

11.1 Chief Executive Officer

| ITEM NO | SUBJECT | PAGE |
|---------|---|------|
| 11.2.2 | ADOPTION OF CEMETERIES AMENDMENT LOCAL LAW 2020 AND ACTIVITIES IN THOROUGHFARES AND PUBLIC PLACES AND TRADING AMENDMENT LOCAL LAW | 1 |

11.1 Chief Executive Officer

11.1.2 ADOPTION OF CEMETERIES AMENDMENT LOCAL LAW 2020 AND ACTIVITIES IN THOROUGHFARES AND PUBLIC PLACES AND TRADING AMENDMENT LOCAL LAW

Attachment 1 – Activities in Thoroughfares and Public Places and Trading Amendment Local Law 2020

Attachment 2 - Cemeteries Amendment Local Law 2020

Attachment 3 – Letters from JSCDL

LOCAL GOVERNMENT ACT 1995

SHIRE OF AUGUSTA MARGARET RIVER

**ACTIVITIES IN THOROUGHFARES AND PUBLIC PLACES AND TRADING
AMENDMENT LOCAL LAW 2020**

LOCAL GOVERNMENT ACT 1995

SHIRE OF AUGUSTA MARGARET RIVER

**ACTIVITIES IN THOROUGHFARES AND PUBLIC PLACES AND TRADING
AMENDMENT LOCAL LAW 2020**

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the *Shire of Augusta Margaret River* resolved on 28 October 2020 to amend the following local law.

PART 1 - PRELIMINARY

1. Citation

This local law may be cited as the *Shire of Augusta Margaret River Activities in Thoroughfares and Public Places and Trading Amendment Local Law 2020*.

2. Commencement

This local law will come into operation 14 days after the day on which it is published in the *Government Gazette*.

3. Principal Local Law

This local law amends the *Shire of Augusta Margaret River Activities in Thoroughfares and Public Places and Trading Local Law 2020* as published in the *Government Gazette* on 24 March 2020.

4. Clause 1.5 amended

In clause 1.5 in the definition of '**permissible verge treatment**' delete "clause 2.8(2)" and insert "clause 2.7".

Dated:

The Common Seal of the Shire of Augusta Margaret River was affixed under the authority of a resolution of the Council in the presence of-

Shire President

Chief Executive Officer

LOCAL GOVERNMENT ACT 1995

SHIRE OF AUGUSTA MARGARET RIVER

CEMETERIES AMENDMENT LOCAL LAW 2020

LOCAL GOVERNMENT ACT 1995

SHIRE OF AUGUSTA MARGARET RIVER

CEMETERIES AMENDMENT LOCAL LAW 2020

Under the powers conferred by the *Cemeteries Act 1986* and the *Local Government Act 1995* and under all other powers enabling it, the Council of the *Shire of Augusta Margaret River* resolved on 28 October 2020 to amend the following local law.

PART 1 - PRELIMINARY

1. Citation

This local law may be cited as the *Shire of Augusta Margaret River Cemeteries Amendment Local Law 2020*.

2. Commencement

This local law will come into operation 14 days after the day on which it is published in the *Government Gazette*.

3. Principal Local Law

In this local law amends the *Shire of Augusta Margaret River Cemeteries Local Law 2020* as published in the *Government Gazette* on 24 March 2020.

4. Clause 3.2 amended

In clause 3.2 delete "clause 3.4" and insert "clause 3.3".

Dated:

The Common Seal of the Shire of Augusta Margaret River was affixed under the authority of a resolution of the Council in the presence of-

Shire President

Chief Executive Officer

JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION



Our ref: 4063.19/ A810890

14 May 2020

Cr Ian Earl
President
Shire of Augusta Margaret River
PO Box 61
MARGARET RIVER WA 6285

By email: iearl@amrshire.wa.gov.au

Dear Councillor

Shire of Augusta Margaret River Activities in Thoroughfares and Public Places and Trading Local Law 2020

Thank you for providing a copy of the above Local Law and explanatory materials.

The Joint Standing Committee on Delegated Legislation considered the *Shire of Augusta Margaret River Activities in Thoroughfares and Public Places and Trading Local Law 2020* (Local Law) at its meeting on 13 May 2020 and resolved to write to you about the following.

Clause 1.5

Clause 1.5 of the Local Law provides the definition of 'permissible verge treatments' as follows:

Permissible verge treatment means any one of the 4 treatments described in clause 2.8(2) and includes any reticulation pipes and sprinklers;

The definition contains a minor error in that it should refer to clause 2.7 rather than 2.8(2) as:

- Clause 2.8 relates to 'only permissible lawn treatments to be installed' and clause 2.8(2) does not exist.
- Clause 2.7 relates to 'permissible verge treatments' and appears to be the correct reference.

Undertaking

To resolve this issue, the Committee seeks an undertaking from the Shire that:

1. When the Local Law is next reviewed or amended, the Shire will:

- (a) Amend the definition of 'permissible verge treatment' in clause 1.5 by deleting the words 'clause 2.8(2) and inserting the words 'clause 2.7'.
2. Until the Local Law is amended in accordance with undertaking 1:
- (a) Not enforce the Local Law in a manner contrary to undertaking 1.
 - (b) Where the Local Law is made publicly available, whether in hard copy or electronic form (including on the Shire's website), ensure that it is accompanied by a copy of these undertakings.

The undertakings should be given in the form of a letter signed by you as President, not the Chief Executive Officer or other officer of the Shire. This is because, pursuant to section 2.8(1)(d) of the *Local Government Act 1995*, the 'Mayor or President speaks on behalf of the local government' to the Parliament of Western Australia.

I note that your Council is next due to meet on Wednesday 27 May 2020 and the Committee therefore requests that the undertakings be provided to the Committee by Monday 8 June 2020.

To assist you I attach a suggested form of Council resolution to provide the undertakings.

Notwithstanding the privileged nature of this letter, the Committee has no objection to you discussing its contents with the Department of Local Government, Sport and Cultural Industries, WALGA or the City's legal advisers.

Please provide your response to this letter by **Monday 8 June 2020**. If you have any queries in relation to this matter, please contact one of the Committee's Advisory Officers, Laura Hutchinson, on 9420 7629 or at lhutchinson@parliament.wa.gov.au.

Yours sincerely



Emily Hamilton MLA
Chair

Enc: Suggested Council resolution

This document (including any enclosures) is confidential and privileged. You should not use, disclose or copy the material unless you are authorised by the Committee to do so. Please contact Committee staff if you have any queries.

Suggested form of Council resolution to provide the undertakings:

The Council of the Shire of Augusta Margaret River resolves to undertake to the Joint Standing Committee on Delegated Legislation that the Shire will:

- When the Local Law is next amended or reviewed, amend the *Shire of Augusta Margaret River Activities in Thoroughfares and Public Places and Trading Local Law 2020* to:
 - (a) Amend the definition of 'permissible verge treatment' in clause 1.5 by deleting the words 'clause 2.8(2) and inserting the words 'clause 2.7'.
 - (b) Make all necessary consequential amendments.
- Until the Local law is amended in accordance with undertaking 1:
 - (a) Not enforce the Local Law in a manner contrary to undertaking 1.
 - (b) Where the Local Law is made publicly available, whether in hard copy or electronic form (including on the Shire's website), ensure that it is accompanied by a copy of these undertakings.

JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION



Our ref: 4063.19/ A810894

14 May 2020

Cr Ian Earl
President
Shire of Augusta Margaret River
PO Box 61
MARGARET RIVER WA 6285

By email: iearl@amrshire.wa.gov.au

Dear Councillor

Shire of Augusta Margaret River Cemeteries Local Law 2020

Thank you for providing a copy of the above Local Law and explanatory materials.

The Joint Standing Committee on Delegated Legislation considered the *Shire of Augusta Margaret River Cemeteries Local Law 2020* (Local Law) at its meeting on 13 May 2020 and resolved to write to you about the following.

Clause 3.2

Clause 3.2 of the Local Law provides as follows:

All applications referred to in clause 3.1 shall be accompanied by either a medical certificate of death or a Coroner's order of burial, and a certificate issued under clause 3.4, in respect of a body.

The definition contains a minor error in that it should refer to clause 3.3 rather than 3.4 as:

- Clause 3.4 relates to the minimum notice required for a booking to hold a funeral.
- Clause 3.3 relates to certificates of identification.

Although this error is a minor typographical one, the outcome is that technically the local law does not require an application for burial to be accompanied by a certificate of identification.

Undertaking

To resolve this issue, the Committee seeks an undertaking from the Shire that:

1. Within 6 months, the Shire will:
 - (a) Amend clause 3.2 by deleting the words 'clause 3.4' and replacing it with 'clause 3.3'.
2. Until the Local Law is amended in accordance with undertaking 1:
 - (a) Not enforce the Local Law in a manner contrary to undertaking 1.
 - (b) Where the Local Law is made publicly available, whether in hard copy or electronic form (including on the Shire's website), ensure that it is accompanied by a copy of these undertakings.

The undertakings should be given in the form of a letter signed by you as President, not the Chief Executive Officer or other officer of the Shire. This is because, pursuant to section 2.8(1)(d) of the *Local Government Act 1995*, the 'Mayor or President speaks on behalf of the local government' to the Parliament of Western Australia.

I note that your Council is next due to meet on Wednesday 27 May 2020 and the Committee therefore requests that the undertakings be provided to the Committee by Monday 8 June 2020.

To assist you I attach a suggested form of Council resolution to provide the undertakings.

Notice of Motion to Disallow

The Committee resolved to give notice of motion in the Legislative Council to disallow the Local Law. The reasons for giving notice are to protect the Parliament's right to disallow the Local Law Regulations and to provide the Committee and the Shire additional time to deal with and respond to the issues.

The giving of the notice should not be taken as indicating that the Committee has resolved to recommend disallowance at this stage.

Notwithstanding the privileged nature of this letter, the Committee has no objection to you discussing its contents with the Department of Local Government, Sport and Cultural Industries, WALGA or the Shire's legal advisers.

Please provide your response to this letter by **Monday 8 June 2020**. If you have any queries in relation to this matter, please contact one of the Committee's Advisory Officers, Laura Hutchinson, on 9420 7629 or at lhutchinson@parliament.wa.gov.au.

Yours sincerely



Emily Hamilton MLA
Chair

Enc: Suggested Council resolution

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Suggested form of Council resolution to provide the undertakings:

The Council of the Shire of Augusta Margaret River resolves to undertake to the Joint Standing Committee on Delegated Legislation that the Shire will:

- Within 6 months, amend the *Shire of Augusta Margaret River Cemeteries Local Law 2020* to:
 - (a) Amend clause 3.2 by delete the words 'clause 3.4' and replacing it with 'clause 3.3'.
 - (b) Make all necessary consequential amendments.
- Until the Local law is amended in accordance with undertaking 1:
 - (a) Not enforce the Local Law in a manner contrary to undertaking 1.
 - (b) Where the Local Law is made publicly available, whether in hard copy or electronic form (including on the Shire's website), ensure that it is accompanied by a copy of these undertakings.