

| Attendees | Agenda Item 1 | Attendees |
|---------------------------------|---|--------------------------------|
| Councillors | Cr DG Waugh, Mayor Cr FO Whelan, Deputy Mayor Cr PW Lobegeier Cr JF Dowling Cr PW Francis Cr KS Wendt OAM BEM Cr WJ Bowen | |
| Officers | Chief Executive Officer, MJP Pitt General Manager of Engineering and Environmental Services, B Pearce General Manager of Corporate and Community Services, D Wiskar Manager of Development Services, AB Webster Manager of Technical Services, TJ Harvey Compliance Officer, F Thornton Executive Assistant, NJ Zillman | |
| Welcome | Agenda Item 2 | Welcome / Housekeeping |
| | The Mayor declared the meeting open at 9:31am and welcomed all attendees. | |
| Public Gallery | Emily Smith and Noel Thompson from the Central and North Burnett Times entered the meeting as part of the Public Gallery. | |
| Apologies | Agenda Item 3 | Apologies |
| | Nil Apologies. | |
| Declaration | Agenda Item 4 | Declaration of Interest |
| | Nil Declaration. | |
| Deputations | Agenda Item 5 | Deputations/Petitions |
| | Nil Deputations. | |
| Governance | Agenda Item 6 | Governance Report |
| ALGA 370-07-2014 | 6.1 ALGA 2014 National General Assembly of Local Government | |
| | Cr FO Whelan moved and Cr PW Lobegeier seconded: That the CEO report on attendance at the 2014 ALGA National General Assembly of Local Government be received for information and the contents of the report noted. | 7/0 CARRIED |
| Local Law 371-07-2014 | 6.2 Animal Management Amendment – Subordinate Local Law | |
| | Cr KS Wendt OAM BEM moved and Cr WJ Bowen seconded: That Council resolves to propose to make Animal Management (Amendment) Subordinate Local Law (No.1) 2014. | 7/0 CARRIED |

372-07-2014

Cr PW Francis moved and Cr PW Lobegeier seconded:

That Council resolves, pursuant to section 257 of the Local Government Act 2009 (“the Act”), to delegate to the Chief Executive Officer of Council its powers under section 38 of the Act and section 15 of the Local Government Regulation 2012 to decide –

- a. How the public interest test of the subordinate local law particularised in the schedule is to be conducted; and
- b. The matters with which the public interest test report in relation to the subordinate local law particularised in the schedule must deal; and
- c. The consultation process for the public interest test and how the process is to be used in the public interest test.

7/0 CARRIED

373-07-2014

Cr PW Lobegeier moved and Cr WJ Bowen seconded:

That for the purposes of section 29(1) of the Local Government Act 2009, the local government resolves to adopt a process for making each local law of Council as detailed below. The process applies unless the local government has begun, but not completed, its process for making a local law before the commencement of the Local Government and Other Legislation Amendment Act 2012.

The process—

- (a) applies to the making of—
 - (i) each local law that incorporates a model local law; and
 - (ii) each local law that is a subordinate local law; and
 - (iii) each other local law; but
- (b) does not apply to a local law that is an interim local law.

Making a local law that incorporates a model local law

The process (model local law making process) stated in this resolution must be used to make a local law that incorporates a model local law into the local laws of the local government.

- Step 1 — By resolution, propose to incorporate the model local law.
- Step 2 — If the model local law contains an anti-competitive provision, comply with the procedures prescribed under a regulation for the review of anti-competitive provisions.
- Step 3 — If there is an existing local law about a matter in the model local law that would be inconsistent with the matter in the model local law—amend or repeal the existing local law so that there is no inconsistency.
- Step 4 — By resolution, incorporate the model local law.
- Step 5 — Let the public know that the local law has been made, by publishing a notice of the making of the local law in accordance with the requirements of section 29B(1) to (4) inclusive of the *Local Government Act 2009*.
- Step 6 — As soon as practicable after the notice is published in the gazette, ensure that a copy of the local law may be inspected and purchased at the local government’s public office.

- Step 7 — Within 14 days after the notice is published in the gazette, give the Minister—
- (a) a copy of the notice; and
 - (b) a copy of the local law in electronic form; and
 - (c) if the local law contains 1 or more anti-competitive provisions—
 - (i) advice of each anti-competitive provision; and
 - (ii) the reasons for their inclusion.
- Step 8 — Update the local government’s register of its local laws.

Making an “other” local law

The process (other local law making process) stated in this resolution must be used to make a local law (a proposed local law) other than—

- (a) a model local law; or
- (b) an interim local law; or
- (c) a subordinate local law.

Step 1 — By resolution, propose to make the proposed local law.

Step 2 — Consult with relevant government entities about the overall State interest in the proposed local law.

- Step 3 — Consult with the public about the proposed local law for at least 21 days (the consultation period) by—
- (a) publishing a notice (a consultation notice) about the proposed local law at least once in a newspaper circulating generally in the local government's area; and
 - (b) displaying the consultation notice in a conspicuous place at the local government's public office from the first day of the consultation period until the end of the last day of the consultation period; and
 - (c) making a copy of the proposed local law available for inspection at the local government's public office during the consultation period; and
 - (d) making copies of the proposed local law available for purchase at the local government's public office during the consultation period.

The consultation notice must state the following—

- (a) the name of the proposed local law; and
- (b) the purpose and general effect of the proposed local law; and
- (c) the length of the consultation period and the first and last days of the period; and
- (d) that written submissions by any person supporting or objecting to the proposed local law may be made and given to the local government on or before the last day of the consultation period stating—
 - (i) the grounds of the submission; and
 - (ii) the facts and circumstances relied on in support of the grounds.

If the local government decides, by resolution, that the proposed local law only amends an existing local law to make an insubstantial change, the local government may proceed to step 6 without satisfying step 3 or step 5.

- Step 4 — If the proposed local law contains an anti-competitive provision, comply with the procedures prescribed under a regulation for the review of anti-competitive provisions. For avoidance of doubt, step 3, and this step 4, may be undertaken contemporaneously.

- Step 5 — Accept and consider every submission properly made to the local government.
- A submission is properly made to the local government if it —
- (a) is the written submission of any person about the proposed local law; and
 - (b) states—
 - (i) the grounds of the submission; and
 - (ii) the facts and circumstances relied on in support of the grounds; and
 - (c) is given to the local government on or before the last day of the consultation period.

- Step 6 — By resolution, decide whether to—
- (a) proceed with the making of the proposed local law as advertised; or
 - (b) proceed with the making of the proposed local law with amendments; or
 - (c) make the proposed local law as advertised; or
 - (d) make the proposed local law with amendments; or
 - (e) not proceed with the making of the proposed local law.

If the local government resolves to proceed with the making of the proposed local law with amendments, and the amendments are substantial, the local government may again —

- (a) consult with the public at step 3; and
- (b) accept and consider every submission properly made to the local government at step 5.

For the avoidance of doubt, if an amendment changes an anti-competitive provision, the local government must again comply with the procedures prescribed under a regulation for the review of anti-competitive provisions for the amended anti-competitive provision.

- Step 7 — Let the public know that the local law has been made, by publishing a notice of the making of the local law in accordance with the requirements of section 29B(1) to (4) inclusive of the *Local Government Act 2009*.

- Step 8 — As soon as practicable after the notice is published in the gazette, ensure that a copy of the local law may be inspected and purchased at the local government's public office.

- Step 9 — Within 14 days after the notice is published in the gazette, give the Minister—
- (a) a copy of the notice; and
 - (b) a copy of the local law in electronic form; and
 - (c) if the local law contains 1 or more anti-competitive provisions—
 - (i) advice of each anti-competitive provision; and
 - (ii) the reasons for their inclusion.
- Step 10— Update the local government’s register of its local laws.

Making a subordinate local law

The process (subordinate local law making process) stated in this resolution must be used to make a subordinate local law (a proposed subordinate local law).

The local government may start the process for making a subordinate local law even though the process for making the local law (including a model local law) on which the subordinate local law is to be based (the proposed authorising law) has not finished.

The local government may use steps 1 to 5 of the subordinate local law making process (other than actually making the subordinate local law) before the proposed authorising law is made if—

- (a) in making the proposed authorising law, the local government has to satisfy—
 - (i) the model local law making process; or
 - (ii) the other local law making process; and
- (b) if the proposed authorising law is made under the other local law making process— the notice about the subordinate local law under step 2 of the subordinate local law making process is published no earlier than the notice about the proposed authorising law under step 3 of the other local law making process is published.

For the avoidance of doubt, a subordinate local law made by the local government using the process detailed in this resolution may provide for the local government to, from time to time, by resolution, reference or incorporate information.

For example, under the *Local Government Regulation 2012*—

- (a) the identification guidelines for the identification of anti-competitive provisions are a document made by the department and available for inspection on the department’s website; and
- (b) the public interest test procedures are a document made by the department and available for inspection on the department’s website.

- Step 1 — By resolution, propose to make the proposed subordinate local law.

- Step 2 — Consult with the public about the proposed subordinate local law for at least 21 days (the consultation period) by—
- (a) publishing a notice (also a consultation notice) about the proposed subordinate local law at least once in a newspaper circulating generally in the local government’s area; and
 - (b) displaying the consultation notice in a conspicuous place in the local government’s public office from the first day of the consultation period until the end of the last day of the consultation period; and
 - (c) making a copy of the proposed subordinate local law available for inspection at the local government’s public office during the consultation period; and
 - (d) making copies of the proposed subordinate local law available for purchase at the local government’s public office during the consultation period.

The consultation notice must state the following—

- (a) the name of the proposed subordinate local law; and
- (b) the name of—
 - (i) the local law allowing the proposed subordinate local law to be made; or
 - (ii) if the local government has started the process for making a subordinate local law even though the process for making the proposed authorising law on which the subordinate local law is to be based has not finished — the proposed authorising law; and
- (c) the purpose and general effect of the proposed subordinate local law; and
- (d) the length of the consultation period and the first and last days of the period; and
- (e) that written submissions by any person supporting or objecting to the proposed subordinate local law may be made and given to the local government on or before the last day of the consultation period stating—
 - (i) the grounds of the submission; and
 - (ii) the facts and circumstances relied on in support of the grounds.

If the local government decides, by resolution, that the proposed subordinate local law only amends an existing subordinate local law to make an insubstantial change, and the amendment does not affect an anti-competitive provision, the local government may proceed to step 5 without satisfying any of step 2 to step 4 inclusive.

- Step 3 — If the proposed subordinate local law contains an anti-competitive provision, comply with the procedures prescribed under a regulation for the review of anti-competitive provisions. For avoidance of doubt, step 2, and this step 3, may be undertaken contemporaneously.
- Step 4 — Accept and consider every submission properly made to the local government.
- A submission is properly made to the local government if it—
- (a) is the written submission of any person about the proposed subordinate local law; and
 - (b) states—
 - (i) the grounds of the submission; and
 - (ii) the facts and circumstances relied on in support of the grounds; and
 - (c) is given to the local government on or before the last day of the consultation period.
- Step 5 — By resolution, decide whether to—
- (a) proceed with the making of the proposed subordinate local law as advertised; or
 - (b) proceed with the making of the proposed subordinate local law with amendments; or
 - (c) make the proposed subordinate local law as advertised; or
 - (d) make the proposed subordinate local law with amendments; or
 - (e) not proceed with the making of the proposed subordinate local law.
- If the local government resolves to proceed with the making of the proposed subordinate local law with amendments, and the amendments are substantial, the local government may again —
- (a) consult with the public at step 2; and
 - (b) accept and consider every submission properly made to the local government at step 4.
- For the avoidance of doubt, if an amendment changes an anti-competitive provision, the local government must again comply with the procedures prescribed under a regulation for the review of anti-competitive provisions for the amended anti-competitive provision.
- Step 6 — Let the public know that the subordinate local law has been made, by publishing a notice of the making of the subordinate local law in accordance with the requirements of section 29B(1) to (4) inclusive of the *Local Government Act 2009*.
- Step 7 — As soon as practicable after the notice is published in the gazette, ensure that a copy of the subordinate local law may be inspected and purchased at the local government's public office.

- Step 8 — Within 14 days after the notice is published in the gazette, give the Minister—
- (a) a copy of the notice; and
 - (b) a copy of the subordinate local law in electronic form; and
 - (c) if the subordinate local law contains 1 or more anti-competitive provisions—
 - (i) advice of each anti-competitive provision; and
 - (ii) the reasons for their inclusion.
- Step 9 — Update the local government’s register of its local laws.

7/0 CARRIED

374-07-2014

Cr PW Francis moved and Cr JF Dowling seconded:

Draft of Animal Management (Amendment) Local Law (No.1) 2014

NORTH BURNETT REGIONAL COUNCIL

Animal Management (Amendment) Subordinate Local Law (No. 1) 2014

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Part 1 **Preliminary**

1 Short title

This subordinate local law may be cited as *Animal Management (Amendment) Subordinate Local Law (No. 1) 2014*.

2 Subordinate local law amended

This subordinate local law amends *Subordinate Local Law No. 2 (Animal Management) 2011*.

Part 2 Amendments to subordinate local law

3 Amendment of s19 (Prescribed period for reclaiming animals — Authorising local law, schedule)

Section 19, paragraphs (a) and (b) —

omit, insert—

- (a) for horses and cattle — 5 working days; or
- (b) for cats and dogs that are implanted with a permanent identification device under the *Animal Management (Cats and Dogs) Act 2008* — 5 working days; or
- (c) for dogs that are registered under the *Animal Management (Cats and Dogs) Act 2008* — 5 working days; or
- (d) for all other animals — 3 working days.’.

4 Amendment of sch1 (Prohibition on keeping animals)

- (1) Schedule 1, item 4, column 2, paragraphs (a) to (c) inclusive —

omit, insert—

‘A rooster on an allotment in an urban area unless each of the owner and the responsible person for the rooster is a recognised breeder.’.

- (2) Schedule 1, after item 12—

insert—

‘A prohibition prescribed in this schedule does not apply to the keeping of an animal or animals on premises if—

- (a) the animal or animals were kept on the premises before the commencement of the authorising local law; and
- (b) the keeping of the animal or animals on the premises immediately before the commencement of the authorising local law did not contravene any provision of a local law of the local government that was repealed contemporaneously with the making of the authorising local law.’.

5 Amendment of sch3 (Minimum standards for keeping animals generally)

- (1) Schedule 3, section 1, after paragraph (g) —

insert—

- ‘(h) A person who keeps an animal on premises must ensure that it does not cause an animal noise nuisance.’.

- (2) Schedule 3, section 2—

omit, insert—

‘2 For the purposes of section 1(h), an animal causes an animal noise nuisance if it makes a noise which —

- (a) occurs more than once; and
- (b) disrupts or inhibits an activity ordinarily carried out on adjoining or nearby residential premises.

Example for section 2(b) —

A noise made by an animal which disrupts a person—

- (a) holding a conversation; or
- (b) watching a television; or
- (c) listening to a radio or recorded material; or
- (d) sleeping.

In order for an animal noise nuisance under this section 2 to occur, it is not necessary that the degree of interference from the noise is such as to be continuous, or to make it practicably impossible to—

- (a) hold a conversation; or
- (b) watch a television; or
- (c) listen to a radio or recorded material at ordinary volumes; or
- (d) fall or stay asleep.

Any occurrence by which a person is woken from sleep, or by which a person is distracted or annoyed during the course of carrying out some other ordinary activity, in a way which would not occur in the absence of the animal noise, is a disruption to or an inhibition of an activity ordinarily carried out on residential premises. It is not necessary that the animal noise totally drowns out the sound of the conversation, television, radio or recorded material. It is sufficient if attention is merely diverted from this sound by the noise which is being made by the animal. It is not necessary that the animal noise be a repeated or ongoing interruption of sleep or that it be the total shattering of sleep.

3. The criteria an authorised person must consider when deciding whether an animal makes a noise which disrupts or inhibits an activity ordinarily carried out on adjoining or nearby residential premises include—

- (a) has the local government received 3 complaints of a contravention of section 1(h) from 3 persons all of whom occupy separate premises in the same or an adjoining street to the premises the subject of the complaints; and
- (b) has the local government received 2 complaints of a contravention of section 1(h) in circumstances where the land the subject of the complaints is not located in an area occupied predominantly by residential premises.’.

6 Amendment of sch4 (Minimum standards for keeping particular animals)

Schedule 4, item 8 —

omit, insert—

| | |
|------------------------------|---|
| Dogs (other than greyhounds) | The owner of a dog must ensure that at all times the dog is wearing the registration device mentioned in section 12(3) of the <i>Animal Management (Cats and Dogs) Act 2008</i> . |
|------------------------------|---|

Amendment of sch11 (Dictionary)

Schedule 11—

insert—

'allotment means a single parcel of land, or several contiguous parcels of land where all of the contiguous parcels of land are in—

- (a) the same ownership; or
- (b) the same occupation.

animal noise nuisance see section 8(1) and schedule 3.

recognised breeder, of a species or breed of animal, means a person who is a member of an incorporated association or other body which—

- (a) has objects which promote the breeding of the species or breed of animal; and
- (b) is recognised by the local government as representative of the breeders of the species or breed of animal in the local government area of the local government.

residence means a building, or part of a building, that is—

- (a) fixed to land; and
- (b) designed, or approved by a local government, for human habitation by a single family unit; and
- (c) used for residential purposes.

residential premises means premises used, or intended to be used, predominantly as a place of residence.'

This and the preceding 3 pages bearing my initials is a certified copy of *Animal Management (Amendment) Subordinate Local Law (No. 1) 2014* made in accordance with the provisions of the *Local Government Act 2009* by North Burnett Regional Council by resolution dated

the day of 2014.

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Chief Executive Officer

7/0 CARRIED

375-07-2014

Cr JD Dowling moved and Cr KS Wendt OAM BEM seconded:

Draft resolution about the proposal to make the amending subordinate local law and the delegation, to the Chief Executive Officer of Council, of the public interest testing process for possible anti-competitive provisions identified in the proposed subordinate local law

DRAFT RESOLUTION

Proposal to make *Animal Management (Amendment) Subordinate Local Law (No. 1) 2014* and delegate to the chief executive officer the power to undertake public interest testing in relation to possible anti-competitive provisions.

Council resolves to propose to make *Animal Management (Amendment) Subordinate Local Law (No.1) 2014*.

Council resolves, pursuant to section 257 of the *Local Government Act 2009* (“the Act”), to delegate to the Chief Executive Officer of Council its powers under section 38 of the Act and section 15 of the *Local Government Regulation 2012* to decide—

- (a) how the public interest test of the subordinate local law particularised in the schedule is to be conducted; and
- (b) the matters with which the public interest test report in relation to the subordinate local law particularised in the schedule must deal; and
- (c) the consultation process for the public interest test and how the process is to be used in the public interest test.

7/0 CARRIED

376-07-2014 Cr PW Francis moved and Cr FO Whelan seconded:

A drafting certificate for the proposed subordinate local law for execution and retention by Council

DRAFTING CERTIFICATE

NORTH BURNETT REGIONAL COUNCIL

This is to certify that, in my opinion, the proposed Subordinate Local Law specified in the Schedule, a copy of which is attached hereto, has been drafted in accordance with section 29 (5) of the *Local Government Act 2009*.

.....

7/0 CARRIED

Chief Executive Officer

Economic

Agenda Item 7

Economic Report

Infrastructure
Charges

7.1 Request for Review – Infrastructure Charges

377-07-2014

Cr PW Francis moved and Cr FO Whelan seconded: That Council advise Jeff and Karen Ruthenberg that it will reissue the Adopted Infrastructure Charges Notice for Reconfiguring a Lot – Subdivision (1 lot into 3 lots) for Lot 77 YL147 at Bald Hills Norris Corner Road, Mundubbera using the revised charges applicable at the date (currently those contained in the Adopted Infrastructure Charges Resolution made 17 December 2013 - \$1500 per lot for two additional lots).

7/0 CARRIED

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| Development Statistics 378-07-2014 | 7.2 Development Statistics – May 2014 Cr PW Lobegeier moved and Cr KS Wendt OAM BEM: That the Development Statistics – May 2014 as presented be received. 7/0 CARRIED |
| Social | Agenda Item 8 Social Report Nil Reports. |
| Confidential Reports | Agenda Items 9 Confidential Reports |
| Closed Session | Cr FO Whelan moved and Cr PW Lobegeier seconded: That in accordance with Section 275 of the Local Government Regulation 2012, the meeting be closed to the public to allow discussion regarding other business for which a public discussion would be likely to prejudice the interests of the local government or someone else, or enable a person to gain a financial advantage. 7/0 CARRIED |
| Public Gallery | Emily Smith and Noel Thompson from the Central and North Burnett Times left the meeting. Cr KS Wendt OAM BEM withdrew from the meeting at 10:23am and re-entered at 10:24am. |
| Morning Tea | The meeting adjourned for morning tea at 10:28am and resumed in closed session at 10:55am. |
| Re-open Session | Cr PW Francis moved and Cr JF Dowling seconded: That in accordance with Section 275 of the Local Government Regulation 2012, the meeting be re-opened to the public. 7/0 CARRIED |
| Public Gallery | Emily Smith from the Central and North Burnett Times re-entered the meeting as part of the Public Gallery. |
| Compliance 379-07-2014 | 9.1 Building and Living Conditions Compliance – Byrnestown Area Cr PW Lobegeier moved and Cr JF Dowling seconded: 1. That Council adopt the following approach to address the issues presented in this report:- For property specific recommended action please refer to Attachment 3 – “Use details and recommended action”. 2. Advise the owners that they are permitted to occupy a caravan or shed for a temporary period only where they have obtained the required Council approvals for occupation associated with the building of a dwelling. The permit to be issued by Council will only occur where a building permit has been obtained for a dwelling. 3. Where the owners are not willing to obtain the temporary occupation and building permit for a dwelling, the owners are required to cease living arrangements of the properties, remove caravans and obtain building permits for the structures built. Where building permits cannot be obtained, the structures are to be removed. Also, if any building has any facilities installed such as toilets, showers, sinks and the like, plumbing permits are required to be obtained. |

4. Where it is established that persons are using sheds as a “base” whilst travelling or simply just occupying it on an intermittent basis, Council will permit the use subject to the existing sheds being used for storage purposes only and where plumbing facilities are provided, the appropriate plumbing permits are obtained. Vehicles, vans etc that are used for storage must be securely tied down, weather and vermin proof structurally adequate and must be visually presentable.

5. It is probable that further options may need to be considered where owners do not comply with any of the previous options. Council may need to consider the possibility of having to remove persons and property where all other options are exhausted.

7/0 CARRIED

Material Change of Use
380-07-2014

9.2 Application for Material Change of Use and Operational Work Extractive Industry

Cr PW Francis moved and Cr JF Dowling seconded: That Council approves the application for material change of use and operational work (Extractive Industry [5,000–100,000 tonne per annum extracting and screening] and Clearing native vegetation over Lots 178 and 179 RP214094 located at Mt Goonanamen Rd, Dallarnil submitted by J & K Cole Holdings Pty Ltd subject to the report assessment manager and concurrence agency conditions.

FOR THE MOTION

Cr FO Whelan

Cr PW Francis

Cr WJ Bowen

Cr PW Lobegeier

Cr JF Dowling

Cr KS Wendt OAM BEM

AGAINST THE MOTION

Cr DG Waugh

6/1 CARRIED

AB Webster and F Thornton withdrew from the meeting at 11:24am.

General Business

Agenda Item 10

General Business

Cr WJ Bowen requested an update on the investigation of the Gayndah quarry development conditions.

Cr WJ Bowen expressed his disappointment to Council on behalf of the Mt Perry residents for not having photos published in the Community calendar.

381-07-2014

Cr PW Francis moved and Cr FO Whelan seconded: That a report be presented to Council on Wuruma Dam camping facilities and future financial opportunities after the CEO and General Manager meet with Sunwater Executives.

7/0 CARRIED

Closure of Meeting

Agenda Item 11

Closure of Meeting

There being no further business the meeting closed at 11:32am.