

M(10) – 24 SEPTEMBER 2024

# Ordinary Council Meeting

---

Agenda

Notice is hereby given that the next **Ordinary Meeting** of the **Alpine Shire Council** will be held on **24 September 2024** commencing at **5:00pm**.

## Agenda

1. Recording and livestreaming of Council meetings.....	2
2. Acknowledgement of traditional custodians, and recognition of all people....	2
3. Confirmation of minutes .....	2
3.1 Ordinary Council Meeting – M(9) – 27 August 2024.....	2
4. Apologies.....	2
5. Obituaries / congratulations.....	2
6. Declarations by Councillors of conflict of interest.....	3
7. Public questions .....	3
8. Presentation of reports by officers.....	4
8.1 Director Assets – Alan Rees.....	4
8.1.1 Petition - Rubbish Collection Frequency.....	4
8.2 Acting Director Customer and Community – Tony Cooper.....	7
8.2.1 Instruments of Delegation .....	7
8.2.2 Instruments of Appointment and Authorisation - <i>Planning and Environment Act 1987</i> .....	12
9. Informal Meeting of Councillors.....	16
10. Reports by Delegates .....	16
11. General business .....	16
12. Motions for which notice has previously been given.....	16
13. Reception and reading of petitions .....	16
14. Documents for sealing .....	17

## 1. Recording and livestreaming of Council meetings

*The Acting CEO will read the following statement:*

All council meetings are filmed with both video and audio being recorded.

This meeting is being held online and audio and video is focused on Councillors and Council Officers.

In accordance with Alpine Shire Council Governance Rules adopted on 27 July 2024, Question Time, Notices of Motion, General Business and Reports by Delegates will not be presented during the election period.

The reasoning behind recording council meetings is to hold us more accountable and improve transparency of Council's decision-making to our community.

The full meeting is being streamed live on Council's YouTube channel which is "Alpine Shire Council" and will also be available on the YouTube channel shortly after this meeting.

## 2. Acknowledgement of traditional custodians, and recognition of all people

*All to stand, the Mayor will read the following statement:*

Alpine Shire Council acknowledges the Traditional Custodians of the lands on which we are meeting today. Council also acknowledges all of the Traditional Custodians of the wider lands of the area known as the Alpine Shire.

We also acknowledge those people who have contributed to the rich fabric of our community and strive to make wise decisions that will improve the quality of life for all.

## 3. Confirmation of minutes

### 3.1 ORDINARY COUNCIL MEETING – M(9) – 27 AUGUST 2024

#### **RECOMMENDATION**

*That the minutes of Ordinary Council Meeting M(10) held on 27 August 2024 as circulated be confirmed.*

## 4. Apologies

Will Jeremy, Chief Executive Officer

## 5. Obituaries / congratulations

In accordance with Alpine Shire Council Governance Rules (2024), question time will not be held during the election period.

## **6. Declarations by Councillors of conflict of interest**

## **7. Public questions**

In accordance with Alpine Shire Council Governance Rules (2024), question time will not be held during the election period.

## 8. Presentation of reports by officers

### 8.1 DIRECTOR ASSETS – ALAN REES

#### 8.1.1 Petition - Rubbish Collection Frequency

##### **Election Period Statement**

The recommendation is not a prohibited decision as defined by s69(2) or s69(3) of the *Local Government Act 2020*, nor is it a decision that could be reasonably deferred, or should not be made in accordance with Council's Election Period Policy.

##### **INTRODUCTION**

This report relates to a petition seeking more frequent collection of public rubbish bins in Bright.

##### **RECOMMENDATION**

*That Council acknowledges the petition titled 'Petition regarding more frequent Rubbish Collection' received at the Ordinary Council Meeting held on 27 August 2024.*

##### **BACKGROUND**

On 27 August 2024, a member of the community hand delivered a petition to Council relating to the public bins in Bright. The petition was assessed and considered to satisfy Council's Governance rule G4 'Petitions'. The petition contains 235 signatories and states:

*To the Alpine Shire Council, this petition, on behalf of concerned residents in Bright, draws to the attention of the Alpine Shire, our town, with its incredible scenery, beautiful walking trails, pristine rivers, Autumn scenery, festivals, and towering mountains ... of rubbish! For too long, "beautiful Bright's public bins have gone unemptied with adequate frequency. Alpine Shire, and their contractors, should be the ones on top of our town's bins, and not the trash. Our petition is to request:*

- our public bins emptied more frequently, especially during weekends, events, and public holidays; or*
- replace the current contractors with more effective ones.*

At the same Ordinary Council Meeting, Council considered Council officers' review of the public bins and amenities cleaning services regime undertaken in mid-2024. Council resolved to support the recommended changes to the servicing regime based on observations about specific "hot spot" areas that have seen significant usage and littering, and the need for additional bins at various locations throughout the Shire owing to the realisation of additional public amenities and bin installations across the shire.

## **ISSUES**

Visitor numbers to Alpine Shire vary significantly throughout the year due to seasonal tourism, events and public holidays. High visitation during peak periods leads to increased demand for cleaning services across public amenities and bin servicing that requires more frequent servicing. Maintaining a high standard is challenging without a regular review of service levels.

Council officers undertook a review of the public bins and amenities cleaning services in mid-2024, and Council resolved to vary the contract to facilitate the recommended changes required to the service regime at the Ordinary Council Meeting held on 27 August 2024.

## **POLICY IMPLICATIONS**

The recommendation is in accordance with the following Strategic Objective of the Council Plan 2021-2025:

- 4.2 Planning and development that reflects the aspirations of the community.

## **FINANCIAL AND RESOURCE IMPLICATIONS**

There are no financial implications related to receiving and noting this petition.

Council has already considered the need to increase the number of required bin and facility cleaning services needed to cater for current and expected demand, and to accommodate new public amenities and bin installations across the shire at the Ordinary Council Meeting held on 27 August 2024.

## **RISK MANAGEMENT**

There are no risks associated with this report.

## **CONSULTATION**

Appropriate engagement has occurred with relevant stakeholders in the awarding of Contract No CQ23019 for Public Bins and Amenities Cleaning Services and the subsequent variation to the contract considered by Council at the Ordinary Council Meeting held on 27 August 2024.

## **CONCLUSION**

Council notes the petition. Council also notes that the need to vary this contract to cater for an increase in the number of required bin and facility cleaning services, and to accommodate new public amenities and bin installations across the shire was already considered by Council at the Ordinary Council Meeting held on 27 August 2024.

## **DECLARATION OF CONFLICT OF INTEREST**

In accordance with section 130 of the *Local Government Act 2020* and Chapter 7 section A6 of Council's Governance Rules, the following officers declare that they have no interests to disclose in providing this report.

- Director Assets
- Manager Growth and Future
- Facilities Officer

## **ATTACHMENT(S)**

Nil

## 8.2 ACTING DIRECTOR CUSTOMER AND COMMUNITY – TONY COOPER

### 8.2.1 Instruments of Delegation

File Number: Delegations Register

#### **Election Period Statement**

The recommendation is not a prohibited decision as defined by s69(2) or s69(3) of the *Local Government Act 2020*, nor is it a decision that could be reasonably deferred, or should not be made in accordance with Council's Election Period Policy.

#### **INTRODUCTION**

Instruments of Delegation, are an important means of Council ensuring its officers hold the appropriate legislative powers for the various Acts and Regulations that Council administers. This report refreshes delegations to the Chief Executive Officer, and to members of Council staff.

#### **RECOMMENDATIONS**

*That Council:*

1. *Exercise the powers conferred by section 11(1)(b) of the Local Government Act 2020, so that:*
  - a. *There be delegated to the person holding the position, acting in or performing the duties of Chief Executive Officer the powers, duties and functions set out in attachment 8.2.2.a "S5 - Instrument of Delegation from Council to the Chief Executive Officer" (instrument S5), subject to the conditions and limitations specified in that instrument;*
  - b. *Instrument S5 be signed and sealed at the appropriate stage of this meeting;*
  - c. *Instrument S5 comes into force on 12 October 2024;*
  - d. *On the coming into force of instrument S5, the previous version of instrument S5 dated 26 March 2024 be revoked; and*
  - e. *The duties and functions set out in instrument S5 must be performed, and the powers set out in the instruments must be executed, in accordance with any guidelines or policies of Council that it may from time to time adopt.*
2. *Exercise the powers conferred by the legislation referred to in attachment (8.2.2.b) "S6 - Instrument of Delegation from Council to Members of Council Staff "(instrument S6), so that:*
  - a. *There be delegated to the members of Council staff holding, acting in or performing the duties of the offices or positions referred to in instrument S6a, the powers, duties and functions set out in that instrument, subject to the conditions and limitations specified in that Instrument;*



- b. Instrument S6 be signed and sealed at the appropriate stage of this meeting;*
  - c. Instrument S6 comes into force on 12 October 2024;*
  - d. On the coming into force of instrument S6, the previous version of instrument S6 dated 26 March 2024 be revoked; and*
  - e. The duties and functions set out in instrument S6 must be performed, and the powers set out in the instruments must be executed, in accordance with any guidelines or policies of Council that it may from time to time adopt.*
- 3. Exercise the powers conferred by the legislation referred to in attachment 8.2.2.c. "S18 - Instrument of Sub-Delegation from Council to Members of Council Staff (EPA 2017)"(instrument S18), so that:**
- a. There be delegated to the members of Council staff holding, acting in or performing the duties of the offices or positions referred to in instrument S18, the powers, duties and functions set out in that instrument, subject to the conditions and limitations specified in that Instrument*
  - b. Instrument S18 be signed and sealed at the appropriate stage of this meeting*
  - c. Instrument S18 comes into force on 12 October 2024;*
  - d. On the coming into force of instrument S18, the previous version of instrument S18 dated 26 March 2024 be revoked; and*
  - e. The duties and functions set out in instrument S18 must be performed, and the powers set out in the instruments must be executed, in accordance with any guidelines or policies of Council that it may from time to time adopt.*

## **BACKGROUND**

### *Election Period*

During the Election Period, Council must ensure that it does not make any decisions that contravene sections 69(2) or 69(3) of the *Local Government Act 2020*. This means that Council is prohibited from making decisions relating to the appointment or remuneration of the CEO, committing Council to expenditure exceeding \$220,000 (excluding GST), or making decisions that are defined in Council's Election Period Policy that could be reasonably deferred until after the election, or should not be made during the Election Period. Council's Election Period Policy does not prohibit Council from appropriately delegating the powers, duties, and functions arising from legislation during the Election Period.

As outlined in the remainder of this report, Council officers require current and accurate delegations to fulfil their duties. If Council chose to defer the decision to delegate its powers, duties, and functions arising from legislation until after the Election, any staff position titles that do not appear in the most recent signed versions (in this case, from March 2024), will not have any delegations. This impacts the newly titled Director Corporate and Community position (which will replace the Director Customer and Community) and the new Manager Regulatory Services position (which will replace the Manager Statutory Planning, Compliance, and Local Laws role and the Manager Building

and Environmental Health role). Both of these roles carry key responsibilities in managing Council's statutory services, and unless they receive appropriate and timely delegation from the legislation under which they operate, they are unable to support the officers that report to them. It is estimated that there are more than 80 pieces of legislation that cover these two roles, when considering the powers passed on directly from Council, as well as those that are sub-delegated by the CEO.

The delegation of Council's powers, duties, and functions is a routine process presented to a Council meeting, which was most recently presented to the Ordinary Council meeting held in March 2024. Preparation for changes in staff and position titles are the reason that delegations are being presented now, rather than being withheld until after the Election.

### ***Legislative powers, duties, and functions***

Many legislative Acts and Regulations provide Council with specific powers, duties or functions. To enable Council as an organisation to run smoothly, many of these powers, duties and functions are delegated to the Chief Executive Officer (CEO), who can then further sub-delegate these duties to Staff. This ensures that decisions are made on a timely basis, without the need for every legislative decision being presented to a Council meeting.

Council's S5 Instrument of Delegation to the CEO passes on Council's powers directly to the CEO. For instances where decisions are required that are not within the CEO's delegation, these must be presented directly to Council - for example, where a purchase exceeds the CEO's financial delegation.

Where legislation allows it, the CEO then sub-delegates specific legislative duties to staff, via a separate Instrument. Some legislation does not allow sub-delegation via the CEO, so Council must delegate these powers directly to staff using the S6 Instrument of Delegation to Council Staff.

The Environment Protection Authority delegates several of its powers to Council, which must then be sub-delegated to Council staff. The S18 Instrument of Sub-Delegation to Members of Council Staff ensures this occurs.

## **ISSUES**

### ***Legislative updates***

There have been no changes made to the S5 Instrument of Delegation or the S18 Instrument of Delegation, however both are being updated as part of due process to ensure that all the legislative powers available at the time of this meeting are passed on the CEO and Council staff.

There have minor updates to the legislative powers, duties, and function in the S6 Instrument of Delegation since it was last adopted in March 2024. These apply to the *Road Management Act 2004*, *Residential Tenancies (Caravan Parks and Movable Dwellings Registration and Standards) Regulations 2024*, and the *Food Act 1984*. These

have been included in the document, with the appropriate members of Council staff delegated to those legislative provisions.

***Staff members with delegated duties***

The two new positions (Director Corporate and Community and Manager Regulatory Services) have been added to the delegations to ensure that they have the appropriate powers, duties, and functions once staff members are appointed to those roles.

**POLICY IMPLICATIONS**

The recommendation is in accordance with the following Strategic Objective of the Council Plan 2021-2025:

- 5.2 A responsible, transparent and responsive organisation

**FINANCIAL AND RESOURCE IMPLICATIONS**

Council has an annual subscription for Maddocks delegations and authorisations service that is allowed for in Council’s annual budget. Appropriate delegations and authorisations allow Council and Council staff to operate effectively within legislative frameworks.

**RISK MANAGEMENT**

Risk	Likelihood	Impact	Mitigation Action / Control
Delegations are not in place or are out of date	Possible	Moderate	Ensure that all Council approved delegations are up-to-date to ensure that staff can undertake their statutory duties.

**CONSULTATION**

No external consultation is required. Council to CEO delegations have been discussed with the relevant staff and CEO.

**CONCLUSION**

A review and update of the S5 Instrument of Delegation to the CEO, S6 Instrument of Delegation to Members of Council Staff, and S18 Instrument of Sub-Delegation to Members of Council Staff (EPA 2017), will ensure that the CEO and Council officers can undertake the powers, duties and functions relating to their role. The transfer of these powers, duties, and functions does not constitute a decision that is prohibited during the Election Period.

## **DECLARATION OF CONFLICT OF INTEREST**

In accordance with section 130 of the *Local Government Act 2020*, and Chapter 7 section A6 of Council's Governance Rules, the following officers declare that they have no interests to disclose in providing this report.

- Chief Executive Officer
- A/Director Customer and Community
- Governance Officer

## **ATTACHMENT(S)**

- 8.2.2.a. S5 - Instrument of Delegation from Council to the Chief Executive Officer - September 2024
- 8.2.2.b. S6 - Instrument of Delegation from Council to Members of Council Staff - September 2024
- 8.2.2.c. S18 - Instrument of Sub-Delegation from Council to Members of Council Staff (EPA 2017) - September 2024

## 8.2.2 Instruments of Appointment and Authorisation - *Planning and Environment Act 1987*

File Number: Delegations register

### **Election Period Statement**

The recommendation is not a prohibited decision as defined by s69(2) or s69(3) of the *Local Government Act 2020*, nor is it a decision that could be reasonably deferred, or should not be made in accordance with Council's Election Period Policy.

### **INTRODUCTION**

Instruments of appointment and authorisation are an important means of Council ensuring that its officers are appropriately authorised under the relevant Acts that Council administers. This report provides for a permanent appointment to Council's Executive Team, and a change in position in Council's Planning Team.

### ***RECOMMENDATIONS***

*That Council exercise the powers conferred by section 147(4) of the Planning and Environment Act 1987, so that:*

1. *The following members of Council staff referred to in attachment 8.2.3 "S11A – Instrument of Appointment and Authorisation – Planning & Environment Act 1987" (the Instrument) be appointed and authorised as set out in the Instrument;*
  - a. *Director Corporate and Community*
  - b. *Senior Statutory Planning Officer*
2. *The Instruments come into force on the dates specified in the individual Instruments, and remain in force until Council determines to vary or revoke them;*
3. *The Instruments be signed and sealed at the appropriate stage of this meeting.*
4. *On the coming into force of the Instruments, the previous "S11A – Instrument of Appointment and Authorisation – Planning and Environment Act 1987" for the following members of Council staff, as dated, be revoked;*
  - a. *Director Customer and Community, dated 25 June 2024*
  - b. *Planning Officer, dated 30 January 2024*
  - c. *Strategic Planning Coordinator, dated 7 June 2022*

### **BACKGROUND**

#### *Election Period*

During the Election Period, Council must ensure that it does not make any decisions that contravene sections 69(2) or 69(3) of the *Local Government Act 2020*. This means that Council is prohibited from making decisions relating to the appointment or

remuneration of the CEO, committing Council to expenditure exceeding \$220,000 (excluding GST), or making decisions that are defined in Council's Election Period Policy that could be reasonably deferred until after the election, or should not be made during the Election Period. Council's Election Period Policy does not prohibit Council from appointing Authorised Officers during the Election Period.

As outlined in the remainder of this report, Council officers require current and accurate authorisations to fulfil their duties. If Council chose to defer the decision to appoint and authorise staff to these statutory positions until after the Election, the officers would be unable to exercise the powers of an Authorised Officer under the *Planning and Environment Act 1987* until such time as the authorisation is approved.

The authorisation of staff with planning responsibilities is a routine process presented to a Council meeting, which has occurred at Council meetings held in the 2024 calendar year in January, February, June, and August. Changes in staff and position titles are the reason behind the regular presentation to Council.

## **ISSUES**

### ***Authorised Officers***

Authorised officers have statutory powers under relevant legislation. In the case of Council's staff in with planning responsibilities, the attached Instruments of Appointment and Authorisation under the *Planning and Environment Act 1987* mean that they are authorised officers for the purposes of that Act.

While Council may delegate its powers, duties or functions to staff, so that a delegate acts on behalf of the Council, staff appointed as authorised officers have their own statutory powers under the relevant Act.

### ***Planning and Environment Act 1987***

Section 188(1)(b) of the *Planning and Environment Act 1987* specifies that "a planning authority ... may by instrument delegate any of its powers, discretions or functions under this Act to an officer of the authority". However, Section 188(2)(c) specifically prevents an officer from further sub-delegating any duty, function or power. Therefore, as the responsible authority, Council must authorise staff directly using the "S11A – Instrument of Appointment and Authorisation – Planning and Environment Act 1987", rather than via the Chief Executive Officer.

### ***Maddocks Delegations and Authorisations Service***

Council utilises the delegations and authorisations service provided by law firm Maddocks. This is a template system used by many councils and provides a detailed way of ensuring that appropriate delegations and authorisations are given to Council staff. All of the relevant legislation affecting local government, including Acts and regulations and the sections that relate to the powers, duties and functions of Council are outlined within the template and the relevant officer is allocated accordingly.

**POLICY IMPLICATIONS**

Ensuring authorisations are kept up to date ensures that Council's planning staff can undertake their statutory roles.

The recommendation is in accordance with the following Strategic Objective of the Council Plan 2021-2025:

- 5.2 A responsible, transparent and responsive organisation

**FINANCIAL AND RESOURCE IMPLICATIONS**

Council has an annual subscription to the Maddocks delegation and authorisation service that is provided for in Council's annual budget. There are no other financial implications associated with these instruments of appointment and authorisation.

Appropriate authorisations allow Council and Council staff to operate effectively and within legislative frameworks.

**RISK MANAGEMENT**

Risk	Likelihood	Impact	Mitigation Action / Control
Authorisations are not in place or are out of date	Possible	Moderate	<ul style="list-style-type: none"> <li>• Ensure that all Council officers have up-to-date authorisations to ensure that they can undertake their duties.</li> </ul>

**CONSULTATION**

The relevant staff and Director have been consulted during the preparation of the Instruments of Appointment and Authorisation. There is no requirement to consult the community in the preparation of these instruments.

**CONCLUSION**

The appropriate appointment of authorised officers to enforce the *Planning and Environment Act 1987* is required to ensure that Council officers can undertake their statutory roles, and does not constitute a decision that is prohibited during the Election Period.

## **DECLARATION OF CONFLICT OF INTEREST**

In accordance with section 130 of the *Local Government Act 2020*, and Chapter 7 section A6 of Council's Governance Rules, the following officers declare that they have no interests to disclose in providing this report.

- Acting Director Customer and Community
- Manager Corporate
- Governance Officer

## **ATTACHMENT(S)**

- 8.2.3.a S11A – Instrument of Appointment and Authorisation – Planning & Environment Act 1987 – Director Corporate and Community
- 8.2.3.b S11A – Instrument of Appointment and Authorisation – Planning & Environment Act 1987 – Senior Statutory Planning Officer



## **9. Informal Meeting of Councillors**

In accordance with Alpine Shire Council Governance Rules (2020) no Informal Meeting of Councillors is to be tabled during the election period.

## **10. Reports by Delegates**

In accordance with Alpine Shire Council Governance Rules (2020) no Reports by Delegates is to be tabled during the election period

## **11. General business**

In accordance with Alpine Shire Council Governance Rules (2020) general business will not be held during the election period.

## **12. Motions for which notice has previously been given**

In accordance with Alpine Shire Council Governance Rules (2020) no Notices of Motion is to be received during the election period.

## **13. Reception and reading of petitions**

In accordance with Alpine Shire Council Governance Rules (2020), no Reception and reading of petitions is to be received during the election period.

## 14. Documents for sealing

### **Election Period Statement**

The recommendation is not a prohibited decision as defined by s69(2) or s69(3) of the *Local Government Act 2020*, nor is it a decision that could be reasonably deferred, or should not be made in accordance with Council's Election Period Policy.

### **RECOMMENDATION**

*That the following documents be signed and sealed.*

1. *S5 - Instrument of Delegation from Council to the Chief Executive Officer - September 2024*
2. *S6 - Instrument of Delegation from Council to Members of Council Staff - September 2024*
3. *S18 - Instrument of Sub-Delegation from Council to Members of Council Staff (EPA 2017) - September 2024*
4. *S11A – Instrument of Appointment and Authorisation – Planning & Environment Act 1987 – Director Corporate and Community*
5. *S11A – Instrument of Appointment and Authorisation – Planning & Environment Act 1987 – Senior Statutory Planning Officer*

There being no further business the Chairperson declared the meeting closed at \_\_\_\_\_p.m.