
Shire of Esperance

SPECIAL COUNCIL

TUESDAY 7 MARCH 2023

MINUTES

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ETHICAL DECISION MAKING AND CONFLICTS OF INTEREST

Council is committed to a code of conduct and all decisions are based on an honest assessment of the issue, ethical decision-making and personal integrity. Councillors and staff adhere to the statutory requirements to declare financial, proximity and impartiality interests and once declared follow the legislation as required.

ATTACHMENTS

Please be advised that in order to save printing and paper costs, all attachments referenced in this paper are available in the original Agenda document for this meeting.

RECORDINGS

The Meeting will be live streamed. The recording will be made publicly available as soon as practical following the meeting.

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SHIRE OF ESPERANCE
MINUTES
OF THE SPECIAL COUNCIL MEETING
HELD IN COUNCIL CHAMBERS ON 7 MARCH 2023.

1. OFFICIAL OPENING

The Shire President declared the meeting open at 10:00am and did an acknowledgement to country.

The Shire of Esperance acknowledges the Nyungar and Ngadju people who are the Traditional Custodians of this land and their continuing connection to land, waters and community. We pay our respects to Elders past, present and emerging and we extend that respect to other aboriginal Australians today.

The President welcomed Councillors, staff, guests and members of the public to the meeting. The President advised the meeting will be video recorded. The recording will be made publicly available as soon as practical following the meeting.

2. ATTENDANCE

Members

Cr I Mickel, AM JP	President	Rural Ward
Cr R Chambers	Deputy President	Town Ward
Cr J O'Donnell		Town Ward
Cr L de Haas		Town Ward
Cr W Graham		Rural Ward
Cr R Horan		Town Ward
Cr S Flanagan		Town Ward

Shire Officers

Mr S Burge	Chief Executive Officer
Mr M Walker	Director Asset Management
Mrs F Baxter	Director Corporate & Community Services
Miss E Hegney	Executive Assistant

Members of the Public & Press

Mr G Vivian	Media – Esperance Weekender
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3. APOLOGIES & NOTIFICATION OF GRANTED LEAVE OF ABSENCE

Cr S McMullen	Town Ward
Cr J Obourne	Town Ward

4. DECLARATIONS OF INTERESTS:

4.1 Declarations of Financial Interests – Local Government Act Section 5.60a

Cr Chambers declared a financial interest in item 6.1 as he owns a supermarket in Esperance which would be affected by these changes.

Cr de Haas declared a financial interest in item 6.1 as she owns a local business.

4.2 Declarations of Proximity Interests – Local Government Act Section 5.60b

Nil

4.3 Declarations of Impartiality Interests – Admin Regulations Section 34c

Nil

5. PUBLIC QUESTION TIME

Nil Questions

6. PURPOSE OF MEETING

Item: 6.1

Request for Temporary Adjustment to Retail Trading Hours

Author/s	Trevor Ayers	Manager Community & Economic Development
Authorisator/s	Shane Burge	Chief Executive Officer

File Ref: D23/5729

Cr de Haas and Cr Chambers declared their interests and left the Chambers at 10:03am.

Applicant

Woolworths Group

Location/Address

N/A

Executive Summary

A request for additional trading on public holidays during 2023.

Recommendation in Brief

That Council;

1. Endorse the following changes to retail trading hours in the Shire of Esperance with the addition of the following days (between 10am and 5pm):
 - Monday 10 April 2023
 - Monday 5 June 2023
 - Monday 25 September 2023
2. Request the CEO to make application to the Department of Commerce for the proposed changes to apply to the entirety of the Esperance Shire.

Background

An application has been received from the Woolworths Group for additional trading days for their Esperance store during 2023 (see Attachment A). Support for these additional days has been confirmed by the Esperance Chamber of Commerce and Industry (ECCI) - (see Attachment B). Previous approvals to provide additional trading during Christmas and Easter have occurred over past years, this is however the first application that includes additional trading days outside of the period that has been supported by the ECCI.

When additional Christmas hours were approved in late 2022 Council also supported investigating the desire to provide additional trading on a permanent basis in December, January and over the Easter period. This will be undertaken in the coming months.

Officer's Comment

The recommendation proposes that any trading extension is applicable to the entirety of the Shire rather than just Woolworths (as per the application received) to ensure all businesses are on a level playing field. It is important to note that an extension to retail trading hours provides an opportunity for traders to open for the additional period, not a requirement that they do so.

All requested additional trading days have been recommended as they are also supported by the Esperance Chamber of Commerce and Industry.

Last year Woolworths applied for both Easter Sunday and Monday to be added as trading days. The Esperance Chamber of Commerce and Industry only supported the addition of Easter Monday and this was the only day applied for and approved.

2020 was the only other year that Woolworths have applied for additional trading in recent years, however this application was received with insufficient time to enable it to be progressed and approved by the Department of Commerce so was not proceeded with. Woolworths subsequently requested ANZAC Day to be added as a trading day however this wasn't supported by the Esperance Chamber of Commerce and Industry and wasn't proceeded with as once again there was insufficient time to enable approval anyway. Both of these applications cited COVID restrictions on the number of people that could be within the store at any one time as the reason for the application.

We have not received an application for the June and September long weekends previously.

Woolworths have advised that the following in relation to the request:

The reason for these additional trading days is due to numerous queries from customers in relation to trading hours, especially during public holiday periods. As the current trading hours don't allow for Sunday trade, being closed on a Monday Public Holiday results in 2 consecutive days of not trading. This impact causes additional pressure for our store teams on already busy trading periods as customers alter their shopping patterns for the week. This additional pressure results in difficulties for our store team to maintain good availability and ensure a safe working environment.

Woolworths have also advised that they intend to apply for approval to trade on all public holidays that occur on a Monday in the future (excluding Christmas Day and ANZAC Day).

This application will, if successful, enable all stores in the Esperance Shire to trade on Easter Monday and the public holidays in June and September.

The majority of retailers in town do currently have the capacity to receive an exemption to open at any time, provided they meet the Department of Commerce's definition of a small retail business and have applied for an exemption certificate.

Endorsement of this recommendation by Council doesn't confirm a change, it simply provides the mechanism to apply to the State Government, with the Minister for Commerce being the decision-making body.

Please note that while Monday the 9th April 2023 has been requested, the Monday is actually the 10th April 2023, the recommendation is therefore for the 10th.

Option One

Endorse the changes to Retail Trading Hours as supported by the ECCL.

Option Two

Endorse an alternate set of changes to Retail Trading Hours.

Option Three

Refuse the request to change Retail Trading Hours.

Consultation

This application has been considered and supported by the Esperance Chamber of Commerce and Industry. The support of the local trader organisation is a requirement for a temporary change to retail trading hours.

Financial Implications

The financial implications arising from this report are nil.

Asset Management Implications

Nil

Statutory Implications

The statutory implications associated with this item are governed by the Retail Trading Hours Act 1987. Any change (both temporary and permanent) requires recommendation by the relevant local government and approval by the Minister for Commerce.

Policy Implications

Nil

Strategic Implications

Council Plan 2022 – 2032

Growth And Prosperity

Esperance is a vibrant and welcoming destination

Environmental Considerations

Nil

Attachments

- A. Request for Temporary Change to Retail Trading Hours - Woolworths Group
- B. Esperance Chamber of Commerce and Industry Support

RECOMMENDATION AND DECISION

6.1 Request for Temporary Adjustment to Retail Trading Hours

Moved: Cr Horan

Seconded: Cr Flanagan

S0323-037

Council Resolution

That Council

- 1. Endorse the following changes to retail trading hours in the Shire of Esperance with the addition of the following days (between 10am and 5pm):**
 - Monday 10 April 2023**
 - Monday 5 June 2023**
 - Monday 25 September 2023**
- 2. Request the CEO to make application to the Department of Commerce for the proposed changes to apply to the entirety of the Esperance Shire.**

CARRIED

F3 – A2

(Against Cr Graham and Cr Flanagan)

Cr de Haas and Cr Chambers returned to the Chambers at 10:13am.



24 January 2023

Mr Shane Burge
Chief Executive Officer
Shire of Esperance

Via Email Only: shane.burge@esperance.wa.gov.au and shire@esperance.wa.gov.au

EXTENDED TRADING HOURS FOR WOOLWORTHS ESPERANCE

Dear Mr Burge,

Woolworths Group is a leading retailer in Western Australia employing approximately 15,000 Western Australians. We operate more than 100 supermarkets throughout the state, one of which is in the Shire of Esperance. Woolworths Esperance proudly employs more than 130 local team members, contributing approximately \$3.6 million in wages annually.

Our WA stores sell some of the State's most iconic and trusted brands. 96% of our fresh fruit and vegetables, 100% of our fresh beef, milk and eggs are sourced locally from local farmers and producers.

I write to you to seek an extension of trading hour for the 2023 Public Holidays for Woolworths Esperance pursuant to the *Retail Trading Hours Act 1987*. As a matter of principle, Woolworths is supportive of moves to liberalise trading hours as we believe that it would allow our stores to provide our customers with greater choice and convenience. Given Woolworths Esperance anchors the Boulevard Shopping Centre, our store opening provides a genuine choice for small retailers in the centre to also open and benefit from increased foot traffic.

We anticipate that we will once again experience an increase in trade during these periods.

Against this background, Woolworths is requesting an extension to our trading hours on the following days:

- Monday 9 April 2023 (10.00am - 5.00pm)
- Monday 5 June 2023 (10.00am - 5.00pm)
- Monday 25 September 2023 (10.00am - 5.00pm)



We believe this is a reasonable request and would allow us to service the needs of the Esperance community.

We'd welcome the opportunity to discuss this matter further, please don't hesitate to contact me via email at kweber@woolworths.com.au.

Yours sincerely,

A handwritten signature in black ink, appearing to read "K Weber", written in a cursive style.

Karl Weber

General Manager – Woolworths Supermarkets WA/NT/SA

From: Executive Officer - ECCI <eo@esperancecci.com.au>
Sent: Thursday, 2 February 2023 1:33 PM
To: Shane Burge <Shane.Burge@esperance.wa.gov.au>
Subject: RE: Trading Hours Extension Request

[Caution: External Email] This email was sent from outside the organisation - be cautious, particularly with links and attachments.

Hi Shane,

Please advise council that the Chamber agrees to all of the Extended Trading Hours requested by Woolworths.

Kind Regards,

Bronwyn McLeod
Executive Officer
Esperance Chamber of Commerce and Industry

-Supporting Business in Esperance-



P: 08 9071 5142 | M: 0409 371 612
eo@esperancecci.com.au



Suite 4, 98 Dempster Street | Dempster Centre | PO Box 817 | Esperance WA
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From: Shane Burge <Shane.Burge@esperance.wa.gov.au>
Sent: Friday, 27 January 2023 10:06 AM
To: Executive Officer - ECCI <eo@esperancecci.com.au>
Cc: Trevor Ayers <Trevor.Ayers@esperance.wa.gov.au>
Subject: FW: Trading Hours Extension Request

Hi Bronwyn,

Please see attached request from Woolworths for extended trading hours on selected public holidays.

Can you please provide the Chamber of Commerce position on this request for Council's consideration.

Thanks



Shane Burge

Chief Executive Officer
Shire of Esperance

T 08 9071 0621 | **M** 0407 018 027

E Shane.Burge@esperance.wa.gov.au

A PO Box 507, Windich Street, 6450

W www.esperance.wa.gov.au



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From: Karl Weber <kweber@woolworths.com.au>
Sent: Friday, 27 January 2023 10:02 AM
To: Shane Burge <Shane.Burge@esperance.wa.gov.au>; Shire of Esperance <shire@esperance.wa.gov.au>
Subject: Trading Hours Extension Request

[Caution: External Email] This email was sent from outside the organisation - be cautious, particularly with links and attachments.

Good morning,

Please see attached request for trading hours extension for your consideration.

Kind regards

Karl Weber
General Manager Supermarket Operations SA/NT/WA
Woolworths Food Group
M: 0418 826 758
Supported by Kerri White - kwhite4@woolworths.com.au

Got a question? Email me on askkarl@woolworths.com.au

7. CLOSURE

The President declared the meeting closed at 10:13am.

These Minutes were confirmed at a meeting held on _____

Signed _____

Presiding Member at the meeting at which the Minutes were confirmed.

Dated _____