



SHIRE OF
DOWERIN
TIN DOG TERRITORY

MINUTES

Ordinary Council Meeting

Held in Council Chambers
13 Cottrell Street, Dowerin WA 6461
Tuesday 20 October 2020



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Table of Contents



1.	Official Opening / Obituaries
2.	Record of Attendance / Apologies / Leave of Absence
3.	Public Question Time
4.	Disclosure of Interest
5.	Applications for Leave of Absence
6.	Petitions and Presentations
7.	Confirmation of Minutes of the Previous Meetings
7.1	Ordinary Council Meeting held on 15 September 2020
8.	Minutes of Committee Meetings to be Received
	Nil
9.	Announcements by the President Without Discussion
10.	Officer's Reports - Corporate and Community Services
10.1	Financial Activity Statements
10.2	List of Accounts Paid
10.3	Recalcitrant Rates Debtors - September 2020
10.4	Policy Manual Review - Policy 3.13 - Recruitment & Selection Policy
11.	Officer's Reports - Governance and Compliance
11.1	2021 Ordinary Council Meeting Dates
11.2	Shire of Dowerin Christmas/New Year Opening Hours
11.3	Freedom of Information - Information Statement 2020/21
11.4	Town Planning Scheme No. 2 - Local Planning Policies - Adoption
11.5	Local Law Review
12.	Officer's Reports - Works and Assets
12.1	Replacement of Existing 2003 Multi-tyre Roller
12.2	Purchase of New Smooth Steel Vibrating Drum Roller
13.	Urgent Business Approved by the Person Presiding or by Decision
14.	Elected Members' Motions
15.	Matters Behind Closed Doors
16.	Closure

11.5 Local Law Review

Governance & Compliance



Date:	5 October 2020
Location:	Not applicable
Responsible Officer:	Rebecca McCall, Chief Executive Officer
Author:	Helen Westcott, BHW Consulting Vanessa Green, Executive & Governance Officer
Legislation:	<i>Local Government Act 1995</i>
Sharepoint Reference:	Organisation/Governance/Local Laws
Disclosure of Interest:	Nil
Attachments:	Nil

Purpose of Report

Executive Decision

Legislative Requirement

Summary

This Item presents a proposal to formally commence the eight year review of a number of current local laws to Council for consideration and, if satisfactory, adoption.

Background

The *Local Government Act 1995* (the Act) requires that a local government must every eight years, after adoption of any local law, or the last review, conduct a review of the local law to ensure that it still retains currency.

Section 3.16 of the Act requires that Council initiate the review following which it is to conduct local advertising detailing the local laws to be reviewed and inviting submissions within a period of 6 weeks (42 days). A copy of each local law is to be made available for inspection.

In developing the 2020/21 Budget, staff sought quotes from suitably qualified external consultants to assist with the review process. Following adoption of the Budget, BHW Consulting were appointed to assist in conducting the review.

Comment

The current list of local laws included in the review is as follows:

Name of Local Law	Date Adopted	Date Gazetted
Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law Adopted by reference to the <i>Shire of Donnybrook/Balingup Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law</i>	16 October 2001	8 January 2002

Dowerin and Minnivale Cemeteries (Reserves 16736 and 14985) Bylaws (Local Laws)	17 June 1969	9 February 1970
Fencing Local Law 2008 Adopted by reference to the <i>Shire of Goomalling Local Law Relating to Fencing 2007</i>	16 September 2008	30 September 2008
Local Law (Standing Orders) 2001 Adopted by reference to the <i>Shire of Coolgardie Local Law Relating to Local Law (Standing Orders) 2000</i>	16 October 2001	8 January 2002

According to the Local Laws Register on the Department of Local Government, Sport and Cultural Industries website (accessed 4 October 2020) the Shire has several other local laws as follows:

1. Dogs Local Law 2018;
2. Health Local Law (gazetted 1998);
3. Local Government Property Local Law 2018; and
4. Parking and Parking Facilities Local Law 2018.

The local laws that were adopted and gazetted in 2018 are not required to be reviewed as it is less than 8 years since they were approved. The Health Local Law is not being reviewed as it is proposed to be repealed and replaced as part of the implementation of the new *Public Health Act 2016*.

In addition, the Local Laws Register lists two further local laws being the Damage to Streets Draft Model No. 1 and Removal and Disposal of Obstructing Animals or Vehicles. Research has shown that these two local laws were superseded when the current Act was enacted.

It is proposed that the Shire conduct a review in accordance with Section 3.16 of the Act of the following local laws:

1. Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law;
2. Dowerin and Minnivale Cemeteries (Reserves 16736 and 14985) Bylaws (Local Laws);
3. Fencing Local Law 2008; and
4. Local Law (Standing Orders) 2001.

Section 3.16 of the Act outlines the process to be followed for a review of local laws. It is appropriate to point out that any outcomes from a review that result in amendments to an existing local law (or the repeal and replacement) outlined in this report must then be processed as though it was an amendment (or new local law) to the local law and formally adopted using the procedures outlined in Section 3.12 of the Act.

This, in effect, means there are two distinct processes to follow, the first being a review and the second being the implementation of the outcome of the review.

To commence the review process, the Shire is required to determine the local laws it wishes to review and approve local advertising, for a period of not less than 6 weeks, its intention to undertake the review.

During the advertising period BHW Consulting will undertake an examination of each local law to determine what amendments, if any, may be required to improve their effectiveness or whether a local law should be repealed and replaced.

Consultation

BHW Consulting
Senior Management Team
Executive & Governance Officer

The review process includes undertaking advertising seeking community comments on the local laws and, in particular, any views on deficiencies in their operation and whether some provisions need to be amended.

It is not necessary at this point to seek input from Government Agencies unless it is felt any of the agencies can add value to the process.

Policy Implications

Nil at this time.

Depending on the outcome of the review process, it may be that some policies will require a review or new policies may need to be developed and considered by Council.

Strategic Implications

Strategic Community Plan

Community Priority: Our Leaders

Objective: A thriving and progressive rural community enabled by innovation in leadership, a focus on continuous improvement and adaptability to evolving community needs

Outcome: 3

Reference: L5

Asset Management Plan

Nil

Long Term Financial Plan

Nil

Statutory Implications

Section 3.16 of the *Local Government Act 1995* is applicable and states:

“ 3.16. Periodic review of local laws

- (1) *Within a period of 8 years from the day when a local law commenced or a report of a review of the local law was accepted under this section, as the case requires, a local government is to carry out a review of the local law to determine whether or not it considers that it should be repealed or amended.*
- (2) *The local government is to give local public notice stating that –*
 - (a) *the local government proposes to review the local law; and*
 - (b) *a copy of the local law may be inspected or obtained at any place specified in the notice; and*
 - (c) *submissions about the local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given.*
- (3) *After the last day for submissions, the local government is to consider any submissions made and cause a report of the review to be prepared and submitted to its council.*
- (4) *When its council has considered the report, the local government may determine* whether or not it considers that the local law should be repealed or amended.*

** Absolute majority required.”*

Risk Implications

Risk Profiling Theme	Failure to fulfil statutory regulations or compliance requirements
Risk Category	Compliance
Risk Description	No noticeable regulatory or statutory impact
Consequence Rating	Insignificant (1)

Likelihood Rating	Rare (1)
Risk Matrix Rating	Low (1)
Key Controls (in place)	Governance Management Framework
Action (Treatment)	Document Governance Framework
Risk Rating (after treatment)	Adequate

Financial Implications

As mentioned above, the 2020/21 Budget includes an allocation for the conduct of the local law review at GL: 20552 GOV Other: Consultants – Regulation & Compliance.

It should be noted that this allocation includes costs associated with the review and the implementation of the outcome of the review, as well as advertising and gazettal costs associated with both processes within the review.

Voting Requirements



Simple Majority



Absolute Majority

Officer's Recommendation/Resolution

Moved: Cr Sewell

Seconded: Cr Ward

0293 That, in accordance with Section 3.16 of the *Local Government Act 1995*, Council proceed with a review of its local laws and advertise the review of the following local laws:

1. **Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law;**
2. **Dowerin and Minnivale Cemeteries (Reserves 16736 and 14985) Bylaws (Local Laws);**
3. **Fencing Local Law 2008; and**
4. **Local Law (Standing Orders) 2001.**

CARRIED 7/0