

Shire of Tammin



DECLARATION

I declare that the minutes of the:

Ordinary Council Meeting held on 23rd August 2023 was confirmed at the Ordinary Council Meeting held on 20th September 2023.

Name: Glenice Batchelor

Signed: _____

Glenice Batchelor

Being the person presiding at the meeting at which these minutes were confirmed.

Date: _____

20/9/2023.

Shire of Tammin

ORDINARY COUNCIL MEETING

MINUTES



NOTICE OF MEETING

Dear Elected Member

The ordinary meeting of the Shire of Tammin was held on **Wednesday 23 August 2023** in Council Chambers, 1 Donnan Street Tammin, commencing at **4:00pm**.

A handwritten signature in black ink, appearing to read 'Joanne Soderlund'.

Joanne Soderlund
Chief Executive Officer
23 August 2023

MISSION STATEMENT

"Together with the people of Tammin we will provide leadership, vision and progress to achieve sustainability and growth"

23 August 2023 – Ordinary Council Meeting Minutes

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AGENDA

1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

The Shire President will declare the meeting open at 4:00 pm.

2. ACKNOWLEDGEMENT TO COUNTRY

We begin today by acknowledging the Ballardong Noongar People as traditional custodians of the land and skies on which we gather, and we pay our respects to their Elders, past, present and emerging.

3. PRESENT / IN ATTENDANCE / LEAVE OF ABSENCE PREVIOUSLY GRANTED / APOLOGIES

Present: All

In Attendance:

Leave of Absence previously granted:

Apologies: Nil

4. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

5. PUBLIC QUESTION TIME

Nil

6. APPLICATIONS FOR LEAVE OF ABSENCE

20 Sep Meeting -

7. DECLARATION OF MEMBER'S INTERESTS IN AGENDA ITEMS

Proximity Interest Item 15.2– Cr Caffell

8. DECLARATION OF RELATED PARTY DISCLOSURE IN AGENDA ITEMS

Nil

9. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

9.1 Ordinary Council Meeting Minutes – 26 July 2023

TSC 59/23 MOTION

That the minutes of the Ordinary Council Meeting held on 26 July 2023 be confirmed as a true and accurate record of proceedings.

Moved: Cr Caffell

Seconded: Cr Nicholls

Vote: Simple Majority

Carried/Lost: 6/0

For: ALL

Against: NIL

10. ANNOUNCEMENTS BY PRESIDING PERSON WITHOUT DISCUSSION

11. PETITIONS/DEPUTATIONS/PRESENTATIONS/SUBMISSIONS

12. MATTERS FOR CONSIDERATION – FINANCE

12.1 List of Payments for July 2023

Location:	Shire of Tammin
Applicant:	Administration & Finance Officer
Date:	04/08/2023
Author:	Keira Wirth
Item Approved by:	Chief Executive Officer
Disclosure of Interest:	Nil
File Reference:	FIN05
Attachment/s:	Attachment Item 12.1 – Payment List Attachment Item 12.1 - Credit Card Statement Attachment Item 12.1 – Fuel allocation costs

Purpose of Report

For Council to ratify the accounts paid under delegated authority.

Background

The attached List of Accounts paid during the month of July 2023 totaling \$457,564.05 by way of:

Cheque numbers	Nil	\$
Direct debit payments	01/07/23 – 31/07/23	\$9,173.35
Licensing transfers	01/07/23 – 31/07/23	\$4,501.60
Bank fees	01/07/23 – 31/07/23	\$63.52
VISA payments	01/07/23 – 31/07/23	\$1,264.77
EFT payments	EFT 6299 – EFT 6359	\$377,205.34
Salaries and wages	01/07/23 – 31/07/23	\$65,355.47
Total payments	01/07/23 – 31/07/23	\$457,564.05

The Shire of Tammin made the following significant purchases during the month of July 2023:

JLT Risk Solutions Pty Ltd Salary Continuance - Policy No. 63-2215318-ZAH	\$6,381.33
Wright Express Australia Pty Ltd (Puma) Fuel charges for various vehicles for the month of June 2023	\$7,221.36
Perfect Computer Solutions Microsoft 365 installation & Annual license cost	\$7,677.45
Thinkproject Australia Pty Ltd Rental of the Pocket RAMM software for the period 01 Jul 2023 to 30 Jun 2024. This rental allows you to use this software for any number of contracts but only on each named device that you have purchased. This is not a concurrent user license as each device MUST have a license to use the Pocket software	\$9,899.29
Wheatbelt East Regional Organisation of Councils (WEROC) Annual financial contribution to the Wheatbelt East Regional Organisation of Councils Inc	\$13,200.00
Youlie and Son Spreading Services Maintenance grading on various roads North of Tammin, grader hour Maintenance grading training for Dennis Heppell on various roads North of Tammin, grader hour rate	\$16,830.00
RA ROGERS & CO Supply already pushed gravel for resheet on Quatermaine Rd as per gravel extraction agreement	\$21,375.86
Anameka Farms Pty Ltd fencing material for Mummy's lane (York-Main corridor) Trees for Mummy's Lane	\$27,076.28
ITVision Annual Licence Fee, Rates and Property, Receipting, Report Manager, Payroll, Purchase Ordering, Mapping & Core Financials - 2023/24 (1-24 users)	\$30,295.43
LGIS (WA) 50% payment on insurance for fleet, property, bush fire, liability, crime & cyber liability, population legal liability, workcare, corporate travel & voluntary workers	\$55,909.82
All Portable Supplies Balance owing of clubroom New transportable building for Tammin Golf Club Chassis to be engineered and painted 15000 x 4200 2 Roof Structure Centre Pitch Design 15000 x 4200 2 Bondor Panel Construction Termite treated particle board flooring R2.5 insulation to ceiling area, plus 1.5 Insulation blanket to underside of roof sheeting 0.42mm BMT Roof Sheeting Double metal clad Doors as shown on NABD dwg 2 Single metal clad Doors as shown on NABD dwg 3 Windows Fitted with amplimesh grills (Size & Colour to be confirmed) 5 Partition to areas as shown IE : Toilet & Bar Area 1 Counter & Cupboard to Kitchen area only 1	\$143,440.38

Comment

Nil

Financial Implications

All liabilities have been settled in accordance with the Shire of Tammin 2023/2024 Operating Budget.

Policy Implications

Nil

Statutory Implications

Local Government (Financial Management) Regulations 1996

11. Payment of accounts

- (1) A local government is to develop procedures for the authorisation of, and the payment of, accounts to ensure that there is effective security for, and properly authorised use of —
 - a) *cheques, credit cards, computer encryption devices and passwords, purchasing cards and any other devices or methods by which goods, services, money or other benefits may be obtained; and*
 - b) *Petty cash systems.**
- (1) A local government is to develop procedures for the approval of accounts to ensure that before payment of an account a determination is made that the relevant debt was incurred by a person who was properly authorised to do so.*
- (2) Payments made by a local government —
 - a) *Subject to sub-regulation (4), are not to be made in cash; and*
 - b) *Are to be made in a manner which allows identification of —
 - (i) *The method of payment;*
 - (ii) *The authority for the payment; and*
 - (iii) *The identity of the person who authorised the payment.***
- (3) Nothing in sub-regulation (3) (a) prevents a local government from making payments in cash from a petty cash system.*

[Regulation 11 amended in Gazette 31 Mar 2005 p. 1048.]

12. Payments from municipal fund or trust fund

- (1) A payment may only be made from the municipal fund or the trust fund —
 - a) *If the local government has delegated to the CEO the exercise of its power to make payments from those funds — by the CEO; or*
 - b) *Otherwise, if the payment is authorised in advance by a resolution of the council.**
- (2) The council must not authorise a payment from those funds until a list prepared under regulation 13(2) containing details of the accounts to be paid has been presented to the council.*

[Regulation 12 inserted in Gazette 20 Jun 1997 p. 2838.]

13. Lists of accounts

- (1) If the local government has delegated to the CEO the exercise of its power to make payments from the municipal fund or the trust fund, a list of accounts paid by the CEO is to be prepared each month showing for each account paid since the last such list was prepared —
 - a) *The payee's name;**

- b) *The amount of the payment;*
 - c) *The date of the payment; and*
 - d) *Sufficient information to identify the transaction.*
- (2) *A list of accounts for approval to be paid is to be prepared each month showing —*
- a) *For each account which requires council authorisation in that month —*
 - (i) *The payee's name;*
 - (ii) *The amount of the payment; and*
 - (iii) *Sufficient information to identify the transaction; and*
 - b) *The date of the meeting of the council to which the list is to be presented.*
- (3) *A list prepared under sub-regulation (1) or (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.*

Strategic Plan & Corporate Business Plan Implications

Civic Leadership Strategies

Our Councillors and community leaders have vision, are accessible, act with transparency and integrity, and act in good faith on behalf of their constituents.

The following outcomes and strategies have been identified to achieve this vision.

Outcome 6.1 Strong governance and leadership, demonstrating fair and equitable community values

- 6.1.1 Deliver sustainable governance through transparent and robust policy and processes
- 6.1.2 Undertake the civic duties of Council with the highest degree of ethics

Outcome 6.2 An efficient and effective organisation

- 6.2.1 Ensure sound long-term financial management and deliver value for money
- 6.2.2 Provide community leadership and lobby Federal and State Government to strengthen service provision within the Shire. Explore diverse income streams including grants

TSC 60/23 MOTION

That Council, pursuant to Regulation 13(1) of the *Local Government (Financial Management) Regulations 1996* receives the report from the Chief Executive Officer on the exercise of delegated authority in relation to payments made from municipal funds for the period 1 July 2023 to 31 July 2023 totaling \$457,564.05 as contained in attachments 12.1.

Municipal Fund payments totaling \$457,564.05 detailed:

Cheque numbers	Nil	\$
Direct debit payments	01/07/23 – 31/07/23	\$9,173.35
Licensing transfers	01/07/23 – 31/07/23	\$4,501.60
Bank fees	01/07/23 – 31/07/23	\$63.52
VISA payments	01/07/23 – 31/07/23	\$1,264.77
EFT payments	EFT 6299 – EFT 6359	\$377,205.34
Salaries and wages	01/07/23 – 31/07/23	\$65,355.47

Moved: Cr

Seconded: Cr

Vote: Simple Majority

Carried/Lost: 6/0

For: ALL

Against: NIL

12.2 Financial Management Report for the month of July 2023

Location:	Shire of Tammin
Applicant:	Manager of Finance and Corporate Services
Date:	17 August 2023
Author:	Racheal King
Item Approved by:	Chief Executive Officer
Disclosure of Interest:	Nil
File Reference:	Nil
Attachment/s:	Attachment Item 12.2 - July 2023 Monthly Financial Report

Purpose of Report

For Council to receive the Monthly Financial Statement.

Background

Enclosed is the Monthly Financial Report for the month of July 2023 inclusive of the Statement of Financial Activity, Current Ratios and Capital Expenditure Report.

Comment

Rates were issued for 2023/24 on 8th August 2023 with payments due in full by 12 September 2023 to receive the 2% discount. Capex projects have commenced following the adoption of the 2023/24 Budget and maintenance work is underway. Our cash flow position is currently strong with an increase expected in September when Rates become payable.

Financial Implications

There are currently no financial implications as income and expenditure is in accordance with Budget. Amendments will be made at Budget review in terms of Grant Income and Expenditure.

Statutory Implications

Local Government (Financial Management) Regulations 1996

34. Financial activity statement report — s. 6.4

*(1A) In this regulation — **committed assets** means revenue unspent but set aside under the annual budget for a specific purpose.*

- (1) A local government is to prepare each month a statement of financial activity reporting on the revenue and expenditure, as set out in the annual budget under regulation 22(1)(d), for that month in the following detail —
- a) annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c);
 - b) budget estimates to the end of the month to which the statement relates;
 - c) actual amounts of expenditure, revenue and income to the end of the month to which the statement relates;
 - d) material variances between the comparable amounts referred to in paragraphs (b) and (c); and
 - e) the net current assets at the end of the month to which the statement relates.
- (2) Each statement of financial activity is to be accompanied by documents containing —
- a) an explanation of the composition of the net current assets of the month to which the statement relates, less committed assets and restricted assets;
 - b) an explanation of each of the material variances referred to in sub regulation (1)(d); and
 - c) such other supporting information as is considered relevant by the local government.
- (3) The information in a statement of financial activity December be shown —
- a) according to nature and type classification; or
 - b) by program; or
 - c) by business unit.
- (4) A statement of financial activity, and the accompanying documents 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.

Each financial year, a local government is to adopt a percentage or value, calculated in accordance with the AAS, to be used in statements of financial activity for reporting material variances.

Policy Implications

Council resolved that in accordance with Regulation 34(5) of the *Local Government (Financial Management) Regulations 1996* a variance percentage of 10% or \$10,000, whichever is greater, be adopted for reporting material variances.

Strategic Plan & Corporate Business Plan Implications

Civic Leadership Strategies

Our Councillors and community leaders have vision, are accessible, act with transparency and integrity, and act in good faith on behalf of their constituents.

The following outcomes and strategies have been identified to achieve this vision.

Outcome 6.1 Strong governance and leadership, demonstrating fair and equitable community values

6.1.1 Deliver sustainable governance through transparent and robust policy and processes

6.1.2 Undertake the civic duties of Council with the highest degree of ethics

Outcome 6.2 An efficient and effective organisation

6.2.1 Ensure sound long-term financial management and deliver value for money

6.2.2 Provide community leadership and lobby Federal and State Government to strengthen service provision within the Shire. Explore diverse income streams including grants

TSC 61/23 MOTION

That Council, pursuant to the *Local Government (Financial Management) Regulations 1996* adopt the Monthly Financial Report as contained in attachment 12.2 for the period ending 31 July 2023 comprising;

- a) Statement of Financial Activity
- b) Note 1 to Note 12

Moved: Cr Leslie

Seconded: Cr Caffell

Vote: Simple Majority

Carried/Lost: 6/0

For: ALL

Against: NIL

13. MATTERS FOR CONSIDERATION – ADMINISTRATION

13.1 New Policy – Cyber Security Policy

Location:	N/A
Applicant:	Shire of Tammin
Date:	17 August 2023
Author:	Manager of Finance & Corporate Services Chief Executive Officer
Item Approved by:	Chief Executive Officer
Disclosure of Interest:	Nil
File Reference:	Nil
Attachment/s:	Attachment Item 13.1 – Proposed Cyber Security Policy Attachment Item 13.1 – Shire of Tammin Cyber Security Assessment Attachment Item 13.1 - OAG Report-19 - Information Systems Audit

Proposal/Summary

This item brings a proposed Cyber Security Policy before Council and seeks a Council resolution to implement a policy relating to Cyber Security.

Background

During our recent interim Audit, it was highlighted that the Shire does not currently have a Cyber Security Policy in place. The OAG has produced a report on Local Government Information Systems on expected Cyber Security standards for Local Government.

Each Shire is expected by OAG to implement a Cyber Security Policy to safeguard systems and information and reduce the risk of compromise to their confidentiality, integrity, and availability.

Comment

The Shire currently has no Cyber Security policy however some aspects of the Proposed Cyber Security Policy are addressed in other Policies and plans. The proposed Cyber Security Policy addresses a number of items that were highlighted by the report.

Consultation

Office of the Auditor General

WALGA

Local Government Professionals

Current external IT support

Australian Standard for Information Security AS ISO/IEC 27001:2015

Essential Eight⁴ Controls developed by the Australian Signals Directorate

Integrated ICT

Policy Implications

Nil

Financial Implications

Nil

Strategic Implications

Civic Leadership Strategies

Our Councilor’s and community leaders have vision, are accessible, act with transparency and integrity, and act in good faith on behalf of their constituents.

The following outcomes and strategies have been identified to achieve this vision.

Outcome 6.1

- 6.1 Strong governance and leadership, demonstrating fair and equitable community values.
- 6.1.1 Deliver sustainable governance through transparent and robust policy and processes.

Outcome 6.2

- 6.2 An efficient and effective organisation
- 6.2.1 Ensure sound long-term financial management and deliver value for money.

TSC 62/23 MOTION

That Council, by Simple Majority, pursuant to Section 3.18 of the *Local Government Act 1995 (WA)* resolves to adopt the Cyber Security Policy.

Moved: Cr Nicholls

Seconded: Cr Caffell

Vote: Simple Majority

Carried/Lost: 6/0

For: ALL

Against: NIL

13.2 Office Closure – Christmas/New Year Period December 2023

Location:	Shire of Tammin
Applicant:	Shire of Tammin
Date:	18 August 2023
Author:	Joanne Soderlund
Item Approved by:	Chief Executive Officer
Disclosure of Interest:	Joanne Soderlund, the author of the item has an interest as she is a current employee, and this officer closure would also apply to her.
File Reference:	Nil
Attachment/s:	Nil

Proposal/Summary

Council to consider the closure of the Shire Administration Office over the Christmas and New Year period in December 2023.

Background

The Shire office has traditionally been closed over the Christmas and New Year period.

Comment

Previously no complaints or adverse comments have been received in relation to the office closure. At the 28 September 2022 Ordinary Council meeting, a policy in relation to Local Government Public Holidays was adopted. This policy is inclusive of two additional holidays commonly known as Public Service Days, one of which affects the Christmas Closure.

Given the timing of the Christmas and New Year holidays it is proposed that the Office be closed for the period commencing Friday 22 December 2023 to Monday 1 January 2024. The Office will reopen on Tuesday, 2 January 2024.

As a general rule no significant business is conducted between the Christmas and New Year period, therefore it is considered an ideal time to close the office and allow staff to enjoy a safe, relaxed festive period with their families.

Notification of the office closure will be advertised to the public leading up to the closing period. The item is being put forward now so that staff have plenty of notice and can plan their end of year accordingly.

Ordinarily, three days of annual leave is required to be taken by staff to cover the office shut down period.

Last year Council moved an amendment to the officer recommendation to authorise staff to take the three days required as extra paid leave and not require them to use their annual leave entitlements.

The reasons Council gave for this amendment are as follows:

Council recognise the work and commitment of staff over the year and acknowledge that while the Shire of Tammin has a limited budget to reward employees through salary rates that this is an opportunity to alternatively rewarded staff.

Therefore, two proposed options are being put forward for Council consideration:

Option 1:

Friday 22 December 2023	Local Government Public Holiday	Office Closed
Saturday 23 December 2023	Weekend	Weekend
Sunday 24 December 2023	Weekend	Weekend
Monday 25 December 2023	Christmas Day Public Holiday	Office Closed
Tuesday 26 December 2023	Boxing Day Public Holiday	Office Closed
Wednesday 27 December 2023	Staff utilise leave entitlements	Office Closed
Thursday 28 December 2023	Staff utilise leave entitlements	Office Closed
Friday 29 December 2023	Staff utilise leave entitlements	Office Closed
Saturday 30 December 2023	Weekend	Weekend
Sunday 31 January 2024	Weekend	Weekend
Monday 1 January 2024	Public Holiday – New Years Day	Office Closed
Tuesday 2 January 2024	Nil	Office Open

Option 2:

Friday 22 December 2023	Local Government Public Holiday	Office Closed
Saturday 23 December 2023	Weekend	Weekend
Sunday 24 December 2023	Weekend	Weekend
Monday 25 December 2023	Christmas Day Public Holiday	Office Closed
Tuesday 26 December 2023	Boxing Day Public Holiday	Office Closed
Wednesday 27 December 2023	Extra paid leave	Office Closed
Thursday 28 December 2023	Extra paid leave	Office Closed
Friday 29 December 2023	Extra paid leave	Office Closed
Saturday 30 December 2023	Weekend	Weekend
Sunday 31 January 2024	Weekend	Weekend
Monday 1 January 2024	Public Holiday – New Years Day	Office Closed
Tuesday 2 January 2024	Nil	Office Open

Consultation

Nil

Statutory Implications

Nil

Policy Implications

Nil

Financial Implications

If option 1 is adopted, then leave is taken as annual leave and/or RDO entitlement thus reducing the accumulated leave provisions within the FY2023/24 budget. If option two is taken, then whilst there is no increased cash cost it does result in three days of lost production when employees take the three days annual leave that they weren't required to take during the office shut down.

The Shire currently only has one employee that has a leave balance in excess of their annual leave entitlement, and they have upcoming leave scheduled next week that will bring their accrued balance back under their annual entitlement.

Strategic Implications

Nil

TSC 63/23 MOTION

That Council:

1. Approve the closure of the Shire Administration Office during the Christmas and New Year period from Friday 22 December 2023 to Monday 1 January 2024 inclusive, reopening on Tuesday, 2 January 2024;
2. That leave required for the office closure period be in accordance with option 2 ; and,
3. Advertise the Administration Office closure to the public leading up to the Office closure.

Moved: Cr. Courtney Thomson

Seconded: Cr Char Thomson

Vote: Simple Majority

Carried: 6/0

For: ALL

Against: NIL

14. MATTERS FOR CONSIDERATION – BUILDING & HEALTH

Nil

15. MATTERS FOR CONSIDERATION – TOWN PLANNING

15.1 Request for Freehold Land Transfer or Management Order

Location:	Lot 13 On Diagram 16918
Applicant:	Shire of Tammin
Date:	16/08/2023
Author:	Chief Executive Officer
Item Approved by:	Chief Executive Officer
Disclosure of Interest:	Nil
File Reference:	Nil
Attachment/s:	

Proposal/Summary

For Council to consider the proposed preferences to be put forward to the Department of Planning, Lands and Heritage (DPLH) regarding Lot 13 on Diagram 16918.

Background

It has recently come to the administration’s attention that the Shire of Tammin currently has no legal interest in the land at Donnan Park. The Shire has significant infrastructure invested at this site and therefore it is prudent to secure some kind of interest in the land. The land is currently under freehold title by the State of Western Australia.



Comment

As this land is currently in freehold title and not a crown reserve the recommendation is to request that the freehold title be transferred to the Shire of Tammin. The Shire have a long history at the site and have invested a significant amount in infrastructure and it is on that basis that the request for a transfer be made to DPLH. If DPLH deny the Shire's request for a straight transfer of freehold land to the Shire then it is recommended that a subsequent request be made to DPLH to convert the freehold title to a crown reserve and issue a Management Order to the Shire of Tammin.

Consultation

Exurban (Planning Consultant)

Policy Implications

Nil

Financial Implications

There would be some financial costs in relation to the conveyancing costs to facilitate the transfer of the land should DPLH be willing to progress this option.

Strategic Implications

Strategic Community Plan – Outcome 1.2.1 Maintain and enhance sport and recreation facilities.

TSC 64/23 MOTION

That Council authorise the Chief Executive Officer to make the following requests from the Department of Planning, Lands and Heritage in preference order:

- 1) That the freehold title to Lot 13 on Diagram 16918 be transferred to the Shire of Tammin in recognition of its historical use of the site and the significant investment it has made in the infrastructure at the site.
- 2) That in the event that the freehold title is not transferred to the Shire of Tammin that the Department of Planning, Lands and Heritage be requested to convert Lot 13 on Diagram 16918 to a Crown Reserve and a Management Order be granted to the Shire of Tammin.

Moved: Cr Leslie

Seconded: Cr Nicholls

Vote: Simple Majority

Carried/Lost: 6/0

For: ALL

Against: NIL

Cr Caffell left the room at 4:34pm

15.2 Private and Confidential - Land Settlement

Location:	Southern Link Land
Applicant:	Shire of Tammin
Date:	16/08/2023
Author:	Chief Executive Officer
Item Approved by:	Chief Executive Officer
Disclosure of Interest:	Nil
File Reference:	Nil
Attachment/s:	Attachment Item 15.2 - Proposed Subdivision Map Attachment Item 15.2 - Civic Legal – Advice on possible conveyancing error Attachment Item 15.2 - Bundled documents Attachment Item 15.2 - Deposited plan

Proposal/Summary

For Council to recognise a Budget Review item necessary due to the delayed timing of the land settlement for the Southern Link project.

Background

As part of the Southern Link project, the Shire of Tammin was required to obtain land from two different land owners for the placement of the new road (Gary and Louise Caffell and Barry and Jessica Jones). To facilitate that process a subdivision was required to tidy up the property boundaries that would be affected by the placement of the road. Attachment 1 shows the proposed subdivision and the amendments being made.

Horizon Surveys lodged the new deposited plan with Landgate on the 19th of August 2022. This meant the new lots were 'in order for dealings' and that the new titles created could be applied for. CS Legal were engaged by the Shire on the 12th of October 2022 to apply for the new titles and facilitate the purchase of the land required for the new road. As the Shire initiated the project it instructed CS Legal to operate on behalf of all parties with the Shire paying all the associated costs.

On the 21st of April 2023 CS Legal forwarded duties assessment notices they received from Revenue WA in relation to Stamp Duty payable in relation to the transfer of land documents that CS Legal had lodged. The Shire of Tammin is exempt from stamp duty and as the Shire was the only entity to gain any land out of the project the Shire's administration were concerned that there had been a misunderstanding of the transaction by Revenue WA. The duties notices issued were for \$5,035 and \$24,890 respectively.

The Shire's CEO, Joanne Soderlund, raised the matter with CS Legal who passed on the details of the revenue officer at Revenue WA who was looking after this transfer. On the 28th of April an email was sent to the revenue officer that showed exactly what land was being acquired by the Shire and that the other subdivision changes were merely to tidy up the boundaries of properties caused by the placement

of the road. Despite several follow up's a response to this was not received from the Revenue Officer until the 30th of June.

After some further communication with both CS Legal and the Revenue Officer, the CEO became very concerned that CS Legal had made errors in the applications for new titles and transfer of land documents that they prepared and had signed by the Caffell's and Jones's (the Shire of Tammin were not party to these transactions and as such did not see this documentation until a copy was sent to us on the 3rd of July 2023).

Despite assurance from CS Legal that the documents had been completed correctly the Shire engaged the lawyers that prepared the original contract documents, Civic Legal, to review what CS Legal had prepared in relation to the land settlement and new titles. Civic Legal don't do conveyancing and that is why they were not originally engaged to look after the settlement.

Comment

The legal advice received from Civic Legal is attached in full to this agenda item. Whilst there are some minor issues that were noted in the advice the most concerning relates to the incorrect and unnecessary transfer documents that were prepared that essentially gave both parties (Caffell's and Jones's) all equal and joint interest in all the new lots that were being created. This is why Revenue WA were coming back with duties payable as what CS Legal had lodged involved land being transferred between the two parties.

Civic Legal have now been engaged to resolve all the issues highlighted in line with the recommended rectification outlined in their advice. CS Legal have not been paid for any work they have completed so far and will not be paid anything given the significant errors that they have made.

When the 23/24 Annual Budget was drafted it was expected that settlement would have taken place for these lots. Due to the issues outlined in this report that has not occurred. As such it is expected that our carried forward surplus will be more than what was predicted in the 23/24 Annual Budget, as the surplus calculation assumed that this matter would have been settled late in the 22/23 financial year. Therefore, a budget amendment will be required in the 23/24 financial year. It is recommended that the formal budget amendment be made as part of the mid-year budget review when the audited carried forward surplus is known.

Consultation

Civic Legal

Policy Implications

Nil

Financial Implications

Civic Legal have quoted \$8,000 to carry out the recommended rectifications plus a few hundred dollars of conveyancing costs and landgate fees. CS Legal estimated fees were going to be approximately \$6,000. These will not be paid as outlined in the report.

Strategic Implications

Strategic Community Plan – Outcome 5.1 A well connected and serviced community accessible to all.

TSC 65/23 MOTION

That Council note the delayed settlement due to errors with the original settlement agent and note that an amendment will be required in the 23/24 Mid Year Budget Review.

Moved: Cr Nicholls

Seconded: Cr Courtney Thomson

Vote: Absolute Majority

Carried/Lost: 5/0

For: ALL

Against: NIL

Cr Caffell re-entered the room at 4:45pm

16. ELECTED MEMBERS MOTIONS OF WHICH NOTICE HAS BEEN GIVEN

Nil

17. MATTERS FOR WHICH THE MEETING MAY BE CLOSED (S`5.23)

Nil

18. CLOSURE OF MEETING

There being no further business the Shire President declared the meeting closed at 4:45pm