



SHIRE OF KONDININ

MINUTES OF MEETING KONDININ SHIRE COUNCIL

held on Wednesday 26th October, 2022 at the
Karlgarin Country Club

David Burton
26st October 2022
CHIEF EXECUTIVE OFFICER

11 Gordon Street, KONDININ WA 6367 Tel (08) 98891006
All communications to be addressed to the CHIEF EXECUTIVE OFFICER
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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 Brett Smith	Cr Paul Green Cr Beverley Gangell Cr Bruce Browning	Cr Kerrie Green Cr Murray James Cr Thomas Mulcahy
Staff:	David Burton (CEO)	Tory Young (MPA)	Leandré Genis (ESO)
Apologies:	Vince Bugna (MCS)	Mark Burgess (MoW)	
Visitor:	Thomas Spurr		

3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

NIL

4. PUBLIC QUESTION TIME

NIL

5. APPLICATIONS FOR LEAVE OF ABSENCE

NIL

6. PETITIONS/ DEPUTATIONS/ PRESENTATIONS

NIL

7. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS/ INFORMATION REPORT

7.1 MINUTES OF COUNCIL MEETING- 21st September 2022

RESOLUTION #4019:

Moved: Cr Bruce Browning

Seconded: Cr Murray James

That the minutes of the Council Meeting held on the 21st September 2022, be confirmed.

Carried: 8/0

7.2 INFORMATION REPORT- October 2022

RESOLUTION #4020:

Moved: Cr Beverley Gangell

Seconded: Cr Brett Smith

That the Council receive and accept the Information Report prior to this meeting.

Carried: 8/0

8. ANNOUNCEMENTS BY PRESIDING MEMBERS WITHOUT DISCUSSION

9. ITEMS

9.1 MANAGER OF PLANNING & ASSETS

9.1.1 Building Maintenance Tender (Confidential Item)

9.1.2 Proposed Land Assembly for Lot 331 Graham Street, Kondinin

9.1.3 DRAFT PUBLIC EASEMENT AGREEMENT FOR LOTS 108 & 109 KONDININ-HYDEN ROAD, KARLGARIN

9.2 MANAGER OF CORPORATE SERVICES

9.2.1 List of Accounts

9.2.2 Financial Reports- August 2022

9.2.3 Financial Reports- September 2022

9.3 MANAGER OF WORKS

9.4 CHIEF EXECUTIVE OFFICER

9.4.1 Freedom of Information Statement

9.4.2 WALGA AGM

9.4.3 Off-road Racing Event

9.4.4 Purchasing Policy Change- FIN005

9.4.5 Fencing Local Law- Final Adoption

9.4.6 Lease Arrangement- Waveline

9.5 ENVIRONMENTAL HEALTH OFFICER

9.1 MANAGER OF PLANNING & ASSETS

9.1.1 BUILDING MAINTENANCE TENDER

Thomas Spurr left the meeting at 3:24 pm.

**** (CONFIDENTIAL ITEM) ****

Author: Tory Young, Manager Planning and Assets
Authorising Officer: David Burton, Chief Executive Officer
Date: 19th October 2022
Disclosure of Interest: Nil

Thomas Spurr returned to the meeting at 3:36 pm.

9.1.2 PROPOSED LAND ASSEMBLY FOR LOT 331 GRAHAM STREET, KONDININ

Author: Tory Young, Manager Planning and Assets
Authorising Officer: David Burton, Chief Executive Officer
Date: 19th October 2022
Disclosure of Interest: Nil
Attachments: Proposed Land Assembly

RESOLUTION #4022

Moved: Cr Brett Smith

Seconded: Cr Tom Mulcahy

That Council;

- (a) ACCEPTS in principle the land assembly proposed by the Department of Fire and Emergency Services as shown in the attachment to this Agenda Report; and
- (b) REQUESTS that a scaled copy of the land assembly is forwarded to the Shire of Kondinin from the Department of Lands, Planning and Heritage before being finalized.

Carried: 8/0

Summary

This report is for Council to consider the proposed land assembly to excise part of the current Unallocated Crown Land (UCL) Lot 331 Graham Street, Kondinin for an exclusive Management Order with the Department of Fire and Emergency Services independent from the operations of the Shire of Kondinin depot.

Background

Lot 331 Graham Street Kondinin is an Unallocated Crown Lot currently occupied by both the Department of Fire and Emergency Services and the Shire of Kondinin undertaking their respective operations.

Initial discussions were held between the Shire of Kondinin and the Department of Lands, Planning and Heritage Services for the UCL Lot 331 to remain as one and a Management Order to be placed on the Lot to formalise the shared access and use of the land by both the Shire and the Department of Fire and Emergency Services.

Since these early discussions, the Department of Fire and Emergency Services have proposed their preference for a portion of Lot 331 Graham Street, Kondinin to be excised with an exclusive Management Order for the sole purpose of the Department of Fire and Emergency Services.

A site visit was held on the 6th of October with representatives from the Department of Fire and Emergency Services, their representing consultants and the Shire of Kondinin Administration where matters of vehicle and service access were discussed. Factoring in these considerations the boundaries for the proposed Department of Fire and Emergency Services portion of land are outlined below with a corresponding sketch (not to scale) attached to this Agenda Report:

Eastern Boundary: to be in line with the existing property boundary along Graham Street

Southern Boundary: An access way of 3 – 4 meters from the southern side of the existing DFES building is to be permitted. This access way will start at the eastern boundary and end in line with the rear of the existing DFES building

Southwestern Boundary: this will be angled from the rear of the existing DFES building to the western boundary

Western Boundary: this will commence in line with the existing fence line from the southwestern boundary, to in line with the ablution block. It was noted that if required, the western boundary could go back a further 7m subject to septic pipe requirements.

Ablution Boundary: The southern and eastern walls of the ablution block will form the boundary for this portion of the site. It was agreed that there is no need to install a fence here as the brick walls would serve as boundary markers.

Northern Boundary: this will run from the ablution block, along the existing property line to meet up with the eastern boundary

The remainder of Lot 331 on DP41199 is proposed to be vested to the Shire. It is anticipated that the Shire shall liaise with Department of Lands Planning and Heritage as to the proposed portion being amalgamated with adjacent Lot 262 at 49 Graham St, Kondinin being a crown lot vested in the Shire for municipal purposes.

Statutory Environment

Land Administration Act

Policy Implications

Nil

Financial Implications

The Shire may be required to cover costs for some conveyancing fees to amalgamate the remainder of Lot 311 into Lot 262 on No. 49 Graham Street currently vested in the Shire for municipal purposes.

Strategic Implications

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

“4. CIVIC LEADERSHIP

4.2 We are a compliant and resourced Local Government

Voting Requirement

Simple majority

9.1.3 DRAFT PUBLIC EASEMENT AGREEMENT FOR LOTS 108 & 109 KONDININ-HYDEN ROAD, KARLGARIN *(LATE ITEM)*

Author: Tory Young, Manager Planning and Assets
Authorising Officer: David Burton, Chief Executive Officer
Date: 24th October 2022
Disclosure of Interest: Nil
Attachments: Draft Easement Agreement

RESOLUTION #4023:

Moved: Cr Paul Green

Seconded: Cr Tom Mulcahy

That Council:

1. SUPPORTS the draft Easement Agreement as attached proposed for Lots 108 & 109 on DP 60365 Kondinin-Hyden Road, Karlgarin; and
2. AUTHORISES the Chief Executive Officer and the Shire President to execute the agreement and apply the Shire's Common Seal.

Carried: 8/0

Summary

This report aims to seek approval from Council to endorse the Draft Easement Agreement for a public easement benefiting the Shire of Kondinin on Lots 108 & 109 on DP 60365 Hyden-Kondinin Road, Karlgarin.

Background

This matter was presented to Council at its Ordinary Meeting on the 20th of July 2022. To recap on the matter, the Shire's Administration was approached by the Karlgarin Progress Association about providing public access to the original Karlgarin Town Site, located on what is now Lot 108 Hyden-Kondinin Road, Karlgarin. The Karlgarin Progress Association were gifted money for the preparation of interpretive signage to recognise the historic site. As an extension to the work undertaken as part of the Karlgarin Centenary, the signage and the stone proposed to be installed tie in with the granite seating located at Stafford Park and the Karlgarin Hall. The signage has been prepared and the granite stone is scheduled to be installed following the finalisation of this easement.

A surveyor was engaged by the Karlgarin Progress Association to survey the site and devise an area for the easement which could be accessed off the existing driveway entering Lots 108 & 109 Kondinin-Hyden Road, Karlgarin. The area is approximately 0.404686 ha (1 acre) and extends from the driveway to Lots 108 & 109 Kondinin-Hyden Road west along the existing fence line to the salmon gum tree. A fence is proposed to prevent access to the adjacent paddock. The Deposited Plan has been prepared and submitted to Landgate. To finalise this process the Karlgarin Progress Association engaged solicitors to prepare and lodge the deed of easement and lease agreement as attached to a place on the title.

Council at its Ordinary Meeting held on the 20th of July 2022 considered the matter and resolved it as follows:

“RESOLUTION #3967

Moved: Cr Murray James

Seconded: Cr Kerrie Green

That Council:

1. *SUPPORTS the request from the Karlgarin Progress Association for the Shire of Kondinin to benefit the easement proposed on Lots 108 & 109 on DP 60365 Kondinin-Hyden Road, Karlgarin; and*
2. *SUPPORTS that the Shire of Kondinin shall be fully responsible for the management of the proposed easement on Lots 108 & 109 on DP 60365 Kondinin-Hyden Road, Karlgarin.*

Carried: 8/0”

As this is an easement, the tenure will remain as it is now for Lots 108 and 109, however, the deed of easement placed on the title will stipulate that the Shire of Kondinin remain responsible for the easement. This was viewed as a more efficient and cost-effective process than a full subdivision.

It is considered that this proposal will not place any undue impact on the Shire and appears will be the most efficient and cost-effective way to provide public access to this important historic site.

Statutory Environment

Land Administration Act 1997

Policy Implications

Nil

Financial Implications

Minimal grading and weed control in the easement area.

Strategic Implications

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

“COMMUNITY

1.3 Celebrate our pioneers, and community members and protect our heritage”

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: 4th October, 2022
Attachment(s): List of Accounts 01/09/2022 to 30/09/2022 (incl July 2022 Credit Card transactions)

RESOLUTION #4024:

Moved: Cr Beverley Gangell

Seconded: Cr Brett Smith

That Council receives the attached report – List of Accounts Due & Submitted to Council for the month of September 2022 including the July 2022 credit card transactions:

• Municipal Fund payment cheque numbers 19228 to 19238	= \$ 29,726.69
• Municipal EFT15751 to 15886	= \$ 542,589.54
• Direct Debits – Transport – Hyden Office	= \$ 20,186.45
• Direct Debits – Transport – Kondinin Office	= \$ 2,691.50
• Direct Debits – Credit Cards DD19105.1	= \$ 1,368.42
• Direct Debits – Other	= \$ 59,453.38
• EFTPOS Merchant Fees	= \$ 1,485.62
• Bank Fees – NAB Connect & Tyro	= \$ 188.33
• Payroll	= \$ 121,704.35
TOTAL MUNI	= \$ 775,526.81
CREDIT CARD CHARGES – JULY 2022	= \$ 817.58
TOTAL	= \$ 776,344.39

Carried: 8/0

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-regulations (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 202/23 Adopted 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: Vince Bugna, Manager Corporate Services
Disclosure of Interest: Nil
Date: 4th October 2022
Attachment(s): Monthly Financial Report for the period ended 31 August 2022

RESOLUTION #4025:

Moved: Cr Paul Green

Seconded: Cr Darren Pool

That Council receives the attached reports entitled Monthly Financial Report (Containing the Statement of Financial Activity) for the period ended 31 August 2022.

Carried: 8/0

SUMMARY

To present to Council the Monthly Financial Report for the period ended 31 August 2022.

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 Shire's financial activities for the period to 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 greater within the monthly Statement of Financial Activity during the 2022/23 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 2022 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 2022 was \$6,799,877 comprising the \$2,980,636 in cash backed reserves (restricted), \$24,530 in Trust account (restricted), \$47,309 LCDC funds and \$3,747,402 term deposit investments, ODCF and Muni operating funds. 	Page 9 – Note 4 Cash and Financial Assets
<ul style="list-style-type: none"> • Receivables Rates and Rubbish – \$3,748,525 after rates levied run on 25th August a day after the budget was adopted. Other receivables (Sundry Debtors) total as at 31st August amounting to \$65,573. 	Page 12 – Note 7 Receivables
<ul style="list-style-type: none"> • Current Liabilities YTD balance is \$1,382,078 which includes \$503,234 Advanced payment/unspent LRCI grants, \$418,002 of employees’ annual and long service leave (Reserves funded - \$365,689 balance to date), Loan repayment provision of \$179,210 and a total of \$281,32 for Sundry Creditors. 	Page 8 – Note 3 Net Current Funding Position Page 13 – Note 8 Cash Reserves
<ul style="list-style-type: none"> • Closing Funding Surplus (Deficit) YTD actual is \$6,643,841 – composed of \$10,885,524 Current Assets less \$1,382,078 Current Liabilities and \$2,859,607 Net Adjustments to Net Current Assets. 	Page 8 – Note 3 Net Current Funding Position Page 5 – Statement of Financial Activity (By Nature or Type)

In relation to material variances, refer to page 7, Note 2 – Explanation of Material Variances.

VOTING REQUIREMENTS

Simple Majority

9.2.3 FINANCIAL REPORTS

Applicant: Shire of Kondinin
Author: Vince Bugna, Manager Corporate Services
Disclosure of Interest: Nil
Date: 17th October 2022
Attachment(s): Monthly Financial Report for the period ended 30 September 2022

RESOLUTION #4026:

Moved: Cr Bruce Browning

Seconded: Cr Brett Smith

That Council receives the attached reports entitled Monthly Financial Report (Containing the Statement of Financial Activity) for the period ended 30 September 2022.

Carried: 8/0

SUMMARY

To present to Council the Monthly Financial Report for the period ended 30 September 2022.

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 Shire's financial activities for the period to 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 greater within the monthly Statement of Financial Activity during the 2022/23 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 September 2022 financial reports are as follows:

Item	Reference
<p>• Cash at Bank The Shire’s total cash as at 30th September 2022 was \$8,982,380 comprising the \$3,226,506 in cash backed reserves (restricted), \$26,390 in Trust account (restricted), \$47,309 LCDC funds, \$1,506,513 term deposit investments, \$5,974 ODCF and \$4,169,688 Muni operating funds.</p> <p>Muni cash at bank increased by almost double compared to August balance of \$2,234,925 due to some ratepayers’ full payment within the rates discount period. Early October \$2m was transferred to TD as top-up to \$1.5m above and is expected to generate additional revenue of more than \$30,000 after 3 months.</p>	<p>Page 9 – Note 4 Cash and Financial Assets</p> <p>Page 13 – Note 8 Cash Reserves</p>
<p>• Receivables Rates and Rubbish – net collectable at 30th September was \$833,784 equivalent to 22% as 78% have been paid.</p> <p>Other receivables (Sundry Debtors) total as at 30th September amounting to \$100,591 of which \$48,239 was the CBH tax invoice for ex-gratia rates and \$28,679.95 for St John Ambulance site works done by the Shire.</p>	<p>Page 12 – Note 7 Receivables</p>
<p>• Grants, Subsidies and Contributions Operating grants – 57% paid as at 30th September, major payments came from Grants Commission quarter one allocation for roads and general purpose as well as MRWA direct grant for road maintenance.</p> <p>Non-Operating grants – 5% paid as at 30th September, major payments came from Roads to Recovery (R2R) and MRWA Regional Road Group (RRG) capital funding.</p>	<p>Page 17 – Note 12(a) Operating grants, subsidies and contributions</p> <p>Page 18 – Note 12(b) Non-Operating grants, subsidies and contributions</p>
<p>• Closing Funding Surplus (Deficit) YTD actual is \$5,495,897 – composed of \$10,155,442 Current Assets less \$1,539,887 Current Liabilities and \$3,119,657 Net Adjustments to Net Current Assets.</p>	<p>Page 8 – Note 3 Net Current Funding Position</p> <p>Page 5 – Statement of Financial Activity (By Nature or Type)</p>

In relation to material variances, refer to page 7, Note 2 – Explanation of Material Variances.

VOTING REQUIREMENTS

Simple Majority

9.3 MANAGER OF WORKS

NIL

9.4 CHIEF EXECUTIVE OFFICER

9.4.1 FREEDOM OF INFORMATION STATEMENT

Applicant: Shire of Kondinin
Author: ESO- Leandr  Genis
Date: 12th October 2022
Disclosure of Interest: Nil
Attachments: Freedom of Information Statement

RESOLUTION #4027:

Moved: Cr Murray James

Seconded: Cr Tom Mulcahy

That Council review and formally adopt the attached Freedom of Information Statement.

Carried: 8/0

Summary

To review and adopt the annual Freedom of Information Statement.

Background

Under Section 96(1) of the Freedom of Information Act (1992) a government agency including a local government is required to publish a Freedom of Information Statement annually. Information on previous statements is out of date and the drafted Statement (attached) requires adoption. The last Statement was considered by Council in October 2021.

Comment

This is a statutory requirement for the Shire to consider and adopt annually a Freedom of Information Statement.

Policy Implications

Nil

Financial Implications

There are no financial implications for the Statement, but it should be noted that the fees and charges listed in the Statement are stipulated in the Regulations of the Freedom of Information Act 1992

Strategic Implications

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

"4: Civic Leadership

4.1 We are a compliant and resourced Local Government"

Voting Requirement

Simple Majority

9.4.2 WALGA AGM

Applicant: Shire of Kondinin
Author: CEO – David Burton
Authorising Officer: CEO – David Burton
Date: 17th October 2022
Disclosure of Interest: Nil
Attachments: WALGA AGM MINUTES

RESOLUTION #4028:

Moved: Cr Kerrie Green

Seconded: Cr Beverley Gangell

That Council notes the resolutions of the WALGA AGM held at Crown Perth, Grand Ballroom on 3rd October 2022.

Carried: 8/0

Summary

This report is for Council to note the resolutions of the WALGA AGM held at Crown Perth, Grand Ballroom on 3rd October 2022.

Background

The WALGA AGM is part of the Annual Local Government Week Conference held in Perth. While the main function of the AGM is to pass on information for WALGA to the Members, it is also an opportunity for the Members to set direction for WALGA through the Members Motions.

Comment

Items raised at the meeting included:

2. Adoption of Annual Report

3. Consideration of Executive and Member Motions

- 3.1. Road traffic Issues
- 3.2. Car Parking and Traffic Congestion Around Schools
- 3.3. Proposal for Regional Road Maintenance Contracts with Main Roads WA
- 3.4. Northern Australia Beef Roads Program
- 3.5. 3D House Printing Building Compliance
- 3.6. South West Native Title Settlement
- 3.7. Land Offset Compensation to Local Governments
- 3.8. Review of Rating Methodology used by the Valuer-General
- 3.9. WA Local Government Rating Model
- 3.10. Reform of Cat Act 2011
- 3.11. WALGA Best practice Governance Review – Principles
- 3.12. Special Urgent Items
 - 3.12.1 Abandoned Shopping Trolleys
 - 3.12.2 Mandatory Superannuation for Elected Members in Band 1 and 2 Councils

Statutory Environment

Nil

Policy Implications

Nil

Financial Implications

Nil

Strategic Implications

This action supports the following sections of the Shire’s Strategic Community Plan 2022-2032:

“4. CIVIC LEADERSHIP

4.1 Skilled, capable and transparent team

4.2 We are a compliant and resourced local government.

Voting Requirement

Simple Majority

9.4.3 OFFROAD RACING EVENT

Applicant: Shire of Kondinin
Author: CEO – David Burton
Authorising Officer: CEO – David Burton
Date: 18th October 2022
Disclosure of Interest: Nil
Attachments: Nil

RESOLUTION #4029:

Moved: Cr Tom Mulcahy

Seconded: Cr Kerrie Green

That Council notes its support for an Off-Road Racing Event for the Shire with a preference that roads are only used in a minimal capacity only (i.e. crossings).

Carried: 8/0

Summary

This report is for Council to consider the possibility of an Off-Road racing Event to be held in the Shire, next year.

Background

The Shire has been approached by a Western Australian Off-Road Racing Association (WAORRA) representative, Craig Trehwella, for the consideration of holding a revival event in Hyden/Kondinin in 2023.

Comment

Off-Road Racing used to occur in Hyden, but was stopped in around 2013 when the hosting property was sold and the new owner did not want the event to happen. Prior to that, off-road racing was quite prominent in town and a museum for this sport is being constructed in Hyden.

The request has been made to be able to use back roads from Hyden to Kondinin which would make the event inclusive of the two larger towns of our Shire. The only concern with this is that it would use the back gravel roads of the Shire, which may cause further damage to the roads and may also have a liability risk for the Shire with the closing of roads, etc. If Council is supportive of the event, it may be preferable that the organisers try to arrange for the travel to be done off Shire roads as much as possible. A simple crossing of a road may assist in transition areas.

Craig Trehwella and Ron Goddard were the original organisers of the event when it started in Hyden previously. Craig is keen to see this become a regular event again, if possible.

Events such as this do bring additional people into the area who may return for tourist activities or to live and work. Therefore, there can be a spin-off to these activities as well as the additional funds that are brought into town by the event.

At this stage, the group is only seeking Council support for the event. Officers may be able to assist in establishing contact with farmers for the location of the event and it would be likely that the group would be looking for sponsorship from Council if the event is to proceed.

Statutory Environment

Legislation and regulations relevant to road use

Policy Implications

Nil

Financial Implications

There is no actual financial cost to this at this time but may require some staff time to assist with the organising of the event or for providing details of farming properties for the location of the event. It would be highly likely that if the event is to proceed, Council would be asked for sponsorship. The amount of this is unknown at this time.

Strategic Implications

This action supports the following sections of the Shire’s Strategic Community Plan 2022-2032:

“1. COMMUNITY

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

1.4 Recreational and social spaces encourage active and healthy lifestyles”

Voting Requirement

Simple Majority

9.4.4 PURCHASING POLICY CHANGE – FIN005

Applicant: Shire of Kondinin
Author: CEO – David Burton
Authorising Officer: CEO – David Burton
Date: 19th October 2022
Disclosure of Interest: Nil
Attachments: Purchasing Policy – FIN005

RESOLUTION #4030:

Moved: Cr Murray James

Seconded: Cr Bruce Browning

That Council adopt the amended Purchasing Policy – FIN005.

Carried: 8/0

Summary

This report is for Council to consider an alteration of the Shire of Kondinin Purchasing Policy – FIN 005 due to changes in roles for the Administration Staff.

Background

With the recent resignation of the Finance/ Administration Officer and the changing of duties among other staff, the positions listed in the current Purchasing Policy may no longer be relevant.

Comment

As the positions in the administration office have changed and the details of the roles are not established in full, in case further changes are needed, there needs to be more flexibility in the Purchase Order limits for administration staff. This has also been impacted by the increasing costs of items, such as a purchase of toner cartridges that would exceed the ESO Role, which would require another officer to complete the purchase order adding a small amount of inconvenience.

The limitation of \$5,000 as per the policy will still remain but can be applied to any administration officer at the CEO's discretion rather than specifying a role. It should be noted that this is a maximum amount and the CEO can reduce the delegation. In normal practice, it would not be standard that all staff have this amount, but maybe 2 staff have the larger amount and two staff with a lesser amount so that small items can be purchased rather than having to get a senior officer to complete the purchase order.

We have also included the Depot Administration Officer with the Depot Storeman as the Storeman is only working part-time and the flexibility will assist the Manager of Works.

An increase in allowance is also recommended for the Pool Manager just to allow greater flexibility with ordering items for the pool rather than having the Administration Officer complete the purchase order.

Statutory Environment

Nil

Policy Implications

Nil

Financial Implications

There are no financial implications for this change to the policy, but it will allow some officers an increased amount.

Controls will need to be strengthened to ensure that purchasing does not become a budget issue.

Strategic Implications

This action supports the following sections of the Shire’s Strategic Community Plan 2022-2032:

“4. Civic Leadership

4.1 Skilled, capable and transparent team

4.2 We are a compliant and resourced local government.”

Voting Requirement

Absolute Majority

9.4.5 Fencing Local Law – Final Adoption

Applicant:	Shire of Kondinin
Author:	Chief Executive Officer – David Burton
Date:	25 August 2022
Disclosure of Interest:	None
Attachments:	1. Summary of public submission received 2. Proposed Fencing Local Law

RESOLUTION #4031:

Moved: Cr Tom Mulcahy

Seconded: Cr Darren Pool

That–

1. in accordance with the Local Government Act s.3.12(2) and (3) and all other legislation enabling it, local public notice be given that Council intends to make a Fencing Local Law, and invite submissions for a minimum 6-week period –
Purpose – to prescribe sufficient fences, the standard for construction of fences and create offences for non-compliance.
Effect – to establish the minimum requirements for fencing, provide for permitted and prohibited fencing, and create offences for non-compliance.
- *Noting that the clause for land zoned “rural” under the Shire’s Local Planning Scheme, fencing conditions be removed.*
2. in accordance with the Local Government Act s.3.12(3), copies of the proposed local law be –
 - sent to the Minister for Local Government and Minister for Commerce,
 - made available to any other person requesting a copy.

Carried: 8/0

Summary

To finalise the statutory process for the adoption of a local law in accordance with the Local Government Act s.3.12.

Background

The Local Government Act requires the following statements be made in the agenda and minutes of the meeting –

Purpose – to prescribe a sufficient fence and the standard for the construction of fences and create offences for non-compliance.

Effect – to establish the minimum requirements for fencing, provide for permitted and prohibited fencing, and create offences for non-compliance.

This proposed local law repeals the 1979 Bylaw, which –

- lists asbestos as an approved fencing material,
- limited capacity to approve a non-specified fence that may otherwise be appropriate,
- no capacity for Council to delegate to CEO or for authorised persons to be appointed,
- is limited to the townsites of Kondinin, Hyden and Karlgarin.

There are a number of matters that Council should be aware of –

- (1) the local law applies to the whole of the district, however, certain types of fencing are restricted or permitted to particular land uses as defined by the Local Planning Scheme,
- (2) Definitions –
 - (a) Council, CEO or other specific position – the function, role or power cannot be removed from that position or role, nor over-ridden.

- (b) Authorised person – an authorised person’s function and actions are defined by the local law and is not to be confused with a delegation. A delegation relates to a decision, whereas an authorisation relates to action. The CEO may delegate power to a senior staff member to make decisions, but this does not include acting as an authorised person to issue infringements (as an example).

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

- Dept of Local Government, Sport and Cultural Industries –
- The DLGSC submissions covered multiple areas. The comments are –
- where reference is made to an Australian Standard, DLGSC noted that -
 - of a context or technical nature, punctuation and grammar.
 - clarification of provisions, re-wording etc.

Concerning the Australian Standard referenced in clause 5.2(3), DLGSC noted –

The Department is aware that the local law contains references to Australian Standards.

The use of Australian Standards raises issues since they are external documents and not always available for free viewing. While the Parliament’s Delegated Legislation Committee is happy to allow references to Australian Standards, this is subject to the condition that:

- (a) The full citation of the standard is used at least once, either in the applicable clause or via an appropriate definition;*
- (b) The most up-to-date version of the standard is cited; and*
- (c) The local government contain advice on their website indicating where a free version of the standard can be viewed.*

The Shire should ensure this is the case prior to the local law being finalised and put to council.

This issue raised has been addressed by other local governments inserting on the local laws page of their website, advice to the effect –

Australian Standards quoted in Local Laws

Australian Standards (AS) are sometimes quoted in local laws to provide the basis for industry standards for the matter it relates to.

As noted in the local laws, these may be inspected at the Shire of Narrogin Administration Centre, free of charge, during business hours.

Please note, these Standards are copyrighted to Standards Australia, and accordingly –

- They are able to be discussed with the relevant employee in person or on the telephone; and*
- They can be inspected free of charge at the Administration Centre*

If we don't hold a current copy of the relevant Standard, we will obtain it for you to view.

Because of copyright, we will not –

- Email quotes of text taken from the Standard; nor*
- Permit photocopying or photos to be taken on a mobile phone etc.*

Should you need a copy of the Standard please contact Standards Australia at www.standards.org.au. See their contacts page for an online enquiry form or telephone 1800 035 822 (free call) or 02 9237 6000 or post to GPO Box 476, Sydney NSW 2001.

Taken from <https://www.narrogin.wa.gov.au/your-shire/information-and-news/our-local-laws.aspx> on 20 August 2022

None of the comments is considered to be of significance requiring re-advertising.

- One other submission that raised two points–
 - a) Clause 7.1 – Objections and review
 - b) Schedule 2 – Sufficient fence for rural and rural residential land

Response –

- Refer to Attachment 1 for a detailed response to these matters raised

Recommendation – that changes not be made

No comment has been received from the Minister for Commerce.

Once formally adopted by Council, the–

- the local law is to be published in the Government Gazette,
- local public notice is given of the adoption of the local laws (separate from previous advertising of proposals),
- signed copies are to be sent to Minister for Local Government, 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.

Addendum

Concern was raised by Council Members about the possibility of this having an impact on insurance coverage for farmers. Staff questioned LGIS in regards to this matter, but LGIS could not provide any advice and suggested members contact their own insurers for clarification.

Mr Niel Mitchell was also asked about this matter and provided the following:

“My own feeling is that it wouldn't, as lots of local governments do prescribe a sufficient fence for rural areas. My thought is that if the land owner is non-compliant, any action would be against them for non-compliance, rather than against the Shire for not inspecting/enforcing. A landowner is already got exactly that exposure now if the fence is not adequate to contain stock. The obligation to prevent stock wandering at large is in the LG Misc Act s.447, 478, 458(2A) and others, clearly indicate that stock at large is an offence of the owner, although these sections deal with wandering and trespassing cattle, not some unfortunate traveller hitting one.”

Please note that this comment is just based on working with Local Laws and should be relied upon for a determination.

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*

Diving Fences Act 1961 –

s.5 – Sufficient fence, in relation to a dividing fence or a boundary fence referred to in section 16, means —

(a) any fence prescribed by local law as a sufficient fence for the part of the local government district in which the dividing fence or boundary fence is, or is to be, erected;

Policy Implications

None.

However, information concerning Australia Standards is to be placed in an appropriate location.

Financial Implications

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

Strategic Implications

This action supports the following sections of the Shire's Strategic Community Plan 2022-2032:

"4. CIVIC LEADERSHIP

4.2 We are a compliant and resourced Local Government"

Voting Requirement

Absolute majority

9.4.6 LEASE ARRANGEMENT WAVELINE

Applicant:	Shire of Kondinin
Author:	CEO – David Burton
Authorising Officer:	CEO – David Burton
Date:	18 th October 2022
Disclosure of Interest:	Nil
Attachments:	A copy of the current agreement will be presented at the meeting.

RESOLUTION #4032:

Moved: Cr Tom Mulcahy

Seconded: Cr Brett Smith

That the Chief Executive Officer negotiate a new lease with Waveline Tyres for the agreed reduced area of approximately 500m² and annual fee increased by CPI annually and for the lease to be signed by the Shire President and Chief Executive Officer and use of the Shire Common Seal approved.

Carried: 8/0

Summary

This report is for Council to consider a new agreement with Waveline Tyres for a leased area from the Shire.

Background

The Shire leases a small portion of land at the Recreation Ground to Waveline Tyres. Part of this has been included in the boundary fence of Waveline tyres and is used constantly. Several years ago, it was considered that this would be extended and an allowance for an additional portion was added to the agreement and the costs were adjusted accordingly. The area of the lease was for approximately 1,008 m² for the annual cost of \$590 to be increased by CPI each year and would have been \$696 for the 2021/22 financial year

Comment

In discussions with the current Manager of Waveline Tyres, the additional land is not required and it has been requested to be removed from the agreement. This will reduce the area of the lease by approximately half. In discussion with the owner, it would be acceptable for the lease arrangement to be at half cost as well to coincide with the leased area.

The new lease will be for an area of approximately 500m² and will have a starting fee of \$348.00

This item is just to ensure that the reduced area and cost are approved by Council as an alteration to the lease.

Statutory Environment

Nil

Policy Implications

Nil

Financial Implications

This item will only have a minimal impact on the reduction of the lease arrangements.

Strategic Implications

This action supports the following sections of the Shire's Strategic Community Plan 2022-2032:

“4. CIVIC LEADERSHIP

4.1 We are a compliant and resourced Local Government”

Voting Requirement

Simple Majority

9.5 ENVIRONMENTAL HEALTH OFFICER

NIL

10. BUSINESS OF AN URGENT NATURE

NIL

11. CLOSURE

Mrs Tory Young left the meeting at 5:02 pm and returned at 5:04 pm.

Meeting closed at 5:21 pm.