



## Shire of Cunderdin

### Notice of an Ordinary Council Meeting

Dear Council Member,

The next Ordinary Meeting of the Cunderdin Shire Council will be held on **Thursday 21st July 2022** in the Cunderdin Shire Council Chambers, WA, 6407 **commencing at 5.00pm.**

Stuart Hobley  
**Chief Executive Officer**  
15<sup>th</sup> July 2022

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## AGENDA

### 1. Declaration of Opening

The Shire President declared the meeting open at \_\_\_\_pm

The Shire of Cunderdin disclaimer will be read aloud by

The *Local Government Act 1995* Part 5 Division 2 Section 5.25 and Local Government (Administration) Regulations 1996 Regulation 13

“No responsibility whatsoever is implied or accepted by the Shire of Cunderdin for any act, omission or statement or intimation occurring during this meeting. It is strongly advised that persons do not act on what is heard at this Meeting and should only rely on written confirmation of Council’s decisions, which will be provided within ten working days of this meeting”.

### 2. Record of Attendance, Apologies and Approved Leave of Absence

#### 2.1 Record of attendances

##### Councillors

Cr AE (Alison) Harris	Shire President
Cr A (Tony) Smith	Deputy Shire President
Cr TE (Todd) Harris	
Cr B (Bernie) Daly	
Cr W (Sam) Stewart	
Cr NW (Norm) Jenzen	
Cr N (Natalie) Snooke	

##### In Attendance

Stuart Hobley	Chief Executive Officer
Hayley Byrnes	Deputy Chief Executive Officer

##### Guests of Council

##### Members of the Public

#### 2.2 Apologies

#### 2.3 Leave of Absence Previously Granted

### 3. Public Question Time

Declaration of public question time opened at:

Declaration of public question time closed at:

### 4. Petitions, Deputations & Presentations

### 5. Applications for Leave of Absence

#### Recommendation 5.1

That Council approve Leave of Absence for Cr \_\_\_\_\_ from \_\_\_\_\_ to \_\_\_\_\_ inclusive

Moved: Cr \_\_\_\_\_

Seconded: Cr \_\_\_\_\_

Vote – Simple Majority

Carried/Lost: \_\_/\_\_

### 6. Confirmation of the Minutes of Previous Meetings

#### 6.1 Ordinary Meeting of Council held on 23<sup>rd</sup> June 2022

#### Recommendation 6.1

That the Minutes of the Ordinary Council Meeting held on Thursday 23<sup>rd</sup> June 2022 be confirmed as a true and correct record.

Moved: Cr \_\_\_\_\_

Seconded: Cr \_\_\_\_\_

Vote – Simple Majority

Carried/Lost: \_\_/\_\_

#### Note to this item:

The President will sign the minute declaration on the previous minutes.

### 7. Declaration of Members and Officers Interests

### 8. Announcements by President without Discussion

## 9. Finance & Administration

### 9.1 Financial Reports for June 2022

<b>Location:</b>	Cunderdin
<b>Applicant:</b>	Deputy Chief Executive Officer
<b>Date:</b>	6th July 2022
<b>Author:</b>	Hayley Byrnes
<b>Item Approved by:</b>	Stuart Hobley, Chief Executive Officer
<b>File Reference:</b>	Nil
<b>Attachment/s:</b>	2 attachments – Monthly Report June 2022 & June Rates Report

#### Proposal/Summary

The financial reports as at 30<sup>th</sup> June 2022 are presented for Councils consideration.

#### Background

The financial reports have been circulated to all Councillors.

#### Comment

Nil.

#### Consultation

Nil.

#### Statutory Environment

The *Local Government Act 1995* Part 6 Division 3 requires that a monthly financial report be presented to Council.

#### Policy Implications

Nil.

#### Financial Implications

All financial implications are contained within the reports.

#### Strategic Implications

Nil.

#### Recommendation 9.1

That Council receives the monthly financial reports for the periods ending 30<sup>th</sup> June 2022.

Moved: Cr \_\_\_\_\_

Seconded: Cr \_\_\_\_\_

Vote – Simple Majority

Carried/Lost: \_\_\_/\_\_\_

## 9.2 Accounts Paid – 30th June 2022

<b>Location:</b>	Cunderdin
<b>Applicant:</b>	Deputy Chief Executive Officer
<b>Author:</b>	Hayley Byrnes
<b>Report Date:</b>	6th July 2022
<b>Item Approved By:</b>	Stuart Hobley, Chief Executive Officer
<b>Disclosure of Interest:</b>	Nil
<b>File Reference:</b>	Nil
<b>Attachment/s:</b>	2 attachments – Accounts paid June 2022 & Credit Card Statement June 2022

### **Proposal/Summary**

Council is requested to confirm the payment of Accounts totalling:

Total for Municipal -	\$1,407,693.49
Total for Trust -	\$0.00
TOTAL -	\$1,407,693.49

For June 2022 as listed in the Warrant of Payments for the period 1<sup>st</sup> to 30th June 2022.

### **Background**

Nil.

### **Comment**

Nil.

### **Consultation**

Nil.

### **Statutory Environment**

In accordance with Financial Management Regulations 12 & 13, a List of all accounts paid or payable shall be presented to Council (Refer Warrant of Payments attached).

Financial Management Regulations 12 & 13.

### **Policy Implications**

Nil.

### **Financial Implications**

All financial implications are contained within the reports.

### **Strategic Implications**

Nil.

**Recommendation 9.2**

1. That Council's payment of accounts amounting to \$1,407,693.49 being from Municipal Account for June 2022, as follows:

<b>Municipal Account</b>	<b>\$</b>	<b>Total</b>
Electronic Funds Transfer: EFT 6166 - 6329	\$1,355,768.77	
Direct Debit (Inc Bank Charges):	\$13,813.25	
Cheques: 11797 - 11807	\$38,111.47	
<b>TOTAL</b>		<b>\$1,407,693.49</b>

be confirmed and noted; and,

2. That the Payments List as presented be incorporated in the Minutes of the Meeting.

Moved: Cr \_\_\_\_\_

Seconded: Cr \_\_\_\_\_

Vote – Simple Majority

Carried/Lost: \_\_ / \_\_

### 9.3 Council Investments – As at 30<sup>th</sup> June 2022

<b>Location:</b>	Cunderdin
<b>Applicant:</b>	Deputy Chief Executive Officer
<b>Author:</b>	Hayley Byrnes
<b>Report Date:</b>	6 <sup>th</sup> July 2022
<b>Item Approved By:</b>	Stuart Hobley, Chief Executive Officer
<b>Disclosure of Interest:</b>	Nil
<b>File Reference:</b>	Nil
<b>Attachment/s:</b>	1 Attachment- Bank Statements June 2022

#### Proposal/Summary

To inform Council of its investments as at 30<sup>th</sup> June 2022.

#### Background

The authority to invest money held in any Council Fund is delegated to the Chief Executive Officer. Council Funds may be invested in one or more of the following:

- Fixed Deposits;
- Commercial Bills;
- Government bonds; and
- Other Short-term Authorised Investments.

Council funds are to be invested with the following financial institutions:

- Major Banks & Bonds Issued by Government and/ or Government Authorities.

#### Comment

In addition to the Shire’s Municipal Operating Accounts, the below investment accounts are held as at 30<sup>th</sup> June 2022.

COUNCIL ACCOUNTS					
Institution	Amount	Investment type/ Account details	Municipal Funds	Reserve Funds	Trust Funds
Westpac Bank	\$1,441,477.41	Municipal- 0000030	\$1,441,477.41		
Bendigo Bank	\$2,313,795.32	Municipal- 155971377	\$2,313,795.32		
Westpac Bank	\$146.78	Business Cash Reserve 22-3647 0.50%		\$146.78	
Bendigo Bank	\$2,643.00	Bendigo Trust Account 164 488 686			\$2,643.00
Westpac Bank	\$1.00	Trust Working Account 12-2981			\$1.00
Bendigo Bank	\$1,231,978.86	Term Deposit 3.10% Exp 10 Jan 2023		\$1,231,978.86	
<b>TOTAL INVESTMENTS</b>	<b>\$4,990,042.37</b>		<b>\$3,755,272.73</b>	<b>\$1,232,125.64</b>	<b>\$2,644.00</b>



In addition to the above Shire funds, the Shire administers the Cunderdin Community Centre Trust Accounts being Bendigo Term Deposits#4032053 \$370,603.80 & #4032054 - \$170,195.64

<b>CUNDERDIN COMMUNITY TRUST DETAILS</b>		
<b><u>INTEREST ACCOUNT</u></b>		
<b>30 June 2022</b>		
Opening Balance as per Bank Statement & Term Deposits		
	Term Deposit# 3864655	169,855.00
	<b>TOTAL</b>	<b>169,855.00</b>
	Credits	340.64
	Debits	0.00
Closing Balance as Per Bank Statements & Term Deposits	<b>TOTAL</b>	<b>170,195.64</b>
<b>INCOMING</b>		0.00
		0.00
<b>OUTGOING</b>		0.00
<b>Balance as at end of month</b>	<b>TOTAL</b>	<b>170,195.64</b>

<b>CUNDERDIN COMMUNITY TRUST DETAILS</b>		
<b><u>CAPITAL ACCOUNT</u></b>		
<b>30 June 2022</b>		
Opening Balance as per Bank Statement & Term Deposits		
	Term Deposit# 3864633	369,862.05
	<b>TOTAL</b>	<b>369,862.05</b>
	Credits	741.75
	Debits	0.00
Closing Balance as Per Bank Statements & Term Deposits	<b>TOTAL</b>	<b>370,603.80</b>
<b>INCOMING</b>		0.00
		0.00
<b>OUTGOING</b>		0.00
<b>Balance as at end of month</b>	<b>TOTAL</b>	<b>370,603.80</b>

**Consultation**

Nil.

**Statutory Implications**

Financial Management Regulation 19.

**Policy Implications**

Nil.

**Financial Implications**

There are no financial implications in considering this item.

**Strategic Implications**

This item related to the Integrated Planning and Reporting Framework, which feeds into the Long Term Financial Plan when determining annual Council Budgets.

**Recommendation 9.3**

That the report on Council investments as at 30<sup>th</sup> June 2022 be received and noted.

Moved: Cr \_\_\_\_\_

Seconded: Cr \_\_\_\_\_

Vote – Simple Majority

Carried/Lost: \_\_/\_\_

#### 9.4 Management of Volunteer Bush Fire Brigades - Proposed Advocacy Position

<b>Location:</b>	Shire of Cunderdin
<b>Applicant:</b>	Administration
<b>Date:</b>	16 <sup>th</sup> June 2022
<b>Author:</b>	Emma McMiles/Stuart Hobley
<b>Item Approved by:</b>	Stuart Hobley, Chief Executive Officer
<b>Disclosure of Interest:</b>	Nil
<b>File Reference:</b>	Nil
<b>Attachment/s:</b>	2x Attachments

#### Proposal/Summary

Council is requested to provide comments to the Western Australian Local Governments Associations (WALGA) in regard to the proposed Advocacy position on Arrangements for Management of Volunteer Bushfire Brigades in order to allow WALGA to provide guidance in its engagement with the State Government on the drafting of the Consolidated Emergency Services Act (CES Act).

The State Government is proposing to consolidate the Fire Brigades Act 1942, Bush Fires Act 1954 and the Fire and Emergency Services Act 1998, into a single piece of legislation, which is anticipated to be released as a Green Bill for consultation in early 2023.

#### Background

In May 2022, the Shire received an Infopage and the Proposed Advocacy Position on Arrangements for Management of Bushfire Brigades Paper from WALGA seeking comments from Local Governments that manage bushfire brigades. WALGA has allowed for a six (6) weeks consultation period (comments to be submitted by 8 July 2022) the item will then go to the WALGA State Council in September 2022.

This is a result of the introduction of the Work Health and Safety Act 2020, which has put on additional responsibilities on Local Government for managing Bush Fire Brigades, along with the State Government drafting the Consolidated Emergency Services Act, which combines the Fire Brigades Act 1942, Bush Fires Act 1954 and Fire and Emergency Services Act 1998 into a single piece of legislation.

In 2021, WALGA undertook a comprehensive Local Government Emergency Management Survey to ascertain the sector's sentiment with respect to their emergency management responsibilities. 104 Local Governments responded to the Survey consisting of:

- 36 Chief Executive Officers;
- 18 Community Emergency Services Managers; and
- 50 Local Government officers.

The survey also asked Local Governments about their level of satisfaction with current arrangements for managing Bush Fire Brigades, 92 Local Governments (69 of which manage Bush Fire Brigades) provided the following feedback:

- 93% were not wholly satisfied with the current arrangements for the management of BFBs; and
- 51% expressed that their Local Government does not support the requirements for Local Governments to manage BFBs.

As a result of these findings, WALGA has proposed the following Advocacy Position:

"1. *The Association advocates that the State Government must provide for:*

- A clear pathway for Local Governments to transfer responsibility for the management of Bush Fire Brigades to the State Government when ongoing management is beyond the capacity, capability and resources of the Local Government;*

- b) *The co-design of a suite of relevant guidelines and materials to assist those Local Governments that manage Bush Fire Brigades;*
  - c) *Mandatory and minimum training requirements for Bush Fire Brigade volunteers supported by a universally accessible training program managed by the Department of Fire and Emergency Services (DFES); and*
  - d) *The recognition of prior learning, experience and competency of Bush Fire Brigade volunteers.*
2. *That a Working Group comprising representatives of WALGA and DFES be established to develop a process and timeline for the transfer of responsibility for Bush Fire Brigades in accordance with 1(a).*
  3. *Where management of Bush Fire Brigades is transferred to DFES in accordance with 1(a), DFES should be resourced to undertake the additional responsibility.”*

The recent 2016, Waroona Yarloop bush fires, led to the Public Sector Commission undertaking a special inquiry by Mr Euan Ferguson AFSM, which resulted into recommendations for change in the area of Strategic and Agencies opportunities for improvements. These included 17 Recommendations and 23 Opportunities, including the establishment of a Rural Fire Services established by the State Government, with the options of transferring the management of all Bush Fire Brigades under the Department of Fire and Emergency Services (DFES).

It is understood that in 2017, this recommendation was explored and considered by the Economic Regulation Authority for the Emergency Services Levy, to the extent to which the Emergency Services Levy (ESL) should be available to fund the administrative and operational costs of a rural fire service.

Council considered this matter at the June 2022 Ordinary Meeting of Council and resolved to let the matter lay on the table.

### **Resolution 9.8**

*That the item lay on the table while more information is collected from the upcoming zone meeting and the item be re presented at the July 2022 Ordinary Meeting of Council.*

### **Comment**

#### **Work Health and Safety (WHS) Act 2020**

Some of the key features of the WHS Act as follows:

- The primary duty holder is the ‘person conducting a business or undertaking’ (PCBU) which is intended to capture a broader range of contemporary workplace relationships.
- A primary duty of care requiring PCBUs to, so far as is reasonably practicable, ensure the health and safety of workers and others who may be affected by the carrying out of work.
- Duties of care for persons who influence the way work is carried out, as well as the integrity of products used for work, including the providers of WHS services.
- A requirement that ‘officers’ exercise ‘due diligence’ to ensure compliance.
- The new offence of industrial manslaughter, which provides substantial penalties for PCBUs where a failure to comply with a WHS duty causes the death of an individual, in circumstances where the PCBU knew the conduct could cause death or serious harm.
- The voiding of insurance coverage for WHS penalties, and imposition of penalties for providing or purchasing this insurance.
- The introduction of WHS undertakings, which are enforceable, as an alternative to prosecution.
- Reporting requirements for ‘notifiable incidents’ such as the serious illness, injury or death of persons and dangerous incidents arising out of the conduct of a business or undertaking.

- A framework to establish a general scheme for authorisations such as licences, permits and registrations (for example, for persons engaged in high-risk work or users of certain plant or substances), including provisions for automated authorisations.

Under the Work Health and Safety Act 2020, for Volunteers and Volunteer Organisations, the Shire is responsible for all the volunteers within the Bush Fire Brigades. The Shire is required to ensure that all the Fire Control Officers (FCOs) and Bush Fire volunteers have undertaken the required training to allow them to perform the role safely.

There are very significant fines that now apply to local governments and criminal charges may be imposed on executive staff should they fail in their duty of care under the new WHS Act 2020. A significant increase in the maximum fine is now applicable to executives along with a 20 year jail term. The local government body is now subject to an uninsurable fine up to \$10M.

#### Bush Fire Brigade Volunteers

The Shire has currently a number of Bush Fire Brigade Volunteers within the three (3) brigades of Cunderdin, Meckering, and Ygnattering, of which the insurance for these Volunteers are paid through the ESL.

Volunteers are considered a very valuable asset and it is this Shire's view that we encouraged and support our Volunteers to undertake the required minimum training to ensure their safety and wellbeing and the long term retention of our most precious asset. It is also critical that the Shire ensure the succession planning for the up and coming volunteers that should be encouraged to undertake the required training.

Due to the changes WHS Act changes the Bush Fire Advisory Committee (BFAC) conducted review of its Bush Fire Policy with a view to implementing a new policy based on the industry standard. The BFAC did not endorse the new policy due to concerns regarding the training requirements for FCOs and volunteers. As a result of the BFAC and Council are still required to update the existing Bush Fire Policy.

#### WALGA Proposed Advocacy Position

The proposed Advocacy position by WALGA is in line with the Shire's direction and reflects the above Shire's concern in managing its Bush Fire Brigades Volunteers and the new WHS as well as the ability and the capacity for the Shire to take on the responsibility.

Based on the above, it is recommended that Council endorse the WALGA proposed Advocacy Position to the State Government in addressing this issue as part of its consolidated review of the Emergency Services Act.

#### WALGA Great Eastern Zone

At the June 2022 Ordinary Meeting of Council it was resolved by Council to let this matter "lay on the table" and the Shires delegates attending the WALGA Great Eastern Zone Meeting were to consider the debate at the Zone meeting and report back to the July 2022 positions made by other Council in our region.

From the discussions at the meeting it was clear that no Council had a clear position on this matter. Most Councils believe the current system can be improved but are hesitant to commit to a model without knowing more details.

#### Consultation

WALGA undertook a survey on Local Government Emergency Management 2021 and provide the report and Infopage on its Advocacy Position on the Arrangements for Management of Volunteer Bush Fire Brigades. The process of consultation is being coordinated by WALGA as the lead agency in this process.

### **Statutory Implications**

Sections of the Acts, Regulations and/or Local Laws that apply to this item include:

- Local Government Act of 1995: Division 3 — Executive functions of local governments, Subdivision 1 — Performing executive functions, s3.18. Performing executive functions: 3(b).
- Work Health and Safety Act 2020, mandates the duty of care to volunteers by the person conducting a business undertaking. Senior Local Government officers with decision making and budget allocation control, have a duty of care to volunteer bush fire brigade members.
- Bush Fires Act 1954, s36 and s41. Provides for local governments to establish, maintain and equip bush fire brigades.

### **Policy Implications**

1. The following Council Policy Schedules are adopted, and form part of this Statement –

5.1 – Volunteer Bush Fire Brigades areas

2. In accordance with the Bush Fires Act section 41(1) the following Bush Fire Brigades are established, and have the area as per Council Policy Schedule 5.1 Bush Fire Brigade areas –

- Ygnattering Brigade
- Cunderdin Brigade
- Meckering Brigade

### **Financial Implications**

In the 2021/2022 budget, the Emergency Services Levy received from the Department of Fire and Emergency Services a total of \$40,568 which includes PPE, Insurances, maintenance of buildings, vehicles, plant and equipment.

### **Strategic Implications**

#### **1. COMMUNITY AND SOCIAL**

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

**Recommendation 9.4**

That Council advise WALGA that it supports the following advocacy position:

- “1. The Association advocates that the State Government must provide for:
- a) A clear pathway for Local Governments to transfer responsibility for the management of Bush Fire Brigades to the State Government when ongoing management is beyond the capacity, capability and resources of the Local Government;
  - b) The transfer of responsibility is a decision that can only be made by the Local Government;
  - c) The co-design of a suite of relevant guidelines and materials to assist those Local Governments that manage Bush Fire Brigades;
  - d) Mandatory and minimum training requirements for Bush Fire Brigade volunteers supported by a universally accessible training program managed by the Department of Fire and Emergency Services (DFES); and
  - e) The recognition of prior learning, experience and competency of Bush Fire Brigade volunteers.
2. That a Working Group comprising representatives of WALGA and DFES be established to develop a process and timeline for the transfer of responsibility for Bush Fire Brigades in accordance with 1(a).
3. Where management of Bush Fire Brigades is transferred to DFES in accordance with 1(a), DFES should be resourced to undertake the additional responsibility.”

Moved: Cr

Seconded: Cr

Vote – Simple majority

Carried/Lost: \_\_\_\_\_

## 9.5 Delegations Register 2022 – Adoption

<b>Location:</b>	Shire of Cunderdin
<b>Applicant:</b>	Administration
<b>Date:</b>	14 <sup>th</sup> July 2022
<b>Author:</b>	Stuart Hobley
<b>Item Approved by:</b>	Chief Executive Officer
<b>Disclosure of Interest:</b>	Nil
<b>File Reference:</b>	Nil
<b>Attachment/s:</b>	Delegations Register 2022

### Proposal/Summary

For Council to adopt the Delegations Register.

### Background

Council's Delegations Register has been reviewed for relevance to current circumstances and operational effectiveness. The Local Government Act 21995 Section 5.46 (2) requires the Council to review the delegations to the CEO annually.

The Delegations Register fit into a hierarchy of requirements, which are noted within the Appendix to the draft document. Accordingly, it is necessary that it integrates with legislative requirements and the local laws, planning policy and general policy as made by Council.

### Comments

Delegations may be made, amended, or revoked at any time by absolute majority.

The general hierarch of authority is –

1. legislation – including regulations and local planning scheme
2. local laws
3. delegations – being under direct authority of legislation or local laws, ad being made by absolute majority
4. policy – as it outlines how the above three authorities are to be implemented and being made by simple majority

Although every delegation is at Council's discretion, they are essential for the effective and efficient operation of the Shire. In keeping with the principle of the Local Government Act 1995 s.5.42, wherever possible the delegation is made to the CEO, even those where the actual exercise of the duty must be by a qualified or registered person. In these cases, the CEO has the duty to see that the task is carried out, even if not a qualified person.

Several delegations are not to the CEO. These are where the delegations –

- can only be to a qualified or registered person, as required by legislative head of power,
- are to persons who are not considered employees, as permitted by legislative head of power, or
- can only be to specified positions, as required by legislative head of power. Council's attention is drawn to the following delegations which have monetary aspects, or other limits, for consideration and confirmation –
- 3.1(3) – Maximum value of total credit card limits and store card account value
- 3.6 – Value of individual debt that may be written off
- 3.7(1)(d)(ii) – amount of % that a tender contract may be varied
- 3.8(1)(b) – amount of % that a general contract may be varied
- 3.9(c) – disposal of property other than land (maximum value for exempt transaction as per Regulations)



- 3.10(1) – disposal of property being land and buildings (maximum value for exempt transactions as per Regulations, but less time than permitted)
- 3.11(1)(b) and (2)(a) – maximum value of donations or works that may be approved at a single time or cumulative annual total.
- 11.1(1)(c) – maximum value of discounted facility hire fees per event.
- 13.7(1)(e) – maximum value of private infrastructure on public land that may be approved.

The Delegations are structured so that Council may place limits on each delegation, including who a secondary delegations is permitted to be made to. This does not require the CEO to further delegate, except in some instances as outlined. The CEO may impose further restrictions on any secondary delegations, so that the recipient of the delegation is required to comply not only with the limits as placed by Council, but also the restriction place by the CEO.

### **Consultation**

Stuart Hobley, Chief Executive Officer

### **Statutory Implications**

The Local Government Act 1995 allows the Council to delegate certain functions to the CEO. The Council is required under the Act to review these delegations each year.

#### 5.42. Delegation of some powers and duties to CEO

- (1) A local government may delegate\* to the CEO the exercise of any of its powers or the discharge of any of its duties under —
- (a) this Act other than those referred to in section 5.43; or
  - (b) the Planning and Development Act 2005 section 214(2), (3) or (5).

\* Absolute majority required.

- (2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.

[Section 5.42 amended: No. 1 of 1998 s. 13; No. 28 of 2010 s. 70.]

#### 5.43. Limits on delegations to CEO 28

A local government cannot delegate to a CEO any of the following powers or duties —

- (a) any power or duty that requires a decision of an absolute majority of the council;
- (b) accepting a tender which exceeds an amount determined by the local government for the purpose of this paragraph;
- (c) appointing an auditor;
- (d) acquiring or disposing of any property valued at an amount exceeding an amount determined by the local government for the purpose of this paragraph;
- (e) any of the local government’s powers under section 5.98, 5.98A, 5.99, 5.99A or 5.100;
- (f) borrowing money on behalf of the local government;
- (g) hearing or determining an objection of a kind referred to in section 9.5;
- (ha) the power under section 9.49A(4) to authorise a person to sign documents on behalf of the local government;
- (h) any power or duty that requires the approval of the Minister or the Governor;
- (i) such other powers or duties as may be prescribed.

[Section 5.43 amended: No. 49 of 2004 s. 16(3) and 47; No. 17 of 2009 s. 23; No. 16 of 2019 s. 23.]

#### 5.44. CEO may delegate powers and duties to other employees

- (1) A CEO may delegate to any employee of the local government the exercise of any of the CEO's powers or the discharge of any of the CEO's duties under this Act other than this power of delegation.
- (2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.
- (3) This section extends to a power or duty the exercise or discharge of which has been delegated by a local government to the CEO under section 5.42, but in the case of such a power or duty —
  - (a) the CEO's power under this section to delegate the exercise of that power or the discharge of that duty; and
  - (b) the exercise of that power or the discharge of that duty by the CEO's delegate, are subject to any conditions imposed by the local government on its delegation to the CEO.
- (4) Subsection (3)(b) does not limit the CEO's power to impose conditions or further conditions on a delegation under this section.
- (5) In subsections (3) and (4) —  
conditions includes qualifications, limitations or exceptions.

[Section 5.44 amended: No. 1 of 1998 s. 14(1).]

#### 5.45. Other matters relevant to delegations under this Division

- (1) Without limiting the application of sections 58 and 59 of the Interpretation Act 1984 —
  - (a) a delegation made under this Division has effect for the period of time specified in the delegation or where no period has been specified, indefinitely; and
  - (b) any decision to amend or revoke a delegation by a local government under this Division is to be by an absolute majority.
- (2) Nothing in this Division is to be read as preventing —
  - (a) a local government from performing any of its functions by acting through a person other than the CEO; or
  - (b) a CEO from performing any of his or her functions by acting through another person.

#### 5.46. Register of, and records relevant to, delegations to CEO and employees

- (1) The CEO is to keep a register of the delegations made under this Division to the CEO and to employees.
- (2) At least once every financial year, delegations made under this Division are to be reviewed by the delegator.
- (3) A person to whom a power or duty is delegated under this Act is to keep records in accordance with regulations in relation to the exercise of the power or the discharge of the duty.

#### **Policy Implications**

A review of the Delegations Register for Council's consideration

#### **Financial Implications**

Nil

#### **Strategic Implications**

Delegations Register is to enable the effective and efficient implementation of Council's instructions, adopted annual budget, and legislative and local law obligations.

**Recommendation 9.5**

That the attached Delegations Register 2022 be adopted.

Moved: Cr \_\_\_\_\_

Seconded: Cr \_\_\_\_\_

Vote – Absolute Majority

Carried/Lost \_\_\_/\_\_\_

## 9.6 Write Off Request – Lot 201 Bourke Street, Meckering

<b>Location:</b>	Cunderdin
<b>Applicant:</b>	Ashlei Otway
<b>Date:</b>	14 <sup>th</sup> July 2022
<b>Author:</b>	Ashlei Otway
<b>Item Approved by:</b>	Stuart Hobley, Chief Executive Officer
<b>Disclosure of Interest:</b>	Nil
<b>File Reference:</b>	A53560
<b>Attachment/s:</b>	Nil

### Proposal/Summary

For Council to approve write off of the remaining outstanding rates and charges at Lot 201 Bourke Street Meckering.

### Background

Council, at its Ordinary Council Meeting 15<sup>th</sup> February 2018, resolved;

1. That Council, pursuant to Section 6.64 (1)(b) of the *Local Government Act 1995*, proceed to sale of assessments **A53560**, A53602, A53614, A53616, A53667, A53669, A53675, A54849 and A53679.

Lot 201 was owned by Sherr Pastoral Company (deregistered) and was vested with the Australian Securities and Investments Commission (ASIC).

The Shire instructed AMPAC Debt Recovery to proceed with the sale of the land, as per Council resolution. Following a lengthy legal process, and the inclusion of McLeods Lawyers to the case, the required steps were undertaken under the *Local Government Act 1995* and a Form 3, 4 and 5 were issued for the Shire to take possession of the property.

Following the instructions the Shire has received from McLeods Lawyers, Lot 201 Bourke Street was auctioned in accordance with the relevant legislation.

Council, at its ordinary meeting 18<sup>th</sup> March 2022, resolved:

*That council authorises the Chief Executive Officer:*

1. *To set a reserve for A53560, being Lot 201 Bourke Street, Meckering at \$30,000 for the auction to be held 30<sup>th</sup> March 2021*
2. *That the President and Chief Executive Officer be authorised to sign and affix the Common Seal to the Transfer of Land Documents.*

### Comment

The property was auctioned for sale was sold and settled on the 13<sup>th</sup> September 2021.

At the time of sale the outstanding rates and charges prior to sale where \$51,621.05. The property sold for \$48,164.22 with legal charges at time of sale coming directly off the amount held in McLeod's trust of \$3,683.11 leaving us with \$44,481.11 being transferred directly into our account. However, there was a significant delay in the sale of property and the funds being transferred to the shire and in the meantime there where legal fees of \$2,833.48 and interest of \$2,430.34 raised against the property and added to what was already owing – please find breakdown below.

Current outstanding charges are as below:

Rates Arrears	\$748.00
Interest	\$5,488.61
Legal Charges	\$6,377.79
ESL Penalty – Arrears	\$57.26
Emergency Services Levy	\$88.00
Total	\$12,759.66

It is requested Council Write-off the remaining amount outstanding – with the sale of property clearing majority of the debt we would have been unlikely to recover otherwise.

### **Consultation**

AMPAC Debt Recovery

McLeods Lawyers

Acumentis Valuers

Australian Securities and Investments Commission (ASIC)

### **Statutory Implications**

*The Local Government Act 1995*

6.71. Power to transfer land to Crown or to local government

- (1) If under this Subdivision land is offered for sale but at the expiration of 12 months a contract for the sale of the land has not been entered into by the local government, it may by transfer, where the land is subject to the provisions of the *Transfer of Land Act 1893*, and by deed, where the land is not subject to the provisions of that Act, transfer or convey the estate in fee simple in the land to —
  - (a) the Crown in right of the State; or
  - (b) the local government.

### **Policy Implications**

Nil.

### **Financial Implications**

The outstanding amount for the assessment will not be recoverable and the rates and costs of legal proceedings will need to be written off.

### **Strategic Implications**

CL5-Objective 4 Ensure sound long term financial management and deliver value for money. IT5.4 Risk Management.

#### **Recommendation 9.6**

That Council authorises the Chief Executive Officer:

1. To write off the amount of \$12,759.66 for Lot 201 Bourke Street Meckering WA 6405

Moved: Cr

Seconded: Cr

Vote – Simple majority

Carried/Lost: \_\_\_\_\_

## 9.7 Request for Comment – Proposed Transfer of Land under the South West Native Title Settlement

<b>Location:</b>	Shire of Cunderdin
<b>Applicant:</b>	Department of Planning Lands and Heritage
<b>Date:</b>	14 <sup>th</sup> July 2022
<b>Author:</b>	Stuart Hobley
<b>Item Approved by:</b>	Stuart Hobley
<b>Disclosure of Interest:</b>	Nil
<b>File Reference:</b>	Nil
<b>Attachment/s:</b>	3 x Attachments

### **Proposal/Summary**

Council is requested to provide comment to the Department of Planning, Lands and Heritage (DPLH) regarding the land parcel within the Shire of Cunderdin for potential transfer to the Noongar Boodja Trust as part of the South West Native Title Settlement.

### **Background**

The State of Western Australia has committed to allocating up to 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). The ILUAs were registered at the National Native Title Tribunal on 17 October 2018 and all necessary legal processes have now been concluded. As a result, conclusive registration of the ILUAs and the commencement of the Settlement will occur in early 2021.

The Department of Planning, Lands and Heritage will continue work to meet key ILUA obligations in relation to the establishment of the Noongar Land Estate, in accordance with the Noongar Land Base Strategy (Annexure J to the ILUAs). The Noongar Land Base Strategy involves the identification and assessment of land parcels within the boundaries of the Settlement, for potential transfer to the future Noongar Boodja Trust. Part of the assessment process includes the referral of land parcels to relevant agencies for comment.

The Shire of Cunderdin is invited to provide comments on the land parcel below in relation to the following:

- 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 following Lots have been identified by the DPLH as Crown land, within the Shire of Cunderdin, that could be transferred to the Noongar Boodja Trust as part of the South West Native Title Settlement (also see attached Maps). All of the Lots are within the Cunderdin townsite.

1. Lot 214 Egeberg Street, Cunderdin
2. Lot 215 Egeberg Street, Cunderdin
3. Lot 216 Egeberg Street, Cunderdin
4. Lot 217 Egeberg Street, Cunderdin
5. Lot 218 Egeberg Street, Cunderdin
6. Lot 219 Egeberg Street, Cunderdin
7. Lot 226 Egeberg Street, Cunderdin
8. Lot 227 Egeberg Street, Cunderdin
9. Lot 228 Egeberg Street, Cunderdin
10. Lot 229 Egeberg Street, Cunderdin
11. Lot 230 Egeberg Street, Cunderdin
12. Lot 210 Mitchell St, Cunderdin
13. Lot 19 Hodgson Street, Cunderdin
14. Lot 414 Olympic Avenue, Cunderdin
15. Lot 415 Olympic Avenue, Cunderdin

In response to the questions raised by the DPLH:

- The Shire does not have any interest in any of the land identified.
- There are no existing or planned infrastructure assets on any of these lots that need protection or access.
- To our knowledge there are no mandatory connection to services required on any of the lots.
- There are no future proposals for the lots or adjoining lots.
- There are no Town Planning Scheme amendments that will affect any of the lots.
- Lots 226 and 227 in Egeberg St have been used by adjoining land owners for the dumping of building waste.
- Other issues associated with these lots are as follows:
  - Shallow sheet rock on the lots on Egeberg and XX Streets that have prevented building on them up until this point in time.
  - The maintenance of the Lots, with respect to fire breaks during bush fire season.

### **Consultation**

Nil

### **Statutory Implications**

Land Administration (South West Title Settlement) Act 2016

### **Policy Implications**

Nil.

### **Financial Implications**

Nil

**Strategic Implications**

CIVIC LEADERSHIP

5.1 Shire communication is consistent, engaging and responsive

Residents and community groups believe they are being listened to and fairly treated

**Recommendation 9.7**

That Council authorises the Chief Executive Officer to prepare a submission to the Department of Planning, Lands and Heritage, noting the Shire of Cunderdin’s interest in identified lots.:

Moved: Cr

Seconded: Cr

Vote – Simple majority

Carried/Lost: \_\_\_\_\_

**9.8 Move Behind Closed Doors**

**Recommendation 9.8**

That Council move behind closed doors in accordance with s.5.23 of the Local Government Act.

Moved: Cr

Seconded: Cr

Vote – Simple Majority

Carried/Lost: \_\_\_\_\_



## 9.9 Tender 1/22-23: Design development, documentation, and construction of O'Connor Park.

<b>Location:</b>	Shire of Cunderdin
<b>Applicant:</b>	Administration
<b>Date:</b>	21 July 2022
<b>Author:</b>	Liezl De Beer & Hayley Byrnes
<b>Item Approved by:</b>	Stuart Hobley, Chief Executive Officer
<b>Disclosure of Interest:</b>	Nil
<b>File Reference:</b>	Nil
<b>Attachment/s:</b>	Tender Documents Assessment Sheet

### **Proposal/Summary**

For Council to consider the three (3) tender responses for the Shire of Cunderdin Design development, documentation, and construction of O'Connor Park as per Tender 01 – 22/23.

### **Background**

The Shire of Cunderdin has called for Tenders via the Public Tender process for the Design development, documentation, and construction of O'Connor Park as per Tender 01-22/23.

At the 17<sup>th</sup> of February 2022 Ordinary Council Meeting, Council resolved to endorse the Lotterywest application and associated budget implication for the proposed park redevelopment project.

### **Resolution 13.1 OCM February 2022**

*That Council:*

- 1. Endorses the Grant Application from Lotterywest for the development of the community greenspace and playground at the O'Connor Park Precinct in Cunderdin*
- 2. Submits the grant application to Lotterywest for consideration.*
- 3. Endorse the Shire in-kind and cash contribution as part of the project and that it be included in the 2022/2023 Annual Budget.*

### **Comment**

The Tender was advertised in The West Australian on Saturday 28 May 2022, the Shire Facebook and webpage. Submissions closed at 4 pm on Thursday 30th June 2022.

Council received three (3) supplier responses, being from:

- Landscape Australia Construction
- LIGNA Construction
- Oasis Northam

After reviewing and assessing the submission in accordance with Local Government (Functions and General) Regulations 1996, the scoring on the selection criteria was undertaken by Council Staff.

The selection criteria were based on the following:

### **Relevant Experience - Weighted Score 10%**

- Provide details of similar work
- Provide scope of the Tenderer's involvement including details of outcomes
- Provide details of issues that arose during the project and how these were managed
- Demonstrate sound judgement and discretion
- Demonstrate competency and proven track record of achieving outcomes

- **Key Personnel skills and experience - Weighted Score 10%**
- Business structure, location of business
- Major plant or equipment
- Safety management details
- Qualifications, with particular emphasis on experience of personnel in projects of a similar requirement

**Demonstrated Understanding - Weighted Score 10%**

- Design development and documentation processes proposed.
- A project schedule/timeline must be provided
- Site supervision
- Proposed subcontractors to be used
- A demonstrated understanding of the scope of works:
  - Attended site visit
  - Aware if Wheatbelt/regional limitations

**Financial References and Referees - Weighted Score 10%**

- Provide 3 current referee contacts.

**Price Offered - Weighted Score 45%**

- Lump sum price offered as consideration for the fulfilment of the specifications.
- Project inclusions/exclusions.

**Construction Time - Weighted Score 15%**

- Provisional construction program in form of a GANTT chart
- Ability to deliver project within specified period.

After the selection criteria was processed, the outcome is as follows:

Evaluation Category	Landscape Australia Construction	LIGNA Construction	OASIS Northam
	\$1,297,500.00	\$2,977,703.50	\$1,414,765.00
Demonstrated experience in completing similar projects. 10%	8.7	7	7.3
Capacity and key personnel. 10%	8.7	7.7	7.7
Demonstrated understanding of required tasks. 10%	7.3	4.7	8
Financial referees and referees. 10%	10	10	10
Price offered. 45%	28.5	16.5	37.5
Construction time. 15%	15	15	15
<b>RATING TOTAL</b>	<b>78.2</b>	<b>60.8</b>	<b>85.5</b>

**Consultation**

Stuart Hobley, Chief Executive Officer  
 Hayley Byrnes, Deputy Chief Executive Officer  
 Liezl De Beer, Community Development Officer

## **Statutory Environment**

Local Government Act 1995

Section 3.57. Tenders for providing goods or services

(1) A local government is required to invite tenders before it enters into a contract of a prescribed kind under which another person is to supply goods or services.

(2) Regulations may make provision about tenders.

Local Government (Functions and General) Regulations 1996

Regulations 11 to 24 deals with tenders for providing goods and services in detail.

## **Policy Implications**

Shire of Cunderdin Policy

3.1 Purchasing Framework

## **Financial Implications**

Refer to the Tender summary attachment.

## **Funding Source**

Lotterywest	\$700,000
LRCI Phase 3	\$470,482
Council Cash Contribution	\$210,500
<b>TOTAL FUNGING</b>	<b>\$1,380,982</b>

## **Strategic Implications**

This item is related to the Integrated Planning and Report Framework, which feeds into the Long Term Financial Plan when determining annual Council Budgets.

Shire of Cunderdin Strategic Community Plan 2022 -2032

### 1. Community and Social

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

- Inclusive access to Shire facilities and services
- Youth Council helps guide engagement and initiatives with young people.
- O'Connor Park and Apex Park are welcoming and active spaces.
- The Shire supports positive leisure, learning and recreational outcomes.

1.2 A health and safe community is planned for.

- Sport and recreation facilities are upgraded in a planned, cohesive and timely manner.
- Street lighting and CCTV improves feeling of safety and security.
- Promotion and advocacy of community health and wellbeing.

### 2. Economy

2.2 Renew and improve the visibility of the Shire of Cunderdin brand.

- Attraction and retention of permanent and transient populations.

### 3. Built Environment

3.3 Enhance public spaces and townscape

- Central business district amenities are welcoming and attractive.
- Clean, accessible and modern public toilets.

### 4. Natural Environment

4.2 Conservation of our natural environment.

**Recommendation 9.9**

That Council;

- 1 Accepts the Tender submitted by Oasis Northam for the amount of \$1,414,765 as per the attached schedule.
- 2 That the President and Chief Executive Officer be authorised to sign and affix the Common Seal to the Contract Agreement for Tender 1 – 22/23 Design development, documentation and construction of O'Connor Park.
- 3 That all other tenderers be advised of (1) above.
- 4 Include in the 2022/2023 Annual Budget the Shire of Cunderdin in-kind and cash contribution of \$210,500 as per Resolution 13.1 OCM February 2022.
- 5 That Council forms a separate Committee comprising of Cr \_\_\_\_\_, Cr \_\_\_\_\_ & Cr \_\_\_\_\_ to serve as a consultation and decision-making committee regarding aspects of the redevelopment project.

Moved: Cr

Seconded: Cr

Vote – Simple Majority

Carried: \_\_\_\_\_

### 9.10 Financial Hardship Application —11 Main Street, Cunderdin

<b>Location:</b>	Shire of Cunderdin
<b>Applicant:</b>	Mr Gerhardus Kuhn
<b>Date:</b>	7 <sup>th</sup> July 2022
<b>Author:</b>	Ashlei Otway
<b>Item Approved by:</b>	Stuart Hobley, Chief Executive Officer
<b>Disclosure of Interest:</b>	NIL
<b>File Reference:</b>	A53066
<b>Attachment/s:</b>	Hardship Application

#### **Proposal/Summary**

That Council consider the Financial Hardship Application submitted by Mr Gerhardus Kuhn for his property at 11 Main Street, Cunderdin.

#### **Background**

Mr Gerhardus Kuhn contacted the Shire on the 1<sup>st</sup> February 2022 to inform us that he was experiencing financial hardship and requested approval to set up a payment plan of \$50.00 per fortnight, until he secured work.

The property is two units blocks, with Mr Kuhn residing in one and the other side currently rented out. Mr Kuhn advised in his application that he currently received \$250 weekly rental income and has applied for the jobseeker payment through centrelink and has experienced difficulty finding work.

The application was presented to Council at the Ordinary Council Meeting, held 17<sup>th</sup> February 2022, and Council resolved that:

### 9.7 Financial Hardship Application —11 Main Street, Cunderdin

#### **Resolution 9.7 OCM February 2022**

That Council authorises the Chief Executive Officer:

1. Accept the extension of the current Financial Hardship Application submitted by Mr Gerhardus Kuhn for Assessment A53066 being 11 Main Street, Cunderdin freezing accruing interest until 1<sup>st</sup> June 2022; and
2. Accept the payment arrangement of \$50.00 per fortnight commencing the 1<sup>st</sup> February 2022; and
3. If Mr Kuhn financial situation changes in the future this arrangement be reviewed.

Moved: Cr TE (Todd) Harris

Seconded: Cr A (Tony) Smith

Vote – Simple majority

Carried: 6/0

### **Comment**

At the 30<sup>th</sup> June 2022, Mr Kuhn's outstanding rates and charges were \$1,949.63.

Mr Kuhn's hardship application has recently expired, and he has expressed that he will need to apply to have the same agreement as last year. Mr Kuhn has not missed a payment since it was approved in February 2022. His current outstanding charges are as below:

<b>Current Charges</b>	<b>Amount</b>
Rates Arrears (21/22)	\$1,823.70
ESL Penalty Arrears	\$3.55
Interest	\$72.38
<b>TOTAL</b>	<b>\$1,899.63</b>

He has made mention that if he comes into any extra work, he will put down extra repayments, with rates billing 22/23 approaching, this total is set to rise quite significantly upwards of \$4,500 in total.

Mr Kuhn last payments was on the 4<sup>th</sup> July 2022.

Section 3.5 of Council's Delegation Register stipulates those arrangements agreed are to be on the basis that the total debt outstanding will be extinguished by the 30<sup>th</sup> June following. Council resolution is required to accept this payment plan, as it is expected to still have an outstanding amount at the 30<sup>th</sup> June 2023.

### **Consultation**

Stuart Hobley, Chief Executive Officer.

### **Statutory Implications**

Section 6.12 of the *Local Government Act 1995* provides the power for local governments to defer, grant discounts, waive or write off debts.

Section 6.49 of the *Local Government Act 1995* allows a local government to accept payment of a rate or service charge due and payable by a person in accordance with an agreement made with the person (i.e. enter into a payment arrangement).

Council has conditionally delegated this power to the Chief Executive Officer.

Delegation 3.5 Sundry and rate debtors – Recovery and agreements

Although Council has previously given delegated authority for the CEO to negotiate an agreement for the payments of rates, service charges and sundry debts. The delegation also requires the total debt outstanding to be extinguished by the 30 June following. This application will not adhere to that clause.

### **Policy Implications**

Shire of Cunderdin Policy Manual

3.9 Financial Hardship Policy

3.10 Debt Collection Policy

### **Financial Implications**

Mr Kuhn currently has outstanding rates and charges of \$1,899.63. Accepting this agreement would freeze interest accruing for the remainder of the financial year and require him to make fortnightly payments of \$50.00 towards the outstanding amount.

Please see a table below that outlines the last 3 years:

	19/20	20/21	21/22	22/23
Outstanding	\$0.00	\$100.00	\$617.00	\$1,941.00
Credit	\$1,093.71	\$0.00	\$0.00	\$0.00
Rates & Charges	\$2,656.95	\$2,516.98	\$2,751.67	\$0.00
Balance minus credit	\$1,563.24	\$2,516.98	\$0.00	\$0.00
Payments	\$1,463.24	\$2,000.00	\$1,427.64	\$50.00
	\$100.00	\$617.00	\$1,941.00	\$1,891.00

### **Strategic Implications**

Shire of Cunderdin Strategic Community Plan 2022 -2032

#### 5. Civic Leadership

- 5.1 Shire communication is consistent, engaging and responsive.
- 5.2 Forward planning and implementation of plans.

#### **Recommendation 9.10**

That Council authorises the Chief Executive Officer:

2. Accept the extension of the current Financial Hardship Application submitted by Mr Gerhardus Kuhn for Assessment A53066 being 11 Main Street, Cunderdin freezing accruing interest until 1<sup>st</sup> July 2023; and
3. Accept the payment arrangement of \$50.00 per fortnight commencing the 1<sup>st</sup> July 2023; and
4. If Mr Kuhn financial situation changes in the future this arrangement be reviewed.

Moved: Cr

Seconded: Cr

Vote – Simple majority

Carried/Lost: \_\_\_\_\_

### 9.11 Financial Hardship Application —24 Hodgson Street, Cunderdin

<b>Location:</b>	Shire of Cunderdin
<b>Applicant:</b>	Mrs Karen Ovens
<b>Date:</b>	8 <sup>th</sup> July 2022
<b>Author:</b>	Ashlei Otway
<b>Item Approved by:</b>	Stuart Hobley, Chief Executive Officer
<b>Disclosure of Interest:</b>	NIL
<b>File Reference:</b>	A53003
<b>Attachment/s:</b>	Hardship Application

#### **Proposal/Summary**

That Council consider the Financial Hardship Application submitted by Mrs Karen Ovens for her property at 24 Hodgson Street, Cunderdin.

#### **Background**

Mrs Karen Ovens contacted the Shire on the 8<sup>th</sup> October 2021 to inform us that she is currently experiencing financial hardship and requesting approval to set up a payment plan of \$20 per week.

Mrs Ovens does not live in the property, so it is not eligible for any Concession's. She has advised in her Hardship Application that she is current unemployed due to medical reasons and is currently expecting the financial difficulty to last over six months the only source of income is her rental income from the above mentioned property.

Mrs Ovens has indicated in section 6 of the Financial Hardship Application that she is proposing a payment plan of \$20.00 per week, accepting this agreement would also see interest frozen until the 1<sup>st</sup> July 2022. Mrs Ovens has not missed a payment so far in accordance with her agreement and her most recent payment was received on the 28<sup>th</sup> October 2021.

The application was presented to Council at the Ordinary Council Meeting, held 18<sup>th</sup> November 2021, and Council resolved that:

### 9.10 Financial Hardship Application —24 Hodgson Street, Cunderdin

#### **Resolution 9.10 OCM November 2021**

That Council authorises the Chief Executive Officer:

1. Accepts the Financial Hardship Application submitted by Mrs. Karen Ovens for Assessment A53003 being 24 Hodgson Street, Cunderdin freezing accruing interest until the 30<sup>th</sup> June 2022.
2. Accept the payment arrangement of \$20.00 per week commencing immediately;
3. If Mrs Ovens financial situation changes in the future this arrangement be reviewed, and
4. Re-assess Mrs Ovens's circumstances as of the 1<sup>st</sup> July 2022.

Moved: Cr B (Bernie) Daly

Seconded: Cr W (Sam) Stewart

Vote – Simple majority

Carried: 6/0



### **Comment**

At the 30<sup>th</sup> June 2022, Mrs Ovens' outstanding rates and charge were \$587.91.

Mrs Ovens hardship application has recently expired, and she has expressed that he will need to reapply to have a similar arrangement to last year. Mrs Ovens has not missed a payment since it was approved in November 2021. Her current outstanding charges are below:

<b>Current Charges</b>	<b>Amount</b>
Rates Arrears (21/22)	\$568.96
ESL Penalty Arrears	\$1.21
Interest	\$17.74
<b>TOTAL</b>	<b>\$587.91</b>

Mrs Ovens has mentioned that if she comes into more work, she will put down extra repayments (as she has done in the 21/22 financial year). With 22/23 rates billing approaching, this total is set to rise to above \$2,000 in total.

Section 3.5 of Council's Delegation Register stipulates those arrangements agreed are to be on the basis that the total debt outstanding will be extinguished by the 30<sup>th</sup> June following. Council resolution is required to accept this payment plan, as it is expected to still have an outstanding amount at the 30<sup>th</sup> June 2023.

### **Consultation**

Stuart Hobley, Chief Executive Officer.

### **Statutory Implications**

Section 6.12 of the *Local Government Act 1995* provides the power for local governments to defer, grant discounts, waive or write off debts.

Section 6.49 of the *Local Government Act 1995* allows a local government to accept payment of a rate or service charge due and payable by a person in accordance with an agreement made with the person (i.e. enter into a payment arrangement).

Council has conditionally delegated this power to the Chief Executive Officer.  
Delegation 3.5 Sundry and rate debtors – Recovery and agreements

Although Council has previously given delegated authority for the CEO to negotiate an agreement for the payments of rates, service charges and sundry debts. The delegation also requires the total debt outstanding to be extinguished by the 30 June following. This application will not adhere to that clause.

### **Policy Implications**

Shire of Cunderdin Policy Manual  
3.9 Financial Hardship Policy  
3.10 Debt Collection Policy

### **Financial Implications**

Mrs Ovens currently has outstanding rates and charges \$587.91. Accepting of this agreement would freeze interest accruing for the remainder of the financial year and require her to make weekly payments of \$30.00 towards the outstanding amount.

## **Strategic Implications**

Shire of Cunderdin Strategic Community Plan 2022 -2032

### 5. Civic Leadership

- 5.1 Shire communication is consistent, engaging and responsive.
- 5.2 Forward planning and implementation of plans.

#### **Recommendation 9.11**

That Council authorises the Chief Executive Officer:

1. Accepts the extension of the current Financial Hardship Application submitted by Mrs. Karen Ovens for Assessment A53003 being 24 Hodgson Street, Cunderdin freezing accruing interest until the 30<sup>th</sup> June 2023; and
2. Accept the payment arrangement of \$30.00 per week commencing immediately;
3. If Mrs Ovens financial situation changes in the future this arrangement be reviewed, and
4. Re-assess Mrs Ovens' circumstances as of the 1<sup>st</sup> July 2023.

Moved: Cr

Seconded: Cr

Vote – Simple majority

Carried/Lost: \_\_\_\_\_

### **9.12 Move from Behind Closed Doors**

#### **Recommendation 9.12**

That Council move from behind closed doors in accordance with s.5.23 of the Local Government Act.

Moved: Cr

Seconded: Cr

Vote – Simple Majority

Carried/lost: \_\_\_\_\_

### 9.13 Chief Executive Officers Report

<b>Location:</b>	Cunderdin
<b>Applicant:</b>	Chief Executive Officer
<b>Date:</b>	17 <sup>th</sup> June 2022
<b>Author:</b>	Stuart Hobley
<b>Item Approved by:</b>	Stuart Hobley, Chief Executive Officer
<b>File Reference:</b>	Nil
<b>Attachment/s:</b>	Nil

#### **Proposal/Summary**

To provide an update on the matters the Chief Executive Officer has been addressing over the past month.

#### **Background**

##### Old Hospital Site and Ian Roberts Lodge

Demolition has commenced at the Old Hospital Site is nearly complete and at this point in time there have been no incidents. The Shires Health and Building Officer has visited the site on a number of occasions and has not reported any irregularities.

##### Local Roads and Community Infrastructure Program Projects

###### Round 1 Projects

Basketball Courts – Retaining Wall and Fencing \$30,000 – Completed.

AAA Garden - \$160,000 – Completed.

Oval Lights - \$270,000 (\$180,000 LRCIP) – Completed.

Cunderdin Irrigation Project (Part 1) \$20,000 - Completed

###### Round 2 Projects

Cunderdin Swimming Pool - \$170,000

The contractor has completed the scope of works associated with the LRCIP funding. The project is currently running on budget.

Cunderdin Irrigation Project (Part 2) \$40,000

This project has been completed on budget.

Recreation Centre Car Park \$90,000

The contractor has completed the scope of works associated with the LRCIP funding. The sealing of the Car Park has been completed and only the kerbing remains outstanding.

##### Cunderdin Industrial Lot Development

Development WA have advised that following a thorough review of the application, the Development WA Board has approved the business cases for Cunderdin Light Industrial Area Stage 2.

The project will now progress to the next stage, which includes securing access to the land and obtaining all necessary statutory approvals and finalising detailed engineering design. Once all these approvals are in place, we will tender and deliver the works to align with available RDAP funds.

##### Regional Airports Development Scheme (RADS)

The airport lights have been installed and the night testing has been completed. The project was completed on budget and two months ahead of time.

### Meckering Sporting Club Roof

The replacement of the Meckering Sports Club Roof will commence in the week of the 18<sup>th</sup> July 2022. The project is expected to be completed within 4 weeks. The Shire has been liaising with the Meckering Sporting Club throughout this process.

### Local Government Reform

The State Government has announced the final package of reforms to the Local Government Act 1995, following a review of public submissions.

The announcement, made on 3 July 2022 is the most significant package of reforms for WA local government since the Local Government Act 1995 was passed more than 25 years ago.

The reforms are based on six themes:

- Earlier intervention, effective regulation and stronger penalties
- Reducing red tape, increasing consistency and simplicity
- Greater transparency and accountability
- Stronger local democracy and community engagement
- Clear roles and responsibilities
- Improved financial management and reporting.

The Department of Local Government, Sport and Cultural Industries has developed a series of fact sheets to guide local governments and community members through the reform package, available on the website.

Further information on the impact of the reforms will be provided to Council in the future.

### Cunderdin Waste Transfer Station (CWTS) Gates

The installation of the new automatic gates at the CWTS is complete. There was a technical issue with the installation of the software and this will be finalised shortly.

New pass cards for the CWTS will be issued with the rates notices so residents which will allow residents to access the CWTS at times when the CWTS is not manned. The attendant will remain at the CWTS for at least two months to deal with any issues that arise with the new system.

### **Comment**

Nil.

### **Consultation**

Nil.

### **Statutory Implications**

Nil.

### **Policy Implications**

Nil.

### **Financial Implications**

Nil.

### **Strategic Implications**

Nil.

**Recommendation 9.13**

That the Chief Executives Officers Report be received.

Moved: Cr

Seconded: Cr

Vote – Simple majority

Carried/Lost: \_\_\_\_\_

**10. Environmental Health and Building**

Nil Items.

**11. Planning & Development**

Nil Items.

**12. Works & Services**

Nil Items.

**13. Urgent Items**

Nil Items.

**14. Scheduling of Meeting**

**14.1 August 2022 Ordinary Meeting**

The next ordinary meeting of council is scheduled to take place on Thursday 18<sup>th</sup> August 2022 commencing at 5:00pm at the Cunderdin Shire Council Chambers, Cunderdin, WA 6407.

**15. Closure of meeting**

There being no further business the Shire President will declare the meeting closed at \_\_: \_\_pm.

**16. Certification**

**DECLARATION**

I, Alison Harris, certify that the minutes of the Ordinary Council Meeting held on 23<sup>rd</sup> June 2022 as shown were confirmed at the ordinary meeting of Council held on 21st July 2022.

Signed: \_\_\_\_\_

Date: \_\_\_\_\_