



SHIRE OF
DOWERIN
TIN DOG TERRITORY

MINUTES

Special Council Meeting

Held in Council Chambers
13 Cottrell Street, Dowerin WA 6461
Wednesday 10 July 2024

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Table of Contents



1.	Official Opening
2.	Record of Attendance / Apologies / Leave of Absence
3.	Disclosure of Interest
4.	Officer's Reports - Governance and Compliance
4.1	Dowerin Commercial Hotel - Alfresco Application
5.	Matters Behind Closed Doors
5.1	T2024-01 Maintenance Grading Road Works - Evaluation
5.2	T2024-02 CAT 120M Grader - Offer and Valuations
6.	Urgent Business Approved by the Person Presiding or by Decision
7.	Closure

Shire of Dowerin
Special Council Meeting
Wednesday 10 July 2024



1. Official Opening / Obituaries

The President welcomes those in attendance and declares the Meeting open at 2:00pm.

2. Record of Attendance / Apologies / Leave of Absence

Councillors:

Cr RI Trepp	President
Cr WG Allsopp	
Cr DP Hudson	
Cr AJ Metcalf	
Cr BA Ward	

Staff:

Mr A Wooldridge	Acting Chief Executive Officer
Mr B Forbes	Asset & Works Coordinator
Ms K Rose	Governance Coordinator

Members of the Public:

Apologies:

Cr N McMorran	Deputy President
Cr J Sewell	
Mr P Dittrich	Acting Deputy Chief Executive Officer

Approved Leave of Absence: Nil

3. Disclosure of Interest

4. OFFICER’S REPORTS – GOVERNANCE AND COMPLIANCE

4.1 Dowerin Commercial Hotel – Application for Alfresco

Governance & Compliance		 SHIRE OF DOWERIN TIN DOG TERRITORY
Date:	4 July 2024	
Location:	Dowerin Commercial Hotel, 4 Stewart Street, Dowerin	
Responsible Officer:	Aaron Wooldridge, Acting Chief Executive Officer	
Author:	Aaron Wooldridge, Acting Chief Executive Officer	
Legislation:	<i>Local Government Act 1995: Schedule 3.21</i>	
SharePoint Reference:	Organisation / Rates & Valuations / Property Correspondence / A353 10-14 Stewart Street, Dowerin	
Disclosure of Interest:	Nil	
Attachments:	<u>Attachment 4.1A – Dowerin Commercial Hotel Proposal</u>	

Purpose of Report



Executive Decision



Legislative Requirement

Summary

The purpose of this report is for Council to consider the application for alfresco dining at the front of the Dowerin Commercial Hotel located at 10-14 Stewart Street, Dowerin. The alfresco dining decision is made by the Shire of Dowerin and does not require building or planning approval due to the nature of the application.

Background

The Shire of Dowerin has received an application from the Dowerin Commercial Hotel for the construction of an alfresco design layout to be erected along the kerb at the front of the hotel, located at 10-14 Stewart Street Dowerin as per the plans.

The application received will provide a functional dining space, whilst not hindering on the accessibility of the foot path or traffic along Stewart Street. The Shire of Dowerin Acting CEO had inspected the location and has deemed the space to be appropriate for the use and do not believe there will be any issues raised with the proposed development. Though, Council should consider existing structures, compared to the plans provided by the applicant, such as kerb drainage, pedestrian bollards in close proximity, existing fixed public bins etc.

Comment

Alfresco dining can be beneficial to the commercial centres/main streets through locating people and social activities within public spaces, it can give a feeling of vibrancy and sense of place and assist in improving of the viability of commercial centres.

It can also have benefits of:

- improving the ambience and amenity of a streetscape, by providing points of interest and activity.
- assisting with promotion of tourism, allowing dining to occur whilst utilising views.
- Providing an alternative to indoor dining and diversity in the service that owner/operators can provide to customers, as well as alternative dining options on the main street to tourists; and
- Promotes visibility and exposure of business to customers and tourists.

Alfresco dining is considered a positive inclusion in town centres.

Consultation

Aaron Wooldridge, Acting Chief Executive Officer

Kahli Rose, Governance Coordinator

All Councillors

Patrick and Brian O'Toole, Dowerin Commercial Hotel

Natalie Bear, Bear Pantry Cafe

Policy Implications

The application relates to Local Law; *Activities in Thoroughfares and Public Spaces and Trading Local Law 2021. Part 6; Trading in Thoroughfares and Public Spaces; Division 3 – Outdoor eating facilities on public places:*

6.15 Interpretation

In this Division –

Facility means an outdoor eating facility or establishment on any part of a public place, but does not include such a facility or establishment on private land;

Permit holder means the person to whom a permit has been issued for the purpose of clause 6.16; and public place has the meaning given to it in clause 6.1.

6.16 *Permit required to conduct Facility A person shall not establish or conduct a Facility without a permit.*

6.17 *Matters to be considered in determining application In determining an application for a permit for the purpose of clause 6.16, the local government may consider in addition to any other matter it considers relevant, whether or not-*

(a) the Facility is conducted in conjunction with and as an extension of a food business which abut on the Facility, and whether the applicant is the person conducting such food business;

(b) any abutting food business is registered in accordance with the Food Act 2008 and whether the use of the business is permitted under the town planning scheme;

(c) users of the Facility will have access to proper and sufficient sanitary and ablutionary conveniences;

(d) the Facility would –

(i) obstruct the visibility or clear sight lines at an intersection of thoroughfares of any person; or

(ii) impede pedestrian access; and

(e) the tables, chairs and other equipment to be used may obstruct or impede the use of the public place for the purpose for which it was designed.

6.18 *Obligations of permit holder*

(1) *The permit holder for a Facility shall –*

- (a) *ensure that the Facility is conducted at all times in accordance with the provisions of this local law;*
- (b) *ensure that the eating area is kept in a clean and tidy condition at all times;*
- (c) *maintain the chairs, tables and other structures in the eating area in a good, clean and serviceable condition at all times; and*
- (d) *be solely responsible for all and any costs associated with the removal, alteration, repair, reinstatement or reconstruction of any part of the public place arising from the conduct of the Facility.*

(2) *Whenever, in the opinion of the local government, any work is required to be carried out to a Facility, the local government may give a notice to the permit holder for the Facility to carry out that work within the time limited by the notice.*

(3) *In subclause (2), “work” includes the removal, alteration, repair, reinstatement or reconstruction of any part of a public place arising from or in connection with the setting up or conduct of a Facility.*

6.19 *Removal of Facility unlawfully conducted.*

Where a Facility is conducted without a permit, or in contravention of a condition of a permit, any tables, chairs, umbrellas or other equipment may be removed by an authorized person and impounded in accordance with the Act. 6.20 Use of Facility by public

(1) *A person shall not occupy a chair or otherwise use the equipment in a Facility the subject of a permit unless the person uses them for the purpose of consuming food or drinks provided by the Facility.*

(2) *A person shall leave a Facility when requested to do so by the permit holder.*

6.21 *Temporary removal of Facility may be requested.*

(1) *The permit holder for a Facility is to temporarily remove the Facility when requested to do so on reasonable grounds by an authorized person or a member of the Police Service or an emergency service.*

(2) *The permit holder may replace the Facility removed under subclause (1) as soon as the person who directed her or him to remove it allows it to be replaced.*

Statutory Implications

Nil

Strategic Implications

Strategic Community Plan

Community Priority: Our Organisation

Objective: *We are recognised as a transparent, well governed, and effectively managed Local Government*

Outcome: 5.4

Reference: 5.4.2

Asset Management Plan

Nil

Long Term Financial Plan

Nil

Risk Implications

Risk Profiling Theme	Failure to fulfil statutory regulations or compliance requirements
Risk Category	Compliance
Risk Description	Some temporary non compliances
Consequence Rating	Insignificant (1)
Likelihood Rating	Unlikely (2)
Risk Matrix Rating	Low (2)
Key Controls (in place)	Ensure annual inspection of footpaths are conducted
Action (Treatment)	Documented review processes
Risk Rating (after treatment)	Adequate

Financial Implications

The financial implications for the application are solely the responsibility of the applicant. The applicant is responsible for all cleaning and on-going maintenance of the alfresco dining space.

Voting Requirements



Simple Majority



Absolute Majority

Officer's Recommendation/ Resolution - 4.1

Moved Cr Metcalf

Seconded: Cr Allsopp

0975 That Council, by Simple Majority in accordance with Local Government Act 1995; Section 3.21 approves the application for development of an alfresco dining space along the kerb but not obstructing the footpath at the premises known as the Dowerin Commercial Hotel, 10-14 Stewart Street, Dowerin.

CARRIED 5/0

For: Cr Trepp, Cr Allsopp, Cr Hudson, Cr Metcalf, Cr Ward

5. Matters Behind Closed Doors

In accordance with Section 5.23(2)(c) of the *Local Government Act 1995*, Council will go Behind Closed Doors to discuss a matter that if disclosed, would reveal information that has a commercial value to a person and a contract which may be entered into by the local government.

Voting Requirements

Simple Majority Absolute Majority

Officer's Recommendation/Resolution - 5

Moved: Cr Trepp **Seconded:** Cr Ward

0976 That, in accordance with Sections 5.23(2)(c) of the *Local Government Act 1995*, Council go Behind Closed Doors.

CARRIED 5/0

For: Cr Trepp, Cr Allsopp, Cr Hudson, Cr Metcalf, Cr Ward

Council went Behind Closed Doors at 2:06pm

Voting Requirements

Simple Majority Absolute Majority

Officer's Recommendation/Resolution - 5

Moved: Cr Metcalf **Seconded:** Cr Ward

0979 That, in accordance with Section 5.23(1) of the *Local Government Act 1995*, Council come out from Behind Closed Doors.

CARRIED 5/0

For: Cr Trepp, Cr Allsopp, Cr Hudson, Cr Metcalf, Cr Ward

Council came out from Behind Closed Doors at 2:17pm

5.1 T2024-01 Maintenance Grading Road Works – Evaluation

Voting Requirements

Simple Majority Absolute Majority

Resolution – 5.1

Moved: Cr Metcalf **Seconded:** Cr Ward

0977 That, by Simple Majority, in accordance with Regulation 18(4) of the Local Government (Functions & General) Regulations 1996, Council:

- 1. Accepts the Tender submitted by Holberton Earthmoving for Tender T2024-01 – Maintenance Grading Road Works as per Confidential Attachment 5.1A as the most advantageous tender to form a Contract; and**
- 2. In accordance with Regulation 20(1) of the Local Government (Functions & General) Regulations 1996, Council delegates the formation of the Contract to the Acting Chief Executive Officer, subject to any variations (of a minor nature) prior to entry to Contract.**

CARRIED BY ABSOLUTE MAJORITY 5/0

For: Cr Trepp, Cr Allsopp, Cr Hudson, Cr Metcalf, Cr Ward

5.2 T2024-02 CAT 120M Grader – Offer and Valuations

Voting Requirements

Simple Majority Absolute Majority

Resolution – 5.2

Moved: Cr Allsopp **Seconded:** Cr Ward

0978 That, by Absolute Majority, in accordance with Sections 3.58 and 6.8(1)(b) of the Local Government Act 1995, Council:

- 1. Reject the offer received for the CAT 120M Grader; and**
- 2. Provide the CAT 120M Grader to Pickles Auctions to be sold by auction with the reserve to be set at \$130,000 (inc. GST).**

CARRIED BY ABSOLUTE MAJORITY 5/0

For: Cr Trepp, Cr Allsopp, Cr Hudson, Cr Metcalf, Cr Ward

6. Urgent Business Approved by the Person Presiding or by Decision

7. Closure

The President thanked those in attendance and declared the meeting closed at 2:18pm.