



Shire of Cunderdin

Ordinary Council Meeting Minutes

Dear Council Member,

The Ordinary Meeting of the Cunderdin Shire Council was held on **Wednesday 18th December 2024** in the Cunderdin Shire Council Chambers, WA, 6407 **commencing at 4.00pm.**

Stuart Hobley
Chief Executive Officer

18th December 2024

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MINUTES

1 Declaration of Opening

The Shire President declared the meeting open at 4pm.

The Shire of Cunderdin disclaimer will be read aloud by Cr B (Bernie) Daly.

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

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

2 Record of Attendance, Apologies and Approved Leave of Absence

2.1 Record of attendances

Councillors

Cr AE (Alison) Harris	Shire President
Cr A (Tony) Smith	Deputy Shire President
Cr TE (Todd) Harris	
Cr N (Natalie) Snooke	
Cr B (Bernie) Daly	
Cr NW (Norm) Jenzen	
Cr HN (Holly) Godfrey	Arrived 4.05pm

In Attendance

Stuart Hobley	Chief Executive Officer
Hayley Byrnes	Deputy Chief Executive Officer
Samantha Pimlott	Governance & Administration Officer

Guests of Council

Nil.

Members of the Public

Nil.

2.2 Apologies

Nil.

2.3 Leave of Absence Previously Granted

Nil.

3 Public Question Time

Nil.

4 Petitions, Deputations & Presentations

Nil.

5 Applications for Leave of Absence

Nil.

6 Confirmation of the Minutes of Previous Meetings

6.1 Ordinary Meeting of Council held on 27th November 2024

Resolution 6.1 OCM December 2024

1. That the Minutes of the Ordinary Council Meeting held on Wednesday 27th November 2024 be confirmed as a true and correct record.

Moved: Cr B (Bernie) Daly

Seconded: Cr N (Natalie) Snooke

Vote – Simple majority

Carried: 7/0

Note to this item:

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

7 Declaration of Members and Officers Interests

Nil.

8 Announcements by President without Discussion

Cr AE (Alison) Harris thanked all Councillors and staff for a very constructive and busy 2024 and expressed appreciation for everyone's efforts, conduct, and continued harmonious relationships.

Cr AE (Alison) Harris wished everyone all the best for Christmas and the New Year.

9 Finance and Administration

9.1 Financial Reports November 2024

Location:	Cunderdin
Applicant:	Deputy Chief Executive Officer
Date:	10th December 2024
Author:	Hayley Byrnes
Item Approved by:	Stuart Hobley, Chief Executive Officer
File Reference:	Nil
Attachment/s:	Attachment 9.1.1 - November 2024 Monthly Financial Report Attachment 9.1.2 - Rates details November 2024

Proposal/Summary

The financial reports as at 30th November 2024 are presented for consideration.

Background

The financial reports have been circulated to all Councillors.

Comment

Nil.

Consultation

Nil.

Statutory Environment

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

Policy Implications

Nil.

Financial Implications

All financial implications are contained within the reports.

Strategic Implications

Nil.

Resolution 9.1 OCM December 2024

That Council:

1. Receives the monthly financial reports for the periods ending 30th November 2024.

Moved: Cr NW (Norm) Jenzen

Seconded: Cr A (Tony) Smith

Vote – Simple majority

Carried: 7/0

9.2 Accounts Paid 30th November 2024

Location:	Cunderdin
Applicant:	Deputy Chief Executive Officer
Author:	Hayley Byrnes
Report Date:	10th December 2024
Item Approved By:	Stuart Hobley, Chief Executive Officer
Disclosure of Interest:	Nil
File Reference:	Nil
Attachment/s:	Attachment 9.2.1 - November Creditors Listing

Proposal/Summary

Council is requested to confirm the payment of accounts totalling:

Total for Municipal -	\$1,039,721.85
Total for Trust -	\$0.00
TOTAL -	\$1,039,721.85

For November 2024 as listed in the Warrant of Payments for the period 1st to 30th November 2024.

Background

Nil.

Comment

Nil.

Consultation

Nil.

Statutory Environment

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

Financial Management Regulations 12 & 13.

Policy Implications

Nil.

Financial Implications

All financial implications are contained within the reports.

Strategic Implications

Nil.

Resolution 9.2 OCM December 2024		
1. That Council's payments of accounts amounting to \$1,039,721.85 being from Municipal Account for November 2024, as follows:		
Municipal Account	\$	Total
Electronic Funds Transfer: EFT 8677- 8806	\$996,928.87	
Direct Debit (Inc Bank Charges):	\$20,007.03	
Cheques: 11944 to 11951	\$22,785.95	
Trust Account	\$0.00	
TOTAL		\$1,039,721.85
Moved: Cr B (Bernie) Daly	Seconded: Cr N (Natalie) Snooke	
Vote – Simple majority	Carried: 7/0	

9.3 Council Investments – At 30th November 2024

Location:	Cunderdin
Applicant:	Deputy Chief Executive Officer
Author:	Hayley Byrnes
Report Date:	10th December 2024
Item Approved By:	Stuart Hobley, Chief Executive Officer
Disclosure of Interest:	Nil
File Reference:	Nil
Attachment/s:	Attachment 9.3.1 - Bank Statements November 2024

Proposal/Summary

To inform Council of its investments as at 30th November 2024.

Background

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

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

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

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

Comment

In addition to the Shire's Municipal Operating Accounts, the below investment accounts are held as at 30th November 2024

COUNCIL ACCOUNTS					
Institution	Amount	Investment type/ Account details	Municipal Funds	Reserve Funds	Trust Funds
Westpac Bank	\$1,382,614.38	Municipal- 0000030	\$1,382,614.38		
Bendigo Bank	\$3,552,858.81	Municipal- 155971377	\$3,552,858.81		
Westpac Bank	\$282,542.50	Business Cash Reserve 22-3647 0.50%		\$282,542.50	
Bendigo Bank	\$10,167.86	Bendigo Trust Account 164 488 686			\$10,167.86
Westpac Bank	\$0.00	Trust Working Account 12-2981			\$0.00
Bendigo Bank	\$1,457,464.70	Term Deposit -5.06% Exp 20 Dec 2024		\$1,457,464.70	
TOTAL INVESTMENTS	\$6,685,647.25		\$4,935,473.19	\$1,740,006.20	\$10,167.86

In addition to the above Shire funds, the Shire administers following accounts for the Cunderdin Community Centre Trust Accounts being Bendigo Term Deposits & operating Ac#000073- \$0.00.

CUNDERDIN COMMUNITY TRUST DETAILS
INTEREST ACCOUNT
30th November 2024

Opening Balance as per Bank Statement & Term Deposits

Term Deposit# 4785431
 Maturing 4 Dec 2024 (5.01%)

		239,962.77
	TOTAL	239,962.77
Credits		0.00
Debits		0.00
Closing Balance as Per Bank Statements & Term Deposits	TOTAL	239,962.77
INCOMING		0.00
		0.00
OUTGOING		0.00
		0.00
Balance as at end of month	TOTAL	239,962.77

CUNDERDIN COMMUNITY TRUST DETAILS
CAPITAL ACCOUNT
30th November 2024

Opening Balance as per Bank Statement & Term Deposits

Term Deposit# 4785433
 Maturing 4 Dec 2024 (5.01%)

		369,862.05
	TOTAL	369,862.05
Credits		0.00
Debits		0.00
Closing Balance as Per Bank Statements & Term Deposits	TOTAL	369,862.05
INCOMING		0.00
		0.00
OUTGOING		0.00
		0.00
Balance as at end of month	TOTAL	369,862.05

Consultation

Nil.

Statutory Implications

Financial Management Regulation 19.

Policy Implications

Nil.

Financial Implications

There are no financial implications in considering this item.

Strategic Implications

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

Resolution 9.3 OCM December 2024

That the report on Council investments as at 30th November 2024 be received and noted.

Moved: Cr TE (Todd) Harris

Seconded: Cr NW (Norm) Jenzen

Vote – Simple majority

Carried: 7/0

9.4 Shire of Cunderdin Annual Report 2023/2024

Location:	Shire of Cunderdin
Applicant:	Chief Executive Officer
Date:	6 th December 2024
Author:	Samantha Pimlott
Item Approved by:	Stuart Hobley, Chief Executive Officer
Disclosure of Interest:	Nil
File Reference:	Nil
Attachment/s:	Attachment 9.4.1 – DRAFT Shire of Cunderdin Annual Report 2023/24

Proposal/Summary

Council is requested to:

1. Pursuant to section 5.54 of the *Local Government Act 1995*, Council accepts the Annual Report for the 2023/2024 Financial Year.

Background

The *Local Government Act 1995*, Section 5.53 Annual Reports requires an Annual Report to be prepared for each financial year due to be received by the local government no later than 31 December after that financial year.

Section 5.53 (2) sets out what the annual report is required to contain. These are:

- a report from the mayor or president;
- a report from the CEO;
- an overview of the plan for the future of the district
- the financial report for the financial year;
- prescribed information in relation to the payments made to employees;
- the auditor's report prepared under section 7.9(1) or 7.12AD(1) for the financial year;
- matters that a report must be made under section 29(2) of the Disability Services Act 1993; and
- details of entries made under section 5.121 during the financial year in the register of complaints.

Part 5 of the Local Government (Administration) Regulations 1996 gives precise details of information required to contained in the Annual Report.

Following acceptance of the Annual Report including the audited financial statements Council are required to hold a General Meeting of Electors within 56 days of receiving the Annual Report.

Comments

The audit exit meeting for the 2023/2024 financial statements was held between President Cr AE (Alison) Harris, CEO Stuart Hobley, DCEO Hayley Byrnes, Auditors Moore Australia and officers from the Office of the Auditor General to present the auditor findings on Wednesday 4th December 2024.

The audited Financial Report is required to be presented to and adopted by the Shire's Audit Committee. Once the report has been accepted by the Audit Committee it will be added to and form part of the Annual Report as presented in Attachment 9.4.1.

Consultation

Stuart Hobley, Chief Executive Officer
Hayley Byrnes, Deputy Chief Executive Officer
Samantha Pimlott, Governance & Administration Officer
Cr AE (Alison) Harris, Shire President

Statutory Implications

Local Government Act 1995

5.53. Annual reports

- 1) The local government is to prepare an annual report for each financial year.
- 2) The annual report is to contain —
 - (a) a report from the mayor or president; and
 - (b) a report from the CEO; and
 - [(c), (d) deleted]
 - (e) an overview of the plan for the future of the district made in accordance with section 5.56, including major initiatives that are proposed to commence or to continue in the next financial year; and
 - (f) the financial report for the financial year; and
 - (g) such information as may be prescribed in relation to the payments made to employees; and
 - (h) the auditor's report for the financial year prepared under section 7.9(1) or 7.12AD(1) for the financial year; and
 - (ha) a matter on which a report must be made under section 29(2) of the Disability Services Act 1993; and
 - (hb) details of entries made under section 5.121 during the financial year in the register of complaints, including —
 - (i) the number of complaints recorded in the register of complaints; and
 - (ii) how the recorded complaints were dealt with; and
 - (iii) any other details that the regulations may require; and
 - (i) such other information as may be prescribed.

5.54. Acceptance of annual reports

- 1) Subject to subsection (2), the annual report for a financial year is to be accepted* by the local government no later than 31 December after that financial year.
* Absolute majority required.
- 2) If the auditor's report is not available in time for the annual report for a financial year to be accepted by 31 December after that financial year, the annual report is to be accepted by the local government no later than 2 months after the auditor's report becomes available.

5.55 Acceptance of annual reports

The CEO is to give local public notice of the availability of the annual report as soon as practicable after the report has been accepted by the local government.

*Absolute majority required

5.55A Publication of Annual Reports

The CEO is to publish the annual report on the local government's official website within 14 days after the report has been accepted by the local government.

5.27. Electors' general meetings

- (1) A general meeting of the electors of a district is to be held once every financial year.
- (2) A general meeting is to be held on a day selected by the local government but not more than 56 days after the local government accepts the annual report for the previous financial year.
- (3) The matters to be discussed at general electors' meetings are to be those prescribed.

Local Government (Administration) Regulations 1996

Part 5 – Annual reports and planning

r19B Information to be included in annual report (Act s. 5.53(2)(g) and (i))

- 2) For the purposes of section 5.53(2)(g) and (i), the annual report for a financial year beginning on or after 1 July 2020 must contain the following —
- a) the number of employees of the local government entitled to an annual salary of \$130 000 or more;
 - b) the number of employees of the local government entitled to an annual salary that falls within each band of \$10 000 over \$130 000;
 - c) any remuneration and allowances paid by the local government under Schedule 5.1 clause 9 during the financial year;
 - d) any amount ordered under section 5.110(6)(b)(iv) to be paid by a person against whom a complaint was made under section 5.107(1), 5.109(1) or 5.114(1) to the local government during the financial year;
 - e) the remuneration paid or provided to the CEO during the financial year;
 - f) the number of council and committee meetings attended by each council member during the financial year;
 - g) if available, the gender, linguistic background and country of birth of council members;
 - h) if available, the number of council members who are aged —
 - i) between 18 years and 24 years; and
 - ii) between 25 years and 34 years; and
 - iii) between 35 years and 44 years; and
 - iv) between 45 years and 54 years; and
 - v) between 55 years and 64 years; and
 - vi) over the age of 64 years;
 - i) if available, the number of council members who identify as Aboriginal or Torres Strait Islander;
 - j) details of any modification made to a local government’s strategic community plan during the financial year;
 - k) details of any significant modification made to a local government’s corporate business plan during the financial year.

r19BB Information about trading undertakings to be included in annual report (Act s. 5.53(2)(i))

r19BC. Information about land transactions to be included in annual report (Act s. 5.53(2)(i))

r19BD. Information about fees, expenses and allowances to be included in annual report (Act s. 5.53(2)(i))

19BE. Information about capital grants, subsidies and contributions to be included in annual report (Act s. 5.53(2)(i))

Policy Implications

Shire of Cunderdin Council Policy Manual

Financial Implications

Nil.

Strategic Implications

Shire of Cunderdin Strategic Community Plan.

COMMUNITY AND SOCIAL

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

The Shire supports positive leisure, learning and recreation outcomes

1.2 A healthy and safe community is planned for

Volunteers and community groups feel supported and empowered

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

Visitors receive timely and accurate information about our Shire attractions and services

Improved online presence and awareness of what we have to offer

3. BUILT ENVIRONMENT

3.4 Protect and preserve heritage

Promotion and improved awareness of the Cunderdin Museum and Pump Station

CIVIC LEADERSHIP

5.3 Implement systems and processes that meet legislative and audit obligations

Capability of our organization is continually improved

Resolution 9.4 OCM December 2024

That Council:

1. Pursuant to section 5.54 of the Local Government Act 1995, Council accepts the Annual Report for the 2023/2024 Financial Year.
2. Endorse the Shire of Cunderdin Annual Financial Report for the Year Ended 30 June 2024.
3. Endorse the Auditor General's Independent Auditor's Report 2024.

Moved: Cr A (Tony) Smith

Seconded: Cr N (Natalie) Snooke

Vote – Absolute majority

Carried: 7/0

9.5 Active Transport Fund Shared Path Project 2025-2028

Location:	Shire of Cunderdin
Applicant:	Community Development Officer
Date:	2 nd December 2024
Author:	Samantha Pimlott
Item Approved by:	Stuart Hobley, Chief Executive Officer
Disclosure of Interest:	Nil
File Reference:	Nil
Attachment/s:	Attachment 9.5.1 - Active Transport Fund Guidelines Attachment 9.5.2 - Project Plan Attachment 9.5.3 - Cunderdin pathway connectivity map

Proposal/Summary

For Council to give consideration and support the Active Transport Funding application for Design and Construction of Watts/Togo and Yilgarn/Hodgson Street Cunderdin Shared Pathways.

Background

The Active Transport Fund is part of the Australian Government's commitment under the National Road Safety Strategy 2021-30, to improve road safety outcomes for bicyclists and pedestrians, and supporting their commitment to reducing transport emissions, active and liveable communities.

The program will contribute up to 50% of the total project cost for all projects, regardless of project location, up to the cap of \$5 million per project, unless otherwise agreed by the Minister.

Application must address all of the eligibility and assessment criteria. Criteria is contained within Attachment 9.5.1 – Active Transport Fund Guidelines, which were released when applications opened on 31 October 2024.

Applications are required to be received by the Department of Infrastructure, Transport, Regional Development, Communications, and the Arts (department) before Monday 13 January 2025 at 11:59pm (AEDT). The department will assess all applications, considering relevant value of money, compared against other applications. The department will recommend projects to the Minister (or their delegate). The Minister will then decide which applications will be successful.

This application-based, merit-assessed funding program is open to all state and territory governments and Local Government Authorities and bicycle or walking pathways directly addressing at least one of the program's focus areas which are linked to active transport priorities. These priorities are:

- road safety
- reducing transport emissions
- active and liveable communities

Projects must meet all of the eligibility criteria below -

- Be for the upgrade of an existing or construction of a new bicycle or walking pathway;
- Directly address at least one focus area, and be supported by evidence;
- Be located on a publicly owned road asset or corridor that is accessible to the public; and
- Be a whole and complete project (not reliant on other works).

Expanded detail of eligibility criteria can be found in Attachment 9.5.1 - Active Transport Fund Guidelines.

Comments

The proposed project involves the design and construction of new footpaths along Togo Avenue, Watts Avenue, and Yilgarn Avenue, spanning approximately 3.3 kilometres with a width of 1.8m.

Pathways will serve multiple purposes, providing safe access for all pedestrians including students traveling to the Cunderdin District High School and the Cunderdin Golf Club.

Pathways will also integrate with a broader fitness trail network (5km path), offering community members a safe, off-street route for exercise and recreation. The path surface will be concrete, coloured red for visibility and aesthetic appeal.

The program will be staged and requires Council budget commitment in 2025/26, 2026/27 and 2027/28. Full details of the project stages can be found in Attachment 9.5.2 – Project Plan.

Consultation

Stuart Hobley, Chief Executive Officer
Liezl De Beer, Community Development Officer
Robert Bell, Manager of Works and Services

Statutory Implications

Local Government Act 1995

National Land Transport Act 2014

Policy Implications

Nil.

Financial Implications

Total project costs are estimated at \$ 1,704,306. The Active Transport Fund application, if successful, will cover 50% of this cost leaving Council with progressive budget commitments of:

Year	\$
2025/26	\$385,248
2026/27	\$341,890
2027/28	\$125,015
TOTAL	\$852,153

The 2024/2025 budget for Footpaths was set at \$100,000.00 and \$80,000.00 in 2023/24.

Strategic Implications

Shire of Cunderdin Strategic Community Plan.

1. COMMUNITY AND SOCIAL

Inclusive access to Shire facilities and services

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

1.2 A healthy and safe community is planned for

Promotion and advocacy of community health and wellbeing

3. BUILT ENVIRONMENT

3.2 Enhance connectivity between places

Maintenance and extension of the footpath network

5. CIVIC LEADERSHIP

5.2 Forward planning and implementation of plans

Financial sustainability in achieving community aspirations

Cunderdin Townsite Pathways Plan

Resolution 9.5 OCM December 2024

That the Council:

1. Endorse submission the Active Transport Fund Application for Design and Construction of Watts/Togo and Yilgarn/Hodgson Street Cunderdin Shared Pathways.
2. Agree to commit expenditure of up to \$852,153 being 50% of total project costs, from 2025/26, 2026/27 and 2027/28 budgeted funds in conjunction to receipt of Department of Infrastructure, Transport, Regional Development Active Transport Fund for 50% of project cost.

Moved: Cr B (Bernie) Daly

Seconded: Cr NW (Norm) Jenzen

Vote – Simple majority

Carried: 7/0

9.6 Sherr Pastoral Land – Lots 241 and 373, Mitchell Street, Meckering

Location:	Shire of Cunderdin
Applicant:	Executive Assistant
Date:	4 th December 2024
Author:	Brooke Davidson
Item Approved by:	Stuart Hobley, Chief Executive Officer
Disclosure of Interest:	Nil.
File Reference:	A53669 & A53667
Attachment/s:	Nil.

Proposal/Summary

For Council to be aware of the current status of lot 241 on DP 222786 and lot 373 on DP 256139, Mitchell Street, Meckering, owned by Sherr Pastoral Company Pty Ltd (de-registered), vested in ASIC / State Solicitors Office.

Background

The properties are owned by a de-registered company. The company was de-registered in 2012.

Council, at its 15 February 2018 Ordinary Council Meeting resolved:

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

The abovementioned properties which had rates outstanding of three or more years were referred to AMPAC for recovery action. Regrettably, AMPAC were unsuccessful in its attempts to initiate recovery action, noting the owner of the properties is uncontactable.

Council, at its 15 August 2019 Ordinary Council Meeting resolved:

“That Council authorises the Chief Executive Officer:

- 1. Having made reasonable efforts to do so, being unable to locate the owner of property A53669 & A53667 is to, pursuant to Section 6.74 of the Local Government Act 1995, apply in the form and manner prescribed to the Minister to have the land re-vested in the Crown in right of the State, land parcels contained within assessments A53669 & A53667, which have rates and services in arrears for 3 or more years.”*

The process to re-vest land in the Crown can take up to 3 years. This process commenced in September 2019, and the Shire received the response in September 2022 advising that the Department of Planning, Lands and Heritage would not accept the land, as it is too much of a liability.

Owner of the land is a company which is de-registered, and land is vested with the Australian Securities and Investments Commission (ASIC), and the State Solicitors Office (SSO).

In October 2022 the matter was referred to McLeods Lawyers, who made contact with the State Solicitors Office. The State Solicitors Office expressed concern regarding the mortgages present on the Certificate of Titles. In Jan 2023, the Shire successfully had both mortgages discharged and removed from the titles.

In March 2024, McLeods Lawyers again wrote to the SSO to see if they will now agree to the Shire selling the land. After many conversations, the SSO would not consent to the Shire selling the land, neither will the SSO accept the land due to the liability.

The SSO’s preference is for the Shire to make an application pursuant to section 568F of the *Corporations Act 2001*. The Shire could commence proceedings in the Magistrates Court to attempt to obtain a vesting order, allowing the Shire to proceed with the sale of the property. However, costs of proceedings will range between \$15,000 - \$30,000, with no guarantee the Magistrate will grant a vesting order.

Comments

The property has reverted to the Crown (SSO is acting on behalf of the Crown) as the holder of the estate for the property as it has been declared as onerous by ASIC, the previous controller of the vested interest in the property. The property still remains in a dormant state and there is technically no real 'owner' of the land. If the Crown were to be the landowner, the land would not be rateable, and sale of the land for unpaid rates would not be an option unless the SSO were to confirm that the Crown is willing to be considered the 'owner' for that purpose, but that would be unlikely for the 'not rateable' issue.

Council has three options:

- 1) Abandon any further legal action which would create additional costs which are unable to be recovered. The Shire could place a caveat on the Certificate of Titles, in hope to recover the outstanding charges on the titles, if the State Solicitors Office ever decided to sell the land. This would require the Shire to keep the debt "live" on the assessments indefinitely.
- 2) Abandon any further legal action. Write off all associated rates and charges on the properties and make both properties "non-rateable" so no further charges are levied on the assessments. This would end any future possibility of recovering the outstanding debt.
- 3) Attempt to arrange a face-to-face meeting with the State Solicitors Office and speak with them directly about what options the Shire has, to finalise the matter and transfer the land to the Shire freehold, enabling us to sell the lots.

Consultation

AMPAC Debt Recovery

McLeods Lawyers

Australian Securities and Investments Commission

State Solicitors Office

Statutory Implications

Local Government Act 1995, Division 6 – Rates and Service Charges

Subdivision 3 — Imposition of rates and service charges - s6.39 - Rate record

- 1) As soon as practicable after a local government has resolved to impose rates in a financial year it is to ensure that a record is compiled, at the time and in the form and manner prescribed, for that financial year of —
 - (a) all rateable land in its district; and

Local Government Act 1995, Subdivision 5 — Recovery of unpaid rates and service charges

s6.55. Recovery of rates and service charges

- 1) Subject to subsection (2) and the Rates and Charges (Rebates and Deferments) Act 1992 rates and service charges on land are recoverable by a local government from -
 - (i) the owner at the time of the compilation of the rate record; or

s6.73. Discharge of liability on sale of land

A sale of land by a local government or a transfer or conveyance of land to the Crown or a local government under this Subdivision discharges —

- (a) the land; and
- (d) the owners (present and past) of the land,

from any liability to the local government for rates, service charges or other money due to the local government which were, at the time of the sale, transfer or conveyance —

- (d) secured by a charge over the land; or
- (d) otherwise recoverable, whether under this Act or another written law, by the local government in respect of the land.

Policy Implications

Nil

Financial Implications

1. The outstanding rates and charges would remain on the properties indefinitely.
2. Council would be required to write off the outstanding debts, currently a combined amount of \$102,665.09.
3. Ongoing costs of lawyers and court fees to continue to pursue the debt.

Strategic Implications

5. CIVIC LEADERSHIP

5.3 Implement systems and processes that meet legislative and audit obligations

Capability of our organization is continually improved.

Administration Recommendation

That Council:

1. Abandon any further legal action which would create additional costs which are unable to be recovered and place a caveat on the Certificate of Titles, in hope to recover the outstanding charges on the titles.
2. Abandon any further legal action. Write off all associated rates and charges on the properties, and make both properties “non-rateable” so no further charges are levied on the assessments.
3. Attempt to arrange a face-to-face meeting with the State Solicitors Office and speak with them directly about what options the Shire has to finalise the matter and transfer the land to the Shire freehold, enabling us to sell the lots.

Resolution 9.6 OCM December 2024

That Council:

1. Will follow Item 3 of the Administration Recommendation, being:
 3. Attempt to arrange a face-to-face meeting with the State Solicitors Office and speak with them directly about what options the Shire has to finalise the matter and transfer the land to the Shire freehold, enabling us to sell the lots.

Moved: Cr A (Tony) Smith

Seconded: Cr N (Natalie) Snooke

Vote – Simple majority

Carried: 7/0

9.7 Move Behind Closed Doors

Resolution 9.7 OCM December 2024

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

Moved: Cr B (Bernie) Daly

Seconded: Cr TE (Todd) Harris

Vote – Simple majority

Carried: 7/0

9.8 CONFIDENTIAL - Budget Amendment for Modifications to Unit 1, Sandalwood Village for Accommodation Use

9.9 Tender 3-23/24 Design & Construct Executive Housing

9.10 Move From Behind Closed Doors

Resolution 9.10 OCM December 2024

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

Moved: Cr B (Bernie) Daly

Seconded: Cr NW (Norm) Jenzen

Vote – Simple majority

Carried: 7/0

9.11 Chief Executive Officers Report

Location:	Shire of Cunderdin
Applicant:	Chief Executive Officer
Date:	17 th November 2024
Author:	Stuart Hobley
Item Approved by:	Stuart Hobley, Chief Executive Officer
File Reference:	Nil
Attachments:	Nil

Proposal/Summary

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

Background

Cunderdin Industrial Lot Development

The tender for the subdivision works has been awarded by Development WA and the successful tenderer will commence the works in January 2025.

The Shire have advertised for expression of interest in the lots and has forwarded the contact details of all interested parties to Development WA.

Watts Street Subdivision

The subdivision application for the seven lots facing Watts St was lodged with the Western Australian Planning Commission (WAPC) on the 3 December 2024. The WAPC will take up to 90 days to consider the application and place any conditions they deem necessary on the proposal.

Mitchell Street and Yilgarn Street Housing Update

Watts Street

See Agenda Item.

Mitchell Street

Work has commenced on the two dwellings.

Community Emergency Services Manager (CESM)

Mr Ben Davies the CESM for Cunderdin, Tammin and Quairading has submitted his resignation from his position as CESM. His last day of work will be the 23rd December 2024.

The Shire of Quairading has advertised the vacancy and applications close on the 6th January 2025. Depending on applications, it is expected that a new CESM will be commence in early February 2025.

In late December 2024 and January 2025 there will be a period where we may be without a CESM. The administration is working through several options at the on how this will be managed.

It is anticipated that the new CESM will be based in Cunderdin again (at the Robyn St house). It was suggested at a recent meeting regarding the CESM position that the "host Shire" should be where the CESM is living. The host Shire is currently Quairading, and they complete all the administration duties associated with the position.

The CEO has committed the Shire of Cunderdin to hosting the CESM whilst they are based in Cunderdin. This will mean that there will be an increased administration burden on the office staff. Discussions with the Deputy CEO have indicated that this will be able to be handled by our existing staff, however this will need to be monitored in the future.

Cunderdin Bowling Green Replacement

Council has received a deferral to April 2025 from the Department of Sport and Recreation to complete the Cunderdin Bowling Green replacement. There have been several issues that have contributed to this including the preferred contractor delaying the laying of the greens and issues with the costs associated with the retic and plumbing works.

Wheatbelt Secondary Freight Network (WSFN) Update

The Technical Committee of the WSFN has recommended to the Steering Committee that funding be allocated to the Dunlop St / Great Eastern Highway intersection to fix the damage to the road. If the project is approved by the Steering Committee this project will be completed in this financial year.

The Technical committee has also recommended the amalgamation of several routes within the WSFN. This has resulted in the Cunderdin / Koorda Route and Cunderdin Quairading Routes being amalgamated and joined up with the Fence Road Route. This could mean that Council could receive funding earlier than expected to complete the Cunderdin Quairading Road.

Executives Christmas Leave

Executives Leave over the Christmas period is as follows:

Chief Executive Officer - 20 December 2025 to 13 January 2025.

Deputy Chief Executive Officer - 19 December to 7 January 2025.

Manager of Works - 18 December to 7 December 2025.

The Office is closed from the 24 December 2024 to the 6 January 2025. The Executives will all be contactable over this period and plans are in place in the event of an emergency.

Industrial Relations

On 4 December 2024 the Western Australian Municipal, Administrative, Clerical and Services Union of Employees (WASU) applied to be named as a party to the LGIA-IA of the Shire of Cunderdin and 59 other Local Governments

The Shire has received the following is seeking advice from WALGA in relation to the matter.

Local Government Act Amendments

Landmark reforms to local government move forward with assent given to the Local Government Amendment Act 2024 (the Act) on 6 December 2024.

The Act delivers the second tranche of the biggest reforms to the sector in more than 25 years, following extensive work and public consultation since 2017.

Key changes include:

- establishing a new and independent position of Local Government Inspector with greater powers to oversee local governments in WA, focusing on early intervention
- providing greater role clarity for council, mayors and presidents, councillors and CEOs
- broader scope for audit, risk and improvement committees, with an independent chairperson
- modernised arrangements including streamlined processes for local laws and enabling superannuation payments for council members
- flexibility to enable resource sharing including employment of local government CEOs and senior employees.

Under the new system, specialised monitors will also work proactively with local governments requiring assistance to resolve emerging issues before they escalate.

The Act also overhauls the current system of complaints and provides a much wider range of tools to deal with complaints when a breach or contravention of the Local Government Act 1995 may have occurred.

Several provisions of the Act have now commenced, and the Local Government Act 1995 has been amended accordingly. This will mean that Council policies and procedures will change in line with the new provisions and these amendments will take place in the new year.

Comment

Nil.

Consultation

Nil.

Statutory Implications

Nil.

Policy Implications

Nil.

Financial Implications

Nil.

Strategic Implications

Nil.

Resolution 9.11 OCM December 2024

That the Chief Executives Officers Report be received.

Moved: Cr A (Tony) Smith

Seconded: Cr TE (Todd) Harris

Vote – Simple majority

Carried: 7/0

10 Environmental Health and Building

Nil.

11 Planning & Development

11.1 Proposed Amendment No.2 to Shire of Cunderdin Local Planning Scheme No.4

Location:	Lot 45 (No.1) and Lot 44 (No.3) Main Street and Lot 15 on Diagram 19897 Lundy Avenue, Cunderdin.
Applicant:	Statewest Planning on behalf of McIntosh Holdings Pty Ltd (Landowner)
Date:	9 December 2024
Author:	Mr Joe Douglas – Town Planner
Item Approved by :	Mr Stuart Hobley - CEO
File Reference:	Nil
Attachment/s	Attachment 11.1.1 – Scheme Amendment Documentation & Plans Attachment 11.1.2 – EPA Approval Attachment 11.1.3 – Copy of Submissions Attachment 11.1.4 - Schedule of Submissions

Proposal / Summary

This report considers all submissions received during public advertising of proposed Amendment No.2 to the Shire of Cunderdin Local Planning Scheme No.4 to rezone Lot 45 (No.1) and Lot 44 (No.3) Main Street and Lot 15 on Diagram 19897 Lundy Avenue, Cunderdin to ‘Service Commercial’ to support the continued use and further development of the land for ‘trade supplies’ purposes (i.e. a farm machinery dealership) including recommendations in respect of each submission and the scheme amendment proposal as a whole.

Background

At its Ordinary Meetings held on 26 June and 27 August 2024 Council considered and unanimously resolved to initiate a standard amendment to the Shire of Cunderdin Local Planning Scheme No.4 to rezone Lot 45 (No.1) and Lot 44 (No.3) Main Street and Lot 15 on Diagram 19897 Lundy Avenue, Cunderdin to ‘Service Commercial’ to support the continued use and further development of the land for ‘trade supplies’ purposes (i.e. a farm machinery dealership) (see Attachment 11.1.1).

The scheme amendment proposal was subsequently referred to the Environmental Protection Authority (EPA) for review in accordance with the specific requirements of section 81 of the *Planning and Development Act 2005*.

On 14 August 2024 the EPA determined, and subsequently advised, the scheme amendment proposal is unlikely to have a significant effect on the natural environment and does not warrant formal assessment under Part IV of the *Environmental Protection Act 1986* (see Attachment 11.1.2).

In accordance with the procedural requirements of section 83A of the *Planning and Development Act 2005* the scheme amendment proposal was subsequently referred to the Western Australian Planning Commission by the Shire requesting the Minister for Planning’s approval to commence public advertising.

On 29 August 2024 the Department of Planning, Lands and Heritage provided written confirmation of the Minister for Planning’s approval to advertise the scheme amendment for public comment pursuant to the specific requirements of section 84 of the *Planning and Development Act 2005*.

The scheme amendment proposal was then advertised for public comment in excess of the minimum required period of forty two (42) days which included:

- i) publication of a notice in a local newspaper circulating throughout the Shire's municipal district (i.e. The West Australian) as well as the Shire's Facebook page;
- ii) public display of the advertising notice and scheme amendment documentation at the Shire administration centre;
- iii) correspondence to all immediately adjoining and other nearby landowners;
- iv) correspondence to a number of public authorities considered likely to have an interest in the proposed amendment; and
- v) publication of the advertising notice and scheme amendment documentation on the Shire's website.

At the conclusion of the public advertising on Friday 15 November 2024 a total of three (3) submissions had been received by the Shire, all of which were from public authorities (see Attachment 11.1.3). No submissions were received from any immediately adjoining or other nearby landowners. A summary of the submissions received and a recommendation in respect of each is provided in Attachment 11.1.4. It is significant to note no objections were raised.

Under the terms of regulation 50 of the *Planning and Development (Local Planning Schemes) Regulations 2015* Council is now required to consider all submissions received and determine whether to:

- a) support the amendment without modification; or
- b) support the amendment with proposed modifications to address any issues raised in the submissions; or
- c) not support the amendment.

Comment

Having regard for:

- a) the proposal's general consistency with the aims and objectives of the State, regional and local planning frameworks;
- b) the ability to develop and use the land for the intended purpose in accordance with all regulatory requirements and standards with minimal potential impact given its given its location, relatively small scale and low intensity;
- c) the potential local economic and community benefits; and
- d) the outcomes from public advertising, including agency referrals, in which no objections were received,

it is concluded the proposal is well founded, has considerable merit and therefore worthy of Council's final approval/endorsement. As such it is recommended Council support the scheme amendment proposal without modification and refer it to the Western Australian Planning Commission for review, assessment and final determination by the Minister for Planning.

Council should note the proposal will be subject to further detailed assessment at State government level with significant scope for further discussion and negotiation with the applicant/proponent and the Shire if required. For now however Council is required to follow due process and make a final determination regarding final adoption of the scheme amendment to enable it to be formally referred to the Western Australian Planning Commission for further consideration and final determination by the Minister for Planning thereafter. The recommendation provided in this report enables the proposal to proceed to the final stage of the scheme amendment process without delay.

If the Minister for Planning ultimately approves the proposed amendment, a development application will then need to be prepared by the proponent and submitted to the Shire for consideration and final determination. As such any issues associated with the future proposed development and use of the land for 'trade supplies' purposes (i.e. a farm machinery dealership), including but not limited to light and heavy vehicle access and parking, the location and timing for the loading/unloading of equipment, goods, and machinery, the scale and finish any future proposed built form improvements including advertising signage, and the provision and protection of key essential service infrastructure, will be considered and addressed during the development application stage of statutory planning process.

Consultation

Consultation was undertaken in accordance with the procedural requirements of the *Planning and Development (Local Planning Schemes) Regulations 2015* as they apply specifically to standard amendments to local planning schemes. The outcomes from this process are documented above and in Attachment 4.

Statutory Environment

- *Environmental Protection Act 1986*
- *Planning and Development Act 2005 (as amended)*
- *Planning and Development (Local Planning Schemes) Regulations 2015*
- *Shire of Cunderdin Local Planning Scheme No.4*

Policy Implications

Nil

Financial Implications

Nil immediate financial implications for the Shire aside from the administrative costs associated with processing the scheme amendment proposal which will be offset in full by the application fee paid by the landowner pursuant to the *Planning and Development Regulations 2009*. All costs associated with the proposed development will be met by the landowner.

Strategic Implications

The scheme amendment proposal is generally consistent and does not conflict with the following strategic planning documents:

- i) State Planning Strategy 2050 as it applies specifically to economic development and growth, physical infrastructure, social infrastructure and the natural environment;
- ii) Shire of Cunderdin, Quairading & Tammin Joint Local Planning Strategy 2022 as it applies specifically to local growth and settlement, employment and tourism, infrastructure and transport, and environmental and heritage protection;
- iii) Wheatbelt Regional Planning and Infrastructure Framework 2015 as it applies specifically to future economic development and growth including primary production and associated service industries;
- iv) Avon Sub-Regional Economic Strategy 2013 as it applies specifically to promoting and facilitating economic and population growth across all towns in the sub-region including Cunderdin; and
- v) Shire of Cunderdin Strategic Community Plan 2022-2032 and Corporate Business Plan 2021/22-2024/25 as they apply specifically to social and community, economic, built environment, natural environment and civic leadership objectives and outcomes.

Resolution 11.1 OCM December 2024

That Council resolve to:

1. Acknowledge receipt of and determine each submission received in respect of Amendment No.2 to the Shire of Cunderdin Local Planning Scheme No.4 during public advertising in accordance with the recommendations contained in the Schedule of Submissions provided in Attachment 4 to this report;
2. Support Amendment No.2 to the Shire of Cunderdin Local Planning Scheme No.4 as proposed without modification; and
3. Authorise the Shire Administration to refer Amendment No.2 to the Shire of Cunderdin Local Planning Scheme No.4 to the Western Australian Planning Commission confirming Council's resolution and requesting the Honourable Minister for Planning's favourable consideration and final approval, including final endorsement of the scheme amendment documentation by affixing the Shire's common seal and authorising the Shire President and Chief Executive Officer to sign the documentation accordingly.

Moved: Cr N (Natalie) Snooke

Seconded: Cr TE (Todd) Harris

Vote – Simple majority

Carried: 7/0

12 Works & Services

Nil.

13 Urgent Items

13.1 Shire of Cunderdin Audit Committee Minutes

Location:	Shire of Cunderdin
Applicant:	Governance & Administration Officer
Date:	18 th December 2024
Author:	Samantha Pimlott
Item Approved by:	Stuart Hobley, Chief Executive Officer
File Reference:	Nil
Attachments:	Attachment 13.1.1 – Audit Committee Meeting Minutes – 18 December 2024

Proposal/Summary

Council to receive the minutes of the Audit Committee Meeting held 3.30pm Wednesday 18th December 2024.

Background

An Audit Committee Meeting was held for the purpose of:

1. Presentation and adoption of the 2023/2024 Annual Financial Report.
2. Receive the Auditor's Opinion and 2024 Audit Concluding Memorandum from Moore Australia for the 2023/2024 financial year.
3. Recommend to Council that the Annual Electors Meeting be held on Wednesday 12th February 2025 in the Shire of Cunderdin Council Chambers.

A copy of the minutes from this meeting can be found in Attachment 13.1.1 - Audit Committee Minutes – 18th December 2024.

Comment

The following resolutions were made at the meeting:

That the Audit Committee:

1. *Adopt the 2023/24 Financial Report;*
2. *Receive the Office of the Auditor General's Audit Opinion and 2024 Audit Concluding Memorandum from Moore Australia for the 2023/24 financial year;*
3. *Recommend to Council the adoption of the 2023/24 Financial Report, and receipt of the Office of the Auditor General's Audit Opinion and 2024 Audit Concluding Memorandum from Moore Australia for the 2023/24 financial year; and*
4. *Recommend to Council that the Annual Electors Meeting be held on Tuesday 11th February 2025 in the Shire of Cunderdin Council Chambers at 7pm.*
5. *Pursuant to section 5.54 of the Local Government Act 1995, accepts the Annual Report for the 2023/24 Financial Year.*
6. *Council thank staff for the work that has been put into provide an unqualified audit report.*

It is recommended that Council receive and endorse the Audit Committee Minutes for the meeting held 3.30pm 18th December 2024, and the resolutions as seen above contained within the minutes be adopted.

Consultation

Nil.

Statutory Implications

Local Government Act 1995 Part 5 Division 2 Subdivision 3 – Section 5.22

2. The minutes of a meeting of a council or a committee are to be submitted to the next ordinary meeting of the council or the committee, as the case requires, for confirmation.

Local Government Act 1995

7.12A. Duties of local government with respect to audits

1. A local government is to do everything in its power to —
 - a. assist the auditor of the local government to conduct an audit and carry out his or her other duties under this Act in respect of the local government; and
 - b. ensure that audits are conducted successfully and expeditiously.
2. Without limiting the generality of subsection (1), a local government is to meet with the auditor of the local government at least once in every year.
3. A local government is to examine the report of the auditor prepared under section 7.9(1), and any report prepared under section 7.9(3) forwarded to it, and is to —
 - a. determine if any matters raised by the report, or reports, require action to be taken by the local government; and
 - b. ensure that appropriate action is taken in respect of those matters.
4. A local government is to —
 - a. prepare a report on any actions under subsection (3) in respect of an audit conducted in respect of a financial year; and
 - b. forward a copy of that report to the Minister, by the end of the next financial year, or 6 months after the last report prepared under section 7.9 is received by the local government, whichever is the latest in time.

Local Government (Audit) Regulations 1996

Policy Implications

Business Continuity Plan

Business Continuity Framework

Financial Implications

Nil.

Strategic Implications

5. CIVIC LEADERSHIP

5.2 Forward planning and implementation of plans

5.3 Implement systems and processes that meet legislative and audit obligations

Resolution 13.1 OCM December 2024

That Council:

1. Endorse and accept the Minutes and Resolutions contained therein of the Audit Committee Minutes 18th December 2024 as presented in Attachment 13.1.1.

Moved: Cr TE (Todd) Harris

Seconded: Cr B (Bernie) Daly

Vote – Simple majority

Carried: 7/0

14 Scheduling of Meeting

14.1 February 2025 Ordinary Meeting

The next ordinary meeting of Council is scheduled to take place on Wednesday 26th February 2025 commencing at 5:00pm at the Cunderdin Shire Council Chambers, Cunderdin, WA 6407.

15 Closure of meeting

There being no further business the Shire President will declare the meeting closed at 4.44pm.

16 Certification

DECLARATION

I, Alison Harris, certify that the minutes of the Ordinary Council Meeting held on 18th December 2024, as shown, were confirmed at the ordinary meeting of Council held on Wednesday 26th February 2025.

Signed: _____

Date: _____