

Shire of Tammin

ORDINARY COUNCIL MEETING

AGENDA



NOTICE OF MEETING

Dear Elected Member

The next ordinary meeting of the Shire of Tammin will be held on **Wednesday 26 October 2022** 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
21 October 2022

MISSION STATEMENT

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

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AGENDA

1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

The Shire President will declare the meeting open at _____ 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:

In Attendance:

Leave of Absence previously granted:

Apologies:

4. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

5. PUBLIC QUESTION TIME

6. APPLICATIONS FOR LEAVE OF ABSENCE

7. DECLARATION OF MEMBER'S INTERESTS IN AGENDA ITEMS

8. DECLARATION OF RELATED PARTY DISCLOSURE IN AGENDA ITEMS

9. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

9.1 Ordinary Council Meeting Minutes – 28 September 2022

Officers Recommendation

That the minutes of the Ordinary Council Meeting held on 28 September 2022 be confirmed as a true and accurate record of proceedings.

Moved: Cr _____ Seconded: Cr _____

Vote: Simple Majority Carried/Lost: ___/___

10. ANNOUNCEMENTS BY PRESIDING PERSON WITHOUT DISCUSSION

11. PETITIONS/DEPUTATIONS/PRESENTATIONS/SUBMISSIONS

12. MATTERS FOR CONSIDERATION – FINANCE

12.1 List of Payments for September 2022

Location:	Shire of Tammin
Applicant:	Administration & Finance Officer
Date:	06 October 2022
Author:	Monica Geary
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

Purpose of Report

For Council to ratify the accounts paid under delegated authority.

Background

The attached List of Accounts paid during the month of September 2022 totaling \$188,823.60 by way of:

Cheque numbers	-	\$ 0
Direct debit payments	01/09/22 – 30/09/22	\$ 8,344.49
Licensing transfers	01/09/22 – 30/09/22	\$ 6,441.20
Bank fees	01/09/22 – 30/09/22	\$ 456.96
VISA payments	01/09/22 – 30/09/22	\$ 4,720.19
EFT payments	EFT 5609 – EFT 5676	\$ 122,235.21
Salaries and wages	01/09/22 – 30/09/22	\$ 46,625.55
Total payments	01/09/22 – 30/09/22	\$ 188,823.60

The Shire of Tammin made the following significant purchases during the month of September 2022

Supply of gravel from pit on Rabbit Proof Fence road for resheeting, as per agreement (\$2.00 per cube + GST)	\$9,658.00
Supply and install 3 air-conditioning units at the Lesser Hall as per quote n ^o Q-0057 dated 9/5/2022 revised quotation from original quote n ^o 41	\$25,850.00
Annual financial contribution to the Wheat belt East Regional Organisation of Councils Inc. Annual Membership fee.	\$13,200.00
Wet hire of roller for maintenance grading on Shire of Tammin road network. (\$110 / hr + GST. Wet hire of grader for maintenance grading on Shire of Tammin road network. (\$160 / hr + GST)	\$20,883.50
BAS JUNE 2022	\$7,366.49

Comment

Nil

Financial Implications

All liabilities have been settled in accordance with the Shire of Tammin 2022/2023 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

Officers Recommendation

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 September 2022 to 30 September 2022 totaling \$188,823.60 as contained in attachments 12.1

Municipal Fund payments totaling \$188,823.60 detailed:

Cheque numbers	01/09/22 – 30/09/22	\$0
Direct debit payments	01/09/22 – 30/09/22	\$8,344.49
Licensing transfers	01/09/22 – 30/09/22	\$6,441.20
Bank fees	01/09/22 – 30/09/22	\$456.96
VISA payments	01/09/22 – 30/09/22	\$4,720.19
EFT payments	EFT5609 – EFT 5676	\$122,235.21
Salaries and wages	01/09/22 – 30/09/22	\$46,625.55

Moved: Cr _____ Secoded: Cr _____

Vote: Simple Majority Carried/Lost: ___/___

12.2 Financial Management Report for the month of September 2022

Location:	Shire of Tammin
Applicant:	Manager of Finance and Administration
Date:	21 October 2022
Author:	Morgan Ware
Item Approved by:	Chief Executive Officer
Disclosure of Interest:	Nil
File Reference:	Nil
Attachment/s:	Attachment Item 12.2 - September 2022 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 September 2022 inclusive of the Statement of Financial Activity, Current Ratios and Capital Expenditure Report.

Comment

Rates were issued on 5 August 2022 with payments due in full by 12 September 2022. Payment arrangements have been made with rate payers if required. 86% of rates have been received as of 30 September 2022. Maintenance road works underway and Capex projects commencing in the coming months. Accordingly, our cash flow position is currently strong having received an advance payment of the Financial Assistance Grants and confirmation of the Southern Link project first payment.

Financial Implications

There are currently no financial implications as income and expenditure is in accordance with Budget.

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

Officers Recommendation

That Council, pursuant to the *Local Government (Financial Management) Regulations 1996* adopt the Monthly Financial Report as contained in attachment 12.3 for the period ending 30 September 2022 comprising;

a) Statement of Financial Activity

b) Note 1 to Note 12

Moved: Cr _____

Seconded: Cr _____

Vote: Simple Majority

Carried/Lost: ___/___

12.3 Addition to the Schedule of Fees and Charges

Location:	Shire of Tammin
Applicant:	Manager of Works and Services
Date:	19 th October 2022
Author:	Fabian Houbrechts
Item Approved by:	Chief Executive Officer
Disclosure of Interest:	Nil
File Reference:	Nil
Attachment/s:	Nil

Proposal/Summary

Council to consider adding items to the Schedule of Fees and Charges 22-23.

Background

Our current schedule of fees and charges does not have fees for disposal of building materials. In the last few weeks, the Shire of Tammin has accepted the demolition waste of the clubhouse from the Golf Club along with other requests for this service.

Comments

Although the room available at the waste site is not extensive, there are a couple of locations where rubble can be stored and provide consolidation to existing cells. The rubble will be used to surround previous cells where putrescible waste was covered and decommissioned.

At a recent meeting of the WEROC CEO Committee an opportunity was raised by the Shire of Merredin for the potential future crushing of concrete waste and rubble to use in roadworks and as a gravel substitute. This would not only recover and reuse waste currently at our landfill but also assists with road materials. Further investigations are needed into how this could work.

The Shire of Tammin currently holds a license of category 13 "crushing of building material" with a capacity of 1,000 tonnes or more per year.

It is not anticipated that the Shire of Tammin would receive a lot of materials throughout the year however having a fee in place ensures that were we choose to accept waste we can be paid appropriately for it.

All demolition materials will have to be sorted prior to disposal at the facility.

The Shire of Cunderdin is currently charging \$27 per cubic meter for demolition rubbles.

The Shire of Wyalkatchem is charging \$45 per tonne for demolition rubbles.

The Shire of Quairading is charging \$105 per cubic meter for demolition rubbles and \$44 per cubic meter for construction timber.

Consultation

Manager of Works and Services (Tammin)
Shires of Cunderdin, Wyalkatchem and Quairading

Statutory Implications

Nil

Policy Implications

Nil

Financial Implications

Nil

Strategic Implications

Infrastructure – appropriate for local business operations

Officer Recommendation

That Council, in accordance with *s6.16 of the Local Government Act 1995*, add the following items to the Shire of Tammin’s Schedule of Fees and Charges 22-23.

- Commercial mixed construction rubbles \$100 per cubic meter (gst incl)
- Commercial construction timber \$50 per cubic meter (gst incl)

Moved: Cr _____

Seconded: Cr _____

Vote: Absolute Majority

Carried/Lost: ___/___

12.4 Deferred Rates Debt – Write off

Location:	Shire of Tammin
Applicant:	Manager of Finance and Administration
Date:	19/10/2022
Author:	Manager of Finance and Administration
Item Approved by:	Chief Executive Officer
Disclosure of Interest:	Nil
File Reference:	Nil
Attachment/s:	Attachment Item 12.4 – PRIVATE & CONFIDENTIAL - Deferred Rates Report

Proposal/Summary

The purpose of this report is for Council to consider writing off a deferred rate debt.

Background

Section 44 of the Rates and Charges (Rebates and Deferments) Act 1992 sets out the ability of eligible pensioners to defer payments of rates with the rates not becoming payable until either the pensioner:

- (a) dies, unless section 45(1) applies; or*
- (b) ceases to be a person entitled to the land; or*
- (c) ceases to occupy the land as their ordinary place of residence, unless —*
 - (i) a person to whom section 31(1) applies continues to reside there; or*
 - (ii) residence there by that person ceased by reason of ill-health, frailty or other cause not within the control of that person; or*
 - (iii) residence there by that person ceased upon that person ceasing to live together with a spouse or de facto partner there, but that spouse or de facto partner remains there, and section 45(2) applies; or*
- (d) being a person to whom section 19 applies, is notified in writing that under section 21 the administrative authority has determined that the allowing of deferment can no longer be justified,*

whichever happens first.

In 2017 an eligible rate payer deferred their rates amounting to \$1,002.56, in line with the above provision. The most common way this debt would be recovered is on the sale of the property where it is recovered during the settlement process. This ratepayer sold this property in June 2021 however when the Shire provided the settlement agent with the details of the outstanding amounts owing, it erroneously missed off the deferred amount.

Comment

This rates assessment is still showing the deferred rate amount on the property however the current ratepayer is not liable for the deferred rate as they did not incur it.

Attempts have been made to contact the previous ratepayer however we have not been able to get in contact.

Given that this is a result of an error on the Shire's behalf and the likely cost of debt collection activities versus the size of the debt, it is recommended that the Shire write off the debt.

Consultation

Nil

Statutory Implications

Local Government Act 1995

6.12. Power to defer, grant discounts, waive or write off debts

(1) Subject to subsection (2) and any other written law, a local government may —

(a) when adopting the annual budget, grant a discount or other incentive for the early payment of any amount of money; or*

(b) waive or grant concessions in relation to any amount of money; or

(c) write off any amount of money, which is owed to the local government.

** Absolute majority required.*

(2) Subsection (1)(a) and (b) do not apply to an amount of money owing in respect of rates and service charges.

(3) The grant of a concession under subsection (1)(b) may be subject to any conditions determined by the local government.

(4) Regulations may prescribe circumstances in which a local government is not to exercise a power under subsection (1) or regulate the exercise of that power.

Policy Implications

Nil

Financial Implications

It is anticipated that the write off of the \$1,002.56 debt will be less costly than pursuing a legal recovery process that will incur greater expense than the debt itself.

Strategic Environment

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

Officers Recommendation

That Council, subject to Section 6.12 of the Local Government Act 1995, agree to write off the deferred rate of \$1,002.56 on Assessment Number A1070.

Moved: Cr

Seconded: Cr

Vote: Absolute Majority

Carried/Lost: __/__

13. MATTERS FOR CONSIDERATION – ADMINISTRATION

13.1 Bush Fire Advisory Committee Meeting Minutes – 29 September 2022

Location:	N/A
Applicant:	CEO
Date:	20 October 2022
Author:	Joanne Soderlund
Item Approved by:	Chief Executive Officer
Disclosure of Interest:	Nil
File Reference:	Nil
Attachment/s:	Attachment Item 12.3 – BFAC Minutes

Proposal/Summary

For Council to consider the recommendations made by the Bush Fire Advisory Committee.

Background

The Bush Fire Advisory Committee met on Thursday 29 September 2022 at the Donnan Park Pavilion.

Comments

The Committee discussed various agenda items and has put forward to council various recommendations for Council's Consideration including the appointment of Bush Fire Control Officers along with a Chief and Deputy. The Committee also review the current burning periods and did not recommend any alternations.

Consultation

Tammin Bushfire Brigade Members

Statutory Implications

Bush Fires Act 1954 Part 4 s38 Local government may appoint bush fire control officer

(1) A local government may from time to time appoint such persons as it thinks necessary to be its bush fire control officers under and for the purposes of this Act, and of those officers shall subject to section 38A(2) appoint 2 as the Chief Bush Fire Control Officer and the Deputy Chief Bush Fire Control Officer who shall be first and second in seniority of those officers, and subject thereto may determine the respective seniority of the other bush fire control officers appointed by it.

(2A) The local government shall cause notice of an appointment made under the provisions of subsection (1) to be published at least once in a newspaper circulating in its district.

Policy Implications

The Bush Fires Act 1954 Section 41 (1) states the below:

41. Bush fire brigades

- (1) For the purpose of carrying out normal brigade activities a local government may, in accordance with its local laws made for the purpose, establish and maintain one or more bush fire brigades and may, in accordance with those local laws, equip each bush fire brigade so established with appliances, equipment and apparatus.

Financial Implications

Nil

Strategic Implications

Strategic Community Plan 2018 - 2027

Outcome 1.2 A growing, healthy and safe community

1.2.3 Support provision of emergency services and encourage community volunteers.

Officers Recommendation 1

That Council receive the Minutes of the Bush Fire Advisory Committee for its meeting on 29 September 2022.

Moved: Cr _____

Seconded: Cr _____

Vote: Simple Majority

Carried/Lost: ___/___

Bush Fire Advisory Committee Recommendation 2

That the Bush Fire Advisory Committee Meeting recommend to Council that: -

Mr Gavin Charlton be appointed as Chief Bush Fire Control Officer until the end of September 2024 subject to their acceptance.

Moved: Cr _____

Seconded: Cr _____

Vote: Simple Majority

Carried/Lost: ___/___

Bush Fire Advisory Committee Recommendation 3

That the Bush Fire Advisory Committee Meeting recommend to Council that: -

Mr Nick Caffell be appointed as Deputy Chief Bush Fire Control Officer until the end of September 2024 subject to their acceptance.

Moved: Cr _____

Seconded: Cr _____

Vote: Simple Majority

Carried/Lost: ___/___

Bush Fire Advisory Committee Recommendation 4

That the Bush Fire Advisory Committee Meeting recommend to Council that: -

The following persons, subject to their acceptance be elected as Fire Control Officers for the Shire of Tammin until September 2024:-

Mr B Humfrey, Mr D Thompson, Mr N Caffell, Mr G Charlton, Mr H Dixon, Mr T York and Mr R Uppill.

Moved: Cr _____

Seconded: Cr _____

Vote: Simple Majority

Carried/Lost: ___/___

13.2 Office Closure – Christmas/New Year Period December 2022

Location:	Shire of Tammin
Applicant:	Manager of Finance & Administration
Date:	21 October 2022
Author:	Morgan Ware
Item Approved by:	Chief Executive Officer
Disclosure of Interest:	Nil
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 2022.

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.

The proposed office closure is as per the table below;

Friday 23 December 2022	Local Government Public Holiday	Office Closed
Saturday 24 December 2022	Christmas Eve	Weekend
Sunday 25 December 2022	Christmas	Weekend
Monday 26 December 2022	Public Holiday	Office Closed
Tuesday 27 December 2022	Public Holiday	Office Closed
Wednesday 28 December 2022	Staff utilise leave entitlements	Office Closed
Thursday 29 December 2022	Staff utilise leave entitlements	Office Closed
Friday 30 December 2022	Staff utilise leave entitlements	Office Closed
Saturday 31 December 2022	New Year's Eve	Weekend
Sunday 1 January 2023	New Year's Day	Weekend
Monday 2 January 2023	Public Holiday	Office Closed
Tuesday 3 January 2023	Nil	Office Open

Given the timing of the Christmas and New Year holidays it is proposed that the Office be closed for the period commencing Friday 23 December 2022 to Monday 2 January 2023. The Office will reopen on Tuesday, 3 January 2023.

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 clear some of their accrued leave entitlements and 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.

Consultation

Nil

Statutory Implications

Nil

Policy Implications

Nil

Financial Implications

The leave is taken as annual leave and/or RDO entitlement thus reducing the accumulated leave provisions within the FY2022/23 budget.

Strategic Implications

Nil

Officers Recommendation

That Council:

1. Approve the closure of the Shire Administration Office during the Christmas and New Year period from Friday 23 December 2021 to Monday 2 January 2023 inclusive, reopening on Tuesday, 3 January 2023; and,
2. Advertise the Administration Office closure to the public leading up to the Office closure.

Moved: Cr _____

Seconded: Cr _____

Vote: Simple Majority

Carried/Lost: __/____

13.3 CEO Performance Review

Location:	N/A
Applicant:	CEO
Date:	20 October 2022
Author:	Joanne Soderlund
Item Approved by:	Chief Executive Officer
Disclosure of Interest:	CEO as the author of this report is the subject of this review.
File Reference:	Nil
Attachment/s:	Attachment Item 13.3 – PRIVATE & CONFIDENTIAL

Proposal/Summary

That Council consider the framework for the annual performance review of the Chief Executive Officer.

Background

The Department of Local Government, Sport and Cultural Industries (DLGSC) has published operational Guidelines for Local Government CEO Recruitment and Selection, Performance Review and Termination (the Guidelines).

The Guidelines state that the minimum standard for performance review will be met if:

S2.1 Performance criteria is specific, relevant, measurable, achievable and time-based.

S2.2 The performance criteria and the performance process are recorded in a written document, negotiated with and agreed upon by the CEO and council.

S2.3 The CEO is informed about how their performance will be assessed and managed and the results of their performance assessment.

S2.4 The collection of evidence regarding performance outcomes is thorough and comprehensive.

S2.5 Assessment is made free from bias and based on the CEO's achievements against documented performance criteria, and decisions and actions are impartial and transparent.

S2.6 The council has endorsed the performance review assessment by absolute majority.

Comments

The Chief Executive Officer's Employment Contract sets out the following framework for the review of performance.

Clause 4.3 States:

Your performance under this Contract, must be reviewed and determined by the Reviewer –

- (a) By reference to the Performance Criteria developed pursuant to sections 4.1 and 4.2 of this contract;
- (b) At least annually; and
- (c) More frequently if the Council or You perceives there is a need to do so and, in that case, gives to the other party a Review Notice.

Clause 4.4 sets out how the Reviewer may be selected as follows:

- (a) The Council, in consultation with You, is to determine, in respect of each review under clause 4.3 –
- a. Who the Reviewer is to be; and
 - b. Whether the Reviewer is to be accompanied or assisted by any other person and, if so, the identity of that person.
- (b) The Reviewer may be –
- a. The Council; or
 - b. A committee to which the conduct of the performance review has been delegated by the Council under section 5.16 of the Act; or
 - c. A person or body who has been authorized by the Council to conduct the performance review.
- (c) For the avoidance of doubt, if the Council and You are unable to agree on any of the matters set out in clause 4.4(a), the Council is to make the relevant determination.

Therefore, the Council need to consider who they would like the review to be for this performance review as per Clause 4.4. The reviewer can change from year to year and the decision will be limited to this review only.

The Council could choose one of the following three options:

- Undertake the review as a full Council
- Delegate a committee of Councillors to undertake the review
- Engage a consultant to assist Council in undertaking the review.

Quotes have been sourced from a number of Consultants to ensure Council have all the information they need to decide how they will conduct the review. These quotes are included in the Confidential Attachment.

Consultation

WALGA

Statutory Implications

Admin. Reg. Schedule 2 CEO Standards
CEO Contract of Employment

Policy Implications

Nil

Financial Implications

If the Council decides to engage a consultant to assist with the review then there will be consultancy costs from between \$2,200 to \$5,000 for this service.

Strategic Implications

Strategic Community Plan 2018 - 2027

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

Officers Recommendation

That Council, in accordance with Schedule 2 Clause 16 of the *Local Government (Administration) Regulations 1996*, advise the Chief Executive Officer that _____ will be the reviewer for the 2022 Annual Performance Review as per Clause 4.4 of the Chief Executive Officers Employment Contract.

Moved: Cr _____

Seconded: Cr _____

Vote: Simple Majority

Carried/Lost: ___/___

14. MATTERS FOR CONSIDERATION – BUILDING & HEALTH

Nil

15. MATTERS FOR CONSIDERATION – TOWN PLANNING

15.1 Application for Development Approval – Proposed Unmanned Fuel Facility

Location:	Lot 251 on Deposited Plan 401154 Great Eastern Highway, Tammin
Applicant:	Planning Solutions on behalf of West 9 Pty Ltd (Landowner)
Date:	18 October 2022
Author:	Mr Joe Douglas – Town Planner
Item Approved by:	Chief Executive Officer
Disclosure of Interest:	Nil
File Reference:	N/A
Attachments:	Attachment Item 15.1 – Development Application Documentation & Plans Attachment Item 15.1 – Site Photographs

Purpose of Report

Consideration and determination of the permissibility of a proposed new unmanned fuel facility on Lot 251 on Deposited Plan 401154 Great Eastern Highway, Tammin in accordance with the specific requirements of clause 18(4) of the Shire of Tammin Local Planning Scheme No.2.

Background

Planning Solutions have submitted a development application on behalf of West 9 Pty Ltd (Landowner) to construct and operate a proposed new unmanned fuel facility and associated advertising signage in the eastern portion of Lot 251 on Deposited Plan 401154 Great Eastern Highway, Tammin.

A full copy of the development application received, including supporting documentation and plans, is provided in Attachment 1.

Lot 251 is located immediately adjacent to the western edge of the Tammin townsite and comprises a total area of approximately 4.8 hectares. The land is an irregular shaped lot that is approximately 43.5 metres wide at its widest point with approximately 1,478 metres of direct frontage to Great Eastern Highway along its northern boundary and approximately 1,454 metres frontage to an operational railway reserve immediately south.

Lot 251 is relatively flat throughout its entire area with the natural ground level being approximately 240 metres AHD. The property has been extensively cleared with the exception of some small stands of native vegetation located centrally and in its eastern and western extremities.

The subject land has direct frontage and access to Great Eastern Highway which is a State Road under the care, control and management of Main Roads WA and has historically been developed and used for railway and road transport related purposes. Key improvements include an old railway station building, fenced storage compound, unsealed internal driveways, informal parking and loading/unloading areas in its eastern-most part and a gravel hardstand area at its western end which appears to be used for general storage and vehicle loading/ unloading purposes. The property also contains unsealed internal access tracks that provide a direct connection between its developed portions as well as an open drainage channel at its western end which is used to channel stormwater drainage from a natural creek line that runs north--south.



Location & Lot Configuration Plan (Source: Landgate)

Lot 251 does not contain any buildings or places of cultural heritage significance and has not been designated by the Department of Water and Environmental Regulation as being subject to inundation or flooding during extreme storm events. Portions of the land have however been designated by the Fire and Emergency Services Commissioner as being bushfire prone. Notwithstanding this fact, that portion of the land where the development is proposed to be undertaken is not designated as being bushfire prone.

Immediately adjoining and other nearby land uses are broadly described as follows:

- North: Great Eastern Highway road reserve with extensive agriculture (i.e. cropping & grazing) beyond;
- South: An operational railway reserve with constructed local road reserves, extensive agriculture (i.e. cropping & grazing) and small scale light industrial development beyond;
- East: Great Eastern Highway road reserve with multiple recreation reserves, including bowling greens, public parking and the Shire’s Administration Centre beyond; and
- West: Great Eastern Highway road reserve with extensive agriculture (i.e. cropping & grazing), a cemetery and rural living-type development beyond.

Comments

The majority of Lot 251 is classified 'Rural' zone in the Shire of Tammin Local Planning Scheme No.2 (LPS2). A portion of the land along its southern boundary is also classified 'Local Road' reserve however this appears to be a minor anomaly that will have no bearing on the proposed development given its location outside this reserved area.

Table 3 in LPS2 sets out the following objectives for the development of any land classified 'Rural' zone:

- i) *To provide for the maintenance or enhancement of specific local rural character;*
- ii) *To protect broadacre agricultural activities such as cropping and grazing and intensive uses such as horticulture as primary uses, with other rural pursuits and rural industries as secondary uses in circumstances where they demonstrate compatibility with the primary use;*
- iii) *To maintain and enhance the environmental qualities of the landscape, vegetation, soils and water bodies, to protect sensitive areas especially the natural valley and watercourse systems from damage;*
- iv) *To provide for the operation and development of existing, future and potential rural land uses by limiting the introduction of sensitive land uses in the Rural zone; and*
- v) *To provide for a range of non-rural land uses where they have demonstrated benefit and are compatible with surrounding rural uses.*

The proposed development of an unmanned fuel facility on Lot 251 is a use that is not specifically listed in the Zoning Table of LPS2 and cannot reasonably be determined as falling within any other use class referred to in the Zoning Table (i.e. 'Fuel Depot', 'Service Station', 'Trade Supplies' and 'Warehouse/Storage'). As such, Council is required to consider the permissibility of the proposed development of Lot 251 in the context of the specific requirements of clause 18(4) and resolve as follows:

- a) That the use **is consistent** with the objectives of the 'Rural' zone and is therefore a use that **may be permitted** in the zone subject to conditions imposed by the local government; or
- b) That the use **may be consistent** with the objectives of the 'Rural' zone and advertise the application for public comment before considering and finally determining the application; or
- c) That the use **is not consistent** with the objectives of the 'Rural' zone and is therefore **not permitted** in the zone.

The applicant has stated in the application the proposed development **is consistent** with the objectives of the land's current 'Rural' zoning classification in LPS2 and **may therefore be permitted** as per clause 18(4)a) above for the following reasons:

- i) *The proposed development provides a rural related land use which is complementary to surrounding rural land uses and meet the needs of the Tammin locality, and heavy vehicles regularly passing the site along Great Eastern Highway;*
- ii) *The proposal provides a built form style that is a minor and simplistic structure to ensure it minimises the impact on the direct surrounding rural context;*
- iii) *The development retains all the natural vegetation on the site preserving the rural characteristic of the site;*

- iv) *The proposal utilises the abnormal narrow site that would not be otherwise be viable for broadacre agricultural activities;*
- v) *The unmanned fuel facility provides an opportunity for trucks and caravans travelling along Great Eastern Highway to access a convenient service, refuel, and continue their journey along Great Eastern Highway;*
- vi) *The proposal has been carefully designed to ensure it does not create an unwarranted impact on the streetscape, or poor amenities for workers resting at the facility; and*
- vii) *It will provide surrounding residents and passing vehicles with 24-hour diesel refueling for trucks and other diesel machinery.*

Whilst the applicant's justifications regarding the proposed development's consistency with zoning objectives and land use permissibility have some merit, it is contended, based upon a preliminary assessment of the application, discussion with the Shire's CEO and consultation with Main Roads WA, that it is not entirely consistent with the relevant zoning objectives for the following reasons:

- a) Notwithstanding the proposed development's small scale, it does not entirely comply with the minimum boundary setbacks requirements of LPS2 (i.e. 20 metres). Furthermore, it will be highly visible when viewed along its frontage to Great Eastern Highway, which is a major tourist route and the main entry to the Tammin townsite from the west, as well as other nearby properties due to the limited amount of visual screening and the fact it will be a 24 hour operation that will be lit up nightly for the life of the development.

Whilst the site development plan submitted in support of the application indicates there is some existing native vegetation along the land's frontage to Great Eastern Highway, a recent site inspection by the reporting officer and photographs taken by the Shire's Manager of Works and Services confirms there is a very limited amount of vegetation adjacent to the proposed development area which can provide any visual screening (see Attachment 2). As such, it is argued the existing local rural character of the immediate locality will not be maintained and enhanced by the proposed development as required by zoning objective i) and could be incompatible from a visual perspective;

- b) Whilst the proposed development will provide some benefits in terms of 24 hour access to fuel for the local community and travelling public, there is a significant concern regarding the ability to accommodate heavy vehicle movements to/from the land via Great Eastern Highway in a safe and convenient manner. The plans submitted in support of the application show all access to the proposed development (i.e. the main entry) will be via the eastern-most crossover and that vehicles will exit the site via another existing crossover located approximately 140 metres to the west.

Notwithstanding the abovementioned plans, the written submission submitted in support of the application states:

- *The unmanned fuel facility is positioned and orientated in a manner which enables uninterrupted access and circulation through the site, from either of the existing crossovers to Great Eastern Highway, with the layout enabling vehicles travelling east and/or west along the highway to access the refueling facilities;*
- *The crossovers are located in areas to enable the functional, safe and efficient movement of*

vehicles in and out of the subject site;

- *Access into and throughout the subject site will be two way, via the two crossovers on Great Eastern Highway; and*
- *The proposed tank and canopy have been positioned to ensure uninterrupted movements through the site from both directions so that vehicles can enter and exit the site in forward gear and customers are provided with a path through the site that is as linear as possible.*

There is a clear conflict between the site development plan and statements made by the applicant in their written submission regarding vehicle access arrangements which undermines the applicant's argument regarding consistency with zoning objective v) as it applies to demonstrated benefits of a non-rural land use and its compatibility with the ongoing use of Great Eastern Highway for vehicle access purposes.

The applicant has also not accounted for and considered the amount of light vehicle traffic likely to be generated by the proposed development and has only provided an estimate of the total number heavy vehicle movements expected on an hourly basis. Furthermore, it is noted the total number of heavy vehicle movements anticipated does not appear to account for the refilling of the fuel storage tank by fuel suppliers which is likely to occur on a regular basis given the anticipated demand for fuel sales and the relatively small size of the proposed fuel storage tank.

Main Roads WA has also raised concerns regarding the suitability of the existing crossovers along Great Eastern Highway proposed to be used to accommodate heavy vehicle movements and the ability for heavy vehicles to enter and exit the site in a safe and convenient manner, particularly in light of the current speed limits along Great Eastern Highway on the approaches to the development (i.e. 80km/h) and the fact speed limits change near the townsite boundary which motorists need to consider and account for. In light of these concerns, Main Roads WA has recommended and the Shire has requested the applicant provide additional information in support of the application demonstrating compliance with Main Roads WA's Driveways Policy as well as swept path and line-of-sight analysis plans to help determine and confirm if the proposed development is acceptable in terms of all future vehicle access arrangements and is therefore consistent with objective v) in terms of benefit and land use compatibility;

- c) The eastern portion of the land where the development is proposed to be undertaken is in a poor state of repair due to a lack of maintenance and various previous works and other activities. The ground levels are uneven, with evidence of scouring and erosion due to poor stormwater drainage, and there are numerous stockpiles of dirt and other materials in various locations which are unsightly and could be potential hazards.

The majority of works to accommodate the proposed development are focused on the internal driveway between the two existing crossovers to Great Eastern Highway and area where the fuel storage and refilling infrastructure are proposed to be erected.

Given the proposed facility will attract people, many of whom are likely to stop for a short break and rest from driving, there is some concern about the poor condition of the land and the potential risks associated with people wandering around the property, particularly the area comprising the old train station building which is no longer used for any purpose and may pose a danger if it falls into disrepair.

It is significant to note no works are proposed beyond the development area shown on the site

development plan and no new facilities are proposed to accommodate people who may seek to stop and rest after purchasing fuel (e.g. seating, shade structure/s, bins for waste disposal etc.). This therefore raises questions regarding the proposed development's consistency with zoning objectives i) and v) as they apply specifically to the maintenance and/or enhancement of local rural character and demonstrated benefits associated with allowing for a non-rural land use; and

- d) It is noted from reviewing the Zoning Table in LPS2 that the use classes 'Fuel Depot' and 'Service Station', both of which involve the sale of fuel, are expressly prohibited on any land classified 'Rural' zone. This therefore suggests fuels sales of any sort, including those from an unmanned fuel facility, is a land use activity Council has previously considered and determined is not consistent with the objectives of the 'Rural' zone and should not therefore be permitted.

In light of the above findings it is the reporting officer's view the proposed development **may be consistent** with the objectives of the 'Rural' zone and should therefore be advertised for public comment before Council formally considers and finally determines the application.

Notwithstanding the reporting officer's view, Council may instead consider and determine the proposed development is **not consistent** with the objectives of the 'Rural' zone and is therefore **not permitted** in the zone. If this were to occur the application could immediately be refused by Council and formal written notification provided to the applicant, including the basis for Council's decision. This option is not however recommended given the landowner's significant investment in the property, including planning for the proposed development, and the fact it would not afford the applicant/landowner the opportunity to address all the issues of concern. It is also considered likely the applicant/landowner would make application to the State Administrative requesting a review of Council's decision to refuse the application in its entirety pursuant to the rights afforded by Part 14 of the *Planning and Development Act 2005* which is a costly and time consuming exercise.

In light of all the above, it is recommended Council afford the applicant/landowner the opportunity to progress the application and the local community and State Government agencies the opportunity to consider and comment on the proposal by resolving that the proposed use **may be consistent** with the objectives of the 'Rural' zone and thereafter advertise the application for public comment before considering and finally determining the application.

Consultation

Given the proposed development comprises a use not specifically listed in the Zoning Table of LPS2 and cannot reasonably be determined as falling within any other use class referred to in the Zoning Table, the application is defined in Part 1 of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* as a 'complex application'.

Clauses 64(1) and 64(6) of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* require all complex applications to be advertised for public comment for a minimum required period of 28 days. If Council resolves the proposed use of Lot 251 **may be consistent** with the objectives of the 'Rural' zone as recommended by the reporting officer, the Shire Administration will immediately make arrangements to advertise the application in accordance with the abovementioned requirements.

If Council resolves the proposed use of Lot 251 is **not consistent** with the objectives of the 'Rural' zone and is therefore **not permitted** in the zone, public advertising will not be required.

In an effort to ensure processing and final determination of the application is completed within the statutory timeframe prescribed in the the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* (i.e. 90 days where public advertising is required), the application has already been referred to a number of State Government agencies for review and comment. As advised previously above, Main Roads WA has already responded recommending the applicant be required to provide additional supporting information to address concerns regarding heavy vehicle movements to/from the land via Great Eastern Highway. The Shire has informed the applicant accordingly and requested that additional information be provided by Friday 4 November 2022 for review and assessment in consultation with Main Roads WA.

Statutory Implications

- *Planning and Development Act 2005*
- *Planning and Development (Local Planning Schemes) Regulations 2015*
- *Shire of Tammin Local Planning Scheme No.2*

Policy Implications

- State Planning Policy 2.5 – *Rural Planning*
- State Planning Policy 2.9 – *Water Resources*
- Draft State Planning Policy 2.9 – *Planning for Water*

Financial Implications

There are no immediate financial implications for the Shire aside from the administrative costs associated with processing the application which are accounted for in the Shire's annual budget and have been offset in part by the development application fee paid by the landowner. All costs associated with the proposed development will be met by the landowner.

It is significant to note should the applicant/landowner be aggrieved by Council's final decision in this matter they have the right to seek a formal review of that decision by the State Administrative Tribunal. Should this occur for whatever reason, which is considered plausible in this particular case, the Shire would need to respond. The cost to respond to an appeal cannot be determined at this preliminary stage but could be expected, based on the recent experience of other local government authorities in Western Australia, to range anywhere from \$5,000 to \$60,000 excluding GST depending upon how far the matter proceeds through the review process.

Risk Implications

Financial – Risk rating is assessed as Low. Any potential financial risk will be mitigated through a detailed assessment process.

Health – Risk rating is assessed as Low subject to compliance with all regulatory requirements.

Notwithstanding this conclusion, there are some concerns regarding traffic safety which will be considered and addressed during the assessment process.

Reputation – Risk rating is assessed as Low. The application will be thoroughly assessed in due course, including a detailed report and final recommendation to Council.

Operational – Risk rating is assessed as Low. The application will be dealt with in accordance the Shire’s current Organisational Structure and the procedural requirements of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Natural Environment – Risk rating is assessed as Low due to the limited impact the proposed development is likely to have on the natural environment subject to compliance with all regulatory requirements.

Strategic Implications

To be determined and confirmed in due course following a more detailed assessment of the application in the context of the Shire’s strategic planning framework, any advice received from various State Government agencies and the outcomes from public advertising.

Voting Requirements

Simple Majority

Officer’s Recommendation

That Council resolve, pursuant to clause 18(4)b) of the Shire of Tammin Local Planning Scheme No.2, that the proposed development of an unmanned fuel facility on Lot 251 on Deposited Plan 401154 Great Eastern Highway, Tammin may be consistent with the objectives of the land’s ‘Rural’ zoning classification and authorise the Shire Administration to advertise the application for public comment in accordance with the procedural requirements of clause 64 of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* before considering and finally determining the application.

Moved: Cr _____

Seconded: Cr _____

Vote: Simple Majority

Carried/Lost: ___/___

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 ___.

