

12.4.4 Title: Adoption of Parking Local Law 2023

<b>Reporting Department</b>	Corporate & Governance Directorate
<b>Responsible Officer</b>	Ms Cathy Lee - Manager Governance & HR
<b>Reporting Officer</b>	Ms Cathy Lee - Manager Governance & HR
<b>Legislation</b>	Local Government Act 1995
<b>Council Role</b>	Legislative.
<b>Voting Requirement</b>	Absolute Majority.
<b>Attachments</b>	Appendix ORD: 12.4.4A – Risk Assessment Tool Appendix ORD: 12.4.3B – Submission from DLGSC Appendix ORD: 12.4.4C – Marked Up Amendments to Local Law Clauses Appendix ORD: 12.4.4D – Final Parking Local Law 2023

**Overview**

Proposed adoption of *Shire of Dardanup Parking Local Law 2023* with minor amendment, for gazettal.

**OFFICER RECOMMENDED RESOLUTION****THAT Council:**

1. **Receives the submission received from the Department of Local Government, Sport and Cultural Industries in respect of the *Shire of Dardanup Parking Local Law 2023*.**
2. **Notes that there were no public submissions received in respect of the n respect of the *Shire of Dardanup Parking Local Law 2023*.**
3. **By Absolute Majority decision, adopts the *Shire of Dardanup Parking Local Law 2023* [Appendix ORD: 12.4.4D] inclusive of the following minor amendments:**
  - **Contents Page - Be amended by changing:**
    - **“1.3 Terms used” to read “1.3 Repeal”; and**
    - **“1.4 Repeal” to read “ 1.4 Terms Used”.**
4. **Publishes a copy of the adopted local law in the Government Gazette.**
5. **Gives a copy of the adopted gazette ready Local Law to the Minister for Local Government.**
6. **After the local law has been published in the Gazette, gives local public notice as per section 1.7 of the *Local Government Act 1995* advising:**
  - **The title of the local law;**
  - **Summarizing the purpose and effect of the local law;**
  - **Specifying the day on which the local law comes into operation; and**

- **Advising the location of copies of where the local law may be inspected or obtained.**
- 7. Supplies copies of the local law, Explanatory Memorandum, Statutory Procedures Checklist and other supporting material in accordance with Ministerial Directions, to the WA Parliament's Joint Standing Committee on Delegated Legislation within 10 working days of the gazettal publication date of the local law.**

*By Absolute Majority*

***Change to Officer Recommendation***

No Change. **OR:**

As per *Local Government (Administration) Regulations 1996 11(da)* Council records the following reasons for amending the Officer Recommended Resolution:

## Background

At its meeting of 25 of August 2022, the Shire of Dardanup resolved (Res: 225-22) as follows:

*THAT Council:*

1. *In accordance with Section 3.12 of the Local Government Act 1995 approves the advertising of the proposed 'Shire of Dardanup Parking Local Law 2023' [Appendix ORD: 12.4.1C] in order to seek community comment.*
2. *Provides a copy of the proposed Local Law and public notice to the Minister for Local Government.*
3. *After the close of the public consultation period, requests the Chief Executive Officer to submit a report on any submissions received on the proposed Local Law to enable Council to consider the submissions made and to determine whether to make the Local Law in accordance with section 3.12(4).*

## Legal Implications

Section 3.12 of the *Local Government Act 1995* (the Act) details the procedure to be followed when adopting or amending a local law.

- 3.12(4) *After the last day for submissions, the local government is to 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.*

*\* Absolute majority required.*

- (5) *After making the local law, the local government is to publish it in the Gazette and give a copy of it to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister.*
- (6) *After the local law has been published in the Gazette the local government is to give local public notice —*
  - (a) *stating the title of the local law; and*
  - (b) *summarizing the purpose and effect of the local law (specifying the day on which it comes into operation); and*
  - (c) *advising that the local law is published on the local government's official website and that copies of the local law may be inspected at or obtained from the local government's office.*
- (7) *The Minister may give directions to local governments requiring them to provide to the Parliament copies of local laws they have made and any explanatory or other material relating to them.*
- (8) *In this section —*

**making** *in relation to a local law, includes making a local law to amend the text of, or repeal, a local law.*

## Council Plan

13.1 - Adopt best practice governance.

14.2 - Ensure equitable, inclusive and transparent engagement and decision- making.

**Environment** - None.

**Precedents**

The Shire of Dardanup made the current Parking and Parking Facilities Local Law in 2009. The local law was reviewed and amended in 2014.

**Budget Implications**

Costs associated with the review will be advertising and gazettal of the reviewed local law. There is provision within the budget for advertising and no additional costs will be applied to the budget.

**Budget – Whole of Life Cost** - None.

**Council Policy Compliance** - None.

**Risk Assessment**

The Risk Management Governance Framework has been considered in arriving at the officer recommendation. Please refer to [Appendix ORD: 12.4.4A] for full assessment document.

Tier 2 – ‘Low’ or ‘Moderate’ Inherent Risk.	
Risk Event	Adoption of Parking Local Law 2023
Inherent Risk Rating (prior to treatment or control)	Low (1 - 4)
Risk Action Plan (treatment or controls proposed)	As the Inherent Risk Rating is below 12, this is not applicable.
Residual Risk Rating (after treatment or controls)	As the Inherent Risk Rating is below 12, this is not applicable.
Risk Category Assessed Against	Legal and Compliance      Council has a statutory obligation to make laws which are clear and effective. Reputational                      Council would be seen in a negative light if we failed in our legislative requirements.

**Officer Comment**

The Minister for Local Government was provided with a copy of the local law for comment on the 4<sup>th</sup> of August 2022. Advertising inviting submissions concluded on the 20<sup>th</sup> of September 2022.

The Act provides that after the last day for submissions the Council is to consider any submissions received and cause a report of the review to be prepared and considered by the Council.

The Department of Local Government, Sport and Cultural Industries [Appendix ORD: 12.4.4B] made the below comments on the Local Law.

DEPARTMENT OF LOCAL GOVERNMENT, SPORT AND CULTURAL INDUSTRIES COMMENTS	OFFICER RECOMMENDATION
Minor edits: <ul style="list-style-type: none"> <li>• <b>Contents page:</b> the items for clause 1.3 and 1.4 should be in reverse order.</li> </ul>	<b>Contents Page</b> Clause 1.3 changed to read <b>Repeal</b> Clause 1.4 changed to read <b>Terms Used</b>

DEPARTMENT OF LOCAL GOVERNMENT, SPORT AND CULTURAL INDUSTRIES COMMENTS	OFFICER RECOMMENDATION
<ul style="list-style-type: none"> <li>The local law includes references to taxis. State taxi legislation has recently been amended and the Shire should ensure that the new statutory definitions still meet the Shire’s requirements.</li> </ul>	<p>Local Law states:                      taxi has the meaning given to it by the Code ;                      Code means the Road Traffic Code 2000;</p> <p>Road Traffic Code 2000                      Definition:  <i>Taxi means a vehicle used or intended to be used in providing an <u>on-demand rank or hail passenger transport service</u> (as defined in the Transport (Road Passenger Services) Act 2018 section 4(1)</i></p> <p>Transport (Road Passenger Services) Act 2018 section 4(1)                      Definition:  <i><u>on-demand rank or hail passenger transport service</u> means an <u>on-demand passenger transport service</u> that includes a rank or hail service;</i></p> <p><i><u>on-demand passenger transport service</u> has the meaning given in section 5;</i></p> <p>Section5 states:</p> <p><i>(1) In this Act, an <u>on-demand passenger transport service</u> is —</i></p> <p><i>(a) a service —</i></p> <p><i>(i) for the transport of passengers by vehicle within, or partly within, the State for hire or reward; and</i></p> <p><i>(ii) in which the passenger or hirer determines or substantially determines the locations for the beginning and end of the journey and the time of travel;</i></p> <p><i>or</i></p> <p><i>(b) a service or other thing that the regulations provide is an on-demand passenger transport service.</i></p> <p><b>Officer comment</b></p> <p>No change required in the definitions of the local law in relation to Taxis.</p> <p>Although the word ‘Taxi’ is likely to be phased out of local laws in the future and replaced with the words ‘On-demand Passenger Transport Service’ now that there are other services such as Uber; the definition of taxi remains correct.</p>

DEPARTMENT OF LOCAL GOVERNMENT, SPORT AND CULTURAL INDUSTRIES COMMENTS	OFFICER RECOMMENDATION
<ul style="list-style-type: none"> <li>The Shire should ensure all citations and cross references are accurate.</li> </ul>	<p><b>Citations &amp; Cross Referencing:</b></p> <p>Citations and cross referencing has been checked. There are no amendments to be made.</p>

The above amendments to the clauses in question are shown as marked [Appendix ORD: 12.4.4C].

Section 3.13 of the *Local Government Act 1995* provides that the Local Government cannot make a local law that would be significantly different from what it first proposed. In this instance, the suggested changes are in the main to clarify the clauses and do not change the legal effect of the clauses.

Officers consider that amendments listed above are of a minor nature and do not significantly change the original proposed local law. Therefore, it is proposed that the amendments suggested by the Department of Local Government, Sport and Cultural Industries be made and that the local law be adopted.

A copy of the proposed '*Shire of Dardanup Parking Local Law 2023*' inclusive of the amendments for adoption and gazettal is attached [Appendix ORD: 12.4.4D].