

11/08/2023



24-26 Richmond St  
Nyabing WA 6341  
Ph: (08) 9829 1051  
Fax: (08) 9829 1083

Email: [admin@kent.wa.gov.au](mailto:admin@kent.wa.gov.au)  
Website: [www.kent.wa.gov.au](http://www.kent.wa.gov.au)

Dear President and Councillors,

## NOTICE OF AN ORDINARY COUNCIL MEETING

Please be advised that an Ordinary meeting of the Council of the Shire of Kent is to be held on

**Wednesday, 16 August 2023**  
**At the Council Chambers,**  
**Nyabing**

**3:00pm**  
Projects Brainstorming

**4:00pm**  
CEO Selection Panel

**4:30pm**  
Briefing Session

**5.30pm**  
Ordinary Council meeting commencement

### Open Council Meetings – Procedures

1. All Council meetings are open to the public, except for matters raised by Council under “confidential items”.
2. Members of the public may ask a question at an ordinary Council meeting under “public question time”.
3. Members of the public who are unfamiliar with meeting procedures are invited to seek advice at the meeting. If unsure about proceedings, just raise your hand when the presiding member announces public question time.
4. All other arrangements are in accordance with the Council’s standing orders, policies and decisions of the Shire.

Yours faithfully,

**PETER CLARKE**  
**ACTING CHIEF EXECUTIVE OFFICER**

#### Disclaimer

*Members of the Public are advised that the recommendations to Council contained within this agenda and decisions arising from the Council Meeting can be subject to alteration. Applicants and other interested parties should refrain from taking any action until such time as written advice is received confirming Council’s decision with respect to any particular issue*

**AGENDA**  
**16 August 2023**

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**1. DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS**

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The meeting was opened at \_\_\_\_pm by the Shire President.

**2. RECORD OF ATTENDANCE/APOLOGIES AND APPROVED LEAVE OF ABSENCE****ATTENDANCE**

Elected Members:

Staff:

Visitors:

Gallery:

**APOLOGIES****APPROVED LEAVE OF ABSENCE****ABSENT****3. DISCLOSURES OF INTEREST**

Section 5.65 and 5.70 of the *Local Government Act 1995*

Elected Member or officer, who has an interest in any matter for discussion and attends at a Committee/Council Meeting, must disclose the nature of the interest in a written notice give to the Chief Executive Officer before the meeting, or at the meeting prior to discussion on the matter.

An Elected Member who makes a disclosure under section 5.65 or 5.70 must not preside at the part of the meeting relating to the matter; or participate in; or be present during, any discussion or decision-making procedure relating to the matter, unless allowed by the Committee/Council. If Committee/Council allow an Elected Member to speak, the extent of that interest must be stated.

- Declaration of Financial Interests:
- Declarations of Proximity Interests:
- Declarations of Impartiality Interests:

**4. PUBLIC QUESTION TIME****5. APPLICATIONS FOR LEAVE OF ABSENCE**

Section 5.25 *Local Government Act 1995*

**6. CONFIRMATION AND RECEIVING OF MINUTES/BUSINESS ARISING**

**6.1.1 ORDINARY MEETING OF COUNCIL HELD 20 JULY 2023**

**OFFICER RECOMMENDATION**

That the minutes of the Ordinary Council Meeting of the Shire of Kent held at the Nyabing Council Chambers, on Thursday 20 July, 2023 be CONFIRMED.

**6.1.2 MEETING OF GREAT SOUTHERN TREASURES HELD 1 AUGUST 2023**

**OFFICER RECOMMENDATION**

That the minutes of the Meeting of the Great Southern Treasures held online, on Tuesday 1 August, 2023 be RECEIVED.

- 7. ANNOUNCEMENTS BY THE PRESIDING PERSON WITHOUT DISCUSSION**
- 8. PETITIONS/DEPUTATIONS/PRESENTATIONS/SUBMISSIONS**
- 9. OFFICER REPORTS**

**9.1.1 - BUSHFIRE RISK MITIGATION COORDINATOR**

<b>PROPOSED MEETING DATE:</b>	16 August 2023
<b>PROPOSER:</b>	Department of Fire & Emergency Services (DFES) – Proposed Engagement of a Bushfire Risk Mitigation Coordinator
<b>LOCATION:</b>	Shires of Woodanilling, Wagin, Lake Grace, Dumbleyung and Kent
<b>AUTHOR:</b>	Peter Clarke, Acting Chief Executive Officer
<b>REPORTING OFFICER:</b>	Peter Clarke, Acting Chief Executive Officer
<b>FILE NO:</b>	GOV.285
<b>ASSESSMENT NO:</b>	N/A
<b>ATTACHMENTS:</b>	Nil
<b>DISCLOSURE OF INTEREST:</b>	Nil

**PURPOSE**

For Council to consider involvement, as a Group Scheme, in the engagement of a Bushfire Risk Mitigation Coordinator (BRMC) over a period of three (3) years.

**BACKGROUND**

On Friday, 3 February 2023 Mr Blake Halford, DFES Bushfire Risk Mitigation Officer, forwarded the following email to CEO's in the Upper Great Southern Region regarding the potential engagement of a Bushfire Risk Mitigation Officer on a shared basis:-

*"I am contacting you in regards to the new Bushfire Risk Mitigation Coordinator positions (there will be 4 new positions in 2023-24) that are being allocated to the Upper Great Southern Region starting July 2023.*

*Now that all 17 Local Governments in the UGS have their Bushfire Risk Management plans written and endorsed or in their final stages by the Office of Bushfire Risk Management we move into the next phase of continuing to prepare and complete annual and long-term mitigation programs.*

*These positions will be a joint Funded position with DFES LG and shared between 3-4 shires there (sic) main role of this position is as follows.*

- *Prepare and complete annual and long-term mitigation programs*
- *Manage grant applications to secure funding for LG mitigation works*
- *Coordinate the completion of treatments with contractors and Brigades*
- *Report to LGs on the status and success of their mitigation program*
- *Provide BRM training to LG staff and volunteers*
- *Provide support at bushfires (where approved)*

*Please have a look at the information attached for a better understanding of the position and agreement.*

*If you would like to continue this conversation more formally please reply with yes by 17/02/2023 (this is not a commitment just a further detailed discussion) if no reply is received we will assume that your current arrangements are sufficient.*

*I look forward to hearing from you on your thoughts on how this program can benefit your Shire and the region or any more information you require".*

**COMMENT**

Following receipt of the above email, the CEO's of the Shires of Woodanilling, Wagin, Lake Grace, Dumbleyung and Kent commenced discussions regarding the potential of employing a BRMC on a shared basis.

For Councillors information, Matt Castaldini, CESM for the Shires of Dumbleyung, Lake Grace and Kent forwarded the following email to his participating CEO's in support of the engagement of a BRMC:-

*"Following the email from Blake Halford, this afternoon, I would really appreciate your consideration of jointly engaging in a Bushfire Risk Mitigation Coordinator (BRMC) role either together or with other Shires.*

*After discussing with some other CESMs, the increased workload to support, maintain and execute mitigation programs is challenging to manage around other responsibilities.*

*Additionally, having another staff member available to support escalating incidents would benefit a large incident. (Thankfully they are not very regular out here.)"*

It appears from an email received from Mr Blake Halford on 17 May 2023 that DFES had received in-principle support from the CEO's of the Shires of Woodanilling, Wagin, Lake Grace, Dumbleyung and Kent that they would be receptive to the engagement of a BRMC on a shared basis.

In a further email dated 17 May 2023 from a Mr Giles De Brito, DFES Business Development Manager/Bushfire Risk Management Branch indicated the following financial contribution that would be expected from the participating Shires :-

*"I realise this position will need to form part of your budget process, but it's our intention to advertise the position as early as possible in 2023-24.*

*The contribution per LG is detailed below:*

<b>2023-24</b>	<b>2024-25</b>	<b>2025-26</b>
\$15,833	\$22,454	\$23,225

It is obvious that the Manager Corporate was not informed of the above discussions and the potential cost implications to the Shire of Kent when developing the 2023/2024 Budget as no provision was made in the adopted Budget.

This matter is now submitted to Council for consideration as DFES need to be informed as to whether Council is interested in participating in a joint scheme to engage a BRMC.

### **STATUTORY IMPLICATIONS**

*Local Government Act 1995*

#### **6.8 Expenditure from municipal fund not included in annual budget**

- (1) A local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure —
  - (a) is incurred in a financial year before the adoption of the annual budget by the local government; or
  - (b) is authorised in advance by resolution\*; or
  - (c) is authorised in advance by the mayor or president in an emergency.

\* Absolute majority required.

**POLICY IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

As indicated above, no provision has been made in the adopted 2023/2024 Budget for a contributory amount for the engagement of a BRMC.

If Council agrees to a financial commitment in 2023/2024, this would have to be accounted for at Council's 2023/24 Budget Review in February 2024.

**STRATEGIC IMPLICATIONS**

N/A

**RISK IMPLICATIONS**

N/A

**VOTING REQUIREMENT**

Absolute Majority

**OFFICER RECOMMENDATION**

**That Council gives due consideration to the engagement of a Bushfire Risk Mitigation Coordinator on a shared basis between the Shires of Woodanilling, Wagin, Lake Grace, Dumbleyung and Kent, knowing that this will be a three (3) year financial commitment with the 2023/2024 Shire of Kent financial contribution initially being \$15,833.00**

### 9.1.2 WESTERN AUSTRALIAN PLANNING COMMISSION SUBDIVISION PLANNING APPROVAL

<b>PROPOSED MEETING DATE:</b>	16 August 2023
<b>PROPONENT:</b>	Western Australian Planning Commission
<b>LOCATION:</b>	Lots 3377, 5817, 6931, 7612, 7613, 7959 Guelfi Road, Nyabing
<b>AUTHOR:</b>	Peter Clarke, Acting Chief Executive Officer
<b>REPORTING OFFICER:</b>	Peter Clarke, Acting Chief Executive Officer
<b>FILE NO:</b>	GOV.285
<b>ASSESSMENT NO:</b>	N/A
<b>ATTACHMENTS:</b>	Nil
<b>DISCLOSURE OF INTEREST:</b>	Nil

#### **PURPOSE**

For Council to provide comment to the Western Australian Planning Commission for subdivision Planning Approval sought by the owners of the above Lots.

#### **BACKGROUND**

The WAPC has advised that it has received an application for planning approval as detailed in the attachments to this report. WAPC advises that it intends to determine the application within 90 days from the date of lodgement.

WAPC seeks Council's comment or recommended conditions pertinent to this application by 14 September 2023 being 42 days from WAPC's correspondence.

WAPC indicated that it has referred this proposal to the following organisations for their comments:-

Western Power, Water Corporation, Main Roads WA, Department of Mines, Industry, Regulation and Safety, Department Biodiversity, Conservation and Attractions and the Shire of Kent.

#### **COMMENT**

The A/CEO referred this matter to Council's Consultant Town Planner for comment. The following advice was received:-

*I've completed reviewing the subdivision application for the abovementioned properties and can confirm it is entirely consistent with the objectives and standards applicable under the land's Rural zoning classification in the Shire's Local Planning Scheme No.3 as well as all relevant policies published by the Western Australian Planning Commission.*

*As such, I see no reason why the Shire cannot immediately respond to the Western Australian Planning Commission's email message below advising it has no objections to the proposed subdivision and unconditionally supports it due to its consistency with the relevant objectives, standards and requirements of the Shire of Kent Local Planning Scheme No.3 and all relevant Western Australian Planning Commission policies.*

#### **STATUTORY IMPLICATIONS**

*Shire of Kent Local Planning Scheme No.3 and relevant policies published by the Western Australian Planning Commission.*

#### **POLICY IMPLICATIONS**

Nil

#### **FINANCIAL IMPLICATIONS**

Nil

**STRATEGIC IMPLICATIONS**

N/A

**RISK IMPLICATIONS**

N/A

**VOTING REQUIREMENT**

Simple Majority

**OFFICER RECOMMENDATION**

**That Council advises the Western Australian Planning Commission that it has no objections to the proposed subdivision application and unconditionally supports it due to its consistency with the relevant objectives, standards and requirements of the Shire of Kent Local Planning Scheme No.3 and all relevant Western Australian Planning Commission policies.**

### 9.1.3 COMMON SEAL FOR GREENING AUSTRALIA / CANOPY NATURE-BASED SOLUTIONS DEVELOPMENT APPROVAL

<b>PROPOSED MEETING DATE:</b>	16 August 2023
<b>PROPONENT:</b>	Greening Australia/Canopy Nature-Based Solutions under authority of ME & SM O'Shaughnessy
<b>LOCATION:</b>	Lot 6141 on Deposited Plan 227813
<b>AUTHOR:</b>	Peter Clarke, Acting Chief Executive Officer
<b>REPORTING OFFICER:</b>	Peter Clarke, Acting Chief Executive Officer
<b>FILE NO:</b>	GOV.285
<b>ASSESSMENT NO:</b>	N/A
<b>ATTACHMENTS:</b>	Nil
<b>DISCLOSURE OF INTEREST:</b>	Nil

#### **PURPOSE**

For Council to approve the signing and placement of the Shire of Kent Common Seal in relation to the Development Approval Application endorsed by Council at its June 2023 Ordinary Council Meeting.

#### **BACKGROUND**

At the June 2023 Ordinary Meeting of Council, Greening Australia/Canopy Nature-Based Solutions under authority of ME & SM O'Shaughnessy submitted a Development Approval Application to develop a tree farm on a 49 hectare portion on Lot 6141 for carbon sequestration purposes on a commercial basis for a period of 25 years.

At the above meeting Council resolved to grant Planning Approval subject to a number of conditions, with condition 6 stating the following:-

**A notification, pursuant to Section 70A of the *Transfer of Land Act 1893* (as amended) shall be placed on the certificate of title of the land the subject of this approval within 120 days of the date of this approval advising of the existence of a hazard or other factor. The notification required by this condition shall state as follows:**

***“This land is within a bushfire prone area as designated by an Order made by the Fire and Emergency Services Commissioner and is subject to a Bushfire Management Plan. Additional planning and building requirements may apply to development on this land”***

#### **COMMENT**

Greening Australia/Canopy Nature-Based Solutions have now forwarded Form N1 under the *Transfer of Land Act 1983* titled “Notification Under Section 70A” for signing by the Shire President and Chief Executive Officer with the requirement that the Common Seal be affixed to the document.

As per Council Policy 3.2.2 Use of Common Seal, the Shire President and CEO are authorised to sign appropriate documents under Seal and that Council is to be informed accordingly. The Shire President and A/CEO signed and affixed the Common Seal on Monday, 7 August 2023.

#### **STATUTORY IMPLICATIONS**

*Planning and Development Act 2005 (as amended)*

*Planning and Development (Local Planning Schemes) Regulations 2015*

*Shire of Kent Local Planning Scheme No.3*

*Transfer of Land Act 1983 titled “Notification Under Section 70A”*

**POLICY IMPLICATIONS****3.2.2 COMMON SEAL***Policy Statement*

*As per Section 9.49 of the Local Government Act, a document, is, unless the Act requires otherwise, sufficiently authenticated by a local government without its common seal if signed by the Chief Executive Officer or an employee of the local government who purports to be authorised by the Chief Executive Officer to so sign.*

*Council policy is that, when the Act requires the Common Seal to be affixed, the seal of the Municipality is to be affixed to documents in the presence of the Shire President and the Chief Executive Officer only. In the absence of either the Shire President or the Chief Executive Officer, and only when documents need to be executed urgently, the Seal may be affixed in the presence of the person/s acting in the capacity of the Shire President and/or the Chief Executive Officer.*

*A report is to be given to each Ordinary meeting of Council listing each document with which the common seal was executed.*

**FINANCIAL IMPLICATIONS**

Nil

**STRATEGIC IMPLICATIONS**

N/A

**RISK IMPLICATIONS**

N/A

**VOTING REQUIREMENT**

Simple Majority

**OFFICER RECOMMENDATION**

**That Council notes and endorses the actions of the Shire President and Acting CEO signing the “Notification Under Section 70A” form that related to Condition 6 of the Planning Approval granted at the June 2023 Ordinary Council Meeting to Greening Australia/Canopy Nature-Based Solutions under authority of ME & SM O’Shaughnessy to develop a tree farm on a 49 hectare portion on Lot 6141 for carbon sequestration purposes on a commercial basis for a period of 25 years**

**9.1.4 SCHEDULE OF ACCOUNTS PAID TO 31 JULY 2023**

<b>PROPOSED MEETING DATE:</b>	16 August 2023
<b>PROPONENT:</b>	N/A
<b>LOCATION:</b>	N/A
<b>AUTHOR:</b>	Christie Smith – Manager Corporate
<b>REPORTING OFFICER:</b>	Christie Smith – Manager Corporate
<b>FILE NO:</b>	FIN.183
<b>ASSESSMENT NO:</b>	N/A
<b>ATTACHMENTS:</b>	Attachment 1 - Schedule of accounts paid Attachment 2 – List of credit card payments
<b>DISCLOSURE OF INTEREST:</b>	Nil

**PURPOSE**

Council endorsement of payment to Creditors under CEO Delegated Authority 2.1.2.

**BACKGROUND**

Details payments made to creditors since last Council Meeting.

**COMMENT**

The Schedule of Accounts Reports as presented, indicate that Council continues to be in a sound financial position.

Regulation 13 of the *Local Government (Financial Management) Regulations 1996* states that only the following information is to be reported to Council and form part of the public minutes:

- a) the payee's name;
- b) the amount of the payment;
- c) the date of the payment; and
- d) sufficient information that identifies the payment.

**STATUTORY IMPLICATIONS**

Local Government Act 1995 – Section 6.4;

Local Government (Financial Management) Regulations 1996 – Part 2 – Regulation 11, 12 and 13.

**POLICY IMPLICATIONS**

Policy 4.1 Accounting Policies

Objective: To provide the basis for Council's accounting concepts and reporting guidelines. To maintain accounting reporting procedures which comply with Statutory Requirements and to demonstrate Council's financial position.

**FINANCIAL IMPLICATIONS**

Ongoing management of Council funds

**STRATEGIC IMPLICATIONS**

Community Strategic Plan 2023 - 2033

Civic Leadership Strategic Priorities – Proactive and well governed Shire

**RISK IMPLICATIONS**

N/A

**VOTING REQUIREMENT**

Simple Majority

**OFFICER RECOMMENDATION**

**That Council endorse the payments from the Municipal Fund and Trust Fund for the period ending 31 July 2023:**

<b>Municipal Fund (EFT)</b>	<b>\$214,219.62</b>
<b>Municipal Fund (CHQ)</b>	<b>\$ 550.00</b>
<b>Trust Fund</b>	<b>\$ 0.00</b>
<b>Direct Debits</b>	<b>\$137,102.04</b>
<b><u>TOTAL</u></b>	<b><u>\$351,871.66</u></b>

**9.1.5 MONTHLY FINANCIAL REPORTS TO 31 JULY 2023**

<b>PROPOSED MEETING DATE:</b>	16 August 2023
<b>PROPONENT:</b>	N/A
<b>LOCATION:</b>	N/A
<b>AUTHOR:</b>	Christie Smith – Manager Corporate
<b>REPORTING OFFICER:</b>	Christie Smith – Manager Corporate
<b>FILE NO:</b>	FIN.187
<b>ASSESSMENT NO:</b>	N/A
<b>ATTACHMENTS:</b>	Attachment 1 - Monthly Financial Reports to 31 July 2023
<b>DISCLOSURE OF INTEREST:</b>	Nil

**PURPOSE**

In accordance with the *Local Government (Financial Management) Regulations 1996*, to follow is the presentation of the Monthly Financial Reports to Council.

**BACKGROUND**

Monthly Financial Reports are to be presented to Council and are to be received by Council resolution.

**COMMENT**

The Monthly Financial Reports as presented indicate that Council continues to be in a sound financial position.

Please note the reports are the unaudited version, audit will be undertaken in September 2023 and audited financials will be presented to Council accordingly.

**STATUTORY IMPLICATIONS**

*Local Government Act 1995* – Section 6.4

*Local Government (Financial Management) Regulations 1996* – Clause 34 and 35

**POLICY IMPLICATIONS**

Policy 4.1 Accounting Policies

Objective: To provide the basis for Council's accounting concepts and reporting guidelines.  
To maintain accounting reporting procedures which comply with Statutory Requirements and to demonstrate Council's financial position.

**FINANCIAL IMPLICATIONS**

Ongoing management of Council funds

**STRATEGIC IMPLICATIONS**

Community Strategic Plan 2023 - 2033

Civic Leadership Strategic Priorities – Proactive and well governed Shire

**RISK IMPLICATIONS**

N/A

**VOTING REQUIREMENT**

Simple Majority

**OFFICER RECOMMENDATION**

**That Council receive the following Monthly Financial Reports as presented:**

- **Monthly Financial Reports to 31 July 2023**

**9.1.6 SHIRE OF KENT REBRANDING**

<b>PROPOSED MEETING DATE:</b>	16 August 2023
<b>PROPONENT:</b>	N/A
<b>LOCATION:</b>	N/A
<b>AUTHOR:</b>	Christie Smith – Manager Corporate
<b>REPORTING OFFICER:</b>	Christie Smith – Manager Corporate
<b>FILE NO:</b>	SERV.136
<b>ASSESSMENT NO:</b>	N/A
<b>ATTACHMENTS:</b>	Nil
<b>DISCLOSURE OF INTEREST:</b>	Nil

**PURPOSE**

Council to consider adoption of a new logo design for the Shire of Kent.

**BACKGROUND**

In March 2023 Council included allowances in the budget review to engage a consultant to assist in rebranding. Three quotations were received with Castledine + Castledine being appointed as the chosen consultant. Castledine +Castledine would work with elected members, staff and community members to produce a new logo and tag line that is professional and has an impact. Castledine +Castledine have had experience working with many local government authorities and communities and pride themselves in designing logos that are distinctive and timeless.

A community survey was sent out in April 2023 via community email and Facebook, in addition both the Pingrup and Nyabing Primary Schools were asked to have the students provide some feedback also. There were 171 email invitations sent for this survey, 118 were opened and 52 remained unopened, nil bounced back. From this 28 survey responses were received and in addition a further 14 surveys were completed via the Facebook link.

All feedback was provided to Castledine + Castledine for them to work towards providing Council with concept designs.

**COMMENT**

Council were presented initially with five concept designs and requested a further sixth concept design after reviewing the initial five. The favoured two along with the current logo was put out to the community via a SuvaryMonkey link to provide a rating on the proposed/current logos, as at 7 August 2023 there had been 68 survey responses, results are as follows:

	<b>Don't like at all</b>	<b>Somewhat like</b>	<b>Don't really have an opinion</b>	<b>Like</b>	<b>Really Like</b>	<b>Weighted Average</b>
<b>'K' Concept</b>	48.53% (33)	19.12% (13)	2.94% (2)	16.18% (11)	13.24% (9)	2.26%
<b>Logo 2 (most recent)</b>	23.53% (16)	23.53% (16)	2.94% (2)	33.82% (23)	16.18% (11)	2.96%
<b>Current Logo</b>	20.90% (14)	17.91% (12)	16.42% (11)	23.88% (16)	20.90% (14)	3.06%

There has been feedback received from two ratepayers expressing their opinions against replacing the logo.

The new logo, if adopted, is to be 'launched' at the Shire of Kent 100 Year Centenary Luncheon on the 13 October 2023.

Nearly 90 out of 139 local governments in Western Australia have undertaken rebranding and modernisation of logo's in recent years. Logo redesign captures a more contemporary look and is compatible for technological advances to showcase logos on mobile devices, tablets etc.

### **STATUTORY IMPLICATIONS**

Nil

### **POLICY IMPLICATIONS**

Council do not have a policy in relation to logo's and branding.

### **FINANCIAL IMPLICATIONS**

Allowances have been made for the purchase of banners (in both Nyabing and Pingrup), shire boundary signage and locality signage. Other changes will be progressively rolled-out such as new signage when it is due for replacement under routine maintenance.

Consultant costs include provision of digital files in a variety of formats suitable for a wide range of applications and stationery suite.

### **STRATEGIC IMPLICATIONS**

Community Strategic Plan 2023 - 2033

2. Economy > 2.3 Visitors have a positive experience across our Shire > tourism infrastructure in particular trails and signage improve visitor experience

### **RISK IMPLICATIONS**

Nil

### **VOTING REQUIREMENT**

Simple Majority

### **OFFICER RECOMMENDATION**

**That Council resolves to refresh its branding by selecting one of the new logo concepts submitted by Castledine + Castledine.**

**9.1.7 NEW LICENSE AGREEMENT – PINGRUP WALK TRAIL**

<b>PROPOSED MEETING DATE:</b>	16 August 2023
<b>PROPONENT:</b>	N/A
<b>LOCATION:</b>	N/A
<b>AUTHOR:</b>	Nathanael Taekema – Governance Officer
<b>REPORTING OFFICER:</b>	Peter Clarke – Acting Chief Executive Officer
<b>FILE NO:</b>	SERV.136
<b>ASSESSMENT NO:</b>	N/A
<b>ATTACHMENTS:</b>	Attachment 1 - Case 2301395 Email Trail Attachment 2 - Map - UCL Lot 336 on DP211378 (consisting of 3 PINS)
<b>DISCLOSURE OF INTEREST:</b>	Nil

**PURPOSE**

For Council to include the whole of UCL Lot 336 on DP211378 (consisting of the 3x PINS) into Shire managed 'Recreation and Drainage' Reserve 24202, pursuant to section 51 of the *Land Administration Act 1997* (LAA). This will allow continued development and use of portion of UCL Lot 336 on Plan 211378 in the Pingrup town site for the purposes of the public walk trail for the benefit of the local community and the travelling public.

**BACKGROUND**

In April 2023 the Shire of Kent requested approval from the Department of Planning, Lands, and Heritage (DPLH) for a new license agreement under section 91 of the *Land Administration Act 1997* to allow for the continued development and use of portion of UCL Lot 336 on Plan 211378 in the Pingrup town site for the purposes of a public walk trail for the benefit of the local community and the travelling public.

The Department sought the Shire's interest in accepting management of the parcel of land (identified as PIN 660996) for its inclusion into the adjacent 'Recreation and Drainage' Reserve 24202, which is already under Management Order to the Shire of Kent. This was determined to be a practical outcome considering the public walk trail and proposed works are aligned with the reserve purpose, and once included into the Shire-managed Reserve the Shire could conduct maintenance works on the trail when appropriate without having to continually seek short-term licences from the Department. Additionally, licences do not allow for ground disturbance and under a licence agreement, culverts should not be placed.

The previous expired licence was an interim arrangement, while long-term land tenure (excision of the track area for inclusion into adjoining Reserve 24202) was originally to be considered. At that time, the Shire indicated it would be responsible for covering costs including survey to facilitate this. However, it appears that further consideration of the long-term tenure change did not progress.

**COMMENT**

In addition to considering the management of PIN660996, DPLH requested the Shire advise whether it has any interest in the other two PINs 661039 and 661001 also being included into Reserve 24202. We advised DPLH that holding the management of these PINs would be an excellent outcome for the future management of these areas.

DPLH has since advised that they sought and received support from the South West Settlement Team for the proposal to include the entire UCL Lot 336 (consisting of all 3x PINS) into Reserve 24202 for management by the Shire.

In order to progress, a Council Resolution requesting inclusion of the whole of UCL Lot 336 on DP211378 (consisting of the 3x PINS) into Shire managed 'Recreation and Drainage' Reserve 24202, pursuant to section 51 of the Land Administration Act 1997 (LAA) must be approved. As part of the process the existing management order to the Shire will be revoked and reissued over the amended Reserve, pursuant to sections 50 and 46 of the LAA.

**STATUTORY IMPLICATIONS**

Nil

**POLICY IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

Nil

**STRATEGIC IMPLICATIONS**

Community Strategic Plan 2023 - 2033

2. Economy > 2.3 Visitors have a positive experience across our Shire > tourism infrastructure in particular trails and signage improve visitor experience

**RISK IMPLICATIONS**

Nil

**VOTING REQUIREMENT**

Simple Majority

**OFFICER RECOMMENDATION**

**That Council request inclusion of the whole of UCL Lot 336 on DP211378 (consisting of the 3x PINS) into Shire managed 'Recreation and Drainage' Reserve 24202, pursuant to section 51 of the *Land Administration Act 1997 (LAA)*.**

### 9.1.8 PERMISSION TO COLLECT NATIVE PLANT SEED FROM SHIRE RESERVES – GREENING AUSTRALIA

<b>PROPOSED MEETING DATE:</b>	16 August 2023
<b>PROPONENT:</b>	Greening Australia
<b>LOCATION:</b>	Shire of Kent Vested Reserves
<b>AUTHOR:</b>	Nathanael Taekema – Governance Officer
<b>REPORTING OFFICER:</b>	Peter Clarke – Acting Chief Executive Officer
<b>FILE NO:</b>	ENV.41
<b>ASSESSMENT NO:</b>	N/A
<b>ATTACHMENTS:</b>	Nil
<b>DISCLOSURE OF INTEREST:</b>	Nil

#### **PURPOSE**

Council to consider an application from Greening Australia to collect native plant seed from reserve land vested in the Shire of Kent for a period of 12 months.

#### **BACKGROUND**

The following submission was received 27 June 2023 on behalf of Greening Australia:

*Greening Australia Ltd (GAL), seek permission for appointed staff of GAL, to collect native seed from within reserves vested in your shire.*

*We are an environmental enterprise that thinks big to tackle the challenges facing Australia's unique landscapes in ways that work for communities, economies and nature.*

*Our nature-based solutions protect and restore ecosystems to build a more resilient, biodiverse and sustainable planet.*

*All our seed activities are conducted within the framework of the Florabank Guidelines. Our seed collecting representatives are licensed and registered, please see attached.*

*This year we are seeking to collect small quantities of seed for research and sustainable seed species projects, we also intend to support seed collecting training for*

*Thriving on Country teams. We will not be collecting any declared rare or endangered flora.*

*We would appreciate your support in our seed sustainability endeavours by notifying us of imminent clearing to allow us to access the site to collect any available seed.*

*Please respond with the attached template and include any additional conditions set by your Shire.*

#### **COMMENT**

Collection of native plant seed requests are received annually from organisations such as Department of Parks and Wildlife (DBCAs), Greening Australia and Formosa Flora.

#### **STATUTORY IMPLICATIONS**

*Local Government Act 1995*

*Biodiversity Conservation Act 2016*

*Biodiversity Conservation Regulations 2018*

#### **POLICY IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

Nil.

**STRATEGIC IMPLICATIONS**

Community Strategic Plan 2023 - 2033

3. Environment > 3.2 Conservation of our natural environment and resources > Nature reserves in our control are managed and protected

**RISK IMPLICATIONS**

N/A

**VOTING REQUIREMENT**

Simple Majority

**OFFICER RECOMMENDATION**

That Council grant Greening Australia permission to access reserves vested in the Shire of Kent for the purpose of native seed collection subject to the following conditions:

- (i) All persons collecting native seed are licensed according to the *Biodiversity Conservation Act 2016* and *Biodiversity Conservation Regulations 2018* and will abide by the conditions of this license
- (ii) Permission is for a twelve month period, commencing August 2023
- (iii) This letter allows for collection only by Greening Australia staff members and supervised affiliates.
- (iv) No declared rare flora seeds will be collected
- (v) Appropriate hygiene measures will be followed at all times to prevent the spread of plant disease and weeds.
- (vi) All care will be taken to avoid the disturbance of flora and fauna habitat.
- (vii) All care will be taken to avoid any disturbance that may lead to soil degradation.
- (viii) A report detailing shire reserves accessed and seed collected be provided once the annual collection period is complete.

**9.1.9 STATUS OF COUNCIL DECISIONS – JULY 2023**

<b>PROPOSED MEETING DATE:</b>	16 August 2023
<b>PROPONENT:</b>	N/A
<b>LOCATION:</b>	N/A
<b>AUTHOR:</b>	Nathanael Taekema – Governance Officer
<b>REPORTING OFFICER:</b>	Christie Smith – Acting Chief Executive Officer
<b>FILE NO:</b>	GOV.285
<b>ASSESSMENT NO:</b>	N/A
<b>ATTACHMENTS:</b>	Attachment 1 - Action Sheet Attachment 2 - Outstanding Matters List
<b>DISCLOSURE OF INTEREST:</b>	Nil

**PURPOSE**

To inform the Council of the actions taken in relation to Council decisions.

**BACKGROUND**

By providing this report to Council as an agenda item on a monthly basis will keep Council informed on the progress of decisions made.

**COMMENT**

The status of Council decisions/resolutions is included as an attachment and updated monthly.

It is requested that action items be reviewed at each Council meeting.

**STATUTORY IMPLICATIONS**

*Local Government Act 1995 – Section 5.41*

The CEO's functions are to:-

- c) cause Council decisions to be implemented

**POLICY IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

Nil

**STRATEGIC IMPLICATIONS**

Community Strategic Plan 2023 - 2033

- 4. Civic Leadership > 4.2 Proactive and well governed shire

**RISK IMPLICATIONS**

N/A

**VOTING REQUIREMENT**

Simple Majority

**OFFICER RECOMMENDATION**

That the following be received by the Council:

1. **The Action Sheet for the Council Meeting 20 July 2023;**
2. **The Outstanding Matters list dated 16 August 2023.**

**9.1.10 APPOINTMENT OF FIRE CONTROL OFFICERS**

<b>PROPOSED MEETING DATE:</b>	16 August 2023
<b>PROPONENT:</b>	N/A
<b>LOCATION:</b>	N/A
<b>AUTHOR:</b>	Matt Castaldini – Community Emergency Services Manager
<b>REPORTING OFFICER:</b>	Peter Clarke – Acting Chief Executive Officer
<b>FILE NO:</b>	SERV.136
<b>ASSESSMENT NO:</b>	N/A
<b>ATTACHMENTS:</b>	Nil
<b>DISCLOSURE OF INTEREST:</b>	Nil

**PURPOSE**

To seek the Council's endorsement for the appointment of the listed community members as Fire Control Officers for the Shire of Kent under the provisions of the *Bush Fires Act 1954*.

**BACKGROUND**

The *Bush Fires Act 1954* provides for the appointment of Fire Control Officers (FCO) within the Local Government area for aiding with the control of fire and coordination of voluntary firefighters.

The Shire of Kent has traditionally appointed nominated community members on advice from the Bush Fire Advisory Committee (BFAC), neighbouring Local Governments and staff as applicable to the role.

**COMMENT**

A BFAC meeting was held on 30 March 2023 at the Nyabing Pavilion, with a resolution passed for the annual appointment of the voluntary roles of Chief Bush Fire Control Officer (CBFCO), Deputy Chief Bush Fire Control Officer (DCBFCO), FCOs and Fire Weather Officers.

Nominations were received and accepted, with no significant changes to report from last year.

Additionally, the Shire of Kent is not applying for our FCOs to be appointed as dual FCOs or accepting nominations from neighbouring local governments for appointment of dual FCOs, as there is a provision in the *Bush Fires Act 1954* for any FCO to exercise the powers of an FCO in a neighbouring local government in the absence of an FCO from that area.

**STATUTORY IMPLICATIONS**

*Bush Fires Act 1954*

**S.38. Local government may appoint bush fire control officer**

- (1) A local government may from time to time appoint such persons as it thinks necessary to be its bush fire control officers under and for the purposes of this Act, and of those officers shall subject to section 38A(2) appoint 2 as the Chief Bush Fire Control Officer and the Deputy Chief Bush Fire Control Officer who shall be first and second in seniority of those officers, and subject thereto may determine the respective seniority of the other bush fire control officers appointed by it.
- (2A) The local government shall cause notice of an appointment made under the provisions of subsection (1) to be published at least once in a newspaper circulating in its district.

- (2E) A bush fire control officer appointed by a local government under the provisions of this section shall be issued with a certificate of appointment by the local government or, if he is appointed by the FES Commissioner, by the FES Commissioner.
- (1) A bush fire control officer appointed under the provisions of this section shall, subject to such directions as may be given by the local government, and subject to this Act take such measures as appear to him to be necessary or expedient and practicable for —
- (a) carrying out normal brigade activities;
  - (a) exercising an authority or carrying out a duty conferred or imposed upon him by any of the provisions of Part III;
  - (b) procuring the due observance by all persons of the provisions of Part III.

**POLICY IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

Costs associated with the publication of the appointment in a local newspaper (if applicable).

**STRATEGIC IMPLICATIONS**

Community Strategic Plan 2023 - 2033

1. Community > 1.4 Support emergency services planning, risk mitigation response and recovery > Response to emergency situations involves collaborative planning and delivery

**RISK IMPLICATIONS**

Nil

**VOTING REQUIREMENT**

Simple Majority

**OFFICER RECOMMENDATION**

That the following persons be appointed to the role identified for the 2023/2024 bush fire season:

<b>Role</b>	<b>Nominated Persons</b>
CBFCO	Grant Collins
DCBFCO	Darren Hawley
Senior FCO - West	Scott Crosby
Senior FCO - East	Doug Smith
Fire Control Officer(s)	Brad Harris
	Lance Cooper
	Darren Gray
	Warrick Browne
	Greg Hobley
	John Jolley
	Jared Hobley
	Kelvin Holmes
	Jamie Smart
	Tim Borgward
	Stephen Hawley
	Mitch Smith
	Jorg Brinkmann
	Eric Featherstone
Fire Weather Officer	Grant Collins
Deputy Fire Weather Officer	Darren Hawley

**10. ELECTED MEMBERS MOTION OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN****11. NEW BUSINESS OF AN URGENT NATURE AGREED TO BY RESOLUTION OF COUNCIL****12. MATTERS BEHIND CLOSED DOORS**

That the meeting be closed to the public in accordance with section 5.23 *Local Government Act 1995*, 5.5.23(2))

- Matters affecting employee(s)
- Personal affairs of any person(s), including financial and/or commercial Contracts
- Commercial Confidentiality
- Legal advice/matters
- Public safety/security matters where public knowledge may be prejudicial.

### 12.1.1 CHIEF EXECUTIVE OFFICER RECRUITMENT – SHORTLISTING OF APPLICANTS FOR INTERVIEW

<b>PROPOSED MEETING DATE:</b>	16 August 2023
<b>PROPONENT:</b>	N/A
<b>LOCATION:</b>	N/A
<b>AUTHOR:</b>	Peter Clarke, Acting Chief Executive Officer
<b>REPORTING OFFICER:</b>	Peter Clarke, Acting Chief Executive Officer
<b>FILE NO:</b>	GOV.285
<b>ASSESSMENT NO:</b>	N/A
<b>ATTACHMENTS:</b>	Nil
<b>DISCLOSURE OF INTEREST:</b>	Nil

#### **PURPOSE**

Council to shortlist applicants for the CEO position that are considered suitable for interview.

#### **BACKGROUND**

Applications for the CEO position closed at 5.00pm on Monday, 14 August 2023 following the advertising period in the “Western Australian Newspaper” and through the Local Government Professionals website Vacancies Section.

#### **COMMENT**

As Council opted to undertake the recruitment process in-house, applicants were required to forward applications directly to the Shire President. The Shire President has circulated the applications received to Selection Panel Members (whole of Council and Independent Panel Member, Mr Grant Collins) for their perusal. This allowed the Selection Panel to consider the applications in whole prior to the shortlisting for interview process.

A Selection Panel Meeting has been scheduled prior to this Council meeting for shortlisting of applicants for interviews to be conducted.

#### **STATUTORY IMPLICATIONS**

*Local Government Act (1995)*

#### **5.36. Local government employees**

- (1) A local government is to employ —
  - (a) a person to be the CEO of the local government; and
  - (b) such other persons as the council believes are necessary to enable the functions of the local government and the functions of the council to be performed.
- (2) A person is not to be employed in the position of CEO unless the council —
  - (a) believes that the person is suitably qualified for the position; and
  - (b) is satisfied\* with the provisions of the proposed employment contract.

\* *Absolute majority required.*

- (3) A person is not to be employed by a local government in any other position unless the CEO —
  - (a) believes that the person is suitably qualified for the position; and
  - (b) is satisfied with the proposed arrangements relating to the person’s employment.

- (4) Unless subsection (5A) applies, if the position of CEO of a local government becomes vacant, it is to be advertised by the local government in the manner prescribed, and the advertisement is to contain such information with respect to the position as is prescribed.
- (5A) Subsection (4) does not require a position to be advertised if it is proposed that the position be filled by a person in a prescribed class.
- (5) For the avoidance of doubt, subsection (4) does not impose a requirement to advertise a position before the renewal of a contract referred to in section 5.39.

#### **5.39A. Model standards for CEO recruitment, performance and termination**

- (1) Regulations must prescribe model standards for local governments in relation to the following —
  - (a) the recruitment of CEOs;
  - (b) the review of the performance of CEOs;
  - (c) the termination of the employment of CEOs.
- (2) Regulations may amend the model standards.

#### *Local Government (Administration) Regulations 1996*

#### **18A. Vacancy in position of CEO or senior employee to be advertised (Act s. 5.36(4) and 5.37(3))**

- (1) If a position of CEO, or of a senior employee, of a local government becomes vacant, the local government must give Statewide public notice of the position unless it is proposed that the position be filled by —
  - (a) a person who is, and will continue to be, employed by another local government and who will fill the position on a contract or contracts for a total period not exceeding 5 years; or
  - (b) a person who will be acting in the position for a term not exceeding one year.
- (2) The Statewide public notice must contain —
  - (a) the details of the remuneration and benefits offered; and
  - (b) details of the place where applications for the position are to be submitted; and
  - (c) the date and time for the closing of applications for the position; and
  - (d) the duration of the proposed contract; and
  - (da) a website address where the job description form for the position can be accessed; and
  - (e) contact details for a person who can provide further information about the position; and
  - (f) any other information that the local government considers is relevant.

#### **18B. Contracts of CEOs and senior employees, content of Act s. 5.39(3)(c))**

For the purposes of section 5.39(3)(c), a contract governing the employment of a person who is a CEO, or a senior employee, of a local government is to provide for a maximum amount of money (or a method of calculating such an amount) to which

the person is to be entitled if the contract is terminated before the expiry date, which amount is not to exceed whichever is the lesser of —

- (a) the value of one year's remuneration under the contract; or
- (b) the value of the remuneration that the person would have been entitled to had the contract not been terminated.

*[Regulation 18B inserted: Gazette 13 May 2005 p. 2086.]*

**[18C, 18D.** Deleted: SL 2021/14 r. 5.]

**18E. False information in application for CEO position, offence**

A person must not, in connection with an application for the position of CEO of a local government —

- (a) make a statement, or give any information, as to academic, or other tertiary level, qualifications held by the applicant that the person knows is false in a material particular; or
- (b) make a statement, or give any information, as to academic, or other tertiary level, qualifications held by the applicant which is false or misleading in a material particular, with reckless disregard as to whether or not the statement or information is false or misleading in a material particular.

Penalty: a fine of \$5 000.

*[Regulation 18E inserted: Gazette 31 Mar 2005 p. 1038-9; amended: Gazette 19 Aug 2005 p. 3872; 4 Mar 2016 p. 650.]*

**18F. Remuneration and benefits of CEO to be as advertised**

The remuneration and other benefits paid to a CEO on the appointment of the CEO are not to differ from the remuneration and benefits advertised for the position under section 5.36(4).

*[Regulation 18F inserted: Gazette 31 Mar 2005 p. 1039.]*

**18FA. Model standards for CEO recruitment, performance and termination (Act s. 5.39A(1))**

Schedule 2 sets out model standards for local governments in relation to the following —

- (a) the recruitment of CEOs;
- (b) the review of the performance of CEOs;
- (c) the termination of the employment of CEOs.

*[Regulation 18FA inserted: SL 2021/14 r. 6.]*

**18FB. Certification of compliance with adopted standards for CEO recruitment (Act s. 5.39B(7))**

- (1) In this regulation —  
**adopted standards** means —
  - (a) the standards adopted by a local government under section 5.39B; or
  - (b) if the local government has not adopted standards under that section, the standards taken under section 5.39B(5) to be the local government's adopted standards.
- (2) This regulation applies if —
  - (a) a local government employs a person in the position of CEO of the local government; and
  - (b) the local government's adopted standards in relation to the recruitment of CEOs apply to the employment.
- (3) As soon as practicable after the person is employed in the position of CEO, the local government must, by resolution\*, certify that the person was employed in accordance with the local government's adopted standards in relation to the recruitment of CEOs.  
  
\* Absolute majority required.
- (4) The local government must give a copy of the resolution to the Departmental CEO within 14 days after the resolution is passed by the local government.

**POLICY IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

2023/2024 Draft Budget provides \$12,000 for Recruitment Costs and Subsidies in Administrative General Expenses under Schedule 4.

**STRATEGIC IMPLICATIONS**

Community Strategic Plan 2023-2033

1. Civic Leadership Objective –  
Outcome 4.2 Proactive and well governed Shire – Council is supported by a skilled team

**RISK IMPLICATIONS**

N/A

**VOTING REQUIREMENT**

Simple Majority

**OFFICER RECOMMENDATION**

**That Council endorses the Selection Panel's recommendation of those applicants for the CEO position that have been shortlisted for interviews which will be held during the week of 21 – 25 August 2023.**

**13. MEETING CLOSED**