



SHIRE OF KONDININ

MINUTES OF MEETING

KONDININ SHIRE COUNCIL

held on Wednesday 20th September 2023 at the
Karlgarin Country Club

David Burton
14th September 2023
CHIEF EXECUTIVE OFFICER

11 Gordon Street, KONDININ WA 6367 Tel (08) 98891006
All communications are to be addressed to the CHIEF EXECUTIVE OFFICER
ceo@kondinin.wa.gov.au

Order of Business

1. DECLARATION OF OPENING/ ANNOUNCEMENT OF VISITORS

The Shire President Cr Mouritz read the Statement of Commitment to Indigenous Australians, welcomed those present and declared the meeting open at 3.21pm.

2. RECORD OF ATTENDANCE/ APOLOGIES/ LEAVE OF ABSENCE

Councillors:	Cr Kent Mouritz (President) Cr Darren Pool Cr Thomas Mulcahy	Cr Brett Smith Cr Beverley Gangell	Cr Bruce Browning Cr Murray James
Staff:	David Burton (CEO) Hannah Repacholi (Minute Taker)	Vince Bugna (MCS)	Tory Young (MPA)
Apologies:	Cr Kerrie Green	Cr Paul Green	Mark Burgess (MoW)

3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

4. PUBLIC QUESTION TIME

5. APPLICATIONS FOR LEAVE OF ABSENCE

RESOLUTION #4203:

Moved: Cr Smith

Seconded: Cr Browning

Cr Gangell would like to request a leave of absence for the 18th October 2023 Council Meeting.

Carried 7/0

For: Cr Kent Mouritz (President); Cr Brett Smith; Cr Bruce Browning; Cr Darren Pool; Cr Beverley Gangell; Cr Murray James; Cr Thomas Mulcahy

Against: Nil

Absent: Cr Kerrie Green; Cr Paul Green

6. PETITIONS/ DEPUTATIONS/ PRESENTATIONS

Synergy Presentation

7. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS/ INFORMATION REPORT

7.1 MINUTES OF COUNCIL MEETING- 16th August 2023

RESOLUTION #4204:

Moved: Cr Mulcahy

Seconded: Cr Pool

That the minutes of the Council Meeting held on the 16th August 2023, be confirmed.

Carried:7/0

For: Cr Kent Mouritz (President); Cr Brett Smith; Cr Bruce Browning; Cr Darren Pool; Cr Beverley Gangell; Cr Murray James; Cr Thomas Mulcahy

Against: Nil
Absent: Cr Kerrie Green; Cr Paul Green

7.2 INFORMATION REPORT- September 2023

RESOLUTION #4205:

Moved: Cr James

Seconded: Cr Smith

That Council receives and accepts the Information Report before this meeting.

Carried: 7/0

For: Cr Kent Mouritz (President); Cr Brett Smith; Cr Bruce Browning; Cr Darren Pool; Cr Beverley Gangell; Cr Murray James; Cr Thomas Mulcahy

Against: Nil

Absent: Cr Kerrie Green; Cr Paul Green

8. ANNOUNCEMENTS BY PRESIDING MEMBERS WITHOUT DISCUSSION

9. ITEMS

9.1 MANAGER OF PLANNING & ASSETS

9.1.1 Vacant Crown Land- South West Native Title Settlement

9.1.2 Community Water Supply Program Funding

9.2 MANAGER OF CORPORATE SERVICES

9.2.1 List of Accounts- August 2023

9.2.2 Financial Reports- July 2023

9.2.3 Financial Reports- August 2023

9.3 MANAGER OF WORKS

9.4 CHIEF EXECUTIVE OFFICER

9.4.1 Christmas Administration Hours

9.4.2 Proposed Amendment Local Law- Final Adoption- *Amended*

9.4.3 Review of Delegated Authority

9.4.4 Discovery Centre Update

9.4.5 Extended Trading Hours for Shire

9.4.6 Request for Donation- *LATE ITEM*

9.1 MANAGER OF PLANNING & ASSETS

9.1.1 VACANT CROWN LAND – SOUTH WEST NATIVE TITLE SETTLEMENT

Applicant: N/A
Author: Tory Young, Manager Planning and Assets
Authorising Officer: David Burton, Chief Executive Officer
Date: 13th September 2023
Disclosure of Interest: Nil
Attachments: Maps, List of Properties

RESOLUTION #4206:

Moved: Cr Mulcahy

Seconded: Cr Pool

That Council:

AUTHORISES the Chief Executive Officer to prepare a submission to the Department of Planning, Lands and Heritage regarding the Shire of Kondinin interest and consent for the two parcels of land in question.

Carried: 7/0

For: Cr Kent Mouritz (President); Cr Brett Smith; Cr Bruce Browning; Cr Darren Pool; Cr Beverley Gangell; Cr Murray James; Cr Thomas Mulcahy

Against: Nil

Absent: Cr Kerrie Green; Cr Paul Green

Summary

The Shire have been requested to provide comment to the Department of Planning, Lands and Heritage with regards to land within the Shire of Kondinin and potential transfer as part of the South West Native Title Settlement.

Background

The State of Western Australia has committed to allocating 320,000 hectares of Crown land to the Noongar People to create the Noongar Land Estate, in accordance with the six registered Indigenous Land Use Agreements (ILUA) for the South West Native Title Settlement (the Settlement) as shown on the attached map.

Two parcels of land in the Shire of Kondinin in the north-eastern portion of the Shire are currently being considered for the part of the settlement for the Ballardong People Agreement Area. The parcels are:

- Polygon ID Number (PIN) # 642970 comprising 23556.9286ha of Vacant Crown Land in the Greater Western Woodlands with the majority located in the Shire of Yilgarn; and
- Polygon ID Number (PIN) # 1095453 comprising 37198.8340ha of Vacant Crown Land in the Greater Western Woodlands with the majority located in the Shire of Yilgarn.

Location maps of the two parcels of land are shown as attachments to this Report.

The Shire of Kondinin has been requested to provide comment on the two parcels of land in relation to any interest or Shire infrastructure on the land or any future use as follows:

- Is the Shire supportive of the transfer of this land to the Noongar People under the Settlement?
- Does the Shire have any interest in the land?
- Does the Shire have existing or planned infrastructure within the land parcel that requires protection? If yes, please provide details and advise if access to this infrastructure will need to be maintained.
- Is the land parcel subject to any mandatory connection to services?
- Are any future proposals for the land identified? Please provide detail of what is proposed and in what timeframe?
- Are there any future proposals for adjoining land that may affect the land identified in the spreadsheet? If so, in what timeframe?
- Please advise of any proposed planning scheme amendments that may affect the zoning of this land at a State or Local government level. If a scheme amendment is to occur, what is the change proposed and when will it come into effect?
- Please advise of any known land management issues such as site contamination, hazards, debris or rubbish dumping, unauthorised land use and environmental considerations (such as inundation or similar site constraints).
- Please provide any additional comments on the proposed transfer of this land as part of the Settlement.

Comment

The two parcels are located in the north-eastern portion of the Shire's boundaries on heavily vegetated areas of land outside of the Shire's farming and urban development areas. Only a small portion of both parcels are located in the Shire of Kondinin.

In light of this, and the Shire having no obvious interest in the land, there appears no reason to object to the transfer of these two parcels under the South West Native Title Settlement.

Statutory Environment

Land Administration (South West Native Title Settlement) Act 2016

Policy Implications

Nil

Financial Implications

Nil

Strategic Implications

Strategic Community Plan 2022-2023

- "1.3 *Celebrate our pioneers, community members and protect our heritage*
Shire owned heritage buildings and places of interest are maintained and managed appropriately
- 4.2 *We are a compliant and resourced Local Government"*

Voting Requirement

Simple Majority

9.1.2 **COMMUNITY WATER SUPPLY PROGRAM FUNDING**

Author: Tory Young, Manager Planning and Assets
Authorising Officer: David Burton, Chief Executive Officer
Date: 13th September 2023
Disclosure of Interest: Nil
Attachments: Nil

RESOLUTION #4207:

Moved: Cr Smith

Seconded: Cr Browning

That Council:

1. **SUPPORTS** an application for funding through the State Government's Community Water Supply Program for;
 - (a) Submersible pump and associated pontoon, generator set and cable at the Hyden CBH drainage basin to improve the irrigation of the Hyden Sporting Precinct; and
 - (b) Tank and submersible pump and associated pontoon, generator set and cable at Karlgarin Town Dam Community Water Supply Site to improve access and storage to water for community use; and
2. **SUPPORTS** an allocation of 30 percent contribution (cash and in-kind) towards the proposed works.

Carried:7/0

For: Cr Kent Mouritz (President); Cr Brett Smith; Cr Bruce Browning; Cr Darren Pool; Cr Beverley Gangell; Cr Murray James; Cr Thomas Mulcahy

Against: Nil

Absent: Cr Kerrie Green; Cr Paul Green

Summary

This report is for Council's support for an application for funding through the State Government's Community Water Supply Program.

Background

The Shire of Kondinin have been actively working with the Department of Water and Environmental Regulation to improve water capture and security across the Shire. Key projects that have recently been finalised and currently being developed are:

- The Humps – new bore and associated infrastructure to reduce reliance on scheme water connected to the existing tank; - COMPLETED
- Karlgarin C Site – new tank and associated infrastructure to increase storage and access to water at this site; - IN PROGRESS
- Karlgarin Dam – improved catchment management – ON-GOING
- King Rocks Dam – installed 3 x 275KL tanks and progress towards vesting site with the Shire of Kondinin; - COMPLETED
- McCann's Rock – reallocation of stand pipe controller and new tank storage and associated infrastructure at the former cricket oval on McCann's Rock Road; - IN PROGRESS (Tank installed)

- A new replacement pump with associated generator set at the Kondinin North CBH Dam; - COMPLETED
- A pump and associated infrastructure to pump between the three Kondinin Town dams; - COMPLETED
- A new replacement tank at The Humps to replace the two small poly tanks now damaged and leaking; - COMPLETED
- An additional 275KL Tank at Karlgarin Dam Community Water Supply Site – IN PROGRESS

All the above projects are being funded and project managed collaboratively between the Shire of Kondinin and the Department of Water and Environmental Regulation.

The Community Water Supply Program is open again and the Shire have been in liaison with the Department of Water and Environmental Regulation to confirm the following projects suitability for this current round.

The works proposed are;

- A submersible pump and associated pontoon, generator set and cable at Karlgarin Dam to pump more water from the dam into the Karlgarin Community Water Supply tank;
- An additional 275KL tank for storage at the Karlgarin Community Water Supply site (in addition to the 275KL tank that currently on order, and the one existing), resulting in three (3) storage tanks at the site; and
- A submersible pump associated pontoon, generator set and cable Hyden CBH to pump water from the new drainage basin to the two Shire dams east and west of the CBH site.

The Community Water Supply Program is a State Government initiative administered by the Department of Water and Environmental Regulation. The program's objective is to assist broad-acre farming communities in establishing or improving non-potable water supplies.

For a project to be considered, it must provide clear benefits to the community.

The priority funding objectives for the program are to provide non-potable water supplies to:

- increase public amenities through the irrigation of open spaces, such as ovals, gardens and parks
- establish or upgrade strategic emergency farm water supplies for livestock
- reduce reliance on scheme water

The projects listed above are considered to meet the objectives of the Community Water Supply Program and therefore it is recommended that Council supports the application/s for funding.

Statutory Environment

Nil

Policy Implications

Nil

Financial Implications

The Shire can apply for up to \$100,000 for grant round with a commitment to 30 per cent in cash and/or in-kind contribution to the project.

Indicative costings have been received for the 1 x 275KL tank (\$24,000) and 2 x submersible pumps and associated pontoon, generator set and cable (\$35,000 each).

Sufficient funds are available in the Shire's 2023-2024 Budget to provide 30 percent in-kind support, through use of Shire's equipment and work crew personnel and where required minor cash contribution to the projects in the construction pads and associated works to assist in the installation of the infrastructure.

Strategic Implications

Supports the following section of the Shire's Strategic Community Plan 2022 – 2032:

"COMMUNITY

Recreational and social spaces encourage active and healthy lifestyles

'Parks, nature reserves and community spaces are green, tidy, accessible and activated

1.6 Support emergency services planning, risk mitigation, response and recovery"

Voting Requirement

Simple majority

9.2 MANAGER OF CORPORATE SERVICES

9.2.1 LIST OF ACCOUNTS

Applicant: Shire of Kondinin
Author: Vince Bugna, Manager Corporate Services
Disclosure of Interest: Nil
Date: 6th September, 2023
Attachment(s): List of Accounts 01/08/2023 to 31/08/2023

RESOLUTION #4208:

Moved: Cr James

Seconded: Cr Mulcahy

That Council:

RECEIVES the attached report – List of Accounts Due & Submitted to Council for the month of August 2023:

• Municipal Fund payment cheque numbers 19340 to 19346	= \$ 37,777.69
• Municipal EFT17344 – 17524	= \$1,012,937.59
• Direct Debits – Transport – Hyden Office	= \$ 17,653.80
• Direct Debits – Transport – Kondinin Office	= \$ 8,794.60
• Direct Debits – Credit Cards DD20164.2	= \$ 3,274.07
• Direct Debits – Other	= \$ 28,845.54
• EFTPOS Merchant Fees	= \$ 1,271.93
• Bank Fees – NAB Connect & Tyro	= \$ 311.26
• Payroll	= \$ 218,058.52

TOTAL **= \$1,328,925.00**

Carried: 7/0

For: Cr Kent Mouritz (President); Cr Brett Smith; Cr Bruce Browning; Cr Darren Pool; Cr Beverley Gangell; Cr Murray James; Cr Thomas Mulcahy

Against: Nil

Absent: Cr Kerrie Green; Cr Paul Green

Summary

To present to Council a list of accounts paid from Municipal and Trust Funds (when applicable) under the delegated authority to the CEO.

Background

The Chief Executive of a local government has delegated authority to make payments from Municipal and Trust Fund accounts pursuant to Regulation 13 of the *Local Government (Financial Management) Regulations 1996*.

As required by sub regulation (1), a list of accounts paid by the CEO each month should show –

- (a) the payee's name;
- (b) the amount of the payment;
- (c) the date of the payment;
- (d) sufficient information to identify the transaction

Sub regulation (3), a list prepared under sub regulation (1) and (2) is to be –

- (a) presented to the council at the next ordinary meeting of the council after the list is prepared; and

(b) recorded in the minutes of that meeting.

Statutory Environment

Local Government (Financial Management) Regulations 1996

Policy Implications

Nil

Public Consultation

Nil

Financial Implications

All payments made to the Shire creditors have been in accordance with the 2023/24 Annual Budget.

Strategic Implications

Shire's Strategic Community Plan 2022 – 2032

"4. Civic Leadership

4.1 Skilled, capable and transparent team:

- We engage with the community on key projects and we provide regular, transparent communication*
- The capability of our organisation is continually improved*

4.2 We are a compliant and resourced Local Government:

- External audits and reviews confirm compliance with relevant Local Government legislation*
- Financial sustainability in achieving community aspirations"*

Voting Requirements

Simple Majority

9.2.2 FINANCIAL REPORTS

Applicant: Shire of Kondinin
Author: Manager Corporate Services - Vince Bugna
Disclosure of Interest: Nil
Date: 8th September 2023
Attachment(s): Monthly Financial Report for the period ended 31 July 2023

RESOLUTION #4209:

Moved: Cr Gangell

Seconded: Cr Pool

That Council:

RECEIVES the attached reports entitled Monthly Financial Report (Containing the Statement of Financial Activity) for the period ended 31 July 2023.

Carried:7/0

For: Cr Kent Mouritz (President); Cr Brett Smith; Cr Bruce Browning; Cr Darren Pool; Cr Beverley Gangell; Cr Murray James; Cr Thomas Mulcahy

Against: Nil

Absent: Cr Kerrie Green; Cr Paul Green

Summary

To present to Council the Monthly Financial Report for the period ended 31 July 2023.

Background

The monthly Financial Report (Containing the Financial Activity) is presented in accordance with the Local Government Act 1995 and the Local Government (Financial Management) Regulation 1996.

Regulation 4(4) states that, *a statement of financial activity, and the accompanying documents (notes) referred to in sub regulation (2), are to be –*

- (a) presented at an ordinary meeting of the council within 2 months after the end of the month to which the statement relates; and*
- (b) recorded in the minutes of the meeting at which it is presented.*

The Statement of Financial Activity summarizes the Shire's financial activities for the period at which it relates.

Statutory Environment

Local Government Act 1995

Local Government (Financial Management) Regulation 1996

Policy Implications

Nil

Public Consultation

Nil

Financial Implications

In accordance with the approved material variances of 10% or \$10,000 whichever is the greater within the monthly Statement of Financial Activity during the 2023/24 financial year.

Strategic Implications

Shire's Strategic Community Plan 2022 – 2032

4. Civic Leadership

4.1 Skilled, capable and transparent team:

- We engage with the community on key projects and we provide regular, transparent communication
- The capability of our organisation is continually improved

4.2 We are a compliant and resourced Local Government:

- External audits and reviews confirm compliance with relevant Local Government legislation
- Financial sustainability in achieving community aspirations

Reporting Officer's Comment

The highlights of the July 2023 financial reports are as follows:

Item	Reference
<ul style="list-style-type: none"> Cash at Bank The Shire's total cash as at 31st July 2023 was \$8,265,052. This includes the advanced 100% payment from Federal Government of Financial Assistance Grants (FAGS) for 2023/24, \$3,401,039 in cash backed reserves (restricted), \$48,739 LCDC funds and \$569,656 term deposit investments. 	Page 9 – Note 6 Cash and Financial Assets
<ul style="list-style-type: none"> Receivables Rates and Rubbish – \$3,995,090, and Other receivables of \$1,639,216 (gst inclusive) include \$1.32m – Remote Road Upgrade Pilot Program for Hyden Norseman Road, \$177,437 RRG recoup from Main Roads and \$15,951 recoup from Kulin Shire for Medical Centre operating expenditures. 	Page 16 – Note 10 Receivables
<ul style="list-style-type: none"> Current Liabilities YTD balance is \$1,589,049 which includes \$441,332 of employees' annual and long service leave, Loan repayment provision \$153,663, Gst and other payables \$994,054. 	Page 5 – Note 2 Net Current Assets used in the Statement of Financial Activity
<ul style="list-style-type: none"> Closing Funding Surplus (Deficit) YTD actual is \$9,131,205 – composed of \$14,009,206 Current Assets less \$1,589,049 Current Liabilities and \$3,288,952 Net Adjustments to Net Current Assets. 	Page 5 – Note 2 Net Current Assets used in the Statement of Financial Activity
<ul style="list-style-type: none"> Significant Capital Projects: Roadworks having \$4.9m budget is 6% completed in July mainly Hyden Norseman Road (RRUPP) 	Page 7 – Key Information Page 11 to 14 – Note 8 Capital Acquisitions

In relation to material variances, “timing difference are due to the monthly spread of the budget not matching in comparison to the actual spread of revenue or expenditure. Timing difference will not result in a forecast adjustment. Where the material variance is flagged as “permanent”, this indicates that a forecast adjustment to the annual budget is required. – Page 6, Note 3 – Explanation of Material Variances.

Voting Requirements

Simple Majority

9.2.3 FINANCIAL REPORTS

Applicant: Shire of Kondinin
Author: Manager Corporate Services - Vince Bugna
Disclosure of Interest: Nil
Date: 11th September 2023
Attachment(s): Monthly Financial Report for the period ended 31 August 2023

RESOLUTION #4210:

Moved: Cr Smith

Seconded: Cr Gangell

That Council:

RECEIVES the attached reports entitled Monthly Financial Report (Containing the Statement of Financial Activity) for the period ended 31 August 2023.

Carried:7/0

For: Cr Kent Mouritz (President); Cr Brett Smith; Cr Bruce Browning; Cr Darren Pool; Cr Beverley Gangell; Cr Murray James; Cr Thomas Mulcahy

Against: Nil

Absent: Cr Kerrie Green; Cr Paul Green

Summary

To present to Council the Monthly Financial Report for the period ended 31 August 2023.

Background

The monthly Financial Report (Containing the Financial Activity) is presented in accordance with the Local Government Act 1995 and the Local Government (Financial Management) Regulation 1996.

Regulation 4(4) states that, *a statement of financial activity, and the accompanying documents (notes) referred to in sub regulation (2), are to be –*

(c) presented at an ordinary meeting of the council within 2 months after the end of the month to which the statement relates; and

(d) recorded in the minutes of the meeting at which it is presented.

The Statement of Financial Activity summarizes the Shire's financial activities for the period at which it relates.

Statutory Environment

Local Government Act 1995

Local Government (Financial Management) Regulation 1996

Policy Implications

Nil

Public Consultation

Nil

Financial Implications

In accordance with the approved material variances of 10% or \$10,000 whichever is the greater within the monthly Statement of Financial Activity during the 2023/24 financial year.

Strategic Implications

Shire's Strategic Community Plan 2022 – 2032

4. Civic Leadership

4.1 Skilled, capable and transparent team:

- We engage with the community on key projects and we provide regular, transparent communication

- The capability of our organisation is continually improved

4.2 We are a compliant and resourced Local Government:

- External audits and reviews confirm compliance with relevant Local Government legislation

- Financial sustainability in achieving community aspirations

Reporting Officer's Comment

The highlights of the August 2023 financial reports are as follows:

Item	Reference
<ul style="list-style-type: none"> Cash at Bank The Shire's total cash as at 31st August 2023 was \$8,800,458 – composed of \$3,458,725 reserve accounts (restricted), \$48,739 LCDC fund, \$2,573,914 term deposit investments and \$2,719,082 general fund (Muni, OCDF & Petty cash). 	<p>Page 9 – Note 6 Cash and Financial Assets</p> <p>Page 10 – Note 7 Reserve Accounts</p>
<ul style="list-style-type: none"> Receivables Rates and Rubbish – \$3,766,035, and Other receivables of \$118,931 – composed of \$72,094 gst receivable, \$22,000 DWER grant for CBH dam and other minor receivables. 	<p>Page 16 – Note 10 Receivables</p>
<ul style="list-style-type: none"> Current Liabilities YTD balance is \$1,440,988 which includes \$441,332 of employees' annual and long service leave provision, Loan repayment provision \$153,663, Gst and other payables \$845,993. 	<p>Page 5 – Note 2 Net Current Assets used in the Statement of Financial Activity</p>
<ul style="list-style-type: none"> Closing Funding Surplus (Deficit) YTD actual is \$8,044,488 – composed of \$12,832,115 Current Assets less \$1,440,988 Current Liabilities and \$3,346,638 Net Adjustments to Net Current Assets. 	<p>Page 5 – Note 2 Net Current Assets used in the Statement of Financial Activity</p>
<ul style="list-style-type: none"> Significant Capital Projects: Roadworks having \$4.9m budget is 23% completed as at 31st August 2023. 	<p>Page 7 – Key Information</p> <p>Page 11 to 14 – Note 8 Capital Acquisitions</p>

In relation to material variances, "timing difference are due to the monthly spread of the budget not matching in comparison to the actual spread of revenue or expenditure.

Timing difference will not result in a forecast adjustment. Where the material variance is flagged as “permanent”, this indicates that a forecast adjustment to the annual budget is required. – Page 6, Note 3 – Explanation of Material Variances.

Voting Requirements

Simple Majority

9.3 MANAGER OF WORKS

Nil

9.4 CHIEF EXECUTIVE OFFICER

9.4.1 CHRISTMAS ADMINISTRATION HOURS

Author: ESO- Leandr  Genis
Authorised Officer: CEO- David Burton
Date: 28 August 2023
Disclosure of Interest: Nil
Attachments: Nil

Tory Young left the meeting at 4.08pm.

RESOLUTION #4211:

Moved: Cr Mulcahy

Seconded: Cr James

That Council:

APPROVES that the Shire Administration Offices be closed for the Festive Season from close of business on Friday 22nd December 2023 and re-open on Wednesday 3th January 2024.

Carried:7/0

For: Cr Kent Mouritz (President); Cr Brett Smith; Cr Bruce Browning; Cr Darren Pool; Cr Beverley Gangell; Cr Murray James; Cr Thomas Mulcahy

Against: Nil

Absent: Cr Kerrie Green; Cr Paul Green

Summary

This report is for Council to consider the closure of the Administration Office during the Christmas/New Year period.

Background

As a general practice, the Shire Administration offices have been closed over the Christmas / New Year period as most residents are away or engaged in other activities, and the need for the administration office is low. This closure also allows staff to take some time to travel to be with families during the festive season, without the concern of having to rush back to work.

Comment

Taking into consideration that the use of the Administration Office during the Christmas / New Year period is significantly reduced, it is again recommended that the Administration Offices be closed for the period and that this be advertised to the general public.

It is recommended that the Administration Offices be closed from close of business from Friday 22nd December 2023 and re-open on Wednesday 3th January 2024. There are several public holidays in this period and other days will be covered by using staff annual leave or accrued time for the period.

The closure period does allow staff that are travelling, time to get to and from their destinations without rushing, leaving at the last minute, or taking the time off anyway, so it does provide a safer option for staff during the festive season with minimal impact to the Shire operations.

In any emergency situation, staff will be recalled as required for the Shire to manage the crisis.

Statutory Environment

Nil

Policy Implications

Policy Manual- Operating Hours ADM-004

Financial Implications

As staff are using public holidays or accrued leave, there is no financial implication as the time is already owed to staff.

Consultation

Nil

Strategic Implications

The project meets the following objectives of the Shire's Community Strategic Plan 2022-2032:

"4: Civic Leadership

4.2 We are a compliant and resourced Local Government

Financial sustainability in achieving community aspirations"

Voting Requirement

Simple Majority

9.4.2 PROPOSED AMENDMENT LOCAL LAW – FINAL ADOPTION/ AMENDED ITEM

Applicant: N/A
Author: Chief Executive Officer – David Burton
Date: 6 September 2023
Amended 15 September 2023
Disclosure of Interest: None
Attachments: Proposed Amendment Local Law
Dept of Fire & Emergency Services Letter received 13 Sep 2023

Tory Young returned to the meeting at 4:10pm.

RESOLUTION #4212:

Moved: Cr Pool

Seconded: Cr Browning

That Council –

1. resolves to make the Amendment Local Law as per the attached draft, incorporating amendments outlined by the Department of Local Government, Sport and Cultural Industries;
2. Authorise the President and CEO to sign and affix the Common Seal to the Local Law;
3. Authorise the CEO to –
 - publish the Local Law in the Government Gazette and provide copies of the local law to the Minister for Local Government and Minister for Emergency Services; and
 - forward a copy of the Gazetted Local Law, explanatory memoranda and associated documentation to the Parliamentary Joint Standing Committee on Delegated Legislation for review.

Carried:7/0

For: Cr Kent Mouritz (President); Cr Brett Smith; Cr Bruce Browning; Cr Darren Pool; Cr Beverley Gangell; Cr Murray James; Cr Thomas Mulcahy

Against: Nil

Absent: Cr Kerrie Green; Cr Paul Green

Summary

To finalise adoption of an Amendment Local Law to amend the following local laws in accordance with the undertakings given to the Parliamentary Joint Standing Committee on Delegated Legislation (JSCDL) –

- Bush Fire Brigades Local Law 2022
- Dogs Local Law 2022
- Public Places and Local Government Property Local Law 2022.

Background

The JSCDL advised of a number of matters that needed amendment and requested undertakings that these would be attended to within 6 months. These undertakings were resolved by Council on 15 March 2023.

Legislation requires that local laws are presented to Parliament for review, at which time they may be disallowed by the Parliament.

The Interpretation Act 1984 s.42 specifies the authority of each House of Parliament to review local laws and to pass a resolution to disallow.

The Joint Standing Committee on Delegated Legislation (JSCDL) has delegated power from Parliament to review local laws etc, and make a recommendation for disallowance if considered appropriate. The JSCDL will only review local laws after they have been published in the Government Gazette.

Public notice was given by four methods as required by the Local Government Administration Regulations r.3A, for public comment on the proposed local law. Notice was given –

- on the Shire's website as required by the Regulations, and in social media, office and library notice boards on 17 July 2023 and
- in local newspapers –
 - o The Echo on 17 July 2023, and
 - o Karlgarin Householder Newsletter on 19 July 2023.

At the close of the submission period, submissions had been received from –

1. Dept of Local Government, Sport and Cultural Industries –
The DLGSC submissions covered multiple areas. No substantive matters were raised, with other comments being –
 - of a context or technical nature, punctuation and grammar.
 - clarification of provisions, re-wording etc
2. No comment from Dept of Fire and Emergency Services was received as at date of writing this agenda item.
3. No public comment was received at date of writing this agenda item.

Once formally adopted by Council, the–

- the local law is to be published in the Government Gazette,
- local public notice given of adoption of the local laws (separate to previous advertising of proposals),
- signed copies are to be sent to Minister for Local Government and Minister for Fire and Emergency Services, and
- copies sent to the Parliamentary Joint Standing Committee on Delegated Legislation together with other required documentation, within 10 days of publication in the Government Gazette.

Please note –

- disallowance of the local law may be made by Parliament, and could take some time depending on sitting days,
- if a provision is not considered to be critical, the JSCDL may require an undertaking from Council to make an amendment,
- the local law takes effect on the day stipulated in the local law, generally 14 days after publication in the Government Gazette.

Dept of Fire and Emergency Services

An undated letter was received by email on 13 September 2023 as per Attachment 2. The letter has four dot points –

- Dot point 1 – simply notes Council's considerations
- Dot point 2 – advising of a perceived error in the Amendment Local Law.

The Amendment Local Law to be corrected by deleting clause 3(a) and re-numbering the remaining as (a) to (c)

Comment –

- The change is not considered to be significant, and requiring re-advertisement

- Dot point 3 – suggesting that a provision of the Bush Fire Brigades Regulations be included in the local law, stipulating probationary members must be at least 16 years of age

Comment –

- These Regulations are made under the Fire Brigades Act 1942, and consequently apply to fire districts under that Act, and not to bush fire brigades under the Bush Fires Act 1954
- There is no reason that such an amendment could not be made, and it is disappointing that DFES did not advise the suggestion when the BFB Local Law was proposed approx. 12 months ago.
- If Council wishes to include the provision, it is considered to be a significant change, requiring readvertising.

- Dot point 4 – advising that (extract) –

DFES notes that section 41 of the Bush Fires Act 1954 provides that a local government may, in accordance with its local laws establishing a bush fire brigade, equip each brigade so established with appliances, equipment and apparatus. DFES is not able to provide specific advice on whether the proposed local laws address the required content under the Act. The Shire may wish to seek independent legal advice to ensure the content of its local laws comply with any relevant legislation.

Comment –

- DFES opinion is consistent with that of the Joint Standing Committee
- It is at odds with the legal opinion obtained from McLeods by the Shire of Carnarvon, as quoted in their minutes of the Council meeting held in January 2022 (extract) –

I do not consider that the position taken by the Committee is correct as:

- (a) section 62(1) empowers a local government to make local laws in relation to the matters described in subsection (1)(a)-(c), but does not require it to do so nor does it prohibit a local government from entering into an agreement with a bush fire brigade in relation to its operation;*
- (b) whilst it may be said that the BF Act contemplates that the matters referred to in section 62(1)(a)-(c) would be regulated by local law, it does not necessarily follow that the Act requires this;*
- (c) there are also provisions in the BF Act (namely section 36 and 42), which provide for the establishment of bush fire brigades without express reference to local laws;*
- (d) any statutory obligation to deal with matters pertaining to the establishment and management of bush fire brigades by local law is arguably more limited in scope than the Committee suggests and principally arises in my view from the terms of sections 41 and 43; and*
- the Shire of Kondinin Bush Fire Brigades Local Law is substantially identical to that of the Shire of Carnarvon.

Options

From this point, Council has a number of options –

1. Proceed with the proposed Amendment Local Law unchanged

Possibilities –

- a) Accepted by JSCDL
- b) If not accepted by JSCDL, the whole of the Amendment Local Law is likely to be disallowed, and potentially the 3 local laws being amended may be also disallowed

2. Discontinue with this proposed Amendment Local Law

Possibilities –

- a) Seek an extension from the JSCDL in order to recommence with an altered Amendment local law addressing only the matters identified for the Dogs Local Law and Public Places & Local Government Property Local Law since it would be a significant change to the local law to remove the matters relating to the Bush Fire Brigades
 - b) Separate amendment / new local law for the bush fire brigades
3. Defer decision on the Proposed Amendment Local Law, and seek legal advice on both this local law and the Bush Fire Brigades Local Law 2022.

Statutory Environment

Local Government Act 1995 –

- s 3.12 – *Procedure for making local laws*
- s.3.13 – *Significant changes require recommencement of proposal*
- s.3.14 – *Unless otherwise provided for, local laws come into effect 14 days after Gazettal*
- s.3.15 – *local public notice of the final adoption/making of a local law to be given*

Bush Fires Act 1954 –

- s.43 – *A local government shall by its local laws provide for appointment or election of captain...*
- s.62 – *A local government may make local laws ... in relation to –*
(b) the organisation, establishment ... of bush fire brigades ...

Policy Implications

None

Financial Implications

Advertising of adoption of the local law, publication in Government Gazette etc

Strategic Implications

This action supports the following sections of the Shire's Strategic Community Plan 2016-2026:

Goal 4: Civic

4. Provide good strategic decisions making, governance, leadership and professional management
- 4.2 Manage the organisation in a responsible and accountable manner.

Voting Requirement

Absolute majority

9.4.3 REVIEW OF DELEGATED AUTHORITY

Author: CEO - David Burton
Authorised Officer: CEO - David Burton
Date: 7th September 2023
Disclosure of Interest: Nil
Attachments: Delegation Register

RESOLUTION #4213:

Moved: Cr Smith

Seconded: Cr Mulcahy

That Council, by Absolute Majority:

APPROVES the Review of the Delegated Authority Register and confirms delegation of the powers of Council as per the Delegated Authority Register as at 20th September 2023.

Carried: 7/0

For: Cr Kent Mouritz (President); Cr Brett Smith; Cr Bruce Browning; Cr Darren Pool; Cr Beverley Gangell; Cr Murray James; Cr Thomas Mulcahy

Against: Nil

Absent: Cr Kerrie Green; Cr Paul Green

Summary

This report is to consider a review of the Delegation Register for the current year.

Background

It is a requirement of the Local Government Act 1995, that Council reviews the Delegated Authority listing at least once every financial year.

It is common for this process to be completed in the early part of the financial year to ensure that it does not get missed creating a compliance issue.

Comment

Changes made to Delegations are listed as:

Delegation 1.2.11 Tenders for Goods and Services

- Item 3 and 10 – Amount changed to \$249,999 to reflect current provisions for Tenders as per Regulations requiring Tenders for all expenses over \$250,000
- Item 10 and 14 – Variation amount changed to 10% to reflect the normal consideration of changes to a contract without the need to re-tender. General industry acceptance is 10% (reference used as a possible GST rate variance)

Delegation 1.3.4 Infringement Notices

- Delegate reference corrected for Manager of Planning and Assets.

Delegation 9.1.1 Illegal Development

- Delegate reference corrected for Manager of Planning and Assets.

Statutory Environment

Local Government Act 1995

5.46 Register of, and records relevant to, delegation to CEO and employees

- (1) The CEO is to keep a register of the delegations made under this Division to

the CEO and to employees.

(2) At least once every financial year, delegations made under this Division are to be reviewed by the delegator.

Policy Implications

Nil

Financial Implications

Nil

Consultation

Nil

Strategic Implications

The project meets the following objectives of the Shire's Community Strategic Plan 2022-2032:

"4: Civic Leadership

4.2 We are a compliant and resourced Local Government

Financial sustainability in achieving community aspirations"

Voting Requirement

Absolute Majority

9.4.4 **DISCOVERY CENTRE UPDATE**

Author: CEO - David Burton
Authorised Officer: CEO - David Burton
Date: 13th September 2023
Disclosure of Interest: Nil
Attachments: Multiple documents for design and minutes

RESOLUTION #4214:

Moved: Cr Mulcahy

Seconded: Cr Gangell

That Council:

NOTES the updated information in relation to the Discovery Centre Project.

Carried:7/0

For: Cr Kent Mouritz (President); Cr Brett Smith; Cr Bruce Browning; Cr Darren Pool; Cr Beverley Gangell; Cr Murray James; Cr Thomas Mulcahy

Against: Nil

Absent: Cr Kerrie Green; Cr Paul Green

Summary

This report is to provide information and updates in relation to the Discovery Centre Project

Background

Since 2018, the Shire of Kondinin have been working with the Hyden CRC and the Hyden Progress Association for the project of constructing a Centre in Hyden for the CRC and to promote tourism for the Shire and region.

An application was made for funding in 2020, but failed to gain financial support. The Working Group has been working on improving the project and seeking funding.

This project is in the Shire of Kondinin Strategic Community Plan and Long-Term Financial Plan.

Funding through the Growing Regions Funding will be available later this year and will be the final round of funding for this project. It is likely that other funding may be available, but details and timeframes are unknown and no indications of future funding have been made.

The Working Group is also trying to get funding from State Government to reduce the financial impact of the project on the residents and ratepayers of the Shire of Kondinin.

Comment

The working Group have been working with the Architects for changes to the design to ensure the needs of the various groups are being met. This has led to some different designs being tabled. Copies of the various concepts have been included for Councils information.

Advice of another stream of funding has been received. This new funding is allocated into two components and forms the Regional Precincts and Partnerships Program. Stream 1 is to allow for planning processes while Stream 2 is focused on delivering the outcome of the planning. As a partnership related funding, this may be able to be used for this project as it does relate to a partnership with the Shire, Hyden Progress and Hyden CRC.

Further investigation into this funding is being done as we are not sure how much of the project may be able to be covered.

Representatives also met with Evan Hall, the CEO of Tourism Council of WA at the advice of Minister Saffioti's aides. Some good information was received from Tourism Council WA for the planning and funding of the project. The group is also looking at communicating with other Ministers to raise the awareness of the project.

Policy Implications

Nil

Financial Implications

Nil until further into Project.

Consultation

Discovery Centre Working Group comprising of members from Hyden Progress Association, Hyden CRC, local Business and Council representatives.

Strategic Implications

Strategic Community Plan 2022-2023

"4.1 Skilled, capable and transparent team

We are inclusive and our communities feel heard

We engage with the community on key projects and we provide regular, transparent communication"

Voting Requirement

Simple Majority

9.4.5 EXTENDED TRADING HOURS FOR SHIRE

Applicant: Shire of Kondinin
Author: David Burton – Chief Executive Officer
Authorising Officer: David Burton – Chief Executive Officer
Date: 13th September 2023
Disclosure of Interest: Nil
Attachments: 2023-24 Regional Extended Trading Package

RESOLUTION #4215:

Moved: Cr Mulcahy

Seconded: Cr James

That Council:

AUTHORISES the Chief Executive Officer to notify the Department of Commerce of the Shire of Kondinin's proposed extended Christmas trading hours for local retailers, commencing on Monday 27th November 2023 and concluding on Sunday 7th January 2024 inclusive, be 6.45am to 9.00pm Monday to Friday, 6.45am to 5.00pm on Saturdays and from 11.00am to 5.00pm on Sundays and public holidays, other than Christmas Day, which will be a closed day.

Carried: 7/0

For: Cr Kent Mouritz (President); Cr Brett Smith; Cr Bruce Browning; Cr Darren Pool; Cr Beverley Gangell; Cr Murray James; Cr Thomas Mulcahy

Against: Nil

Absent: Cr Kerrie Green; Cr Paul Green

Summary

This report is for Council to consider altering the trading hours in the Shire to allow access during the festive/harvest season should retailers wish to make a change.

Background

In previous years the Department of Commerce has provided a trading hour's package to regional Local Governments based on current Perth hours. However, the majority of Local Governments have declined the offer in the past and applied for their own locally preferred Christmas trading arrangements.

Previously the package offered allowed general retail shops to trade from 8.00am to 9.00pm Monday to Friday, 8.00am to 6.00pm on Saturdays and from 11.00am to 6.00pm on Sundays and public holidays, other than Christmas Day, which will be a closed day.

The Shire of Kondinin is recommended to propose trading hours in accordance with community needs and based on existing opening times for community retailers it is suggested to bring Mondays - Fridays and Saturdays forward to 6:45am.

In the 2021/2022 and 2022/2023 years, the extended trading period was from the last Monday in November to the first Sunday in January, both dates inclusive. As is the case with all extended trading variations, the decision to open or not during the additional hours provided is at the discretion of individual retailers.

Comment

The extended trading hours are still up to the individual shop owners and is not something that is forced upon them.

It does however allow for extended trading during the harvest/festive season should they wish to take up the extra trading hours.

Statutory Environment

Nil

Policy Implications

Nil

Financial Implications

There are no known financial implications for this item, however, if shops do increase their hours, it would be a financial consideration for them to look into.

Strategic Implications

Shire's Strategic Community Plan 2022 – 2032:

"2. ECONOMY

- *Support the diverse industry across the Shire*
- *Coordinated communication and promotion of business, employment and lifestyle opportunities occurs*

4. CIVIC LEADERSHIP

- *Skilled, capable and transparent team*
- *We are inclusive and our communities feel heard*
- *We engage with the community on key projects and we provide regular, transparent communication*
- *We celebrate our community successes"*

Voting Requirement

Simple Majority

*****LATE ITEM*****

9.4.6 REQUEST FOR DONATION

Applicant: Shire of Kondinin
Author: David Burton – Chief Executive Officer
Authorising Officer: David Burton – Chief Executive Officer
Date: 13th September 2023
Disclosure of Interest: Nil
Attachments: Application for Donation.

RESOLUTION #4216:

Moved: Cr Browning

Seconded: Cr Gangell

That the Shire of Kondinin **SUPPORTS** the application for funding with a donation of \$500.00 towards the Kulin Cambodia House Building Initiative.

Carried: 7/0

For: Cr Kent Mouritz (President); Cr Brett Smith; Cr Bruce Browning; Cr Darren Pool; Cr Beverley Gangell; Cr Murray James; Cr Thomas Mulcahy

Against: Nil

Absent: Cr Kerrie Green; Cr Paul Green

Summary

This report is for Council to consider an application for funding for the Kulin Cambodia House Building Initiative

Background

An application has been received from Amelia Spurr (local resident) for a contribution towards the Kulin Cambodia House Building Initiative. As a student of the Kulin District High School, Amelia will be travelling to Cambodia on 9th October for a nine (9) day tour where they will visit and assist in building a house for two families. Volunteers for The Helping Foundation are expected to raise \$2,000 as a contribution to the project. Ms Spurr has requested \$500 from the Shire of Kondinin.

Comment

The project will be a great opportunity for a local resident to experience issues in other parts of the world and likely give a great insight into what can be achieved with minimal funding and determination of a group. These qualities are something that will be a life lesson for Ms Spurr and will likely come back to the local community in the future with efforts for our local residents.

While the project delivers items outside of the Shire, it will still be an opportunity for a local resident to gain knowledge and insight into what can be achieved. Such an opportunity will be a life experience for the local resident.

Statutory Environment

Nil

Policy Implications

Nil

Financial Implications

Budget allocations allow for contributions to project such as this.

Strategic Implications

Shire of Kondinin Strategic Community Plan 2022-2032

1. Community

1.1 Community members have the opportunity to be active, engaged and connected.

1.5 Support local volunteer organisations.

Voting Requirement

Simple Majority

10 BUSINESS OF AN URGENT NATURE

Nil

11 CLOSURE

Meeting closed at 4.22pm