



SHIRE OF KONDININ

NOTICE OF MEETING

Councillors: Please be advised that the next meeting of the

KONDININ SHIRE COUNCIL

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

2:00pm Informal Agenda Discussion

3:00pm Council Meeting

David Burton
21st October 2022
CHIEF EXECUTIVE OFFICER

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

STATEMENT OF COMMITMENT TO INDIGENOUS AUSTRALIANS

“The Shire of Kondinin acknowledges that, as we proceed with the development & management of facilities & services within the Shire we give recognition of the distinctive relationship that indigenous people have within the community and encourage a broader understanding & appreciation of indigenous heritage & culture.

The Shire of Kondinin is committed to consultation across all communities in our Shire & we aim for mutual respect to achieve recognition of all cultures.”

SHIRE OF KONDININ QUESTIONS FROM THE PUBLIC

The Shire of Kondinin welcomes community participation during public question time of Council Meetings. Any member of the public is welcome to do so. The following is a summary of Section 5.24 of the Local Government Act 1995, the Local Government (Administration) Regulations 1996, the Shire's procedure and a guide to completion registering attendance and question/s.

- Members of the public should ideally register their attendance and question with the Council before the meeting before close of business the day prior to the scheduled meeting. This can be done;
 - a. In person at the Shire of Kondinin Office (120 Graham St, Kondinin)
 - b. By emailing the Executive Support Officer on eso@kondinin.wa.gov.au
 - c. By phoning the Executive Support Officer on 08 9889 1006
- When registering the following information will need to be supplied for record keeping and future correspondence (if required);
 - a. Name, Address, contact number and Name of Organisation representing (if applicable)
 - b. A written copy of the question to be asked at Public Question Time.
- It is recommended to arrive at the location of the Council Meeting 5 minutes prior to the commencement of the meeting. If you have not registered in advance it can be completed at this time. However, members of the public will also still be able to attend the meeting and provide required details at the meeting if they have not been able to register in advance.
- The Presiding Member will open Public Question Time and, if necessary, provide a brief summary on the rules, regulations and procedures of Public Question Time:
 - a. The person asking the question is to state their name prior to asking the question.
 - b. Questions are to be directed through the chair, with the Presiding Member having the discretion of accepting or rejecting a question and the right to nominate a Councillor or Officer to answer.
 - c. In order to provide an opportunity for the greatest portion of the gallery to take advantage of question time, questions are to be as succinct as possible. Any preamble to questions should therefore be minimal and no debating of the issue between the Gallery, Councillors or Officers is permissible.
 - d. Where the Presiding Member rules that a member of the public is making a statement during public question time, then no answer is required to be given or recorded in response.
 - e. Questions which are considered inappropriate; offensive or otherwise not in good faith; duplicates or variations of earlier questions; relating to the personal affairs or actions of Council members or employees; will be refused by the Presiding Member as 'out of order' and will not be recorded in the minutes.
 - f. Questions from members of the public that do not comply with the Rules of Question Time or do not abide by a ruling from the Presiding Member, or where

the member of the public behaves in a manner in which they are disrespectful of the Presiding Member or Council, or refuse to abide by any reasonable direction from the Presiding Member, will be ruled 'out of order' and the question will not be recorded in the minutes.

- g. Answers to questions provided in good faith, however, unless reasonable prior written notice of the question is given, answers should not be relied upon as being totally comprehensive.
 - h. The priority for asking questions shall be firstly 'questions on which written notice has been given prior to the meeting' (that is, prior to 12 noon on the day immediately preceding the meeting) and secondly, 'questions from the floor'.
- Public Question Time is set for a maximum period of 15 minutes, and will terminate earlier should no questions be forthcoming.
 - There are circumstances where it may be necessary to place limits on the asking of questions to enable all members of the public a fair and equitable opportunity to participate in Public Question Time. In these events the Presiding Member will apply the most appropriate limit for the circumstance. Generally, each member of the public shall be provided a maximum two minutes time limit in the first instance, in which to ask a maximum of two questions (whether these are submitted 'in writing' or 'from the floor'). A question may include a request for the tabling of documents where these are relevant to an issue before Council.
 - Should there be time remaining on the initial period for Public Question Time (i.e. 15 minutes) after all members of the public have posed their initial allotment of two questions, the Presiding Member will then allow members of the public to sequentially (in accordance with the register) ask further questions (with necessary limits in place as discussed above if required) until the initial period for Public Question Time has expired.
 - Any extension to the initial period for Public Question Time is to be limited to a period that will allow sufficient time for any remaining members of the public to ask their initial allotment of two questions.
 - Where a question (compliant to these rules) is raised and is unable to be answered at the meeting, the question shall be 'taken on notice' with an answer being given at the next appropriate Council Meeting.
 - Where a member of the public submitting a question is not physically present at the meeting, those questions will be treated as an item of correspondence and will be answered in the normal course of business (and not be recorded in the minutes).

**SHIRE OF KONDININ
DISCLOSURE OF FINANCIAL/IMPARTIALITY & PROXIMITY INTEREST**

To: *Chief Executive Officer*

As required by Section 5.65(1) (a) of the Local Government Act 1995, I hereby declare my interest in the following matters included on the Agenda paper for the Council/Committee meeting to be held on _____ (Date).

The type of interest I wish to declare is a: Financial Proximity Impartiality

Item No	Details of Interest

Extent of interest only has to be declared if the Councillor also requests to remain present at a meeting, or participate in discussions or the decision making process (see item 6 below).

Councillor’s Signature _____ Councillor’s Name _____
Date _____

NB:

- 1 This notice must be given to the Chief Executive Officer prior to the meeting or at the meeting immediately before the matter in which you have an interest is discussed, Section 5.65(1) (a) & (b).
- 2 It remains Councillor’s responsibility to make further declarations to the Council if a matter arises during the course of a meeting and no previous declarations have been made.
- 3 It is a Councillor’s responsibility to ensure that the interest is brought to the attention of the Council/Committee when the Agenda item arises and to ensure that it is recorded in the minutes.
- 4 It remains the Councillors responsibility to ensure that he/she does not vote on a matter in which a declaration has been made. This responsibility also includes the recording of particulars in the minutes to ensure they are correct when such minutes are being confirmed.
- 5 It is recommended that when previewing the Agenda, Councillors mark Agendas with items on which an interest is to be declared and complete the declaration form at the same time.
- 6 Councillors may be allowed to remain at meetings at which they have declared an interest and may also be allowed to preside (if applicable) and participate in discussions and the decision-making process upon the declared matter subject to strict compliance with the enabling provisions of the Act and appropriately recorded resolutions of Council. Where Councillors request consideration of such approval the affected Councillor must vacate the Council Chambers in the first instance whilst the Council discusses and decided upon the Councillors application.

Remember: The responsibility to declare an interest rests with individual Councillors. If Councillors are in any doubt seek legal opinion, or, to be absolutely sure, simply declare in any case. Penalties for not disclosing an interest apply.

Office Use Only:	Date/Initial
1. Particulars of declaration given to the meeting	_____
2. Particulars recorded in the minutes	_____
Signed by Chief Executive Officer Or President (when the declaration belongs to the CEO)	_____

SHIRE OF KONDININ DISCLAIMER

No responsibility whatsoever is implied or accepted by Shire of Kondinin for any act, omission or statement or intimation occurring during Council/Committee meetings or during formal/informal conversations with Staff. Shire of Kondinin disclaims any liability for any loss whatsoever and howsoever caused arising out of reliance by any person or legal entity on any such act, omission or statement or intimation occurring during Council/Committee meetings or discussions. Any person or legal entity who acts or fails to act in reliance upon any statement does so at that person's or legal entities' own risk.

*In particular and without derogating in any way from the broad disclaimer above, in any discussion regarding any planning application or application for a license, any statement or limitation of approval made by a member or officer of Shire of Kondinin during the course of any meeting is not intended to be and is not taken as notice of approval from Shire of Kondinin. The Shire of Kondinin warns that anyone who has an application lodged with Shire of Kondinin must obtain and only should rely on **WRITTEN CONFIRMATION** of the outcome of the application, and any conditions attaching to the decision made by the Shire of Kondinin in respect of the application.*

Signed on behalf of Council



David Burton
Chief Executive Officer

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 0:00pm.

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)	Vince Bugna (MCS) Leandré Genis (ESO)	Mark Burgess (MoW)
Apologies:			

3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

4. PUBLIC QUESTION TIME

5. APPLICATIONS FOR LEAVE OF ABSENCE

6. PETITIONS/ DEPUTATIONS/ PRESENTATIONS

7. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS/ INFORMATION REPORT

7.1 MINUTES OF COUNCIL MEETING- 21st September 2022

RECOMMENDATION:

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

7.2 INFORMATION REPORT- October 2022

RECOMMENDATION:

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

8. ANNOUNCEMENTS BY PRESIDING MEMBERS WITHOUT DISCUSSION

9. ITEMS

9.1 MANAGER OF PLANNING & ASSETS

9.1.1 Building Maintenance Tender

9.1.2 Proposed Land Assembly for Lot 331 Graham Street, Kondinin

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

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

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

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

OFFICER RECOMMENDATION

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.

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

9.2 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:	4 th October, 2022
Attachment(s):	List of Accounts 01/09/2022 to 30/09/2022 (incl July 2022 Credit Card transactions)

OFFICER RECOMMENDATION

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

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:	4 th October 2022
Attachment(s):	Monthly Financial Report for the period ended 31 August 2022

OFFICER RECOMMENDATION

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

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

OFFICER RECOMMENDATION

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

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

9.4 CHIEF EXECUTIVE OFFICER

9.4.1 FREEDOM OF INFORMATION STATEMENT

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

OFFICER RECOMMENDATION

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

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:	17 th October 2022
Disclosure of Interest:	Nil
Attachments:	WALGA AGM MINUTES

OFFICER RECOMMENDATION

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

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:	18 th October 2022
Disclosure of Interest:	Nil
Attachments:	Nil

OFFICER RECOMMENDATION

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).

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

OFFICER RECOMMENDATION

That Council adopt the amended Purchasing Policy – FIN005.

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

OFFICER RECOMMENDATION

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.
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.

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 Kargarin.

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*

Dividing 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.

OFFICER RECOMMENDATION

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.

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

10. BUSINESS OF AN URGENT NATURE

11. CLOSURE