



## **ORDER OF BUSINESS**

- 1 DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS)**
- 2 RECORD OF ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE**
- 3 PUBLIC QUESTION TIME**
- 4 APPLICATIONS FOR LEAVE OF ABSENCE**
- 5 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS**
  - 5.1 Shire of Kulin Ordinary Meeting – 20 April 2016
  - 5.2 Kulin Child Care Centre Management Committee – 10 May 2016
  - 5.3 Kulin Bush Races General Meeting – 11 May 2016
- 6 MATTERS REQUIRING DECISION**
  - 6.1 List of Accounts – April 2016
  - 6.2 Financial Reports – April 2016
  - 6.3 Councillors Portfolios and Representation – Tourism
  - 6.4 2016 WA Local Government Convention
  - 6.5 Application for Exemptions of Limitation of Number of Dogs
  - 6.6 Freeman of the Shire
  - 6.7 WA Treasury Corporation – Master Lending Agreement
  - 6.8 Making of the Shire of Kulin Health Local Law 2016
  - 6.9 Re-advertising of the Shire of Kulin Animals, Environment and Nuisance Local Law 2016
- 7 COMPLIANCE**
  - 7.1 Register of Delegations - Review
  - 7.2 Quarterly Risk Report
- 8 ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**
- 9 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING**
- 10 DATE AND TIME OF NEXT MEETING**
- 11 CLOSURE OF MEETING**

**Minutes of an Ordinary Meeting of Council held in the Council Chambers on Wednesday 18 May 2016 commencing at 5:10pm**

**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    |
| MJ Ledwith   | Councillor       | West Ward    |
| R Bowey      | Councillor       | Town Ward    |
| G Robins     | Councillor       | Town Ward    |
| R O'Brien    | Councillor       | Central Ward |
| BP Taylor    | Councillor       | Central Ward |
| L Varone     | Councillor       | East Ward    |
| C Vandenberg | Acting CEO       |              |
| N Thompson   | ESO / Minutes    |              |
| L Hobson     | Manager of Works |              |

Apologies

Nil

**3. PUBLIC QUESTION TIME**

Nil

**4. APPLICATIONS FOR LEAVE OF ABSENCE**

Nil

**5. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS**

Shire of Kulin Ordinary Meeting – 20 April 2016

**01/0516**

**Moved Cr Robins Seconded Cr Bowey that the minutes of the Ordinary Council Meeting held on 20 April 2016 be confirmed as a true and correct record.**

**Carried 9/0**

Kulin Child Care Centre Management Committee Meeting – 10 May 2016

**02/0516**

**Moved Cr O'Brien Seconded Cr Duckworth that the minutes of the Kulin Child Care Centre Management Committee Meeting held on 10 May 2016 be confirmed as a true and correct record.**

**Carried 9/0**

Kulin Bush Races General Meeting – 11 May 2016

**03/0516**

**Moved Cr Duckworth Seconded Cr O'Brien that the minutes of the Kulin Bush Races General Meeting held on 11 May 2016 be confirmed as a true and correct record.**

**Carried 9/0**

## **6 MATTERS REQUIRING COUNCIL DECISION**

### **6.1 List of Accounts – April 2016**

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**RESPONSIBLE OFFICER:** DCEO  
**FILE REFERENCE:** 12.06  
**AUTHOR:** DCEO  
**DISCLOSURE OF INTEREST:**

**SUMMARY:**

Attached are the list of accounts paid during the month of April 2016 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 April payments being cheque No 334 – 336 (Trust Fund), 1849 - 1856 (Bush Races), 36576 – 36586 (Municipal), EFT No's 11196 - 11295 (Municipal), credit card payments, creditor payments, and other vouchers from the Municipal Fund totalling \$465,702.47 passed for payment.

**VOTING REQUIREMENTS:**

Simple majority required.

04/0516

Moved Cr McInnes Seconded Cr Taylor that April payments being cheque No 334 – 336 (Trust Fund), 1849 - 1856 (Bush Races), 36576 – 36586 (Municipal), EFT No's 11196 - 11295 (Municipal), credit card payments, creditor payments, and other vouchers from the Municipal Fund totalling \$465,702.47 passed for payment.

Carried 9/0

### **6.2 Financial Reports – April 2016**

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**RESPONSIBLE OFFICER:** DCEO  
**FILE REFERENCE:** 12.01  
**AUTHOR:** DCEO  
**DISCLOSURE OF INTEREST:**

**SUMMARY:**

Attached are the financial reports for the period ending 30 April 2016.

**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 statements for the period ending 30 April 2016.

**VOTING REQUIREMENTS:**

Simple majority required.

05/0516

Moved Cr Robins Seconded Cr O'Brien that Council endorse the monthly financial statements for the period ending 30 April 2016.

Carried 9/0

### 6.3 Councillors Portfolios and Representation - Tourism

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**NAME OF APPLICANT:** CRC Manager

**RESPONSIBLE OFFICER:** A/CEO

**FILE REFERENCE:** 13.03

**AUTHOR:** ESO

**DISCLOSURE OF INTEREST:** Nil

**SUMMARY:**

A Councillor delegate is required to cover the Tourism Portfolio which incorporates representation on the Roe Tourism Association.

**BACKGROUND & COMMENT:**

At the November meeting the following delegates were appointed following to the various groups and organisations that were previously represented by ex Cr Sullivan (it appears tourism was overlooked):-

- Eastern Wheatbelt Primary Health Care – Cr West and/or Cr Duckworth
- Roe-Roc - Cr West and Cr Duckworth
- Lakes District Sub-Group Regional Road Group – Cr Robins
- Regional Road Group – Cr Robins (if selected)
- Central Ag-Care – Cr McInnes
- Eastern Wheatbelt Declared Species Group – Cr Taylor and Cr Ledwith
- Central Country Zone Delegate WALGA – Cr West and/or Cr Duckworth
- Local Government Week - Cr West, Cr Duckworth & 1 other delegate
- National Roads and Transport Forum

Kate Bishop, CRC Manager has been attending Roe Tourism meetings this year and has requested that Council nominate a representative to attend future meetings with her. The next meeting of the Roe Tourism Association is scheduled to be held in Kulin on 20 June 2016.

**FINANCIAL IMPLICATIONS:**

Nil

**STATUTORY AND TOWN PLANNING IMPLICATIONS:**

Nil

**POLICY IMPLICATIONS:**

Nil

**COMMUNITY CONSULTATION:**

Nil

**WORKFORCE IMPLICATIONS:**

Nil

**RECOMMENDATION:**

That Council nominate Cr \_\_\_\_\_ to hold the Tourism Portfolio and represent Council on various associated bodies, including the Roe Tourism Association.

**VOTING REQUIREMENTS:**

Simple majority required.

06/0516

Moved Cr Robins Seconded Cr Taylor that Council nominate Cr Bowey (with Cr Duckworth as backup), to hold the Tourism Portfolio and represent Council on various associated bodies, including the Roe Tourism Association.

Carried 9/0

## 6.4 2016 WA Local Government Convention

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**NAME OF APPLICANT:** CEO  
**RESPONSIBLE OFFICER:** CEO  
**FILE REFERENCE:** 04.08  
**AUTHOR:** CEO  
**DISCLOSURE OF INTEREST:** Nil

**SUMMARY:**

The annual Local Government Convention is to be held at the Perth Convention and Exhibition Centre from Wednesday 3 August to Friday 5 August 2016.

**BACKGROUND & COMMENT:**

The following is provided for Council information:

- Accommodation is available at the Duxton Hotel on the Wednesday night to the Friday night. *Note the convention does not commence until 12 noon Wednesday so it was considered Tuesday night would not be required.* It seems the Rydges Hotel is no longer operating.
- The deadline for registrations is 5 July 2016 but if forms can be processed before this date that would be appreciated. Information and registration brochures will be available at the meeting.
- If we allow registration for the CEO, DCEO and 2 Councillors and accommodation for same this can be finalised after the meeting.
- Council need to confirm voting delegates for the AGM.

**FINANCIAL IMPLICATIONS:**

Nil

**STATUTORY AND TOWN PLANNING IMPLICATIONS:**

Nil

**POLICY IMPLICATIONS:**

Nil

**COMMUNITY CONSULTATION:**

Nil

**WORKFORCE IMPLICATIONS:**

Nil

**RECOMMENDATION:**

That the above information be noted and that Crs ? and ? be registered as Councils voting delegates for the WALGA AGM.

**VOTING REQUIREMENTS:**

Simple majority required.

07/0516

Moved Cr McInnes Seconded Cr Taylor that the above information be noted and that Cr West and Cr Duckworth be registered as Councils voting delegates for the WALGA AGM.

Carried 9/0

## **6.5 Application for Exemptions of Limitation of Number of Dogs**

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**RESPONSIBLE OFFICER:** A/CEO  
**FILE REFERENCE:** 19.04  
**AUTHOR:** A/CEO  
**DISCLOSURE OF INTEREST:** Nil

### **SUMMARY:**

The Shire of Kulin imposes a limitation on the number of dogs allowed to be registered at an owner's property. Mr Gary Griffiths has made application to Council to obtain an exemption on the limitation of dogs he may register at his property. Mr Griffiths currently has three registered dogs and is seeking an exemption for a further 3 registrations. Mr Griffiths has sought the exemption as he is a voluntary animal carer and expects that, from time to time, he will have more than the allowable number of dogs on his property.

### **BACKGROUND & COMMENT:**

Nil

### **FINANCIAL IMPLICATIONS:**

Nil

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

Section 26 of the Dog Act 1976 (As Amended) provides:

#### 26. Limitation as to numbers

- (1) The provisions of this Part shall not operate to prevent the keeping on any premises of 2 dogs over the age of 3 months and the young of those dogs under that age.
- (2) Subject to subsection (1), a local government, pursuant to local laws, may limit the number of dogs over the age of 3 months, or the number of such dogs of any specified breed or kind, that may be kept on any premises situate in a specified area to which those local laws apply unless those premises are licensed as an approved kennel establishment or are exempt.
- (3) Where by a local law under this Act a local government has placed a limit on the keeping of dogs in any specified area but the local government is satisfied in relation to any particular premises that the provisions of this Act relating to approved kennel establishments need not be applied in the circumstances, the local government may grant an exemption in respect of those premises but any such exemption —
  - (a) may be made subject to conditions, including a condition that it applies only to the dogs specified therein;
  - (b) shall not operate to authorise the keeping of more than 6 dogs on those premises; and
  - (c) may be revoked or varied at any time.
- (4) Subject to the provisions of subsection (3), a person who keeps on any premises, not being premises licensed as an approved kennel establishment, dogs over the age of 3 months in numbers exceeding any limit imposed in relation to those dogs by a local law made under subsection (2) commits an offence

### **POLICY IMPLICATIONS:**

Nil

### **COMMUNITY CONSULTATION:**

Nil

### **WORKFORCE IMPLICATIONS:**

Nil

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

That Council accept Mr Griffith's application to register up to 6 dogs on his rural property Lot 4 Kulin Kondinin Road, Kulin WA 6365.

### **VOTING REQUIREMENTS:**

Simple majority required.

**08/0516**

**Moved Cr Duckworth Seconded Cr McInnes that Council accept Mr Griffith's application to register up to 6 dogs on his rural property Lot 4 Kulin Kondinin Road, Kulin WA 6365.**

**Carried 9/0**

## 6.6 Freeman of the Shire

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**RESPONSIBLE OFFICER:** DCEO  
**FILE REFERENCE:** 02.02  
**AUTHOR:** DCEO  
**DISCLOSURE OF INTEREST:**

### **SUMMARY:**

During the February Concept Forum discussion was held regarding the guidelines for the appointment of a Freeman of the Shire.

The following is an extract from our policy manual:-

1. The award of Freeman is intended to recognise outstanding community service over a significant period of time and in a diversity of activities within the Shire of Kulin.
2. The award would not usually be presented for excellent service in only one activity.
3. The award is intended to recognise service within the local community.
4. The award of Freeman is to be seen as independent of any other award.
5. This award is to be recognised as the highest honour that the local community, through its elected Council, can confer on one of its citizens. It therefore follows that the award will be conferred sparingly.
6. For the award to have the desired standing within the community, it should only be conferred where there is a great pleasure of public approval.
7. It is suggested that the Minister for Local Government be consulted with regard to each candidate prior to Councils formal resolution conferring the award.
8. It is not seen as desirable that the award of Freeman be presented to a sitting member of Council.

### **BACKGROUND & COMMENT:**

The Department of Local Government have advised that any reference to the appointment of a Freeman of a Shire has been removed from the LG Act. It is therefore the sole responsibility of the council of the day to make any appointments in this capacity as may be warranted.

### **FINANCIAL IMPLICATIONS:**

Nil

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

Nil

### **POLICY IMPLICATIONS:**

As provided in the summary above.

### **COMMUNITY CONSULTATION:**

Nil

### **WORKFORCE IMPLICATIONS:**

Nil

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

For Council to discuss and decide.

### **VOTING REQUIREMENTS:**

Simple majority required.

09/0516

Moved Cr McInnes Seconded Cr Duckworth that Council go in 'camera' to discuss Item 6.6 Freeman of the Shire.

Carried 9/0

10/0516

Moved Cr Bowey Seconded Cr Duckworth Council agree to appoint Jim Sullivan and Greg Hadlow as Freeman of the Shire.

Carried 9/0

11/0516

Moved Cr McInnes Seconded Cr O'Brien that Council come out of 'camera'.

Carried 9/0

## **6.7 WA Treasury Corporation – Master Lending Agreement**

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

### **SUMMARY:**

Council is required to approve the signing of a Master Lending Agreement with WA Treasury (WATC) Corporation.

### **BACKGROUND & COMMENT:**

The Shire of Kulin is in receipt of a Master Lending Agreement from the WA Treasury Corporation. The new agreement will incorporate all current (not applicable) and future loans removing the need for a new agreement to be executed on an individual basis under seal each time the Shire borrows from WATC. Council will still be subject to credit approval prior to borrowing any funds in the future.

Council do not currently have any loans from WATC but in order to borrow the \$1,500,000 as resolved by Council at the February meeting, we must enter in to this agreement. It is in effect streamlining the borrowing process with the WATC, however does not remove any obligations of the Shire of Kulin to conform to the requirements of the Local Government Act 1995 with regard to future borrowings, where any proposed borrowings must be included in the budget or if not be authorised by an absolute majority of Council with an advertising requirement where not budgeted.

### **FINANCIAL IMPLICATIONS:**

Nil

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

6.20. Power to borrow

- (1) Subject to this Act, a local government may
  - (a) borrow or re-borrow money; or
  - (b) obtain credit; or
  - (c) arrange for financial accommodation to be extended to the local government in ways additional to or other than borrowing money or obtaining credit, to enable the local government to perform the functions and exercise the powers conferred on it under this Act or any other written law.
- (2) Where, in any financial year, a local government proposes to exercise a power under subsection (1) (power to borrow) and details of that proposal have not been included in the annual budget for that financial year
  - (a) unless the proposal is of a prescribed kind, the local government must give one month's local public notice of the proposal; and
  - (b) the resolution to exercise that power is to be by absolute majority.
- (3) Where a local government has exercised a power to borrow and
  - (a) it does not wish to proceed with the performance of the function or the exercise of the power for which the power to borrow was exercised; or
  - (b) after having completed the performance of the function or the exercise of the power for which the power to borrow was exercised, any part of the money

### **POLICY IMPLICATIONS:**

Nil

### **COMMUNITY CONSULTATION:**

Nil

### **WORKFORCE IMPLICATIONS:**

Nil

**OFFICER'S RECOMMENDATION:**

That Council agree to:

1. Enter into a Master Lending Agreement with Western Australian Treasury Corporation as per the document tabled at the meeting;
2. Approve the affixation of the Common Seal of the Shire of Kulin to the said Master Lending Agreement in the presence of the President and the Chief Executive Officer or an Agent or Senior Employee of the Shire of Kulin authorised by the Chief Executive Officer each of whom shall sign the document to attest the affixation of the Common Seal thereto: and;
3. The Chief executive Officer, Agent or any one of the Senior Employees of the Shire of Kulin authorised by the Chief Executive Officer from time to time is authorised to sign schedule documents under the Master Lending Agreement and or to give instructions thereunder on behalf of the Shire of Kulin.

**VOTING REQUIREMENTS:**

Absolute majority required.

**12/0516**

**Moved Cr O'Brien Seconded Cr Taylor that Council agree to:**

1. **Enter into a Master Lending Agreement with Western Australian Treasury Corporation as per the document tabled at the meeting;**
2. **Approve the affixation of the Common Seal of the Shire of Kulin to the said Master Lending Agreement in the presence of the President and the Chief Executive Officer or an Agent or Senior Employee of the Shire of Kulin authorised by the Chief Executive Officer each of whom shall sign the document to attest the affixation of the Common Seal thereto: and;**
3. **The Chief executive Officer, Agent or any one of the Senior Employees of the Shire of Kulin authorised by the Chief Executive Officer from time to time is authorised to sign schedule documents under the Master Lending Agreement and or to give instructions thereunder on behalf of the Shire of Kulin.**

**Carried 9/0**

## **6.8 Making of the Shire of Kulin Health Local Law 2016**

**APPLICANT:** Environmental Health Officer  
**FILE REFERENCE:** 19.03  
**AUTHOR:** Environmental Health Officer Mr J Goldacre  
**DISCLOSURE OF INTEREST:** Nil

**BACKGROUND:**

At the Ordinary Meeting of Council held in December 2015 Council resolved to;

**07/1215**

*Moved Cr Duckworth Seconded Cr O'Brien that Council pursuant to Section 3.12 of the Local Government Act 1995:*

1. *Adopts the proposed Shire of Kulin Health Local Law 2016 for advertising;*
2. *Gives Statewide public notice and stating that:*
  - i. *The Shire of Kulin propose to make the Shire of Kulin Health Local Law 2016;*
  - ii. *The purpose of the proposed Shire of Kulin Health Local Law 2016 is to provide for the regulation, control and management of day to day public health matters within the Shire of Kulin; and*
  - iii. *The effect of the proposed Shire of Kulin Health Local Law 2016 is to establish various health standards and requirements which people living and working within the Shire of Kulin must observe. A copy of the proposed local law may be inspected or obtained at any place specified in the notice;*  
*Submissions about the proposed local law may be made to the Shire before the day specified in the notice, being not less than 8 weeks after the notice is given;*
3. *Provides a copy of the proposed local law and notice to the Hon. Minister for Local Government and the Executive Director of Public Health; and*
4. *Directs the Chief Executive Officer to prepare a report to Council detailing submissions from the community at the first Council meeting following the closure of the designated submissions period.*

**Carried 7/0**

On the 23 December 2015 State wide and local advertising commenced through the West Australian newspaper proposing the Shire of Kulin Health Local Law 2016 (Local Law). On the 4 January 2016 the proposed Local Law was sent to both the Hon. Minister for Local Government; Community Services; Seniors and Volunteering; Youth Mr T Simpson and the Executive Director of Public Health Mr Tarun Weeramanthri through the postal service for their perusal and consideration. The local advertising of the Local Law was also done through notice boards, local paper and the Shire of Kulin website. The Shire of Kulin undertook the activity of local advertising above and beyond the minimum required to ensure good coverage of the proposed Local Law.

**COMMENT:**

Responses to the proposed local law was received from the Dept of Health WA (**ATTACHMENT 2**) and the Dept of Local Government and Communities (**ATTACHMENT 3**) with recommendations for formatting, further definitions, typographical errors and suggestions in line with current best practices for such local laws; the recommendations have been accepted unless in the aforementioned attachments the recommendations have been 'noted' or 'dismissed' with reason given. All comments provided by the Dept of Local Government and Communities come with the following disclaimer being:

*'My comments:*

- *have been provided to assist the Shire with drafting matters in relation to the local law;*
- *do not constitute legal advice;*
- *have been provided in good faith for the Shire's consideration; and*
- *should not be taken as an approval of content'.*

And this is duly noted.

No public submissions were received up to and including the closing date of the 4 March 2016 although the Chief Executive Officer was agreeable to receive public submissions after that date; for recording purposes the 'Schedule of Submissions' in **ATTACHMENT 4** is shown with 'Nil submissions received'.

As the period of submissions allows the Shire Officers to further internally review the proposed Local Law, changes of a reasonable and minor nature have been made and are described as follows:

**Officer Proposed Changes**

1. **Remove** 'Principal Environmental Health Officer' definition from subclause 1.5(1). **Replace** 'Principal Environmental Health Officer' with 'Environmental Health Officer' in subclause 2.4(5).
  - a. **Reason** – Whilst a Principal Environmental Health Officer is an Environmental Health Officer the reverse is not. In the local law the prefix 'principal' is used only once in determining the amount of toilets for events over 5000 persons that can also be done by an Environmental Health Officer.
2. **Insert** into clause 2.10 after '...premises...' the following '...where electricity is available...'
  - a. **Reason** – The Officer whilst canvassing the proposed Health Local laws through the RoeROC Shires was queried about the need to provide 'electric lighting' for toilets when electricity outside of townsites was scarce if not unavailable. The Officer when inspecting the toilets on road sides had the occasion to ask people pulling into the rest areas and 'whistle stop' type camp sites how they find using the toilets at night without installed lighting? On all occasions they said either/or '... we have torches...' and '...we shine the lights of the car onto the toilet...' which was more than sufficient. With this empirical evidence and that people travelling in the regions are generally self-sufficient as well as the lack of electricity it is reasonable to include the added text proposed.
3. **Insert** into subclause 3.3(b) after '...property...' the following '...that is in separate ownership.'
  - a. **Reason** – The Officer whilst canvassing the proposed Health Local laws through the RoeROC Shires was queried about how the clause as originally written may be strictly interpreted so that stormwater that flows onto 'another' property would be 'an offence' even though the other property is actually owned by the same person which does occur in the regional areas. It deemed reasonable to be prudent to define property that is in separate ownership to prevent any possible misapplication of this clause.
4. **Insert** into subclause 3.10(c) before 'annually...' the following 'at least...'. **Replace** in subclause 3.10(c) 'clean' with the following 'inspect...'.
  - a. **Reason** – In recent years this Officer has been quizzed from farmers about the practicality of the above clause especially for farms which large water tanks where cleaning each year would result in wastage of a most precious resource. Again when canvassing the Local law this matter came up again with farmers who said it was most impractical and very unreasonable to have such a clause. The Officer consulted with Department of Health Environmental Health Directorate and it was agreed the following changes would be a reasonable outcome to address the concerns raised and allow an avenue to ensure tanks were appropriately monitored.

5. **Insert** into clause 3.10 a new subclause with the prefix (d) with the following detail 'ensure the tank is maintained in a clean and hygienic condition; and'. As the original subclause (d) has had its content moved down, Insert a new subclause prefix of (e) and keep the subclause text.
  - a. **Reason** – The inserted subclause (d) provides the detail for the intent of the previous modified subclause 3.10(c). As the original text of subclause (d) has been moved down it will then need to be reassigned a new subclause prefix of (e) and the text remains unchanged.
6. Insert into subclause 8.4 after 'application' the following '... for registration of a lodging house...'.
  - a. **Reason** – to define in no uncertain terms what the application is intended for.
7. **Insert** into subclause 5.5(a) the following text '...within 200m of townsite boundaries, or within townsites, unless it has been effectively treated to the satisfaction of the Environmental Health Officer.'
  - a. **Reason** – The Officer whilst canvassing the proposed Health Local laws through the RoeROC Shires was queried why pig manure which could be purchased at shops as a suitable fertiliser could not be used especially in application in regional areas. The Officer did research and found the City of Greater Geraldton handled this exclusion of the use of pig manure by inserting the suggested text. This provides for a trigger for an Environmental Health Officer to deal with any health issues raised by the use of pig manure where originally in the Local law it would have been prohibited.

The changes as shown in 'red' in the Health Local law are considered minor and would not reasonably be considered a 'significant change' to the original draft tabled in December 2015. The Officer has prudently given all consideration to concerns raised through the diligent discussions with persons in the RoeROC district and has sought suitable assistance to ensure the proposals above have been discussed to provide Council with a fully scrutinised, pertinent modifications and edited Local Law for Council consideration.

The process now is for Council to consider 'making' the Local Law and to authorise the signatures of the Shire President and Acting Chief Executive Officer as well as the affixing the Shire of Kulin Seal onto the Local Law. When signed and sealed one original Local Law is sent to the Executive Director of Public Health for consent along with two copies. When the consent has been completed and returned to the Shire of Kulin the next step is to have the Local Law Gazetted by State Law Publishers. When Gazetted the Local Law is presented to the Hon. Minister for Local Government; Community Services; Seniors and Volunteering; Youth Mr T Simpson and the Executive Director of Public Health Mr Tarun Weeramanthri. Furthermore statewide public notice of title and summary of purpose and effect of Gazetted Local Law is required by publishing the notice in the Western Australian newspaper. The Joint Standing Committee on Delegated Legislation (JSCDA) of the WA Parliament is to be provided with an 'Explanatory Memorandum' of the local law and 10 copies of the local law as Gazetted within 10 days of gazettal.

Provided the Health Local Law stands scrutiny of the JSCDL review and it is anticipated that this would be the case based on the fact this type of Local Law has been doing the rounds for many years, the Shire of Kulin will finally have clear and present Health Local laws.

**CONSULTATION:**

Mr Don Howell, Environmental Health Directorate

Ms C Allen, Graduate Officer, Local Government Legislation, Department of Local Government and Communities

Mr G Hadlow CEO

Mrs L Pitman EHO RoeHEALTH Scheme

**STATUTORY ENVIRONMENT:**

*Health Act 1911*

*Local Government Act 1995*

**POLICY IMPLICATIONS:**

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

**FINANCIAL IMPLICATIONS:**

Whilst the Health Local law is presently 45 pages the State Law Publisher can condense through reformatting the text size the document to around 20% less. A price per page estimated at \$100.35 would be \$3,613 for a special gazette. Also to include is the cost to advertise a Notice in the Western Australian newspaper to announce the 'making of the Shire of Kulin Health Local law 2016 which is around \$500.

**VOTING REQUIREMENT:**

Absolute majority

**OFFICER'S RECOMMENDATION:**

That Council resolves to:

1. Endorse for inclusion into the Shire of Kulin Health Local Law 2016 the changes presented by the Officer in this agenda as 'Officer proposed changes' points 1 to 7;
2. Endorse for inclusion into the Shire of Kulin Health Local Law 2016 the agreed changes only as presented by the Dept of Health WA in **ATTACHMENT 2** and the Dept of Local Government and Communities in **ATTACHMENT 3**;
3. Accept the 'Schedule of Submissions' in **ATTACHMENT 4**;
4. 'Make' the Shire of Kulin Health Local Law 2016 as presented in **ATTACHMENT 1**;
5. Authorise the Shire President and the Acting Chief Executive Officer to sign the Shire of Kulin Health Local Law 2016 and authorise the affixing of the Shire of Kulin seal to the Shire of Kulin Health Local Law 2016; and
6. Authorise the Chief Executive Officer carry out the process of Gazettal of the Shire of Kulin Health Local Law 2016 and to complete the administrative functions required for presentation of the Shire of Kulin Health Local Law 2016 to the Joint Standing Committee on Delegated Legislation of the WA Parliament.

13/0516

Moved Cr O'Brien Seconded Cr McInnes that Council resolve to:

1. Endorse for inclusion into the Shire of Kulin Health Local Law 2016 the changes presented by the Officer in this agenda as 'Officer proposed changes' points 1 to 7;
2. Endorse for inclusion into the Shire of Kulin Health Local Law 2016 the agreed changes only as presented by the Dept of Health WA in ATTACHMENT 2 and the Dept of Local Government and Communities in ATTACHMENT 3;
3. Accept the 'Schedule of Submissions' in ATTACHMENT 4;
4. 'Make' the Shire of Kulin Health Local Law 2016 as presented in ATTACHMENT 1;
5. Authorise the Shire President and the Acting Chief Executive Officer to sign the Shire of Kulin Health Local Law 2016 and authorise the affixing of the Shire of Kulin seal to the Shire of Kulin Health Local Law 2016; and
6. Authorise the Chief Executive Officer carry out the process of Gazettal of the Shire of Kulin Health Local Law 2016 and to complete the administrative functions required for presentation of the Shire of Kulin Health Local Law 2016 to the Joint Standing Committee on Delegated Legislation of the WA Parliament.

Carried 9/0

## 6.9 Readvertising of the Shire of Kulin Animals, Environment and Nuisance Local Law 2016

**APPLICANT:** Environmental Health Officer  
**FILE REFERENCE:** 19.03  
**AUTHOR:** Environmental Health Officer Mr J Goldacre  
**DISCLOSURE OF INTEREST:** Nil

**BACKGROUND:**

At the Shire of Kulin Ordinary Meeting of Council held in December 2016 the following was resolved:

08/1215

Moved Cr Duckworth Seconded Cr O'Brien that Council pursuant to Section 3.12 of the Local Government Act 1995:

1. Adopts the proposed Shire of Kulin Animals, Environment and Nuisance Local Law 2016 for advertising;
2. Gives Statewide public notice and stating that:
  - i. The Shire of Kulin propose to make the Shire of Kulin Animals, Environment and Nuisance Local Law 2016;
  - ii. The purpose of the proposed Shire of Kulin Animals, Environment and Nuisance Local Law 2016 is to provide for the regulation, control and management of animals and the prevention of environmental damage and nuisances within the Shire of Kulin; and
  - iii. The effect of the proposed Shire of Kulin Animals, Environment and Nuisance Local Law 2016 is to establish the requirements with which any person keeping animals, or undertaking activities that have the potential to impact the environment or create nuisance must comply.

*A copy of the proposed local law may be inspected or obtained at any place specified in the notice; and;*

*Submissions about the proposed local law may be made to the Shire before the day specified in the notice, being not less than 8 weeks after the notice is given.*

3. *Provides a copy of the proposed local law and notice to the Hon. Minister for Local Government and the Executive Director of Public Health; and*

4. *Directs the Chief Executive Officer to prepare a report to Council detailing submissions from the community at the first Council meeting following the closure of the designated submissions period.*

**Carried**

**7/0**

The Shire of Kulin Animals, Environment and Nuisance Local Law 2016 (Local Law) was sent to both the Hon. Minister for Local Government; Community Services; Seniors and Volunteering; Youth Mr T Simpson and the Executive Director of Public Health Mr Tarun Weeramanthri through the postal service for their perusal and consideration. The Local Law local advertising was also done through Notice boards, local paper and the shire website. The Shire of Kulin undertook the activity of local advertising above and beyond the minimum required to ensure good coverage of the proposed Health Local law.

#### **COMMENT:**

During the internal review of the Local Law as well as discussing the proposed Local Law with members of the community it became apparent in no uncertain terms regarding some of the clauses and subclauses which could, however unlikely it is perceived, to impact traditional farming practices. The clauses of concerns were the following:

- Clause 3.4(1)(c) regarding 'Prohibited activities' being - ensure no dust or liquid waste is released or escapes from the land, whether by means of wind, water or any other cause.
- Clause 4.5(1) regarding 'Escape of smoke, fumes, odours and other emissions' - An owner or occupier of land or premises shall not cause or allow the escape of smoke, fumes, odours or other emissions from the land or premises in such quantity or of such a nature as to cause or to be a nuisance to any person

These concerns are reasonable so research was done with consultation with the Dept of Local Government & Communities (DLGC) and fellow Officers within local government to see where traditional and in some cases requirements where such activities is a requirement by law (such as removing fire material).

The following changes (as underlined) were consequently proposed:

#### 3.4 Prohibited activities

(1) An owner and or occupier of land must take all reasonable measures to:-

- (a) stabilise dust on the land;
- (b) contain all liquid waste on the land; and
- (c) ensure no dust or liquid waste is released or escapes from the land, whether by means of wind, water or any other cause.

(2) Subclause (1)(c) do not apply to land where the primary activity is broad acre farming

#### 4.5 Escape of smoke, fumes, odours and other emissions

(1) An owner or occupier of land or premises shall not cause or allow the escape of smoke, fumes, odours or other emissions from the land or premises in such quantity or of such a nature as to cause or to be a nuisance to any person unless -

- (a) the escape of smoke, fumes, odours or other emissions from the land or premises is the result of burning in compliance with the Bush Fires Act 1954, any annual fire hazard reduction notice issued by the local government under that Act and any conditions of approval as determined by the local government.
- (b) all reasonable steps have been taken to prevent the smoke, fumes, odours and other emissions from land or premises from causing a nuisance to any person.

The above inclusions are considered most reasonable and were forwarded to the DLGC who then advised, through their senior legislation staff that as the amendments would now affect only half the persons in the district it will be classified as 'a substantial change' and thus readvertising would be required. The Officer managed to contact the Senior Clerk of the joint standing committee who also mentioned that half the population are now affected where originally it affected the whole district. Whilst no certainty was given regarding the need to readvertise the Officer deduced from a cost perspective the most prudent way forward will be to readvertise thus negate the risk of financial loss. The case for the risk of a 'substantial change' to the Local Law originally advertised was seen as reasonable.

Consequently the requirement now is to readvertise therefore the process starts again as follows.

## MINUTES OF ORDINARY MEETING HELD 18 MAY 2016

The purpose of this report is to allow Council to resolve to prepare the proposed Shire of Kulin Animals, Environment and Nuisance Local Law 2016. Notice is to be publically given of the *purpose* and *effect* of the Shire of Kulin Animals, Environment and Nuisance Local Law 2016 which are to be read *out loud* by the Shire President as written here:

**PURPOSE:** The purpose of the proposed Shire of Kulin Animals, Environment and Nuisance Local Law 2016 is to provide for the regulation, control and management of animals and the prevention of environmental damage and nuisances within the Shire of Kulin.

**EFFECT:** The effect of the proposed Shire of Kulin Animals, Environment and Nuisance Local Law 2016 is to establish the requirements with which any person keeping animals, or undertaking activities that have the potential to impact the environment or create nuisance must comply.

The Shire of Kulin Animals, Environment and Nuisance Local Law 2016 shown in Attachment 8 has been collated from the Shire of Kulin Animals, Environment and Nuisance Local Law 2015 as reviewed by the senior staff of Corrigin Shire, the Department of Local Government and Communities and the Department of Health Western Australia. The attached Shire of Kulin Animals, Environment and Nuisance Local Law 2016 are amended for application to the Shire of Kulin. Furthermore new inclusions are now inserted to make the Local Law applicable to the activities within the district of Kulin.

The proposed Shire of Kulin Animals, Environment and Nuisance Local Law 2016 will require the following process to be initiated:

1. Give Statewide and local public notice of proposed Shire of Kulin Animals, Environment and Nuisance Local Law 2016, summarising purpose and effect of proposed local law;
2. Send a copy of the Statewide public notice and proposed Shire of Kulin Animals, Environment and Nuisance Local Law 2016 to the Honourable Minister for Local Government and the Executive Director of Public Health;
3. Consider any submissions received in regard to the proposed Shire of Kulin Animals, Environment and Nuisance Local Law 2016 (a period of at least 6 weeks must have elapsed since date of publication in the newspaper, discounting public holidays; it is very good practice to allow a couple of extra weeks to accommodate any unforeseen delays); and
4. A copy of the proposed local law is to be made available at the Shire counter and provided to any person requesting a copy of the Shire of Kulin Animals, Environment and Nuisance Local Law 2016.

The proposed Shire of Kulin Animals, Environment and Nuisance Local Law 2016 will again be presented to Council for consideration of submissions received and the decision made to endorse, or not, any changes to the proposed Shire of Kulin Animals, Environment and Nuisance Local Law 2016.

Should all proceed to completion, and no 'significant changes' made (which could result in readvertising) the Shire of Kulin Animals, Environment and Nuisance Local Law 2016 will be signed and sealed by the Chief Executive Officer and Shire President and steps taken to proceed to gazettal. Once gazetted copies are provided to the Executive Director of Public Health and the Joint Standing Committee on Delegated Legislation who will review the Shire of Kulin Animals, Environment and Nuisance Local Law 2016 and make, or not, a determination on its validity and/or refusal of the Shire of Kulin Animals, Environment and Nuisance Local Law 2016; this outcome is not anticipated based on the fact, as reported previously, that other similar local laws have already 'passed muster' or a more common political phrase recently 'past the sniff test'.

### **CONSULTATION:**

Mr G Hadlow CEO;

Mrs L Pitman RoeHEALTH EHO;

Mr S Elliott Legislation Officer, Local Government Legislation, Department of Local Government and Communities; &

Ms C Allen Graduate Officer, Local Government Legislation, Department of Local Government and Communities.

### **STATUTORY ENVIRONMENT:**

Health Act 1911; &

Local Government Act 1995

### **POLICY IMPLICATIONS:**

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

**FINANCIAL IMPLICATIONS:**

30 pages with an estimated price of \$100.35 per page is \$2,410 (State Law publishers can condense the text down by around 20%) for a special gazette. Also included is the cost to advertise the Notice in the Western Australian newspaper which is around \$500. Administration costs locally are for the local paper advertising for 6 to 8 weeks as well as placing information on public Notice boards.

**VOTING REQUIREMENT:**

Absolute

**OFFICER'S RECOMMENDATION:**

That Council:

1. Adopts the proposed Shire of Kulin Animals, Environment and Nuisance Local Law 2016 for advertising;
2. Gives Statewide public notice and stating that:
  - i. The Shire of Kulin propose to make the Shire of Kulin Animals, Environment and Nuisance Local Law 2016;
  - ii. The purpose of the proposed Shire of Kulin Animals, Environment and Nuisance Local Law 2016 is to provide for the regulation, control and management of animals and the prevention of environmental damage and nuisances within the Shire of Kulin; and
  - iii. The effect of the proposed Shire of Kulin Animals, Environment and Nuisance Local Law 2016 is to establish the requirements with which any person keeping animals, or undertaking activities that have the potential to impact the environment or create nuisance must comply.

A copy of the proposed local law may be inspected or obtained at any place specified in the notice; and; Submissions about the proposed local law may be made to the Shire before the day specified in the notice, being not less than 6 weeks after the notice is given.

3. Provides a copy of the proposed local law and notice to the Hon. Minister for Local Government and the Executive Director of Public Health; and
4. Directs the Chief Executive Officer to prepare a report to Council detailing submissions from the community at the first Council meeting following the closure of the designated submissions period.

**14/0516**

**Moved Cr Robins Seconded Cr Taylor that Council:**

1. **Adopt the proposed Shire of Kulin Animals, Environment and Nuisance Local Law 2016 for advertising;**
2. **Gives Statewide public notice and stating that:**
  - i. **The Shire of Kulin propose to make the Shire of Kulin Animals, Environment and Nuisance Local Law 2016;**
  - ii. **The purpose of the proposed Shire of Kulin Animals, Environment and Nuisance Local Law 2016 is to provide for the regulation, control and management of animals and the prevention of environmental damage and nuisances within the Shire of Kulin; and**
  - iii. **The effect of the proposed Shire of Kulin Animals, Environment and Nuisance Local Law 2016 is to establish the requirements with which any person keeping animals, or undertaking activities that have the potential to impact the environment or create nuisance must comply.**

**A copy of the proposed local law may be inspected or obtained at any place specified in the notice; and;**

**Submissions about the proposed local law may be made to the Shire before the day specified in the notice, being not less than 6 weeks after the notice is given.**

3. **Provides a copy of the proposed local law and notice to the Hon. Minister for Local Government and the Executive Director of Public Health; and**
4. **Directs the Chief Executive Officer to prepare a report to Council detailing submissions from the community at the first Council meeting following the closure of the designated submissions period.**

**Carried 9/0**

## **7 COMPLIANCE**

### **7.1 Register of Delegations – Review**

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**RESPONSIBLE OFFICER:** A/CEO  
**FILE REFERENCE:** 04.04  
**AUTHOR:** A/CEO  
**DISCLOSURE OF INTEREST:** Nil

**SUMMARY:**

Council is required to review the Delegations Register on an annual basis. This document was last reviewed in May 2015. Attached to the agenda is a copy of the register for adoption by Council.

**BACKGROUND & COMMENT:**

Nil

**FINANCIAL IMPLICATIONS:**

Nil

**STATUTORY AND PLANNING IMPLICATIONS:**

Nil

**POLICY IMPLICATIONS:**

Review of Delegations Register is required on an annual basis.

**COMMUNITY CONSULTATION:**

Nil

**WORKFORCE IMPLICATIONS:**

Nil

**OFFICER'S RECOMMENDATION:**

That the Delegations Register be adopted as per Council's review.

**VOTING REQUIREMENTS:**

Simple majority required.

15/0516

Moved Cr Duckworth Seconded Cr Ledwith that the Delegations Register be adopted as per Council's review.

Carried 9/0

### **7.2 Quarterly Risk Report**

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**RESPONSIBLE OFFICER:** A/CEO  
**FILE REFERENCE:** 04.04  
**AUTHOR:** James Trail  
**DISCLOSURE OF INTEREST:** Nil

**SUMMARY:**

The Shire has undertaken a review of its risk profile and established a set of strategic and operational risks for review by the Audit Committee.

The attached reports detail all strategic risks and those operational risks that are rated high with progress comments for the current period.

Staff have not yet efficiently reviewed existing controls for the risks identified and provided comment on their appropriateness and effectiveness. The Inherent status needs to recognise those inbuilt and unlikely to change elements of each risk, the revised status details an assessment of controls in place to mitigate those risks. In instances where determined controls are deemed not appropriate, comment on progress and on improvement plans need to be provided.

Both areas of risk are subject to change and modification during the year on the authorisation of the Chief Executive Officer and Audit Committee.

**BACKGROUND & COMMENT:**

The Audit Committee is to receive a quarterly report on high and moderate strategic risks and high operational risks.

The Internal audit activity focuses on areas of risk including financial and non-financial systems and compliance with legislation, regulations, policies and best practice. Recommendation Action Plans are developed and agreed with management for audit recommendations and follow-ups conducted to ensure that they are implemented as agreed.

Annual reviews need to be undertaken to ensure alignment between risk actions, effectiveness of internal controls and management comments. This is at the core of regulation 17. The majority of the risks and controls require a review. Once a review of the effectiveness of the internal controls is completed and reported to Council, new review dates and risks will be set for 2016/2017. It is also suggested that the current Shire compliance framework be reviewed to ensure compliance with existing legislation and regulations and new and revised Departmental Operational Guidelines. It is recommended that the Council notes:

1. The Strategic Risk – March 2016 Report
2. The Operational Risk – March 2016 Report

**FINANCIAL IMPLICATIONS:**

Allocation was made in the 2015/2016 annual budget for the internal audit and risk function.

**STATUTORY AND PLANNING IMPLICATIONS:**

The Local Government (Audit) Regulations 1996 prescribe the requirements for local government authorities in relation to the engagement of auditors, the annual compliance audit return and the functions of the audit committee. The Department of Local Government released circulars in February 2013 detailing amendments to the Audit Regulations. These amendments relate to extending regulation 16, functions of an audit committee, and inserting a new regulation 17, review of certain systems and procedures by a CEO. The amendments are detailed as follows:

*Regulation 16 – Functions of Audit Committee*

Regulations 16(a) and 16(b) in relation to the Audit Committee providing assistance to the local government remain unchanged. A new section 16(c) has been inserted and states as follows:

- 16 Audit committee, functions of An audit committee –*
- (c) is to review a report given to it by the CEO under regulation 17(3) (the CEO's report) and is to –*
- (i) report to the council the results of that review; and*
  - (ii) give a copy of the CEO's report to the council.*

*Regulation 17 – CEO to review certain systems and procedures*

A new regulation 17 has been inserted and states as follows:

- 17 CEO to review certain systems and procedures*
- (1) The CEO is to review the appropriateness and effectiveness of a local government's systems and procedures in relation to –*
    - (a) risk management; and*
    - (b) internal controls; and*
    - (c) legislative compliance.*
  - (2) The review may relate to any or all of the matters referred to in sub regulation (1)(a), (b) and (c), but each of those matters is to be the subject of a review at least once every 2 calendar years.*
  - (3) The CEO is to report to the audit committee the results of that review.*

**POLICY IMPLICATIONS:**

Risk Management Policy has been adopted and outlines the Shire's commitment and approach to managing risks that may impact on its day-to-day operations and threaten the achievement of its objectives.

**STRATEGIC IMPLICATIONS:**

A Council's internal control environment includes the following components:

- Structure of the organisation
- Culture of the organisation
- Knowledge, skills and experience of employees
- Processes employed by the organisation to conduct business.

The Chief Executive Officer should play a key role in the establishment and development of an effective internal control environment, as it ultimately sets the operational tone of the Council, and should reflect the ethics, integrity and values espoused by the Council.

An effective and transparent internal control environment would focus on the following key areas:

- Integrity and ethical values
- Management's philosophy and operating style
- Organisation structure
- Performance measures
- Policies and procedures
- Human resources policy
- Internal Audit function
- The Audit Committee.

The role of the audit committee is to govern the integrity of the entity's financial information, systems of internal control, and the legal and ethical conduct of management and employees. The responsibility of the audit committee will differ depending upon the Council's size, scale of operations, and any specific requirements. The key role of internal audit is to provide assistance to the Council's audit committee in discharging its governance responsibilities. It does this by:

- Providing an objective assessment of existing risks and the internal control framework
- Performing reviews of the compliance framework and specific compliance issues
- Conducting regular analysis of business processes and associated controls.
- Performing ad hoc reviews for specific areas of concern, including unacceptable levels of risk

Reviewing the operational performance of the Council and providing recommendations for more effective and efficient use of resources

**COMMUNITY CONSULTATION:**

Chief Executive Officer  
JT Professional Services

**WORKFORCE IMPLICATIONS:**

Nil

**OFFICER'S RECOMMENDATION:**

That the Council:-

1. Notes the Strategic Risk – March 2016 Report
2. Notes the Operational Risk – March 2016 Report
3. Request a further review of the appropriateness and effectiveness of the controls of the Shire of Kulin's systems and procedures as per Audit Regulation 17 be undertaken and reported to Council at the July Council Meeting
4. Request the current Shire compliance framework be reviewed to ensure compliance with existing legislation and regulations and new and revised Departmental Operational Guidelines.

**VOTING REQUIREMENTS:**

Simple majority required.

**Resolved that the information be received.**

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

### **8.1 Kulin Motor Museum. – Request for Land**

**NAME OF APPLICANT:** Cr Robins  
**RESPONSIBLE OFFICER:** A/CEO  
**FILE REFERENCE:** 05.19  
**AUTHOR:** Cr Robins  
**DISCLOSURE OF INTEREST:** Nil

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

The Kulin Museum Society Inc. wrote to Council last month to confirm that they are seeking some land from Council to enable them to store/display their exhibits. Council considered offering the blocks on the corner of Day and Stewart Street, but agreed it would be worthwhile to meet with the group to ascertain their future plans, should Council offer this block.

#### **FINANCIAL IMPLICATIONS:**

Nil

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

Nil

#### **POLICY IMPLICATIONS:**

Nil

#### **COMMUNITY CONSULTATION:**

Nil

#### **WORKFORCE IMPLICATIONS:**

Nil

#### **RECOMMENDATION:**

#### **VOTING REQUIREMENTS**

Simple majority required.

16/0516

Moved Cr Robins Seconded Cr O'Brien that 72 and 74 Day Street (corner Stewart St) be made available to the Kulin Museum Society Inc. pending both parties satisfaction with the conditions of the lease (to be prepared by Council).

Carried 9/0

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

## **10. DATE AND TIME OF NEXT MEETING**

The next Ordinary Council meeting will be held on Wednesday 22 June 2016 at 1:00pm with Lisa Biglin, Health Service Manager at Kondinin Hospital to be invited to attend afternoon tea.

## **11. CLOSURE OF MEETING**

There being no further business the meeting closed at 6.30pm.

The Shire President passed on his appreciation to staff for the way things have been running since the CEO's departure.