



SHIRE OF KONDININ

NOTICE OF MEETING

Councillors: Please be advised that the next meeting of the

KONDININ SHIRE COUNCIL

Will be held on Wednesday 20th March 2024 at the
Kondinin Council Chambers

1:00PM Kondinin Windfarm Presentation

1:30PM Light Lunch

2:00PM Informal Agenda Discussion

3:00PM Ordinary Council Meeting

David Burton
15th March 2024
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

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 at 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 the completion of registering attendance and question/s.

- Members of the public should ideally register their attendance and question with the Council before the meeting before the closing of business the day before the scheduled meeting. This can be done;
 - a. In person at the Shire of Kondinin Office (11 Graham St, Kondinin).
 - b. By emailing the Executive Support Officer at 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 before the commencement of the meeting. If you have not registered in advance it can be completed at this time. However, public members will still be able to attend the meeting and provide the required details meeting if they have not been able to register in advance.
- The Presiding Member will open Public Question Time and, if necessary, provide a summary of the rules, regulations and procedures of Public Question Time:
 - a. The person asking the question must state their name before asking it.
 - 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. 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 on 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 comprehensive.
 - h. The priority for asking questions shall be 'first 'questions on which written notice has been given before the meeting' (that is, before 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 with 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 (by 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

The 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 before 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 the 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 Councillor's 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 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 seeking legal opinion, or, to be sure, simply declare in any case.
Penalties for not disclosing an interest apply.

Office Use Only:	Date/Initial
1. Particulars of the 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 the Shire of Kondinin for any act, omission or statement or intimation occurring during Council/Committee meetings or 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 entity's 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 the 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 _____pm.

2. RECORD OF ATTENDANCE/ APOLOGIES/ LEAVE OF ABSENCE

Councillors:	Cr Kent Mouritz (President)	Cr Brett Smith	Cr Bruce Browning
	Cr Darren Pool	Cr Paul Green	Cr Murray James
	Cr Kerrie Green	Cr Beverley Gangell	
Staff:	David Burton (CEO)	Vince Bugna (MCS)	Tory Young (MPA)
	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- 14th February 2024

RECOMMENDATION:

That the minutes of the Council Meeting held on the 14th February 2024, be confirmed.

7.2 INFORMATION REPORT- March 2024

RECOMMENDATION:

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

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

9.2 MANAGER OF CORPORATE SERVICES

9.2.1 List of Accounts

9.2.2 Financial Reports

9.2.3 Sundry Debtors Write Offs

9.2.4 Fees & Charges 2023/24- Amended

9.3 MANAGER OF WORKS

9.4 CHIEF EXECUTIVE OFFICER

9.4.1 Discovery Centre Update

9.4.2 Compliance Audit Return

9.4.3 Annual Electors Meeting

9.4.4 Hyden Recycling Area

9.4.5 Corporate Business Plan Report

9.4.6 East Hyden Fire Unit

9.4.7 Bush Fire Brigades Local Law 2022 as amended- Undertaking to JSCDL

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:	6 th March 2024
Disclosure of Interest:	Nil
Attachments:	Maps, List of Properties

OFFICER RECOMMENDATION:

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 parcels of land in question.

Summary

The Shire 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.

Eighteen (18) parcels of land in the Shire of Kondinin in the north-eastern portion of the Shire is currently being considered for the part of the settlement for the Ballardong People Agreement Area. One (1) of these parcels (PIN 1031111) extends across the Shires of Kondinin, Dundas, Esperance and Lake Grace, with the portion within the Shire of Kondinin indicated in the map attached to this Agenda Report. The seventeen (17) remaining parcels within the Shire cover an area of 84,987.1 hectares within the Forrestania locality in the eastern portion of the Shire.

Maps and a listing of the parcels of land are shown as attachments to this Report.

The Shire of Kondinin has been requested to provide comment on the 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 seventeen (17) parcels and the one (1) partial parcel of land proposed for transfer as part of the South West Native Title Settlement are located in the eastern portion of the Shire on heavily vegetated areas of land outside of the Shire's farming and urban development areas.

The two main points of interest to the Shire with the location of these parcels of land relate to mining and fire management. The following feedback has been received from the Department of Planning, Lands and Heritage in relation to these matters as outlined below.

Question: Would the Shire still be able to receive mining rates for a mining leases / licences from these parcels of land?

Response: As requested by the Department of Energy, Mining, Industry, Regulation and Safety (DEMIRS), those portions of the land parcels that are subject to active mining leases will not be transferred into the NLE. Therefore, any activities or agreements currently in place under the *Mining Act 1978* should not be affected by the proposal.

Question: How would matters of fire management be addressed, i.e. would the native title exempt processes that are currently undertaken by Department of Fire and Emergency Services, Department of Biodiversity, Conservation and Attractions and the Local Government to manage and mitigate fire control.

Response: All land placed into the Noongar Land Estate must be used and managed in accordance with the statutory and policy framework that applies to all land in Western Australia, including the *Bushfires Act 1954*, the *Local Government Act 1995* and all planning and development control. The incoming Landholding Body will be responsible for the management of bushfire mitigation once the land is transferred.

Summary

In light of the above, there appears no reason to object to the transfer of these parcels under the South West Native Title Settlement on the provision that any current or future mining rates can still be collected by the Shire and that adherence to bushfire control mitigation was practiced.

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 manager appropriately

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: 11th March, 2024
Attachment(s): List of Accounts 01/02/2024 to 29/02/2024

OFFICER RECOMMENDATION

That Council **RECEIVE** the attached report – List of Accounts Due & Submitted to Council for the month of January 2024:

Municipal Fund payment cheque numbers 19380 to 19390	= \$	55,420.23
Municipal EFT18348–18370; 18372-18404	= \$	684,804.96
Direct Debits – Transport – Hyden Office	= \$	14,099.95
Direct Debits – Transport – Kondinin Office	= \$	20,640.80
Direct Debits – Credit Cards DD20936.1	= \$	507.79
Direct Debits – Other	= \$	25,831.16
EFTPOS Merchant Fees & Tyro	= \$	1,417.61
Bank Fees – NAB Connect	= \$	81.58
Payroll	= \$	130,400.43
Trust EFT18247 & 18371	= \$	680.00
TOTAL	= \$	933,884.51

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: 12th March 2024
Attachment(s): Monthly Financial Report for the period ended 29 February 2024

OFFICER RECOMMENDATION:

That Council **RECEIVE** the attached reports entitled Monthly Financial Report (Containing the Statement of Financial Activity) for the period ended 29 February 2024.

Summary

To present to Council the Monthly Financial Report for the period ended 29 February 2024.

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 February 2024 financial reports are as follows:

Item	Reference
<ul style="list-style-type: none"> • Cash at Bank The Shire’s total cash as at 29th February 2024 was \$8,473,789 – composed of \$3,855,643 reserve accounts (restricted), \$49,352 LCDC fund, \$2,638,486 term deposit investments and \$1,930,308 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 – \$458,892 current outstanding as 89% had been settled. Other receivables of \$2,207,174 – composed of \$1,100,00 RRUPP grant \$65,072 gst receivable and other minor receivables. 	<p>Page 16 – Note 10 Receivables</p>
<ul style="list-style-type: none"> • Current Liabilities YTD balance is \$1,325,281 which includes \$441,332 of employees’ annual and long service leave provision, Loan repayment provision \$71,259 Advanced LRCL and Road Grants \$575,803, Gst and other payables \$236,887. 	<p>Page 5 – Note 2 Net Current Assets used in the Statement of Financial Activity Information</p>
<ul style="list-style-type: none"> • Closing Funding Surplus (Deficit) YTD actual is \$3,925,752– composed of \$9,056,378 Current Assets less \$1,325,281 Current Liabilities and \$(3,805,344) Net Adjustments to Net Current Assets. 	<p>Page 5 – Note 2 Net Current Assets used in the Statement of Financial Activity Information</p>
<ul style="list-style-type: none"> • Significant Capital Projects: Roadworks having \$4.9m budget is 89% completed as at 29th February 2024 major expenditure from Hyden Norseman Road – Remote Road Upgrade Program (RRUP) and Lovering Road – RRG 2/3 funded. 	<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

9.2.3 SUNDRY DEBTORS WRITE OFFS

Applicant: Shire of Kondinin
Authors: Ellen Valenta, Senior Admin Officer
Authorising Officer: Vince Bugna, Manager Corporate Services
Disclosure of Interest: Nil
Date: 12th March 2024
Attachments: Nil

OFFICER RECOMMENDATION:

That Council:
APPROVES to write off the total \$421.50 outstanding amounts of sundry debtors owed to the Shire of Kondinin as listed below.

Summary

To seek Council Approval to write off outstanding amounts owed to the Shire by Sundry Debtors believed to be non-recoverable.

Background

In accordance with Section 6.12 of the Local Government Act 1995, the Council is empowered to write off monies owing to the local government.

Some debtors are no longer in existence or whereabouts unknown to the Shire. The age of the debts raises some doubt over their recoverability. In most cases the cost to pursue such debts are highly likely to exceed recoverable costs.

Below is the list of sundry debtors outstanding amounts we recommend for write off:

Debtor Name	Total amount Owing	Information and/or Reason for write off
Utopian Events	\$195.00	Relates to Hyden Recreation Hire. Debtor contacted via mail and email with no success with the latest mail attempt has been returned to sender.
Hyden Hoggets	\$45.00	Relates to Hyden Recreation Centre Toilet & BBQ Hire. All attempts to contact with people have failed and all correspondence has been unanswered.
Jack Hill	\$181.50	Reimbursement for the repair/replacement of window glass at Hyden Hall.

Total \$421.50

Statutory Environment

The Local Government Act 1995

Section 6.12(1)(c) Power to write off debts/any amount of money which is owed to the local government

Policy Implications

Nil

Financial Implications

Write off of \$421.50 will reduce the expected credit loss (ECL) account and the total revenue by the same amount.

Strategic Implications

Strategic Community Plan 2022-2032:

“4.2 We are a compliant and resourced Local Government.”

Voting Requirement

Absolute majority.

9.2.4 FEES & CHARGES 2023/24 - AMENDED

Applicant: Shire of Kondinin
Authors: Chase Mclean, Customer Service Officer
Authorising Officer: Vince Bugna, Manager Corporate Services
Disclosure of Interest: Nil
Date: 12th March 2024
Attachments: Fees & Charges 2023/24 (Revised)

OFFICER RECOMMENDATION:

That Council:

ENDORSE the Revised Fees & Charges to include the new fees for a Street Trading License Application.

Summary

To present to Council for adoption the revised list of fees 2023/24 to include the new fees for a street trading license application.

Background

Fees are generally considered as part of the budget process or just before the budget is adopted to allow fees to be considered for increases. However, the Local Government Act 1995 does allow for changes that are required throughout the year, providing that the process has been followed.

Statutory Environment

The Local Government Act 1995

Section 6.19. Local government to give notice of fees and charges

If a local government wishes to impose any fees or charges under this Subdivision after the annual budget has been adopted it must, before introducing the fees or charges, give local public notice of —

(a) its intention to do so; and

(b) the date from which it is proposed the fees or charges will be imposed.

Policy Implications

Nil

Financial Implications

Increased revenue for the Shire.

Strategic Implications

Strategic Community Plan 2022-2032:

"4.2 We are a compliant and resourced Local Government."

Voting Requirement

Absolute majority.

9.3 MANAGER OF WORKS

9.4 CHIEF EXECUTIVE OFFICER

9.4.1 DISCOVERY CENTRE UPDATE

Author: CEO - David Burton
Date: 5 March 2024
Disclosure of Interest: Nil
Attachments: Nil

OFFICER RECOMMENDATION:

That Council **NOTES** the updated information in relation to the Discovery Centre Project.

Summary

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

Background

Since 2018, the Shire of Kondinin has been working with the Hyden CRC and the Hyden Progress Association for the project of construction of 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 following through with 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 not known and no indications of future funding have been made.

The Working Group are 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 final drawings are included for Council consideration and costings for the project have been requested. Once the costings have been received (providing it is not out of our range) it will be included in the Business Case and opened for public consideration.

The latest information on Growing Regions Funding is that it will be later in the year, possibly around April. Staff are currently waiting for the cost estimate to look at applying for funding for the Architectural Plans for the main application.

The Shire has been in contact with Minister Punch (regional Development) to request a presentation of the project to lobby for State Funding as well. The Minister has advised the Shire to work with Wheatbelt Development Commission and to use the funding for the planning of the building.

A preliminary cost for the building has been received from the Quantity Surveyor that puts the cost of the building at just over \$12m.

The working group will be meeting next to discuss this. Minutes of that meeting will be circulated when available.

Policy Implications

Nil

Financial Implications

Costings will be needed to be able to complete the business case and advertise as required. This can be funded through current budget allocations.

The building will require substantial funding before it can go ahead and funding options are being sought through federal and state sources.

Consultation

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

Strategic Implications

Strategic Community Plan 2022-2032:

“2. ECONOMY

*2.3 Coordinated planning and promotion of the visitor and tourist experience;
Complete the Hyden Visitor Centre with additional funding.”*

Voting Requirement

Simple Majority

9.4.2 **COMPLIANCE AUDIT RETURN**

Applicant:	Shire of Kondinin
Author:	Chief Executive Officer – David Burton
Date:	7 th March 2024
Disclosure of Interest:	Nil
Attachments:	Compliance Audit Return

COMMITTEE / OFFICERS RECOMMENDATION:

That Council **ADOPTS** the Shire of Kondinin Compliance Audit Return for the period 1/1/2023 to 31/12/2023 pursuant to Regulation 14(3A) of the Local Government (Audit) Regulations 1996.

Summary

To consider the Compliance Audit Return for 2023.

Background

Every Year, Local Governments are required to complete the Compliance Audit Return which is a list of various sections of the Local Government Act 1995. This is presented to the Audit Committee and then Council. Returns must be completed and sent to the Department of Local Government by 31st March.

Comment

Attached for Councillors' information and review is the Compliance Audit Return (CAR) for the period 1/1/2023 to 31/12/2023, which report is a requirement of the Department of Local Government.

The report has been completed by the CEO and Manager of Corporate Services and is required to be reviewed by Council's Audit Committee and then presented by the Audit Committee to the Council of the Shire of Kondinin, with any recommendations that the Committee may require Council to consider. The Compliance Audit Return (CAR) is to be adopted by the Council and recorded in the minutes of the meeting at which it is adopted. The certified copy of the return together with a relevant copy of the Council Minutes is to be submitted to the Director General of the Department of Local Government through the Smart Hub portal by 31 March.

Statutory Environment

Local Government (Audit) Regulations 1996 – Regulation 14 (3A) Regulation 15
Local Government Act 1995 – Section 7.13(1)(i)

Policy Implications

Nil

Financial Implications

Nil

Strategic Implications

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

"Goal 4: Civic Leadership

We are a compliant and resourced Local Government”

Voting Requirement
Simple Majority

9.4.3 **ANNUAL ELECTORS MEETING**

Applicant: Shire of Kondinin
Author: Chief Executive Officer – David Burton
Date: 7th March 2024
Disclosure of Interest: Nil
Attachments: Unconfirmed Minutes

OFFICERS RECOMMENDATION:

That Council **NOTES** the Minutes of the Annual Electors Meeting for 2024.

Summary

For Council to note the Minutes of the Annual Electors Meeting 2024 and act if required.

Background

The Annual Electors Meeting was held on 14th February 2024 at the Hyden Recreation Centre.

Comment

The Annual Electors Meeting was attended by Members, staff and members of the public. All reports included in the Annual Report for 2022/2023 were accepted.

During General Business, several questions were raised by the Public. The Questions were answered at the time and no further response is required.

No matters requiring further attention of Council were raised by the public.

Statutory Environment

Local Government Act 1995 – Section 5.33

- a) All decisions made in Electors Meetings are to be considered at the next Ordinary Meeting of Council, or; if that is not practicable;
 - a) At the first Ordinary Meeting after that meeting or;
 - b) Have a special meeting called for that purpose, whichever happens first.

- b) If at a meeting of the Council, the Local Government plans in response to a decision made at an Electors Meeting, the reason for the decision is to be recorded in the minutes of the Council Meeting.

Policy Implications

Nil

Financial Implications

Nil

Strategic Implications

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

"Goal 4: Civic Leadership

We are a compliant and resourced Local Government"

Voting Requirement
Simple Majority

9.4.4 HYDEN RECYCLE AREA

Applicant: Shire of Kondinin
Author: Chief Executive Officer – David Burton
Date: 7th March 2024
Disclosure of Interest: Nil
Attachments: Nil

OFFICERS RECOMMENDATION:

That Council **CONSIDER** the option of the Hyden Lions Club providing an ongoing service for the Hyden Recycle area as part of the 2024/2025 Annual Budget.

Summary

To consider a request from the Hyden Lions Club to consider the clean-up and maintenance of the Hyden Recycle Area as a project.

Background

The Shire of Kondinin has a recycling collection point at the back of the industrial Area at Hyden. While there are containers for the rubbish, some items may be windblown into the bush areas creating an untidy area.

Hyden Lions have requested to have the area as a project for them to keep tidy and also earn some funds for the group.

Comment

The Hyden Lions Club currently assists the Shire with regards to mosquito baiting at a cost of \$25 per hour. Lions would be looking at a similar arrangement for the tidy up of the Recycle Area.

Currently there is no budget for a direct costing for the Recycle Area, however the offer by Lions Club is likely to be less costly than staff performing the same tasks, making it more cost effective for the Shire to use the Lions Club.

The Recycling Area is shown below:



Some of the windblown rubbish in the bush is shown in the final photograph.

It is estimated that allowing 3 hours at \$25 (similar to the Mosquito baiting) per week, which should more than cover any costs for the Lions to maintain the area, would come to an annual amount of \$3,900.

It is requested that the amount of \$4,000 be included in the 2024/2025 Annual Budget deliberations as a payment towards Hyden Lions Club keeping the recycle area free from windblown rubbish.

Statutory Environment

Nil

Policy Implications

Nil

Financial Implications

Fee to be included in the 2024/2025 Annual Budget.

Strategic Implications

Strategic Community Plan 2022-2032:

"1. Community

1.5 Support local volunteer organisations

Clubs and service organisations feel supported"

Voting Requirement

Simple Majority

9.4.5 **CORPORATE BUSINESS PLAN REPORT**

Applicant: Shire of Kondinin
Author: Chief Executive Officer – David Burton
Date: 7th March 2024
Disclosure of Interest: Nil
Attachments: Corporate Business Plan Report

OFFICERS RECOMMENDATION:

That Council **ADOPT** the Corporate Business Plan Quarterly Report.

Summary

To consider the quarterly report of actions for the Corporate Business Plan.

Background

As part of the Strategic Community Planning for Local Government, the Corporate Business Plan is derived from the Strategic Community Plan. To ensure Council is kept informed with the actions of the Corporate Business Plan, the quarterly report is presented updating information on all projects.

Comment

The quarterly report on the actions of the Corporate Business Plan are attached for Council to consider.

As the Corporate Business Plan spans several financial years, some items have been completed and some items have changed due to the request of the general public i.e. the Hyden Tennis Club Building.

Statutory Environment

Local Government Act 1995

Policy Implications

Nil

Financial Implications

Nil – Items are included in the Annual Budget.

Strategic Implications

Strategic Community 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

9.4.6 EAST HYDEN FIRE UNIT

Author: Chief Executive Officer – David Burton
Date: 12th March 2024
Disclosure of Interest: Nil
Attachments: Nil

OFFICERS RECOMMENDATION:

That Council **SUPPORT** an application for funding for a permanent Fire Unit for the East Hyden Bush Fire Brigade (\$500,000) and shed for the unit, with the Shire contributing the pad for the shed.

Summary

For Council to support an application for a permanent fire appliance for the East Hyden Fire Brigade and a shed to house the vehicle.

Background

The Shire of Kondinin has only one ESL funded firefighting appliance and two (2) FESA Units. This is inadequate and the shire is seeking an additional appliance to address the current bushfire risk and increase the level of safety afforded to volunteer fire fighters.

The additional appliance requested are a 4.4 Broadacre appliance for the East Hyden Bush Fire Brigade. Acquiring these appliances will assist the shire to control bushfires early in the wooded area of the Shire, protect critical infrastructure economically and reduce the risk to firefighters.

The Shire of Kondinin covers 7,340 sq km and is located 278 km from Perth with crops and livestock farming being the dominant agricultural activities. The Shire is 200kms long and 40kms wide. The three towns of the Shire are located in the western portion of the Shire within the first 90kms.

The primary focus of this proposal is to reduce the likelihood of bushfires becoming established or reducing the final size of a fire when started east of Hyden in the wooded areas of the Shire. This recognises the inadequacy of the current resource level of one appliance with major assets located within the shire.

The shire has established four bushfire brigades, only one Karlgarin Bush Fire Brigade has an ESL funded fire appliance. Kondinin and Hyden are VFES units being supplied with DFES vehicles. The other brigades are all farmer response, relying 100% on private firefighting vehicles.

The area that the covered by the East Hyden BFB with the high season truck covers extends from the Hyden townsite (assisting the Hyden VFES) through to the eastern end of the shire boundary as well as north and south of the Kondinin shire boundaries and venturing into neighbouring shires to assist when required. This covers a large area of broad acre farming which sees severe significant weather events especially throughout the summer months. A large section of the eastern end of the shire that the BFB services is bush/scrub land known as the great western woodlands, which continues through to Norseman.

Within this area we currently have one working mine site, with another couple under development, and a further 2 just beyond the shire boundaries, all of which we have working relationships with during active bushfires.

The Forrestania Nickel Project, amongst many other organisations and government departments have previously expressed a willingness to support this application for a permanent appliance to be based at East Hyden, after the significant fires that we experienced in the 2019/20 bushfire season in which we saw over half a million hectares accumulatively burnt over multiple incidents within the western end of the great western woodlands area.

East Hyden BFB membership base has been strong throughout the years, we have 10-15 members that consistently actively attend incidents.

As East Hyden only has a seasonal unit for 6 months of the year, it averages approximately 5 incidents per year, but has also assisted with larger fire including the Dundas fires at Norseman. If the unit was permanent, then it would attend to more fire in the area and assist with other fires in the regional area.

Comment

The East Hyden Brigade currently only have a fire tender during the “high use” season or summer months. This means that these areas are relatively undefended should a fire get started in the off-peak months. Being that this unit covers a heavily wooded area, the impact in the delay of having a unit respond, does mean that a fire can significantly increase in size, by the time units respond. Having a local unit would allow a faster response.

The LGGGS Grants for Fire and Emergency Services will allow for a unit to be based in the area permanently. This unit would then be maintained and replaced with the payments to the Shire from the ESL levies from the area.

Statutory Environment

Local Government Act 1995

Policy Implications

Nil

Financial Implications

Nil – Items are included in the Annual Budget and only purchase pending funding through the Grants system.

Strategic Implications

Strategic Community Plan 2022-2032:

“1. Community

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

Resourced bush fire brigade and support to meet compliance and encourage participation.”

Voting Requirement

Simple Majority

9.4.7 BUSH FIRE BRIGADES LOCAL LAW 2022 AS AMENDED – UNDERTAKING TO JSCDL

Author: Chief Executive Officer – David Burton
Date: 12th March 2024
Disclosure of Interest: Nil
Attachments: CONFIDENTIAL – letter from Joint Standing Committee on Delegated Legislation

OFFICERS RECOMMENDATION:

The Council of the Shire of Kondinin **RESOLVES** to undertake to the Joint Standing Committee on Delegated Legislation that–

1. Within the next 6 months, the Bush Fire Brigades Local Law 2022 (as amended) will be repealed, and a new local law meeting the requirements of the Joint Standing Committee on Delegated Legislation adopted.
2. That the Bush Fire Brigades Local Law 2022 (as amended) will not be enforced in a manner contrary to undertaking 1;
3. Where the Bush Fire Brigades Local Law 2022 (as amended) is made publicly available by the Shire, whether in hard copy or electronic form, ensure that it is accompanied by a copy of the undertakings.

Summary

To consider providing an undertaking to the Joint Standing Committee on Delegated Legislation to further amend the Bush Fire Brigades Local Law 2022.

Background/Comment

Advice has been received from the Joint Standing Committee on Delegated Legislation regarding the amendment to the Bush Fire Brigades Local Law adopted by Council in 2023, as published in the Government Gazette on 13 October 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 a local law once it has been published in the Government Gazette.

The role of the Committee is to review all legislation, regulations, local laws etc on behalf of Parliament, made by government agencies and local government. As part of their role, they may seek to put in place an undertaking with the relevant authority to amend the delegated legislation, rather than disallowing it entirely. An undertaking is generally in two principal parts –

1. A commitment to amend the local law within a specified time, or the timeframe may not be specified; and
2. That the local law provisions that are to be amended will not be enforced until the amendment is made.

An undertaking may be requested where the purpose of the local law is able to continue reasonably intact, but is not sought if the matter is considered to be core to the local law and fatal to its operation.

Accordingly, the local law as amended remains in place, including the provisions considered by the JSCDL to be requiring amendment. To amend these provisions requires an amendment local law to be made, following the procedures set out by the Local Government Act s.3.12.

The JSCDL advises that the correspondence is confidential and privileged. Should the contents of the letter need to be discussed, the meeting should be closed to the public.

The JSCDL does not propose to present a Notice of Disallowance of the local laws to as Council is requested to provide the undertakings proposed in the recommendation.

Further amendments to the Bush Fire Brigades Local Law 2022 are requested to be made within 6 months.

The WA Local Government Model Bush Fire Brigades Local Law model is very prescriptive, unrealistic for small brigades, and if adopted as is, would be very likely to result in the local law being ignored as largely irrelevant. This would in turn may possibly create a liability on the part of brigades if they were non-compliant with the overly restrictive requirements of the local law.

The Bush Fire Brigades Local Law adopted by Council is essentially identical to that adopted by City of Greater Geraldton and the Shire of Carnarvon, both which had the requests by the JSCDL for undertakings withdrawn. Other local governments have also adopted a near identical local law (refer Shire of Carnarvon minutes of January 2022).

The JSCDL position was solidified in a report by them in November 2023, after the amendment was made to the current local law and published in the Gazette, which further endorsed their stance regarding the WALGA model, despite the Bush Fires Act –

- section 41(1) stating “... a local government may, in accordance with its local laws ...”. WALGA, DFES and JSCDL are interpreting this clause as meaning that the local government may establish brigades, and if it does, shall stipulate duties in a local law. It should be noted that their interpretation of this section is contradicted by a prominent legal firm.
- section 42 permitting local government to establish a joint brigade by agreement, not local law
- section 43 requires duties etc of BFB captain and lieutenant to be stipulated in a local law. There is no requirement for functions of fire control officers to be included, or those of secretary, treasurer etc
- section 62 clearly stating “... may make local laws ...” relating to fire controls officers, organisation and management of a brigade etc.

Further, the Interpretations Act s.55 states that “*May*” imports a discretion, “*shall*” is imperative and clarifies this further in the text of the section.

Despite the inconsistency of their interpretation and requirements with multiple legislation, the JSCDL is requires these matters advised being included in a local law, as noted in their report. Accordingly, the simple local law previously adopted by various local governments and accepted by the JSCDL is no longer acceptable to them. This has resulted in the further request for an undertaking.

There appear to be several options –

- refuse to make an undertaking, most likely resulting in a disallowance of the current local law, which in turn results in non-compliance with the Bush Fires Act s.43,
- make the undertaking as requested, resulting in the current local law being effectively wiped out or replaced with the amendments required, or
- revoke the current local law and adopt a new local law.

In an email, the JSCDL provided informal advice that *“it is up to the Shire as to how it wishes to fulfill the undertakings to the Committee. The reference to ‘amend’ in the letter was not intended to restrict this to an amendment local law. The Shire may wish to do it in the way you describe. As long as the Shire’s local law contains what the Committee is requesting.”* After discussion, it is considered that the simplest, quickest and cheapest option is revocation of the existing local law and adoption of a new local law. From a list of several local governments, it is suggested that one of these be adopted by reference, and the few amendments needed be made in the local law that adopts by reference. The text is then amended and becomes a consolidated local law for the purposes of the Local Government Act s.5.96A(1)(b).

Please note –

- there is no certainty the JSCDL will accept this as an undertaking, although it appears likely,
- there is no certainty that the JSCDL will accept adoption by reference, although this is a firmly established practice with many other local laws made under the Local Government Act and previously, under the former Health Act 1911,
- there is no certainty that the JSCDL will accept any changes other than the name of the local government.

The most appropriate of the Bush Fire Brigade Local Laws listed by the JSCDL is that adopted by the Shire of Pingelly. While still including a great amount of details that are not considered required by legislation, it does insert some important discretions, and exclude some completely extraneous matters.

Please note – that the wording of the Recommendation is not the same as the wording suggested by the JSCDL.

If resolved, the undertaking needs to be publicly available. The simplest way for this to occur is to place the advice as an addendum to the local law on the website, and on the local law’s website page.

In their advice the JSCDL has provided the draft text for the recommendation and requested that the undertakings be provided to them by 25 March 2024, should Council agree to give it. The JSCDL require that the undertaking be confirmed with them by a letter signed by the President.

Depending on Council resolution, a draft amendment or revocation and adoption local law will be prepared.

Statutory Environment

Bush Fires Act 1954 –

- section 41(1) stating “... a local government may, in accordance with its local laws ...”.
- section 42 permitting local government to establish a joint brigade by agreement, not local law
- section 43 requires duties etc of BFB captain and lieutenant to be stipulated in a local law.
- section 62 clearly stating “... may make local laws ...” relating to fire controls officers, organisation and management of a brigade etc.

Interpretations Act 1984 –

- s.42(2) – after publication in the Government Gazette, Parliament may disallow within 14 sitting days of receipt
- s.56 “May imports a discretion, “shall” is imperative

Shire of Kondinin Bush Fire Brigades Local Law 2022 as amended.

Policy Implications

Amendment to, or replacement of, the current local law.

Financial Implications

Nil.

Strategic Implications

Strategic Community Plan 2022-2032:

“4. CIVIC LEADERSHIP

4.2 We are a compliant and resourced Local Government

External audits and reviews confirm compliance with relevant Local Government legislation.”

Voting Requirement

Simple Majority

10. BUSINESS OF AN URGENT NATURE

11. CLOSURE