'

At the request of the Department of Environment Regulation the definitions have been deleted from the draft Waste Local Law and two (2) minor grammatical errors have been rectified. The final consent to make the local law has been requested. Verbal advise has been received confirming the Shire may now make the local law.

### **Health Local Law**

Many of the provisions contained in the Health Local Law 2016 serve to maintain basic sanitary conditions for dwellings, establishing maintenance standards and control community nuisance issues. Other provisions assist the Shire in the control of pests and certain noxious trades, as well as provision for the control of certain infectious diseases. Controls include the creation of offences with penalties and licensing and registration of activities such as offensive trades and lodging houses.

The Department of Health has advised Local Governments that the current Act, (Health Act 1911), is likely to be repealed following the development of more modern public health legislation. Whilst the Health Act 2016 has now been granted Royal Assent the existing Act will remain in place while the substantial tasks of creating a new Public Health legislative framework are undertaken. In discussions with the DoH, it is understood that many of the nuisance type provisions in the proposed Health Local Law 2016 will not be adopted under the new Act, as the new Act proposes different mechanisms for the implementation and enforcement of public health policy. Advice to date has confirmed that the various nuisance type provisions will most likely be adopted under the Local Government Act 1995, and that the various licensing and registration provisions will be protected under public health policies or be transferred to other legislation, such as the Food Act 2008. It is likely that the DoH will develop a new model local law in due course but this is likely to take one (1) to three (3) years.

The Shire received advice from both the DLGC and the DoH in relation to the draft and minor amendments, formatting and modifications have been made in line with the most recent advice. Changes have included additional words, definitions, and the removal of some terms to provide clarity. Additionally, to satisfy the previous requests of the JSCDL clause 5.1.3, now includes the term “reasonable measures” in the text to enable natural justice with respect to nuisance issues and allocation of responsibility.

Contrary to advice from the Department of Local Government and Communities the Department of Health has confirmed that it does not consent to this local law, until the Shire has made the same. The Executive Director Public Health will consent to the local law prior to the gazettal of the same but after the adoption by Council.

### **Local Government (Council Meetings) Local Law 2016**

The Local Government (Council Meetings) Local Law 2016 is based on the WALGA Model, which has been subject to continuous improvement since the inception of the 1995 Act. The Shire received advice from the DLGC in relation to the draft and minor amendments, formatting and modifications have been made in line with the most recent advice. Changes have included additional clarification of definitions and the reduction of penalties in line with the advice of the JSCDL and the name being more correctly changed to the current title.

### **Dogs Local Law 2016**

The Dogs Local Law 2016 is based on the WALGA model. This local law has not changed substantially over time. The Shire received advice from the DLGC in relation to the draft and minor amendments, formatting and modifications have been made in line with the most recent advice. Changes have included additional clarification of definitions, reference to new

Dog Regulations and the removal of dog exercise area clauses as these can now be established via an “absolute majority” resolution of Council, negating the need to amend the local law whenever a new or modified dog exercise area is proposed.

### **Fencing Local Law 2016**

The draft Shire of Moora Fencing Local Law 2013 is based on a previous WALGA model, which has been used by a number of local governments to provide minimum standards for the construction of fencing within municipalities. Licensing provisions under the proposed model are limited to dangerous fencing such as electric and razor wire fencing. The Shire received advice from the DLGC in relation to the draft and minor amendments, formatting and modifications have been made in line with the most recent advice. Modifications have included clarification of some definitions and the removal of reference to the Dividing Fences Act which the JSCDL has advised makes reference to local laws but does not contain local law making powers.

### **General Amendment Local Law 2016**

The General Amendment Local Law 2016 has been prepared, to undertake repeal of a number of antiquated provisions that are currently empowered within the Shire of Moora and the current Local Government Property Local Law, the provisions of which are being more properly adopted within the Activities in Thoroughfares and Public Places and Trading Local Law 2016. Additionally, minor alterations and changes of local laws relating to Cemeteries are contained within the amendment local law.

One matter raised in consultations with Council has been the issue with respect to plot tenure within the Moora Cemetery. Under the 1986 Cemeteries Act, the maximum guaranteed tenure on any given plot is 50 years although this can be extended for further 25 year periods at the discretion of the Shire. Under the revised 1986 Cemeteries Act, the new stipulated tenure of Grants was 25 years with an automatic option for Grant holders to purchase an additional 25 years either initially or at any time during the first 25 years. The discretion of all cemetery authorities in Western Australia to issue 50 or 99 year Grants was revoked. Extensions can only be in 25 year increments. This set a uniform expiry date for all Grants issued under the 1897 Act and provides Cemetery authorities with the ability to both manage their land holdings and have a known consistency of Grant expiry dates across their cemeteries. Parliament endorsed legislation stipulating that Grants of Rights of Burial issued prior to 1 July 1987, that had not expired by 2 July 2012 would, collectively, expire on 2 July 2012. The Shire cannot legislate to vary these requirements as to do so would override the State Act, however, does have the right to permit 25 year extensions of a plot during any 25 year term, at the agreement of the grant holder.

The Shire received advice from the DLGC in relation to the draft and minor amendments, formatting and modifications have been made in line with the most recent advice.

### **Activities in Thoroughfares and Public Places and Trading Local Law 2016**

Since the initial advertising of proposed amendments, repeals and new local laws in 2012, the Administration has identified an ongoing need for laws to control street trading. Whilst repeal of the Stalls and Hawkers Bylaws, published in the *Government Gazette* of 19 March 1982 was proposed in the Amendment Local Law, it is now proposed that a new trading local law be adopted in accordance with the current WALGA model and that these provisions include other activities and controls relation to public access ways and local government property.

The Shire received advice from the DLGC in relation to the draft and minor amendments, formatting and modifications have been made in line with the most recent advice.

**POLICY REQUIREMENTS:**

The following current Council policies relate to the making and/or enforcement of the Shire's existing Local Laws:

**3.3 Local Laws (Originally adopted by Council on 20<sup>th</sup> May 1998)**

*That Council make, publicise and review its local laws according to the guidelines below: - Guidelines.*

1. *That local law making powers be used sparingly and only after applying the following tests:  
Can Council achieve the objective without making a law?  
Has Council the will and resources to enforce the law?  
Will practical benefits result from the law?*
2. *That local laws be worded as simply as possible.*
3. *That where local laws are site specific, e.g. laws relating to the hall, a copy of the laws be posted, where feasible at the site concerned, or where not considered feasible by the CEO, that an abbreviated version be kept posted at the site stating: - offences and penalties; and that the full laws can be inspected at the Shire Office.*
4. *That where registration or licensing of an activity, premises or animal is required, the opportunity be taken to issue a leaflet advising of local laws associated with that activity, premises or keeping of that animal.*
5. *That the President consider making the exercise of the legislative powers by the local government a component of the President's annual report as a means of identifying district problems and steps Council is taking to combat these.*

**6.2 Veranda Posts**

*Council Policy 6.2 – Veranda Posts, supports an intention for parts of the Shire to install or retain veranda posts, and is contrary to the requirements of the local law, which compelled the removal of the same in 1971. Policy 6.2 adequately deals with approval of verandas as it requires the submission of building licence applications for the same.*

**8.4 Fencing Property Adjoining Shire Land****8.14 Cemetery**

Whilst policies 8.4 & 8.14 do not materially affect the current local laws they relate to matters that can be captured the amendments. Policy 3.3 needs to be considered in the context of any proposed repeals, retention or amendments.

Council Policy 8.4 allows for persons with land adjoining Council property to make claim for 50% of the cost of a dividing fence, which is made as an ex-gratia payment. In this regard, the Dividing Fences Act will continue to apply within the Shire irrespective of whether the Shire has Fencing Local Laws or not. This does however mean that the Shire needs to consider at least basic requirements for fences within the Shire in a new local law.

**LEGISLATIVE REQUIREMENTS:**

The Shire has given notice in accordance with the requirements of the Local Government Act 1995 of its intention to make:

- a) *the Shire of Moora Waste Local Law 2016;*
- b) *the Shire of Moora Health Local Law 2016;*
- c) *the Shire of Moora Local Government (Council Meetings) Local Law 2016;*
- d) *the Shire of Moora Dogs Local Law 2016;*
- e) *the Shire of Moora Fencing Local Law 2016;*

- f) *the Activities in Thoroughfares and Public Places and Trading Local Law 2016;*  
*and,*
- g) *the Shire of Moora Amendment Local Law 2016.*

The Shire has undertaken the necessary advertising and consultation. The purpose and intent of the laws has previously been given but is repeated below for information. The local laws to be made are outlined in **Attachment A**.

The intended Purpose and Effect of the Shire of Moora Waste Local Law 2016 are:

**Purpose:** The purpose of the local law is to provide for the regulation, control and management of activities and issues relating to waste collection, recycling, reuse and disposal within the district of the Shire of Moora.

**Effect:** The effect of the local law is to control activities and manage influences on waste collection, recycling, reuse and disposal within the district of the Shire of Moora.

The intended Purpose and Effect of the Shire of Moora Health Local Law 2016 are:

**Purpose:** The purpose of the local law is to provide for the regulation, control and management of activities and issues relating to public health within the district of the Shire of Moora.

**Effect:** The effect of the local law is to control activities and manage influences on community public health within the district of the Shire of Moora.

The intended Purpose and Effect of the Shire of Moora Local Government (Council Meetings) Local Law 2016 are:

**Purpose:** The purpose of the local law is to provide for rules and guidelines which apply to the conduct of meetings of the Council and its Committees and to the meetings of electors within the district of the Shire of Moora.

**Effect:** The effect of the local law is to establish requirements for better decision making by the Council and Committees, the orderly conduct of meetings, better understanding of the processes of conducting meetings and the more efficient and effective use of time at meetings, within the district of the Shire of Moora.

The intended Purpose and Effect of the Shire of Moora Dogs Local Law 2016 are:

**Purpose:** The purpose of the local law is to provide for the regulation, control and management of the keeping of dogs within the district of the Shire of Moora.

**Effect:** The effect of the local law is to establish the requirements with which owners and occupiers of land within the district of the Shire of Moora must comply in order to keep dogs and provides the means of enforcing the local law.

The intended Purpose and Effect of the Shire of Moora Fencing Local Law 2016 are:

**Purpose:** The purpose of the local law is to provide for the regulation, control and management of the fencing within the district of the Shire of Moora.

**Effect:** The effect of this local law is to ensure that fences are constructed and maintained to a satisfactory structural and aesthetic standard throughout the district of the Shire of Moora.

The intended Purpose and Effect of the Shire of Moora Activities in Thoroughfares and Public Places and Trading Local Law 2016 are:

**Purpose:** The purpose of the local law is to provide for the regulation, control and management of trading and activities on thoroughfares and public places within the district of the Shire of Moora.

**Effect:** The effect of the local law is to establish the requirements with which persons using public places and thoroughfares for trading and prescribed activities, within the district of the Shire of Moora, must comply with.

The intended Purpose and Effect of the Shire of Moora Amendment Local Law 2016 are:

**Purpose:** The purpose of the local law is to provide for the repeal and amendment of the Shire of Moora Local Laws to provide for the good governance of the district of the Shire of Moora.

**Effect:** The effect of the local law is to repeal and amend existing local laws within the district of the Shire of Moora to provide for the good governance of the municipality.

### **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 and to control fencing of private land and various activities on public land. These controls have been publicly advertised and are in the interest of good governance of the community.

#### ➤ **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. The proposed laws are generally based on WALGA model local laws which have been subject to the Public Benefit Test generally demonstrated to not restrict competition.

#### ➤ **Social**

Community consultation has been undertaken in accordance with legislative requirements during the development of the local laws.

### **FINANCIAL IMPLICATIONS:**

The Shire's existing and drafts local laws are based on models, developed by the Western Australian Local Government Association (WALGA) to minimise legal costs and the complications of the Public Benefit Test. With this in mind, minimal amendments and changes to the Shire's local laws have been undertaken to improve the legislative framework, without substantial costs to the Shire.

Direct costs associated with this report are limited to consultant fees to draft the local laws, correspondence and reports, including the preparation of Explanatory Memoranda for each local law. Where amendments of existing local laws have been undertaken consolidation of the amendments for ready use of the local laws, will be undertaken as a component of this project. 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 is \$101.45 per page for local laws and it is likely that the total gazettal pages will run to approximately 100 pages with an estimated cost of \$10,000. This cost can be negotiated with the State Law Publisher but is a realistic estimate. 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:**

Absolute Majority Required

### **COUNCIL RESOLUTION**

***171/16 Moved Cr Holliday, seconded Cr Hamilton 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;***
- f) the Shire of Moora Amendment Local Law 2016, and***
- g) the Shire of Moora Health Local Law 2016.***

**CARRIED BY ABSOLUTE MAJORITY 9/0**

### **11.3 58 GARDINER STREET - MOORA - REDUCED SETBACK**

**FILE REFERENCE:** TP/PA19/1617

**REPORT DATE:** 7 December 2016

**APPLICANT/PROPONENT:** Kara McGree

**OFFICER DISCLOSURE OF INTEREST:** Nil

**PREVIOUS MEETING REFERENCES:** Nil

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

**ATTACHMENTS:** Plans

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

Shire is in receipt of a development application from proponent Ms Kara McGree of 58 Gardiner Street, Moora who is seeking Council permission to have a reduced setback of 2.4m to enable her to construct a front veranda with timber decking area to the front of her new dwelling and a rear veranda and an extension to her side fence of 600mm.

#### **BACKGROUND:**

58 Gardiner Street is located in the residential zone of the Shire of Moora Town Planning Scheme No 4 (Amendment 11). The residential zone is subject to the Residential Design Codes of Western Australia. Front setbacks determine where the building of the dwelling commences and are 7.5m from the front boundary. With a reduced setback the building will be 5.1m instead of the 7.5m.

Being a corner house the protruding carport is not enclosed so will not restrict sight lines and visibility of vehicles approaching the Drummond / Padbury Street intersection from the west.

### **Residential Zone Objectives**

- (a) to provide for the predominant form of residential development to be single houses whilst providing for diversity with higher density close to the town centre.
- (b) to provide for diversity of lifestyle choice with a range of residential densities.
- (c) to allow for the establishment of non-residential uses which are compatible with the predominant residential use and which will not adversely affect local amenities.

### **Site Requirements**

In accordance with the Residential Design Codes.

### **Use of Setback Areas**

A person shall not use the land between a street alignment and the distance that buildings are required to be set back from such street alignment for any purpose other than one or more of the following: *AMD 09 GG 11/03/11*

- (a) a means of access;
- (b) the daily parking of vehicles;
- (c) the loading and unloading of vehicles; or
- (d) landscaping which only in the Town Centre Zone and then only with the specific approval of Local government may include an awning, pergola, or similar structure and when in front of a take-away food outlet or restaurant may provide for alfresco dining.

The issue of the fence extension at the side of the premises along Drummond Street is requested due to the Finished Floor Level thus raising the height of the house and allowing windows to be visible from the street.

The normal height of a fence is 1.8m, Ms McGree has requested an extension of 600mm to prevent visibility from the street and glare from car lights.

### **COMMENT:**

The proponent wishes to provide a carport at the front of her house which extends off the veranda allowing her to have a semi-circular driveway and parking of her car under the covered area adjacent to her veranda at the front of her house.

As it is an issue of access to the property Council has discretion to permit a reduced access for access purposes.

The extension of the fence is recommended subject to the extension being lattice which will allow the extension to be broken and still provide the necessary privacy.

### **POLICY REQUIREMENTS:**

There are no known related policies for this development application

### **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

**COUNCIL RESOLUTION**

*172/16 Moved Cr Pond, seconded Cr Holliday that Council approve the development application by proponent Ms Kara McGree to construct a front and rear veranda to her property at 58 Gardiner Street, Moora; and have a reduced setback for access purposes to allow her to construct an open carport that will reduce the setback of the property to 5.1m. This proposal is subject to the following conditions:-*

- *Carport is not permitted to be enclosed on any side*
- *Any exposed area of the footings or foundations of the building are required to be enclosed so from the front of the building all areas of the underneath of the building are enclosed.*
- *The reduced setback is not permitted to exceed 2.1m into the required setback area allowing a minimum of 5.1m from the front boundary.*
- *Only new materials are permitted in the construction of the veranda's and carport.*
- *Fence extension to be of lattice material which is commercially available and is recognised by most Shires as a means of extending the height of the fence and not of solid construction.*

**CARRIED 9/0**

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

Nil

**13. CLOSURE OF MEETING**

*There being no further business, the President declared the meeting closed at 6.05pm.*

**CONFIRMED**

**PRESIDING MEMBER**