

# ORDER OF BUSINESS

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- 2 **RECORD OF ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE**
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- 5 **CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS**
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  - 5.2 Kulin Child Care Centre Management Committee – 1 August 2017
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- 6 **MATTERS REQUIRING DECISION**
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  - 9.1 Adoption of Fees and Charges 2017/18 (Private Works Amended)
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- 11 **DATE AND TIME OF NEXT MEETING**
- 12 **CLOSURE OF MEETING**

# Minutes of an Ordinary Meeting of Council held in the Council Chambers on Wednesday 16 August 2017 commencing at 4:28pm

## 1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

## 2. RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE

### Attendance

BD West	President	West Ward
RD Duckworth	Deputy President	West Ward
HT McInnes	Councillor	Town Ward
G Robins	Councillor	Town Ward
MJ Ledwith	Councillor	West Ward
R Bowey	Councillor	Town Ward
BP Taylor	Councillor	Central Ward
R O'Brien	Councillor	Central Ward
L Varone	Councillor	East Ward
N Mason	Chief Executive Officer	
C Vandenberg	Deputy CEO	
J Hobson	Manager of Works	

### Apologies

N Thompson	ESO / Minutes
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## 3. PUBLIC QUESTION TIME

Nil

## 4. APPLICATIONS FOR LEAVE OF ABSENCE

Nil

## 5. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

Shire of Kulin Ordinary Meeting – 19 July 2017

**01/0817**

**Moved Cr Bowey Seconded Cr Varone that the minutes of the Ordinary Council Meeting held on 19 July 2017 be confirmed as a true and correct record.**

**Carried 9/0**

Kulin Child Care Centre Management Committee – 1 August 2017

**02/0817**

**Moved Cr Bowey Seconded Cr Robins that the minutes of the Kulin Child Care Centre Management Committee Meeting held 1 August 2017 be received.**

**Carried 9/0**

Kulin Bush Races – 27 July 2017

**03/0817**

**Moved Cr O'Brien Seconded Cr Taylor that the minutes of the Kulin Bush Races General Meeting held 27 July 2017 received.**

**Carried 9/0**

## 6 MATTERS REQUIRING COUNCIL DECISION

CEO Noel Mason declared a financial interest in Item 6.1 – EFT's 12874, 13028 & 13068.

### 6.1 List of Accounts – July 2017

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**RESPONSIBLE OFFICER:** DCEO  
**FILE REFERENCE:** 12.06  
**AUTHOR:** DCEO  
**STRATEGIC REFERENCE/S:** 12.01  
**DISCLOSURE OF INTEREST:** Nil

**SUMMARY:**

Attached is the list of accounts paid during the month of July 2017 for Council's consideration.

**BACKGROUND & COMMENT:**

Nil

**FINANCIAL IMPLICATIONS:**

Nil

**STATUTORY AND PLANNING IMPLICATIONS:**

Nil

**POLICY IMPLICATIONS:**

Nil

**COMMUNITY CONSULTATION:**

Nil

**WORKFORCE IMPLICATIONS:**

Nil

**OFFICER'S RECOMMENDATION:**

That July payments being cheque No's 235 (Trip Fund), 366 (Trust Fund) 2000 - 2001 (Bush Races), 36819 - 36836 (Municipal), EFT No's 12846 - 13103, DD6220.1 - DD6220.10 (Municipal), credit card payments, creditor payments, and other vouchers from the Municipal Fund totalling \$833,992.41 be received.

**VOTING REQUIREMENTS:**

Simple majority required.

04/0817

Moved Cr Duckworth Seconded Cr Robins that July payments being cheque No's 235 (Trip Fund), 366 (Trust Fund) 2000 - 2001 (Bush Races), 36819 - 36836 (Municipal), EFT No's 12846 - 13103, DD6220.1 - DD6220.10 (Municipal), credit card payments, creditor payments, and other vouchers from the Municipal Fund totalling \$833,992.41 be received.

Carried 9/0

### 6.2 Financial Reports – July 2017

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**RESPONSIBLE OFFICER:** DCEO  
**FILE REFERENCE:** 12.01  
**AUTHOR:** DCEO  
**STRATEGIC REFERENCE/S:** 12.01  
**DISCLOSURE OF INTEREST:** Nil

**SUMMARY:**

Attached is the financial report for the period ending 31 July 2017.

**BACKGROUND & COMMENT:**

Nil

**FINANCIAL IMPLICATIONS:**

Nil

**STATUTORY AND PLANNING IMPLICATIONS:**

Regulation 34 of the Local Government (Financial Management) Regulations 1996 requires local governments to prepare each month a statement of financial activity reporting on the revenue and expenditure of funds for the month in question.

**POLICY IMPLICATIONS:**

Nil

**COMMUNITY CONSULTATION:**

Nil

**WORKFORCE IMPLICATIONS:**

Nil

**OFFICER’S RECOMMENDATION:**

That Council endorse the monthly financial statement for the period ending 31 July 2017.

**VOTING REQUIREMENTS:**

Simple majority required.

05/0817

Moved Cr Ledwith Cr McInnes that Council endorse the monthly financial statement for the period ending 31 July 2017.

Carried 9/0

**6.3 2017/2018 Budget Adoption**

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**NAME OF APPLICANT:** DCEO  
**RESPONSIBLE OFFICER:** DCEO  
**FILE REFERENCE:** 12.04  
**AUTHOR:** DCEO  
**DISCLOSURE OF INTEREST:** Nil.

**SUMMARY:**

Councillors were presented with the draft budget at the July 2017 meeting of Council.

As part of the budget adoption and to enable rate notices to be finalised, the following needs to be endorsed:

- Rate in the \$ for GRV and UV properties (based on 2.5% increase)
- Minimum values for GRV and UV properties
- Discount on early payment of rates
- Interest on late payment of rates and administration charge for instalment options
- Payment options and instalment dates

**Note: Changes to the Budget at this point would require deferment of adoption to allow changes to be incorporated.**

Changes since draft budget were presented:

- Plant replacement schedule has been updated and the rubber tyred roller which was planned to be replaced has been deferred and the Hamm Roller will now be replaced.
- Main Roads Direct Grant has now been reduced, we are unsure of the exact amount but we have reduced by 42%. The funding pool was reduced by 42%.
- Net Current Assets (opening balance) has increased. It was first estimated that the opening balance would be approximately \$1,450,000 however after passing all of our year end journals this figure is now \$1,528,224. This increase is similar in value to the reduction in the Direct Grant.

**COMMENT:**

Budgeted expenditure totals \$9,005,469 which is slightly lower than the 2016/17 budgeted expenditure of \$9,578,876. Budgeted revenue followed the same trend with 2017/18 revenue totalling \$5,138,376 falling from \$7,011,793. Some of this drop is due to almost \$1m of 2017/18 revenue, expected from the federal government’s financial assistance grants, being received in the 2016/17 financial year. The early receipt of these funds means that our starting point (Net Current Assets opening balance) is in a much healthier position than it was in the previous financial year. Our opening balance improved by \$854,725.

1. Capital Projects - the total budget for capital expenditure is expected to be around \$3,700,000. \$1.8m of this expenditure is for the construction and improvement of roads. Details of this road construction is listed in our road replacement program which is provided as an attachment to this report. Other capital expenditure includes plant replacement of \$900,000, staff housing construction of \$790,000, \$125,000 towards the construction of a dam in Pingaring and \$50,000 towards public housing.
2. Council has been able to contain the rate increase to an average of 2.5%. A 5.0% discount is offered to ratepayers who choose to pay their rates in full by the last business day in September. With the increasing cost of materials, utilities, contractors and staff wages, this increase was unavoidable.
3. It is anticipated that through this budget, Council will be able to further progress and increase facilities provided to the community and its wider users, and increase Council owned assets. These are very exciting times for the Kulin region, and the demand for increased infrastructure is very important to ensure that the region continues to prosper and develop at a rapid rate.

#### **STATUTORY ENVIRONMENT:**

As per the Recommendation

#### **FINANCIAL IMPLICATIONS:**

The budget sets the Council approved expenditure for the 2017/2018 financial year.

#### **RECOMMENDATION:**

That Council adopt the 2017/2018 Budget in accordance with the following items:

1. As per Section 6.32 (1) of the Local Government Act 1995, Rates and Minimum Rates to be levied on all rateable property be as follows:

Valuation	Rate (cents per dollar)	Minimum Rate
Residential Zoning – GRV	9.5843	\$ 417.60
Industrial Zoning – GRV	9.5843	\$ 417.60
Commercial Zoning – GRV	9.5843	\$ 417.60
Rural Zoning – UV	1.0111	\$ 417.60
Mining Zoning – UV	1.0111	\$ 417.60
Rural Zoning - GRV	9.5843	\$ 417.60

2. Section 6.35 (5) of the Local Government Act 1995 requires that the Minister for Local Government's approval be sought for the imposing of a minimum payment where the number of separately rated properties in the district on which a minimum payment is imposed is greater than 50%;
3. Section 6.46 of the Local Government Act allows a discount of 5.0% be allowed for payment of rates in full within 35 days of the date of issue of the rate notice;
4. Section 6.45 of the Local Government Act a 5.5% interest charge be levied on rates instalments, Deferred Pensioners Rates' excluded;
5. Section 6.45 of the Local Government Act an administration charge of \$7 be levied for the second and each of the subsequent rates instalments;
6. Section 6.51 of the Local Government Act an 11% interest charge be levied on all overdue rates outstanding, Deferred Pensioners' Rates excluded;
7. Section 6.32 (1) of the Local Government Act 1995 the Schedule of Rents, Leases and Charges as detailed in the budget document;
8. Section 64 (2) of the Local Government (Financial Management) Regulations 1996 that the due date for instalments be set as follows:  
Two Instalment Option:
  - 1<sup>st</sup> Instalment not due before 29<sup>th</sup> September 2017
  - 2<sup>nd</sup> Instalment not due before 1<sup>st</sup> February 2018
 Four Instalment Option
  - 1<sup>st</sup> Instalment not due before 29<sup>th</sup> September 2017
  - 2<sup>nd</sup> Instalment not due before 1<sup>st</sup> December 2017
  - 3<sup>rd</sup> Instalment not due before 1<sup>st</sup> February 2018
  - 4<sup>th</sup> Instalment not due before 2<sup>nd</sup> April 2018
9. Section 6.19 of the Local Government Act 1995 requires a local government to give local public notice of any fees or charges it wishes to impose after adoption of the annual budget; and;
10. Section 6.1 of the Local Government (Financial Management) Regulations 1996 requires that Council is required to adopt a percentage or value, to be used in statements of financial activity for reporting material variances against the adopted Budget.

**VOTING REQUIREMENTS:**

Absolute majority required.

06/0817

Moved Cr Ledwith Seconded Cr McInnes that Council adopt the 2017/2018 Budget in accordance with the following items:

1. As per Section 6.32 (1) of the Local Government Act 1995, Rates and Minimum Rates to be levied on all rateable property be as follows:

Valuation	Rate (cents per dollar)	Minimum Rate
Residential Zoning – GRV	9.5843	\$ 417.60
Industrial Zoning – GRV	9.5843	\$ 417.60
Commercial Zoning – GRV	9.5843	\$ 417.60
Rural Zoning – UV	1.0111	\$ 417.60
Mining Zoning – UV	1.0111	\$ 417.60
Rural Zoning - GRV	9.5843	\$ 417.60

2. Section 6.35 (5) of the Local Government Act 1995 requires that the Minister for Local Government’s approval be sought for the imposing of a minimum payment where the number of separately rated properties in the district on which a minimum payment is imposed is greater than 50%;
3. Section 6.46 of the Local Government Act allows a discount of 5.0% be allowed for payment of rates in full within 35 days of the date of issue of the rate notice;
4. Section 6.45 of the Local Government Act a 5.5% interest charge be levied on rates instalments, Deferred Pensioners Rates’ excluded;
5. Section 6.45 of the Local Government Act an administration charge of \$7 be levied for the second and each of the subsequent rates instalments;
6. Section 6.51 of the Local Government Act an 11% interest charge be levied on all overdue rates outstanding, Deferred Pensioners’ Rates excluded;
7. Section 6.32 (1) of the Local Government Act 1995 the Schedule of Rents, Leases and Charges as detailed in the budget document;
8. Section 64 (2) of the Local Government (Financial Management) Regulations 1996 that the due date for instalments be set as follows:
  - Two Instalment Option:
    - 1st Instalment not due before 29th September 2017
    - 2nd Instalment not due before 1st February 2018
  - Four Instalment Option
    - 1st Instalment not due before 29th September 2017
    - 2nd Instalment not due before 1st December 2017
    - 3rd Instalment not due before 1st February 2018
    - 4th Instalment not due before 2nd April 2018
9. Section 6.19 of the Local Government Act 1995 requires a local government to give local public notice of any fees or charges it wishes to impose after adoption of the annual budget; and;
10. Section 6.1 of the Local Government (Financial Management) Regulations 1996 requires that Council is required to adopt a percentage or value, to be used in statements of financial activity for reporting material variances against the adopted Budget.

Carried 9/0

**6.4 Application under License for Use of Land – Wedding - Kulin Bush Races Facility**

**NAME OF APPLICANT:** Wesley Lamont  
**RESPONSIBLE OFFICER:** CEO  
**FILE REFERENCE:** 02.06 Kulin Bush Races  
**AUTHOR:** CEO  
**DISCLOSURE OF INTEREST:** Nil

**SUMMARY:**

The Shire has received an application from Mr. Wesley Lamont and Ms. Sarah Rea (Blazing Swan) for use of the Kulin Bush Races track/facilities to host their wedding on the 23<sup>rd</sup> and 24<sup>th</sup> September 2017. Seeking Council delegation to the Chief Executive Officer to have requests meeting Shire KBR License Agreement requirements, KBR Committee and Licensor consent, approved by delegation without reference to Council.

**BACKGROUND & COMMENT:**

Shire Chief Executive Officer received advice from KBR Chairman (G Robertson) that a request had been made to utilise the KBR facilities for a wedding; two weeks prior to KBR 2017. The KBR Committee discussed the matter and approved the use of the facilities for a wedding, and organised supervision and preparation arrangements. CEO on checking the License Agreement requirements forwarded an application/approval request form to proponent. Final application was submitted to the Licensor and approval was issued by Mary & Sergio Lucchesi on the 30<sup>th</sup> July 2017.

Remains for Council to approve the private event under the License to Use Land and to ensure adequate liability cover exists for the event. The Shire's Casual Hirers liability, public liability and property covers would be used in the case of a claim.

With the proponent conducting an invitation only event, no alcohol sales and KBR supervision; this private event should not impose any additional requirements on the Shire.

CEO also proposes that applications seeking Council approval under the Shire KBR License Agreement that have received KBR Committee and Licensor consent, be approved by delegation without reference to Council. Administration Procedures and Operational Guideline (APOG) CS13 be amended to include the following;

***Application for Use of Land - Shire of Kulin and Kulin Bush Races facility – Lucca Pty Ltd***

*The Chief Executive Officer is authorised to consider applications for approval for the conduct of events under SCHEDULE ITEM 4 of the Lucca Pty Ltd and Shire of Kulin License to Use Land Agreement (Kulin Bush Races facility) subject to compliance with the following terms and conditions;*

***Public Functions***

- *In the case of community, sporting or public functions and any other festival or event – only following an approval by the KBR Committee and a report resolution by Council following receipt of the Licensor's approval;*

***Private Functions***

- *In the case of private functions (where alcohol license is not required) by delegation to the CEO when approved by the Kulin Bush Races Committee and the Licensor;*
  - *A copy of the Event License is to be sent to the applicant after Shire approval detailing any terms or conditions to be met;*
  - *Event Application License will only be issued to a single applicant;*
  - *Appropriate hygiene measures to be assessed and recommendations to be followed at all times;*
  - *Appropriate licenses must be held for all licensable activities e.g. Fireworks*
  - *All care will be taken to avoid damage to the KBR facility and no alterations or additions will be made to the facility without KBR Committee sanction;*
  - *All care will be taken to avoid any major soil disturbance that will lead to soil degradation; and*
- Upon an applicant agreeing to the terms and conditions, the Chief Executive Officer will issue approval by letter.*

On this occasion, this application can be determined by Council resolution.

**FINANCIAL IMPLICATIONS:**

Nil

**STATUTORY AND PLANNING IMPLICATIONS:**

Nil

**POLICY IMPLICATIONS:**

As indicated with Procedure to be adopted in the APOG.

**Note: Shire of Kulin Administrative Procedures and Operational Guidelines Manual (APOG)**

**COMMUNITY CONSULTATION:**

Nil

**WORKFORCE IMPLICATIONS:**

Nil

**RECOMMENDATION:**

That Council approve the Event Application submitted by Wesley Lamont for a License for Use of Land subject to the following conditions noting that the KBR Committee and Lucca Pty Ltd approval has been secured;

- *Appropriate licenses must be held for all licensable activities e.g. Fireworks*
- *All care will be taken to avoid damage to the KBR facility and no alterations or additions will be made to the facility without KBR Committee sanction;*
- *All care will be taken to avoid any major soil disturbance that will lead to soil degradation; and*

Upon an applicant agreeing to the terms and conditions, the Chief Executive Officer will issue approval by letter. That the detailed procedure to consider applications be added to the Community Services (CS13) section of the APOG.

**Application for Use of Land - Shire of Kulin and Kulin Bush Races facility – Lucca Pty Ltd**

*The Chief Executive Officer is authorised to consider applications for approval for the conduct of events under SCHEDULE ITEM 4 of the Lucca Pty Ltd and Shire of Kulin License to Use Land Agreement (Kulin Bush Races facility) subject to compliance with the following terms and conditions;*

**Public Functions**

- *In the case of community, sporting or public functions and any other festival or event – only following an approval by the KBR Committee and a report resolution by Council following receipt of the Licensor's approval;*

**Private Functions**

- *In the case of private functions (where alcohol license is not required) by delegation to the CEO when approved by the Kulin Bush Races Committee and the Licensor;*
- *A copy of the Event License is to be sent to the applicant after Shire approval detailing any terms or conditions to be met;*
- *Event Application License will only be issued to a single applicant;*
- *Appropriate hygiene measures to be assessed and recommendations to be followed at all times;*
- *Appropriate licenses must be held for all licensable activities e.g. Fireworks*
- *All care will be taken to avoid damage to the KBR facility and no alterations or additions will be made to the facility without KBR Committee sanction;*
- *All care will be taken to avoid any major soil disturbance that will lead to soil degradation; and*

*Upon an applicant agreeing to the terms and conditions, the Chief Executive Officer will issue approval by letter.*

**VOTING REQUIREMENTS:**

Simple majority required.

07/0817

**Moved Cr O'Brien Seconded Cr Robins that Council approve the Event Application submitted by Wesley Lamont for a License for Use of Land subject to the following conditions noting that the KBR Committee and Lucca Pty Ltd approval has been secured;**

- **Appropriate licenses must be held for all licensable activities e.g. Fireworks**
- **All care will be taken to avoid damage to the KBR facility and no alterations or additions will be made to the facility without KBR Committee sanction;**
- **All care will be taken to avoid any major soil disturbance that will lead to soil degradation; and**

**Upon an applicant agreeing to the terms and conditions, the Chief Executive Officer will issue approval by letter.**

**That the detailed procedure to consider applications be added to the Community Services (CS13) section of the APOG.**

**Application for Use of Land - Shire of Kulin and Kulin Bush Races facility – Lucca Pty Ltd**

*The Chief Executive Officer is authorised to consider applications for approval for the conduct of events under SCHEDULE ITEM 4 of the Lucca Pty Ltd and Shire of Kulin License to Use Land Agreement (Kulin Bush Races facility) subject to compliance with the following terms and conditions;*

**Public Functions**

- *In the case of community, sporting or public functions and any other festival or event – only following an approval by the KBR Committee and a report resolution by Council following receipt of the Licensor's approval;*

**Private Functions**

- *In the case of private functions (where alcohol license is not required) by delegation to the CEO when approved by the Kulin Bush Races Committee and the Licensor;*
- *A copy of the Event License is to be sent to the applicant after Shire approval detailing any terms or conditions to be met;*
- *Event Application License will only be issued to a single applicant;*
- *Appropriate hygiene measures to be assessed and recommendations to be followed at all times;*
- *Appropriate licenses must be held for all licensable activities e.g. Fireworks*
- *All care will be taken to avoid damage to the KBR facility and no alterations or additions will be made to the facility without KBR Committee sanction;*
- *All care will be taken to avoid any major soil disturbance that will lead to soil degradation; and*

**Upon an applicant agreeing to the terms and conditions, the Chief Executive Officer will issue approval by letter.**

Carried 9/0

## 7.1 Compliance Reporting – General & Financial Compliance – July 2017

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**NAME OF APPLICANT:** CEO  
**RESPONSIBLE OFFICER:** CEO  
**FILE REFERENCE:** 12.05 Compliance 12.06 – Accounting Compliance  
**STRATEGIC REFERENCE/S:** CBP 4.1 Civic Leadership, 4.1.8 Compliance methods  
**AUTHOR:** CEO/DCEO  
**DISCLOSURE OF INTEREST:** Nil

### **SUMMARY:**

This report addresses General and Financial Compliance matters for July 2017. This process is not definitive, each month additional items and/or actions may be identified that are then added to the monthly checklist. Items not completed each month e.g. quarterly action - will be notations.

The report provides a guide to the compliance requirements being addressed as part of staff workloads and demonstrates the degree of internal audit being completed.

### **BACKGROUND & COMMENT:**

The Compliance Team and works staff commence the monthly compliance effort immediately after the Shire meeting each month. At that time, the executive support officer will email the assigned staff member their compliance requirements for the coming month.

As the month progresses, staff in conjunction with their manager, the CEO or DCEO will determine the extent of work/action needed to complete items. During Agenda week, the Compliance Team again meets to ensure the monthly report/list is reviewed and that compliance items are completed. In preparing the Agenda report, the CEO or DCEO will sign off on completed items.

Prior month items not completed previously will be reported in the following month so Council remains aware of what items are still outstanding. (*Refer to Table attached*)

### **FINANCIAL IMPLICATIONS:**

In the generation of the report, nil in terms of meeting compliance. There may be items that require additional administrative effort to complete or require external assistance to resolve. In those cases, individual financial implications will be reported.

### **STATUTORY AND PLANNING IMPLICATIONS:**

Nil

### **POLICY IMPLICATIONS:**

Identified as necessary – this report Nil

### **COMMUNITY CONSULTATION:**

Nil

### **WORKFORCE IMPLICATIONS:**

Nil

### **OFFICER'S RECOMMENDATION:**

That Council receive the General & Financial Compliance Reports for July 2017 and note the matters of non-compliance.

### **VOTING REQUIREMENTS:**

Simple majority required.

**08/0817**

**Moved Cr Bowey Seconded Cr Varone that Council receive the General & Financial Compliance Reports for July 2017 and note the matters of non-compliance.**

**Carried 9/0**

## 7.2 Compliance Reporting – Delegations Exercised – July 2017

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**NAME OF APPLICANT:** CEO  
**RESPONSIBLE OFFICER:** CEO  
**FILE REFERENCE:** 12.05 - Compliance  
**STRATEGIC REFERENCE/S:** CBP 4.1 Civic Leadership, 4.1.8 Compliance methods  
**AUTHOR:** CEO  
**DISCLOSURE OF INTEREST:** Nil

### SUMMARY:

To report back to Council actions performed under delegated authority for the period ending 1 August 2017.

To provide a comprehensive report listing of the delegations able to be exercised following adoption of a more substantial array of delegations in June 2017.

### BACKGROUND & COMMENT:

This report is prepared for Council detailing actions performed under delegated authority by the respective officers under each of the delegation headings:

#### Policy Delegation

#### Officers

#### ADMINISTRATION

A1	Acting Chief Executive Officer	(CEO)
A2	Agreements for Payments of Debts to Council	(CEO/DCEO)
A3	Casual Hirer's Liability	(CEO)
A4	Complaint Handling	(CEO)
A5	Fees & Charges – Discounts	(CEO/DCEO/MW/MLS/CRC Mgr.)
A6	Investment of Surplus Funds	(CEO/DCEO)
A7	IT & Social Media – Use Of	(CEO)
A8	Legal Advice, Representation & Cost Reimbursement	(CEO)
A9	Payments from Municipal and Trust Funds	(CEO – to numerous staff for Orders)
A10	Use of Common Seal	(CEO)
A11	Writing Off Debts	(CEO)
A12	Housing	(CEO)
A13	Procedure for Unpaid Rates Finance	(CEO)

#### GOVERNANCE

G1	Applications for Planning Consent	(CEO)
G2	Building Licences and Swimming Pools	(EHO/Building Surveyor)
G3	Cemeteries Act 1986	(CEO)
G4	Health Act 1911 Provisions	(EHO)

#### HUMAN RESOURCES

H1	Grievance Procedures	(CEO)
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#### COMMUNITY SERVICES

C1	Bushfire Control – Shire Plant for Use of	(CEO)
C2	Bushfire Control – Plant Use for Adjoining Shires	(CEO)
C3	Bushfire Prohibited / Restricted Burning Periods – Changes	(Shire President/CEO)
C4	Bushfire Training Administration	(CEO)
C5	Cat Ownership Limit – Cat Control	(CEO)
C6	Dog Control – Attacks	(CEO)
C7	Dog Ownership Limit – Dog Control	(CEO)
C8	Sea Containers Use of – Town Planning	(CEO)
C9	Second Hand Dwellings	(CEO)
C10	Temporary Accommodation	(CEO)
C11	Unauthorised Structures – Building Control	(CEO)
C12	Kulin Bush Races	(Kulin Bush Races Committee)
C13	Freebairn Recreation Club Committee	(FRC Club Committee)
C14	Kulin Child Care Centre Management Committee	(Kulin CCC Management Committee)
C15	General – Community Services Practices	(CEO)

## **WORKS**

W1	Gravel Supplies	(MW)
W2	Roads – Clearing	(CEO)
W3	Roads – Damage to	(MW)
W4	Roads – Roadside Markers – Management of	(MW)
W5	Stormwater Drainage	(MW)
W6	Street Trees	(CEO)
W7	Streetscape – Improvements	(CEO)
W8	Roadside Burning	(MW)
W9	Temporary Road Closures	(MW)
W10	General – Works Practices Approvals	

## **COMMENT:**

The following details the delegations exercised within the Shire relative to the delegated authority for the month and are submitted to Council for information (excluding delegations under A9, Payments – refer to individual order and payment listed in Accounts paid)

*Delegations exercised for July 2017.*

### **A6 Investment of Surplus Funds (DCEO) - Local Government Act 1995, section 6.14**

Municipal funds

At Call	1.5%	-350,000
At Call	1.5%	-275,000
At Call	1.5%	-100,000

### **CS1 Bush Fire Administration – Confirmation of Appointment of Dual Fire Control Officers – Bush Fires Act 1954, Sect 48 (1)**

Appointment of Shire of Lake Grace Dual Fire Control Officers 2017/18 Fire Season – Mr. Doug Dunham, Mr. Steven Davies and Mr. Evan Wyatt.

## **STATUTORY ENVIRONMENT:**

*Building Act 2011*

*Bushfires Act 1954*

*Cemeteries Act 1986*

*Health (Asbestos) Regulations 1992;*

*Health (Miscellaneous Provisions) Act 1911;*

*Local Government Act 1995*

*Public Health Act 2016*

*Shire of Kulin TPS2*

*Town Planning Development Act*

*Town Planning Scheme*

*Trustees Act, Part III,*

*Criminal Procedure Act 2004;*

## **FINANCIAL IMPLICATIONS:**

Nil in terms of exercising delegation and reporting to Council though there may be financial implications in the case of each delegation exercised.

## **STATUTORY AND PLANNING IMPLICATIONS:**

Nil

## **POLICY IMPLICATIONS:**

There are no known policy implications relating to this report.

## **COMMUNITY CONSULTATION:**

Nil

## **WORKFORCE IMPLICATIONS:**

Nil

## **OFFICER'S RECOMMENDATION:**

That Council receive the Delegation Exercised Report for July 2017.

## **VOTING REQUIREMENTS:**

Simple majority required.

09/0817

Moved Cr McInnes Seconded Cr Robins that Council receive the Delegation Exercised Report for July 2017.

Carried 9/0

## **8 ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil

## **9 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING**

### **9.1 Adoption of Fees and Charges 2017/18 (Private Works Amended)**

**RESPONSIBLE OFFICER:** DCEO  
**FILE REFERENCE:** 12.04  
**AUTHOR:** DCEO  
**STRATEGIC REFERENCE/S:**  
**DISCLOSURE OF INTEREST:** Nil

#### **SUMMARY:**

Fees & Charges for private works have been reviewed and it is proposed to amend the fees which were adopted in the May 2017 meeting for the 2017/18 financial year. The fees which were set were undervalued for some items of plant and it is suggested that we adopt a level of fee which recovers the cost associated with hiring the plant.

#### **BACKGROUND & COMMENT:**

In accordance with Section 6.16 of the *Local Government Act 1995*, a Local Government may impose and recover a fee or charge for any goods or service it provides or proposes to provide. Fees and charges can be imposed or amended during the year, but only by an absolute majority decision of Council.

#### **FINANCIAL IMPLICATIONS:**

The schedule of fees and charges has been reviewed with the view of maintaining revenues at the required level to meet service needs and community expectations.

#### **STATUTORY AND PLANNING IMPLICATIONS:**

Nil

#### **POLICY IMPLICATIONS:**

Nil

#### **COMMUNITY CONSULTATION:**

Nil

#### **WORKFORCE IMPLICATIONS:**

Nil

#### **OFFICER'S RECOMMENDATION:**

1. That Council adopt and incorporate the proposed schedule of fees and charges.
2. That the proposed fees and charges take effect 18 September 2017.

#### **VOTING REQUIREMENTS:**

Absolute majority required.

10/0817

Moved Cr Duckworth Seconded Cr Robins:-

1. That Council adopt and incorporate the proposed schedule of fees and charges.
2. That the proposed fees and charges take effect 18 September 2017.

Carried 9/0

## 9.2 Animals, Environment and Nuisance Local Law - Amendment 2017

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**RESPONSIBLE OFFICER:** CEO  
**FILE REFERENCE:** 19.03 Local Laws  
**AUTHOR:** CEO/EHO  
**STRATEGIC REFERENCE/S:**  
**DISCLOSURE OF INTEREST:** Nil

### SUMMARY:

The Joint Standing Committee on delegated legislation has met and considered the Shire of Kulin Animals, Environment and Nuisance Local Law 2016 and have recommended changes.

The Environmental Health Officer has requested the Council's immediate consideration of the changes as this will be the last opportunity to finalise the local law before his tenure with the ROE Health Scheme ends.

### BACKGROUND:

On the 25 January 2017 the *Shire of Kulin Animals, Environment and Nuisance Local Law 2016* (Local Law) was gazetted in *Special Gazette N° 24*. After gazettal the local government of Kulin submitted all the information and records undertaken to prepare the Local Law and submitted this to the Joint Standing Committee on Delegated Legislation (JSCDL) for review. The JSCDL is made up of politicians consisting of 8 members, 4 from each House of Parliament and its function is to consider and report to the Houses on any regulation made under a parent Act which:

- appears to be not within the power allowed by the Act;
- has unintended effects on any person's existing rights or interests;
- does not provide an effective mechanism for the review of administrative decisions; or
- contains matters which should be properly dealt with by the Parliament through legislation;

The JSCDL has the power to inquire into a proposed or existing template, pro forma or model local law; a systemic issue identified in 2 or more instruments of subsidiary legislation; and the statutory and administrative procedures for the making of subsidiary legislation generally.

Due to the instruments of Law in which the State Parliament of Western Australia is politically structured only Laws *when gazetted* can be reviewed. The review of local laws after gazettal is often observed by persons drafting laws in local government as anomalous although this is the instrument of State parliament and is unalterable. It has been reported to the Officer that the required checks and measures for local laws is done by the various State Government departments to ensure no systemic errors occur, nonetheless from time to time issues slip through as is the case for this Local Law.

On the 10 August 2017 the Shire of Kulin received through email correspondence from the Chair of the JSCDL The Honourable Ms Emily Louise Hamilton MLA informing that the Local Law had matters as raised by the JSCDL which will require an 'Amendment' to the existing Local Law (**ATTACHMENT A**, *in confidence*).

### COMMENT:

The JSCDL has now examined the Local Law and requests that Council review the following subclauses with the intention they are to be deleted (and reason why):

- Subclause 3.9(c) which states '*removing any refrigerants as per the requirements of the Environmental Protection (Ozone Protection) Policy 2000*';
  - **Reason for deletion:** The JSCDL makes statement the Policy in this subclause was rescinded in September 2009 and has been replaced by Federal legislation and there is sufficient regulation since drafted to deal with such matters. Furthermore the JSCDL expressed concerns that the subclause as written referred to a 'person' to remove refrigerants rather than a person so skilled to do so.
  -
- Subclause 4.12(1) which states '*A person shall not, without written authorisation from the local government, place or affix any letter, figure, device, poster, sign or advertisement on any buildings, fences or posts.*'

- **Reason for deletion:** The JSCDL has determined this clause has an unintended effect to prohibit the placing of signs such as '...house numbers, 'no junk mail' signs, 'beware of the dog' signs and the like.' Whilst the JSCDL assumes this was never the intention of the Shire the clause does contravene the JSCDL Term of Reference 10.6(b) in which it is not in the Shires power to make such a clause as worded.

Another matter in the Local Law identified by the JSCDL is typographical errors in clause 2.15 of the Local law where they state '*Sub-paragraphs (1)(b)(iii) and 1(b)(iv) are misaligned and should be re-numbered (1)(c) and (1)(d) respectively.*' The renumbering of the two clauses is a straight forward reformatting process.

Whilst the above matters are regrettable, Council can be assured that the then Local Law in its proposed form was sent many times for review to the relevant State Government Departments. The Local Law was based on a draft local law which has been in progress for at least 4 years and itself reviewed many times.

To satisfy the JSCDL matters as raised, Council must resolve to undertake that the Shire will, within six months, to:

- Delete subclauses 3.9(c) and 4.12(1) and make all necessary consequential amendments;
- Correct the typographical errors in clause 2.15;
- Until subclause 3.9(c) is deleted, post a Notice on the Shire's website next to the Local law alerting residents to the error and the fact that the Commonwealth now regulates this field through a licencing system;
- Not enforce the Local law in a manner contrary to the above undertaking;
- Provide a copy of the Minutes of the meeting at which the Council of the Shire of Kulin resolved to provide the undertakings; and
- Where the Local Law is made publicly available, whether in hard copy or electronic form, ensure that it is accompanied by a copy of these undertakings.

With the *commitment* so made to the undertakings mentioned above, the next step is administrative in which preparation of an Amendment to the Local Law is to be progressed. The steps to make the Amendment Local Law is the same as for the original Local law preparation although the costs are reduced as normally only one or two pages outlining the parts to be amended are required for gazettal.

In addition to the above matters, the JSCDL has advised local governments who recently prepared local laws that the Department of Water Environment Regulation (DWER) consent maybe required. The DWER formed the view that there are 'reasonable grounds' to require the consent of the Chief Executive Officer (CEO) of DWER pursuant to Section 61(1) of the *Waste Avoidance and Resource Recovery Act 2007* to certain waste-related provisions. The matter of requiring the consent of the DWER CEO arose during the preparing of the Shire of Cunderdin Animals, Environment and Nuisance Local Law 2016. The Kulin Shire Local Law presently has the same raised concerns found in clauses 3.1, 3.2 and 3.6(2) which mention the removal of refuse from a Lot.

Through the commendable efforts of the Clerks within the JSCDL it has been determined, in their professional opinion, that the CEO of DWER consent is not required. The JSCDL has written to the Minister for Environment seeking the Ministers views as to whether, and on what basis, consent of the CEO of DWER is required regarding the relevant Local Law clauses. Whilst this matter is presently awaiting a response regarding the consent from the DWER CEO, unless otherwise advised, the consent can be entreated during the Amendment Local Law process.

#### **STATUTORY ENVIRONMENT:**

*Health (Miscellaneous Provisions) Act 1911;*  
*Shire of Kulin Animals, Environment and Nuisance Local Law 2016;* and  
*Local Government Act 1995.*

#### **POLICY IMPLICATIONS:**

There are no direct policy implications in relation to this item.

#### **FINANCIAL IMPLICATIONS:**

Gazettal and advertisings costs are estimated at \$1,000 to \$1,200 then the undetermined additional cost of administrating the Local Law Amendment by Shire staff and/or consultant as required.

#### **OFFICER'S RECOMMENDATION:**

That Council resolves to:

1. Accept the correspondence from the Chair of the Joint Standing Committee on Delegated Legislation The Honourable Ms Emily Louise Hamilton MLA in relation to the Shire of Kulin Animal, Environment and Nuisance Local Law 2016;
2. Undertake the requirement to delete subclauses 3.9(c) and 4.12(1) and that the subclauses of clause 2.15 is reformatted from subclause 1(b)(iii) to (1)(c) and subclause 1(b)(iv) to (1)(d) as provided in ATTACHMENT A and any such consequential amendments arising from the undertakings be completed within six months of the date of the letter of ATTACHMENT A or longer as approved by the Chair of the Joint Standing Committee on Delegated Legislation if so requested by Council and giving good cause;
3. Undertake the following requirements being:
  - a. that until clause 3.9(c) is deleted, a notice will be posted on the Shire's website next the Shire of Kulin Animal, Environment and Nuisance Local Law 2016 alerting residents to the error and the fact that the Commonwealth now regulates this field through a licensing system;
  - b. that the Shire of Kulin Animal, Environment and Nuisance Local Law 2016 will not be enforced in a manner contrary to the undertakings given in as detailed in ATTACHMENT A;
  - c. that where the Shire of Kulin Animal, Environment and Nuisance Local Law 2016 is made publicly available in hard copy and/or electronic form, it shall be accompanied by a copy of the Councils commitment to the undertakings.
  - d. that Shire of Kulin will furnish a copy of the minutes of this Ordinary Meeting of Council dated 16 August 2017 to the Joint Standing Committee on Delegated Legislation where the Council of the Shire of Kulin has resolved to provide these undertakings;
4. Authorise the Chief Executive Officer to:
  - a. Provide Council the report that addresses the preparation of a future Shire of Kulin Amendment Animal, Environment and Nuisance Local Law 2016; and
  - b. Advise the Chair of the Joint Standing Committee on Delegated Legislation of the Shire of Kulin commitment to the required undertakings as stated in this Council Resolution.

#### **VOTING REQUIREMENT**

Absolute Majority

**11/0817**

**Moved Cr Robins seconded Cr Taylor that Council resolves to:**

1. **Accept the correspondence from the Chair of the Joint Standing Committee on Delegated Legislation The Honourable Ms Emily Louise Hamilton MLA in relation to the Shire of Kulin Animal, Environment and Nuisance Local Law 2016;**
2. **Undertake the requirement to delete subclauses 3.9(c) and 4.12(1) and that the subclauses of clause 2.15 is reformatted from subclause 1(b)(iii) to (1)(c) and subclause 1(b)(iv) to (1)(d) as provided in ATTACHMENT A and any such consequential amendments arising from the undertakings be completed within six months of the date of the letter of ATTACHMENT A or longer as approved by the Chair of the Joint Standing Committee on Delegated Legislation if so requested by Council and giving good cause;**
3. **Undertake the following requirements being:**
  - a. **that until clause 3.9(c) is deleted, a notice will be posted on the Shire's website next the Shire of Kulin Animal, Environment and Nuisance Local Law 2016 alerting residents to the error and the fact that the Commonwealth now regulates this field through a licensing system;**
  - b. **that the Shire of Kulin Animal, Environment and Nuisance Local Law 2016 will not be enforced in a manner contrary to the undertakings given in as detailed in ATTACHMENT A;**
  - c. **that where the Shire of Kulin Animal, Environment and Nuisance Local Law 2016 is made publicly available in hard copy and/or electronic form, it shall be accompanied by a copy of the Councils commitment to the undertakings.**
  - d. **that Shire of Kulin will furnish a copy of the minutes of this Ordinary Meeting of Council dated 16 August 2017 to the Joint Standing Committee on Delegated Legislation where the Council of the Shire of Kulin has resolved to provide these undertakings;**
4. **Authorise the Chief Executive Officer to:**
  - a. **Provide Council the report that addresses the preparation of a future Shire of Kulin Amendment Animal, Environment and Nuisance Local Law 2016; and**
  - b. **Advise the Chair of the Joint Standing Committee on Delegated Legislation of the Shire of Kulin commitment to the required undertakings as stated in this Council Resolution.**

**Carried 9/0**

## **10 MATTERS FOR WHICH THE MEETING IS CLOSED TO THE PUBLIC**

Nil

## **11 DATE AND TIME OF NEXT MEETING**

The next Ordinary Council meeting will be held on Wednesday 20 September at 1:00pm.

## **12 CLOSURE OF MEETING**

There being no further business the meeting closed at 6:15pm.