

SHIRE OF WYNDHAM EAST KIMBERLEY

# Audit (Finance & Risk) Meeting: Agenda

11 MARCH 2024



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**SHIRE OF WYNDHAM EAST KIMBERLEY**  
**AGENDA OF THE**  
**AUDIT (FINANCE AND RISK) COMMITTEE**  
**KUNUNURRA COUNCIL CHAMBERS**  
**HELD ON TUESDAY, 11 MARCH 2024 AT 5:00 PM**

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**1. DECLARATION OF OPENING**

Members of the Public are advised that recommendations to Council contained within this Agenda and decisions arising from the Committee 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.

An audio and/or video record will be made of these proceedings to assist in the taking of minutes.

**2. RECORD OF ATTENDANCE / APOLOGIES**

**3. PUBLIC QUESTION TIME / PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

**4. DECLARATION OF INTEREST**

- Financial Interest
- Impartiality Interest
- Proximity Interest

**5. CONFIRMATION OF MINUTES OF PREVIOUS MEETING**

**That the Minutes of the Audit (Finance and Risk) Committee meeting of 12 December 2023 be accepted as a true and accurate record of proceedings.**

Note: The Minutes of the Audit (Finance and Risk) Committee are provided under separate cover via [www.swek.wa.gov.au](http://www.swek.wa.gov.au)

**6. DEPUTATIONS / PRESENTATIONS / SUBMISSIONS / NOTICES OF MOTIONS**

**7. REPORTS**

## 7.1. STANDING ITEM - RATES DEBTORS

<b>DATE:</b>	11 March 2024
<b>AUTHOR:</b>	Rates Officer
<b>RESPONSIBLE OFFICER:</b>	Felicity Heading, Director Corporate Services
<b>FILE NO:</b>	FM.11.166
<b>DISCLOSURE OF INTERESTS:</b>	Nil
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>NATURE OF COUNCIL'S ROLE IN THE MATTER:</b>	Leader - plan and provide direction through policy and practices

### **OFFICER'S RECOMMENDATION**

**That the Audit (Finance and Risk) Committee reports to Council that the actions being undertaken by the administration in regard to rates debtors, including rates debts in legal process, are sufficient and appropriate.**

### **PURPOSE**

To review the status of rates debtors and those rates debts that are in legal process.

### **BACKGROUND/PREVIOUS CONSIDERATIONS BY COUNCIL/COMMITTEE**

At the Ordinary Council Meeting, 16 October 2007, Council resolved the following:

*Minute No. 7936*

*That Council direct the CEO to provide a written report to Council under confidential cover each month in regard to all debts currently in legal process.*

*Carried Unanimously 5/0*

At the Ordinary Council Meeting on 18 March 2008, Council resolved the following:

*Minute No: 8148*

*Moved: Cr J Parker Seconded: Cr F Mills*

*That Council:*

- 1. note the confidential report provided to it in relation to debts owed to Council and under legal action.*
- 2. direct the Executive Manager Corporate Services to provide a written report to the Audit Committee under confidential cover at each Audit Committee meeting in regard to all debts currently in legal process.*
- 3. request the Audit Committee to make recommendations to Council as required and appropriate in relation to the report provided under confidential cover regarding debts currently in legal process.*

4. resolve that this requirement replaces the previous requirement on the CEO to report information to Council.

Carried Unanimously 8/0

This requirement is now fulfilled by a combination of this report and Standing Item – Sundry Debtors.

The Outstanding Rates Debtors over three years report has also been incorporated into the confidential attachment to this item to give a complete picture of rates debtors.

### **STATUTORY IMPLICATIONS**

This item in a Council Meeting needs to be discussed behind closed doors in accordance with section 5.23.(2)(e)(iii) of the *Local Government Act 1995* because the item may disclose information about the business, professional, commercial or financial affairs of a person.

### **POLICY IMPLICATIONS**

The following Council Policies are relevant to this item:

*POL-2007 Rates and Charges Debt Collection*  
*POL-2016 Financial Hardship - Rates and Sundry Debtors*  
*POL-3002 Community Grant Program*

### **FINANCIAL IMPLICATIONS**

Legal fees may be incurred to recover debts or revenue written off if debt recovery is considered not economically viable. Should debts become not recoverable it affects the cash position of the Shire. Provision is made for debts that are not recoverable at the end of each financial year.

### **RISK IMPLICATIONS**

**Risk:** Failure to adequately resource and manage funding requirements which meet the needs of the Shire's service delivery requirements and strategic objectives.

**Controls:** Policies updated in accordance with schedule and operational requirements. Implementation of Long Term Financial Plan and Annual Budget.

### **COMMUNITY ENGAGEMENT**

The Shire of Wyndham East Kimberley *CP/GOV-3100 Community Engagement Policy* has been considered in relation to this item.

No community engagement is required however regular communication is had with ratepayers.

## COMMENTS

### Rates and Services Debtors Summary

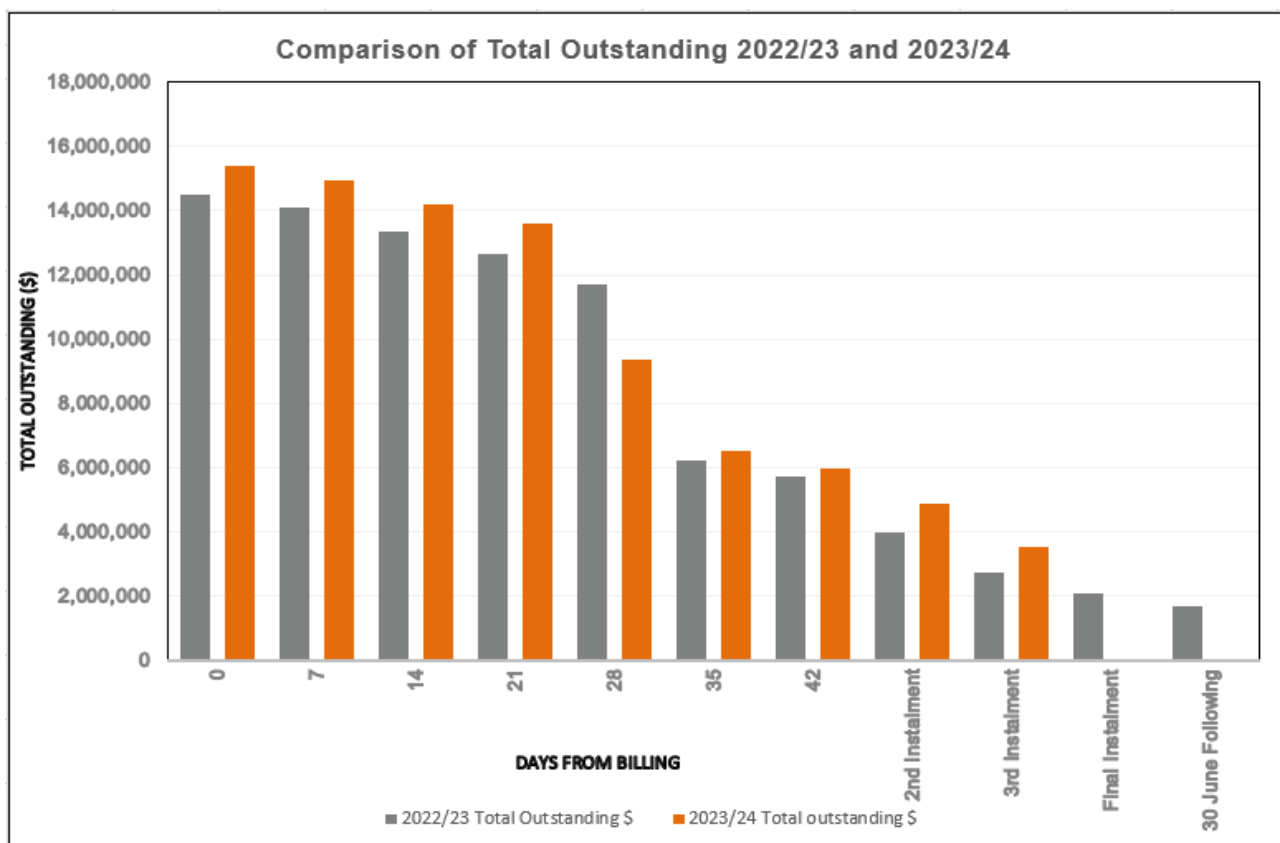
<b>Rates &amp; Services Levied 2023/24 (including arrears) at 05 March 2024</b>	<b>Overdue at 05 March 2024</b>
<b>\$15,774,800</b>	<b>\$2,569,378</b>

Rates for the financial year of 2023/24 were raised on 2 August 2023 and notices issued on 4 August 2023. Interim rating occurs periodically throughout the year. Annual rates were due for payment on 8 September 2023. The Overdue amount of \$2,569,378 is analysed in the Confidential Attachment. Details of rates debtors provided in this report are as at 5 March 2024.

### Comparison of Rates received 2022/23 and 2023/24

*NB: It should be noted that the table below includes Rates, Waste Management Charges, Waste Receptacle Charges, Interim Rates, ESL & Deferred Rates.*

		2022/23			2023/24		
Days from Billing		Total Outstanding	Received	% of Total Outstanding at Billing Received	Total outstanding	Received	% of Total Outstanding at Billing Received
		\$	\$	%	\$	\$	%
0	Notices Issued	14,507,172			15,412,173		
7		14,095,693	411,479	2.84%	14,959,068	453,105	2.94%
14		13,345,969	1,161,203	8.00%	14,182,838	1,229,335	7.98%
21		12,634,998	1,872,174	12.91%	13,589,577	1,822,595	11.83%
28		11,706,759	2,800,413	19.30%	9,357,741	6,054,432	39.28%
35		6,236,183	8,270,989	57.01%	6,520,971	8,891,202	57.69%
42		5,716,613	8,790,559	60.59%	5,952,493	9,459,680	61.38%
2nd Instalment		3,979,275	10,527,897	72.57%	4,858,337	10,553,836	68.48%
3rd Instalment		2,744,415	11,762,757	81.08%	3,518,480	11,893,692	77.17%
Final Instalment		2,069,240	12,437,932	85.74%			
30 June Following		1,702,170	12,805,003	88.27%			
<b>Total</b>			<b>12,805,003</b>			<b>11,893,692</b>	



### Instalment Status Report at 05 March 2024

Instalment Option	Number of Properties	% Total Properties*	Properties up to date	Properties Behind	Instalments Overdue \$	% of Properties Overdue
2 Instalment	175	6.22%	134	41	\$30,056	23.43%
4 Instalment	385	13.68%	295	90	\$115,244	23.38%
<b>All Instalment Payers</b>	<b>560</b>	<b>19.90%</b>	<b>429</b>	<b>131</b>	<b>\$145,300</b>	<b>23.39%</b>
2,814	*excluding non-rateable properties					

### Additional Information

#### Impact of COVID-19

It should be noted that in response to the COVID-19 pandemic a number of initiatives have been put in place to assist ratepayers, businesses and the community in general that impact the Shire's debt collection processes. These include the adoption of Council policy *POL-2013 COVID-19 Financial Hardship - Rates and Sundry Debtors* to allow those experiencing financial hardship to apply for debt relief including the waiver of interest and fees and charges, and minor amendments to the existing policy *POL-2007 Rates and Charges Debt Collection* to allow for extended payment arrangement terms and for greater discretion in debt collection. During the 2020/21 financial year legal action was placed on hold for all accounts. In the 2021/22 financial year legal action recommenced with only those ratepayers approved under



Council policy *POL-2013 COVID-19 Financial Hardship - Rates and Sundry Debtors* being exempt.

To date Fourteen applications for Financial Hardship have been received from ratepayers. Fourteen have been approved. Since introducing the Policy in April 2020, two of the eligible properties have since sold leaving twelve approved ratepayers. Of these twelve, eleven have paid in full leaving a total outstanding amount of \$20,976 for the one remaining ratepayer. There have been no new applications for financial hardship in the 2023/24 financial year.

At the April 18 2023 Ordinary Council Meeting, Council adopted Policy *POL-2016 Financial Hardship Policy - Rates and Sundry Debtors* and rescinded Policy *POL-2013 COVID Financial Hardship - Rates and Sundry Debtors*. The new policy is a general financial hardship policy and will apply to rates debtors assessed as being in financial hardship under the previous policy and will apply to rates debtors as required in the future as the Shire understands that many ratepayers continue to be impacted by the current economic climate.

### **ATTACHMENTS**

*(Confidential Attachments provided under separate cover).*

Confidential Attachment 1 - Rates Debtors 5 March 2024

## 7.2. STANDING ITEM - SUNDRY DEBTORS

<b>DATE:</b>	11 March 2024
<b>AUTHOR:</b>	Manager Finance
<b>RESPONSIBLE OFFICER:</b>	Felicity Heading, Director Corporate Services
<b>FILE NO:</b>	FM.07.02
<b>DISCLOSURE OF INTERESTS:</b>	Nil
<b>COUNCIL'S ROLE IN THE MATTER:</b>	Leader - Plan and provide direction through policy and practices
<b>VOTING REQUIREMENT:</b>	Simple Majority

### **VOTING REQUIREMENT**

Simple Majority

### **OFFICER'S RECOMMENDATION**

**That the Audit (Finance and Risk) Committee reports to Council that the actions being undertaken by the administration in regard to sundry debtors including sundry debts in legal process are sufficient and appropriate.**

### **PURPOSE**

To review the status of sundry debtors, including airport debtors, and sundry debts in legal process.

### **NATURE OF COUNCIL'S ROLE IN THE MATTER**

Leader - plan and provide direction through policy and practices.

### **BACKGROUND/PREVIOUS CONSIDERATIONS BY COUNCIL/COMMITTEE**

The listing of 90+ day sundry debtors was provided at the Ordinary Council Meeting on a monthly basis until March 2009 when Council resolved that the 90+ days debtor list be removed from the Council Agenda as a standing item and be presented to the Audit (Finance and Risk) Committee (Committee) for consideration and to make recommended actions to Council as this falls within the scope of the committee's purpose.

In line with the more strategic focus of the new Committee the report in April 2012 only included debtor balances at 90+ days and over \$500.

To further progress this strategic focus this item has been changed to provide summary information regarding all sundry debts including airport landing fees administered by Avdata on the Shire's behalf.

Further changes were recommended to the Audit Committee at the February 2014 meeting to modify the report by removing the categories previously reported and to report sundry debtors

as a whole, with airport debtors still being identified separately and that only debtors in excess of \$20,000 be provided with more detail. These changes were supported by the Committee and have been considered in the writing of this report.

### **STATUTORY IMPLICATIONS**

This item in a Council Meeting needs to be discussed behind closed doors under Section 5.23. (2) (e) (iii) of the *Local Government Act 1995* because the item may disclose information about the business, professional, commercial or financial affairs of a person and because the item also contains legal advice to the Council.

### **POLICY IMPLICATIONS**

Policies relevant to this item:

Council Policy *POL-2009 Sundry Debt Collection*

Council Policy *POL-2016 Financial Hardship - Rates and Sundry Debtors*

### **FINANCIAL IMPLICATIONS**

Legal fees may be incurred to recover debts or revenue written off if debt recovery is considered not economically viable.

It should be noted however, that as outlined in section 9 of Council Policy *POL-2009 Sundry Debt Collection Policy*, when possible 'Debt collection and legal fees associated with the recovery of outstanding debts will be recovered from the sundry debtor to the extent allowable under legislation and will be assessed on a case by case basis'.

### **STRATEGIC IMPLICATIONS**

This matter relates to the following sections of the *Strategic Community Plan 2023-2033*:

**FOCUS AREA:** Sustainability

**GOAL 10:** Community-driven Leadership - Leaders work with the community to develop and implement change in delivering positive outcomes

**GOAL OUTCOME 10.4:** Innovation - Embrace technology, creativity and innovation to solve complex problems

**STRATEGY 10.4:** Integrate all planning and resource management to drive continuous improvement and innovation

### **RISK IMPLICATIONS**

*Risk:* Failure to adequately resource and manage funding requirements which meet the needs of the Shire's service delivery requirements and strategic objectives.

*Control:* Policies updated in accordance with schedule and operational requirements.

### **COMMUNITY ENGAGEMENT**

Council Policy *POL-3100 Community Engagement* has been considered in relation to this item. No community engagement is required however there is regular contact with debtors generally.

## COMMENTS

### Sundry Debtors (General) Summary as at 6 March 2024

Categories	90 Days		60 Days	30 Days	Current	Total
	No	\$	\$	\$	\$	\$
Sundry Debtors	64	1,217,712	10,615	295,861	1,209,412	\$2,733,600

Note: The information in the above table is from the Shire's Debtors System. The revenue is recognised when the debt is raised.

### Sundry Debtors (Airport Landing Fees) Summary as at 6 March 2024

Categories	90 Days		60 Days	30 Days	Current	Total
	No	\$	\$	\$	\$	\$
Kununurra Airport	27	67,005	6,203	96,695	143,727	313,630
Wyndham Airport	2	318	257	53	2,353	2,981
<b>Total</b>	<b>29</b>	<b>67,323</b>	<b>6,460</b>	<b>96,748</b>	<b>146,080</b>	<b>316,611</b>

Note: The information in the above table is provided by Avdata. The revenue is recognised on a monthly basis from invoicing details provided.

## Additional Information

### Virgin Administration

It should be noted that Virgin Australia Holdings Limited and its related entities were placed into Voluntary Administration effective from 20 April 2020. Further details are provided in confidential attachment 1.

### Impact of COVID-19

In response to the COVID-19 pandemic the Shire has put in place a number of initiatives to assist ratepayers, businesses, and the community in general that have an impact on the Shire's debt collection processes. These include the adoption of Council policy *CP/FIN-3219 Financial Hardship - Rates and Sundry Debtors* to allow those experiencing financial hardship to apply for debt relief including the waiver of interest and fees and charges, and minor amendments to policy *CP/FIN-3214 Sundry Debt Collection* to allow for extended payment arrangement terms. In addition to this legal action has been placed on hold for most outstanding sundry debtors.

At the April 18 2023 Ordinary Council Meeting, Council adopted Policy *POL-2016 Financial Hardship - Rates and Sundry Debtors* and rescinded Policy *POL-2013 COVID Financial Hardship - Rates and Sundry Debtors*. The new policy is a general financial hardship policy and will apply to sundry debtors assessed as being in financial hardship under the previous policy and will apply to debtors as required in the future as the Shire understands that many businesses and sundry debtors continue to be impacted by the current economic climate.

**ATTACHMENTS**

*(Confidential attachments provided under separate cover).*

Confidential Attachment 1 - Sundry Debtors at 6 March 2024

### 7.3. STANDING ITEM - INSURANCE CLAIMS

<b>DATE:</b>	11 March 2024
<b>AUTHOR:</b>	Director Corporate Services
<b>RESPONSIBLE OFFICER:</b>	Felicity Heading, Director Corporate Services
<b>FILE NO:</b>	RM.01.2
<b>DISCLOSURE OF INTERESTS:</b>	Nil
<b>COUNCIL'S ROLE IN THE MATTER:</b>	Leader - Plan and provide direction through policy and practices
<b>VOTING REQUIREMENT:</b>	Simple Majority

#### **OFFICER'S RECOMMENDATION**

**That the Audit (Finance and Risk) Committee recommends to Council that it notes the Insurance Claims Report and associated attachments.**

#### **PURPOSE**

To report to the Audit (Finance and Risk) Committee (the Committee) the insurance claims that have been lodged for the 2021/22, 2022/23 and 2023/24 financial years, the associated costs and the status of the claims.

#### **BACKGROUND/PREVIOUS CONSIDERATIONS BY COUNCIL/COMMITTEE**

The Audit (Finance and Risk) Committee has as one of its functions to facilitate the effective management of financial and other risks and the protection of Council assets. The Shire administration is currently allocating time and resources to risk management and it is appropriate that the Shire's risk performance is reported to the Committee as a standard report on a quarterly basis.

#### **STATUTORY IMPLICATIONS**

This item in a Council Meeting needs to be discussed behind closed doors under Section 5.23.(2)(a) and Section 5.23.(2)(e)(iii) of the *Local Government Act 1995* because the item deals with a matter affecting an employee or employees, and because the item may disclose information about the business, professional, commercial or financial affairs of a person.

#### **POLICY IMPLICATIONS**

The following Shire documents are relevant to this report:

- Corporate Insurance Strategy
- Policy POL-1011 Risk and Opportunity Management

#### **FINANCIAL IMPLICATIONS**

Insurance premiums have been considered in the 2022/23 and 2023/24 budget processes. The Shire has, in terms of its insurance policies, insurance excesses that it has to absorb as

a “first loss” in the event of a claim. These excesses are set out in the detailed insurance schedules accompanying the insurance policies.

There are no other financial implications arising out of the preparation of this report.

### **RISK IMPLICATIONS**

**Risk:** Failure to manage the appropriateness and effectiveness of the Shire’s systems and procedures in relation to risk management, internal control and legislative compliance.

**Control:** Audit Regulation 17 Conducted every three years and recommendations implemented.  
Annual review of insurance cover.

### **COMMUNITY ENGAGEMENT**

The Shire of Wyndham East Kimberley’s policy *POL-3000 Community Engagement* has been considered in relation to this item.

No community engagement is required.

### **COMMENTS**

The Terms of Reference for the Audit (Finance and Risk) Committee set out as one of the objectives to “facilitate the effective management of financial and other risks and the protection of Council assets”. Part of the *Local Government Operational Guidelines Number 09 - Audit in Local Government* identifies that “good audit committee practices in monitoring internal control and risk management programs typically include: assessing the adequacy of local government processes to manage insurable risks and ensure the adequacy of insurance cover, and if applicable, the level of self-insurance.”

The attachments detail the cost of claims across four categories where claims were made for the financial years 2021/22, 2022/23 and 2023/24. These can be summarised as follows:

	<b>2021/22</b>		<b>2022/23</b>		<b>2023/24</b>	
	<b>Number of Claims</b>	<b>Estimated Costs \$</b>	<b>Number of Claims</b>	<b>Estimated Costs \$</b>	<b>Number of Claims</b>	<b>Estimated Costs \$</b>
Property	5	283,022	2	209,892	3	38,100
Liability	5	2,203	1	0	1	1,000
Motor Vehicle	2	1,250	2	53,721	1	4,000
WorkCare	6	9,799	5	257,166	4	82,000
<b>Total</b>	<b>18</b>	<b>296,274</b>	<b>10</b>	<b>520,779</b>	<b>9</b>	<b>125,100</b>

## **Property**

There were five claims for property damage lodged during the 2021/22 year, all of which have been finalised. The total cost of the finalised claims was \$283,022. There were two claims lodged in 2022/23, both of which have been finalised with total costs of \$209,892. There have been three claims lodged to date in 2023/24 with estimated total costs of \$38,100.

## **Liability**

There were five liability claims lodged in 2021/22, three of which were denied and all of which have been finalised with total costs of \$2,203. There was one claim lodged in 2022/23 which was denied. There has been one claim lodged to date in 2023/24 which is currently awaiting final proof of loss by the claimant to be provided to LGIS.

## **Motor Vehicle**

There were two motor vehicle claims lodged in 2021/22 with total costs of \$1,250. There were two claims lodged in 2022/23, one of which is closed with total costs of \$28,221 and one that is open with an estimated cost of \$25,500. There has been one claim lodged to date in 2023/24 with an estimated cost of \$4,000.

## **WorkCare**

There were six WorkCare claims submitted in 2021/22 with total costs of \$9,799 all of which have been finalised. There were five claims in 2022/23. All have been accepted with two finalised with a cost of \$12,183. The total paid to date on the other three claims is \$123,819 with estimated total costs of \$244,983. There have been four claims to date in 2023/24. Two have been accepted with estimated total costs of \$9,000, one is pending with estimated total costs of \$23,000 and one has been rejected with estimated total costs of \$50,000.

## **Work Health, Safety, and Wellbeing**

The Shire recruited a Safety and Wellbeing Officer in 2019 to assist in the development, implementation and management of the Shire's Workplace OSH processes, procedures, as well as coordinating health and wellbeing programs and initiatives. The Shire has also been working closely with its insurers, LGIS, to provide training to all staff on their responsibilities for maintaining a safe workplace.

In 2022/2023 a program commenced to identify the Shire's critical risks and to identify and evaluate controls. Further work is being undertaken to reduce the risk of occurrence of incidents including trips and falls, and manual handling issues, which have the potential for the types of injuries that result in work restrictions and compensation claims. A Safety and Wellbeing Report is provided to management on a quarterly basis providing detailed information on Safety performance for the period. A copy of the report for the period from October to December 2023 is attached for information purposes only (see Confidential Attachment 5).

## **LGIS Risk Reviews**

Risk reviews were conducted by the Shire's Insurers LGIS at Waste Facilities (Wyndham and Kununurra) and East Kimberley Regional Airport and Wyndham Aerodrome in April 2023. The primary focus of these reviews was on risks associated with the outbreak of fire and recommendations for mitigation controls. Reports were provided in July. In response to these, work has been undertaken and action plans put in place for all sites. The insurer will be provided with updates in response to the recommendations provided.

## **ATTACHMENTS**

*(Confidential Attachments provided under separate cover).*

Confidential Attachment 1 - LGIS Property Claims Report

Confidential Attachment 2 - LGIS Liability Claims Report

Confidential Attachment 3 - LGIS Motor Vehicle Claims Report



Confidential Attachment 4 - LGIS WorkCare Claims Report  
Confidential Attachment 5 - Quarterly Safety and Wellbeing Report

#### 7.4. STANDING ITEM - LEASES

<b>DATE:</b>	11 March 2024
<b>AUTHOR:</b>	Manager Finance
<b>RESPONSIBLE OFFICER:</b>	Felicity Heading, Director Corporate Services
<b>FILE NO:</b>	CP.07 and CP.16
<b>DISCLOSURE OF INTERESTS:</b>	Nil
<b>COUNCIL'S ROLE IN THE MATTER:</b>	Leader - Plan and provide direction through policy and practices
<b>VOTING REQUIREMENT:</b>	Simple Majority

#### **OFFICER'S RECOMMENDATION**

**That the Committee recommends to Council that it notes the Confidential Lease Schedule and the New and Renewal Lease Schedule attached.**

#### **PURPOSE**

To consider the attached Confidential Lease Schedule and New and Renewal Lease Schedule.

#### **NATURE OF COUNCIL'S ROLE IN THE MATTER**

Provider - provide physical infrastructure and essential services.

#### **BACKGROUND/PREVIOUS CONSIDERATIONS BY COUNCIL/COMMITTEE**

The Shire of Wyndham East Kimberley administers over thirty five leases including airport leases, commercial leases and leases to community organisations.

In December 2007 the Audit (Risk and Finance) Committee resolved:

*Minute No. A066*

*Moved: Cr Keith Wright*

*Seconded Cr Frederic Mills*

- 1. That the Audit Committee note that the responsibility for the management of leases and periodical contracts is that of the Executive Manager Corporate Services.*
- 2. That the Audit Committee note that the Executive Manager Corporate Services monitors the leases and coordinates the lease database and reporting to Executive Managers, the Audit Committee and Council.*
- 3. That the Audit Committee request staff to present an updated Lease Spreadsheet certified by Executive Manager Corporate Services to each Audit Committee meeting as a standing item.*

*Carried Unanimously 4/0*

## **STATUTORY IMPLICATIONS**

This item in a Council Meeting needs to be discussed behind closed doors under Section 5.23.(2)(e)(iii) of the *Local Government Act 1995* because the item may disclose information about the business, professional, commercial or financial affairs of a person.

## **POLICY IMPLICATIONS**

CP/PMG-3780 Leasing of Council Managed Reserve Land – Community is relevant.  
CP/PMG-3781 Leasing of Council Managed/Owned Land – Commercial is relevant.

## **FINANCIAL IMPLICATIONS**

There are no direct financial implications from the preparation of this report.

## **RISK IMPLICATIONS**

**Risk:** Failure to provide community services which meet the needs and expectations of the community to support social cohesion and participation.

**Control:** Provide community leases to various community groups in line with Council Policy CP PMG-3780 Leasing of Council Managed Reserve Land - Community to support community organisations in the provision of services, facilities and events.

## **COMMUNITY ENGAGEMENT**

The Shire of Wyndham East Kimberley CP/GOV-3100 Community Engagement Policy has been considered in relation to this item.

No community engagement is required.

## **COMMENTS**

Shire officers are currently working on two outstanding new and renewal leases. While the Shire is making every attempt to finalise the remaining leases as soon as possible, control over the timeline in progressing the leases is not vested entirely in the Shire. Details of outstanding leases are contained in Attachment 2.

## **ATTACHMENTS**

*(Confidential attachments provided under separate cover)*

Confidential Attachment 1 - Lease Schedule

Confidential Attachment 2 - New and Renewal Lease Schedule

## 7.5. REVIEW OF FINANCIAL MANAGEMENT, RISK MANAGEMENT, LEGISLATIVE COMPLIANCE AND INTERNAL CONTROLS

<b>DATE:</b>	11 March 2024
<b>AUTHOR:</b>	Director Corporate Services
<b>RESPONSIBLE OFFICER:</b>	Felicity Heading, Director Corporate Services
<b>FILE NO:</b>	CM.01.1
<b>DISCLOSURE OF INTERESTS:</b>	Nil
<b>NATURE OF COUNCIL'S ROLE IN THE MATTER:</b>	Leader - plan and provide direction through policy and practices.
<b>VOTING REQUIREMENT</b>	Simple Majority

### **OFFICER'S RECOMMENDATION**

**That the Audit (Finance and Risk) Committee reports to Council that it has noted the progress report in the confidential attachments arising from the Chief Executive Officer's review on the appropriateness and effectiveness of the Shire's systems and procedures in relation to risk management, internal control and legislative compliance as required by Regulation 17 of the Local Government (Audit) Regulations 1996 and the review of the appropriateness and effectiveness of the financial management systems and procedures of the Shire as required by Regulation 5(2)(c) of the Local Government (Financial Management) Regulations 1996.**

### **PURPOSE**

For the Audit (Finance and Risk) Committee to review the progress on the Chief Executive Officer's report on the appropriateness and effectiveness of the Shire's systems and procedures in relation to risk management, internal control and legislative compliance as well as to report the progress on the results of the appropriateness and effectiveness of the financial management systems and procedures. The findings will be implemented in a staged manner based on priority and progress reported to the Audit (Finance and Risk) Committee.

### **NATURE OF COUNCIL'S ROLE IN THE MATTER**

Leader - plan and provide direction through policy and practices  
 Regulator - enforce state legislation and local laws

### **BACKGROUND/PREVIOUS CONSIDERATIONS BY COUNCIL/COMMITTEE**

The Local Government (Audit) Regulations 1996, Regulation 17, requires the CEO to review the appropriateness and effectiveness of a local government's systems and procedures in relation to risk management, internal control and legislative compliance. It further requires in Regulation 5(2)(c) of the Local Government (Financial Management) Regulations 1996 that the CEO review the appropriateness and effectiveness of the financial management systems and procedures of the Shire.

The **risk management** functions of the local government should manage the creation and protection of value within the Shire of Wyndham East Kimberley. Effective risk management improves performance, encourages innovation and supports the achievement of objectives.

**Internal Control** is the systematic measures (such as reviews, checks and balances, methods and procedures) instituted by an organisation to; conduct its business in an orderly and efficient manner, safeguard its assets and resources, deter and detect errors, fraud, and theft, ensure accuracy and completeness of its accounting data, produce reliable and timely financial and management information, and ensure adherence to its policies and plans. Internal control is a key component of a sound governance framework, which uses instruments such as policies, delegations, authorisations, audit practices, information systems and security, management and operation techniques and human resource practice to create a network of control mitigation to maintain appropriate levels of risk.

**Legislative compliance** involves monitoring compliance with legislation and regulations, reviewing the annual Compliance Audit Return, staying informed about how management is monitoring the effectiveness of its compliance, reviewing procedures which handle complaints, monitoring the local governments compliance framework, obtaining assurances against adverse trends, reviewing statutory and financial returns and other evaluating, monitoring and problem solving against significant compliance issues.

The review may relate to any or all of the matters, but each of those matters are subject to review not less than once every 3 financial years. In accordance with Regulation 16(c) of the Local Government (Audit) Regulations 1996, the Audit (Finance and Risk) Committee is required to review a report prepared by the CEO, and subsequently report to the Council the results of the Committees review, while at the same time attaching a copy of the CEO's report to the Audit (Finance and Risk) Committee.

**Financial Management Review** includes a review of the accounting and control processes, authorisation processes, borrowings, record keeping, budget preparation and review, and financial reporting.

The Shire previously commissioned an independent Regulation 17 and Regulation 5(2)(c) review by Moore Stephens in December 2018 which identified a small number of areas for improvement. The progress of those recommendations were reported to the Audit (Finance and Risk) Committee, with the majority of actions complete by the end of the 2020 calendar year.

The Shire of Wyndham East Kimberley engaged Moore Australia to provide services in relation to the requirements of Regulation 17 and Regulation 5(2)(c) for the 2021 year and their staff were onsite at the Shire from 23 to 27 August 2021.

Moore Australia produced a report for the Shire in March 2022 titled Review of Financial Management, Risk Management, Legislative Compliance and Internal Controls. This was reported to the Audit (Finance and Risk) Committee at the 14 March 2022 meeting.

## **COMMITTEE RESOLUTION**

*Minute Number: CA527*

*That the Audit (Finance and Risk) Committee reports to Council that it has:*

- 1. Noted the results of the Chief Executive Officer's review on the appropriateness and effectiveness of the Shire's systems and procedures in relation to risk management, internal control and legislative compliance as required by Regulation 17 of the Local Government (Audit) Regulations 1996 in the report at Attachment 1; and*

2. *Noted the results of the Chief Executive Officer's review of the appropriateness and effectiveness of the financial management systems and procedures of the Shire as required by Regulation 5(2)(c) of the Local Government (Financial Management) Regulations 1996 in the report at Attachment 1; and*
3. *Endorsed that the implementation of the improvements outlined within the report will be prioritised and implemented in a staged approach and reported to future Audit (Finance and Risk) Committee meetings.*

Moved: Cr Hearty

Seconded: Cr Farquhar

Decision: 3/0

## **STATUTORY IMPLICATIONS**

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

#### ***17. CEO to review certain systems and procedures***

*(1) The CEO is to review the appropriateness and effectiveness of a local government's systems and procedures in relation to-*

- (a) risk management; and*
- (b) internal control; and*
- (c) legislative compliance.*

*(2) The review may relate to any or all of the matters referred to in subregulation (1)(a), (b) and (c), but each of those matters is to be the subject of a review not less than once in every 3 financial years.*

*(3) The CEO is to report to the audit committee the results of that review.*

### ***Local Government (Financial Management) Regulations 1996***

#### ***5. CEO's duties as to financial management***

*(2) The CEO is to —*

- (c) undertake reviews of the appropriateness and effectiveness of the financial management systems and procedures of the local government regularly (and not less than once in every 3 financial years) and report to the local government the results of those reviews.*

## **POLICY IMPLICATIONS**

The Following Policies are relevant to this report:

POL-1005 Code of Conduct for Council Members, Committee Members and Candidates for Local Government Elections;

POL-1011 Risk and Opportunity Management.

## **STRATEGIC IMPLICATIONS**

This matter relates to the following sections of the *Strategic Community Plan 2023-2033*:

**Focus Area:** SUSTAINABILITY

**Goal 10:** Community-driven Leadership - Leaders work with the community to develop and implement change in delivering positive outcomes

**Goal Outcome 10.3:** Advocacy - Strong and consistent advocacy for local needs and priorities

**Strategy 10.4:** Integrate all planning and resource management to drive continuous improvement and innovation.

## **FINANCIAL IMPLICATIONS**

The cost of Moore Australia conducting the review and the preparation of the report was \$23,031.48 excl. GST. Any financial implications arising from the recommendations contained within the attached report have been considered within the 2023/24 budget.

## **RISK IMPLICATIONS**

**Risk:** Failure to manage the appropriateness and effectiveness of the Shire's systems and procedures in relation to risk management, internal control and legislative compliance

**Control:** Review policies and procedures in accordance with the review schedule. Undertake Audit Regulation 17 and Financial Management Regulation 5(2)(c) Reviews and implement recommendations as an opportunity to improve and effect lasting organisational change.

## **COMMUNITY ENGAGEMENT**

The Shire of Wyndham East Kimberley's CP/GOV-3100 Community Engagement Policy has been considered in relation to this item. No community engagement is required.

## **COMMENTS**

Shire Officers have started to review the recommendations contained in the report. Not all recommendations in the report will be implemented. Eleven priority actions were identified. The priority actions that have been identified have been addressed in the first instance and documented in the attachments. Responsibilities have been allocated to Officers to action. A number of the recommendations are best dealt with by the Shire's professional advisors. This process has commenced. The recommendations will be updated and reported to each Audit (Finance and Risk) Committee meeting until all recommendations have been addressed.

## **ATTACHMENTS**

*(Confidential attachments provided under separate cover)*

Confidential Attachment 1 - Regulations 17 and 5(2)(c) Review Action Plan and Progress Report - Completed

Confidential Attachment 2 - Regulations 17 and 5(2)(c) Review Action Plan and Progress Report - In Progress

## 7.6. COMPLIANCE AUDIT RETURN 2023

<b>DATE:</b>	11 March 2024
<b>AUTHOR:</b>	Executive Officer to the CEO
<b>RESPONSIBLE OFFICER:</b>	Vernon Lawrence, Chief Executive Officer
<b>FILE NO:</b>	CM.01.1
<b>DISCLOSURE OF INTERESTS:</b>	Nil

### **VOTING REQUIREMENT**

Absolute Majority

### **OFFICER'S RECOMMENDATION**

**That the Audit (Finance and Risk) Committee recommends to Council to:**

- 1. Note the 2023 Compliance Audit Return has been completed;**
- 2. Authorise the Shire President and the Chief Executive Officer to certify the 2023 Compliance Audit Return; and**
- 3. Authorise the Chief Executive Officer to submit the 2023 Compliance Audit Return to the Department of Local Government by 31 March 2024.**

### **PURPOSE**

The Chief Executive Officer is required to complete and submit a Compliance Audit Return to the Director General of the Department of Local Government together with a copy of the relevant Minute as approved by Council at the Ordinary Council Meeting, by 31 March each year.

### **NATURE OF COUNCIL'S ROLE IN THE MATTER**

Regulator - Responsible for the enforcement of statutory requirements.

### **BACKGROUND/PREVIOUS CONSIDERATIONS BY COUNCIL/COMMITTEE**

Each local government is required to carry out a Compliance Audit for the period 1 January to 31 December against the requirements of the Compliance Audit Return. The return is completed online.

After the Compliance Audit Return has been presented to the Audit Committee, it is then presented to Council for adoption. A certified copy of the return along with the relevant section of the minutes and any additional information explaining or qualifying the Compliance Audit is to then be submitted to the Director General of the Department of Local Government.

The Compliance Audit Return is one of the tools that allows Council to monitor how the organisation is functioning in regard to compliance with the various legislation that pertains to local government administration and decision making. The Department of Local Government Compliance Framework is aimed at providing transparency about the Shire's approach to compliance as well as giving the sector and the public certainty about its approach to managing complaints made against the sector (or individuals within it).



## **STATUTORY IMPLICATIONS**

*Local Government Act (1995)*

*Part 7, Division 4*

### 7.13. Regulations as to audits

- (1) *Regulations may make provisions as follows —*
- (i) *requiring local governments to carry out, in the prescribed manner and in a form approved by the Minister, an audit of compliance with such statutory requirements as are prescribed whether those requirements are —*
  - (i) *of a financial nature or not; or*
  - (ii) *under this Act or another written law.*

*Local Government (Audit) Regulations 1996*

### 14. Compliance audits by local governments

- (1) *A local government is to carry out a compliance audit for the period 1 January to 31 December in each year.*
- (2) *After carrying out a compliance audit the local government is to prepare a compliance audit return in a form approved by the Minister.*
- (3A) *The local government's audit committee is to review the compliance audit return and is to report to the council the results of that review.*
- (3) *After the audit committee has reported to the council under subregulation (3A), the compliance audit return is to be —*
- (a) *presented to the council at a meeting of the council; and*
  - (b) *adopted by the council; and*
  - (c) *recorded in the minutes of the meeting at which it is adopted.*

### 15. Compliance audit return, certified copy of etc. to be given to Executive Director

- (1) *After the compliance audit return has been presented to the council in accordance with regulation 14(3) a certified copy of the return together with —*
- (a) *a copy of the relevant section of the minutes referred to in regulation 14(3)(c); and*
  - (b) *any additional information explaining or qualifying the compliance audit, is to be submitted to the Executive Director by 31 March following the period to which the return relates.*
- (2) *In this regulation —*
- certified in relation to a compliance audit return means signed by —*
- (a) *the mayor or president; and*
  - (b) *the CEO.*

## **POLICY IMPLICATIONS**

There are no policy implications associated with this report.

## **FINANCIAL IMPLICATIONS**

There are no financial implications associated with this report as all costs associated with its preparation and submission have been budgeted for.

## **STRATEGIC IMPLICATIONS**

**Focus Area:** SUSTAINABILITY

**Goal 10:** Community-driven Leadership - Leaders work with the community to develop and implement change in delivering positive outcomes

**Goal Outcome 10.3:** Advocacy - Strong and consistent advocacy for local needs and priorities

**Strategy 10.4:** Integrate all planning and resource management to drive continuous improvement and innovation.

## **RISK IMPLICATIONS**

**Risk:** Failure to manage a governance framework which transparently governs and embraces good governance practices.

**Control:** Annual Completion Compliance Audit Return  
Interim and Annual Financial Audits  
Strategic Risk Reporting Quarterly to Audit Finance and Risk Committee

## **COMMUNITY ENGAGEMENT**

The Shire of Wyndham East Kimberley's policy *POL-3000 Community Engagement* has been considered in relation to this item.

## **COMMENTS**

The preparation of the Compliance Audit Return for 2023 is substantially the same as the 2022 Compliance Audit Return. The Shire has met its compliance obligations as set out in Attachment 1.

## **ATTACHMENTS**

*(Confidential attachments provided under separate cover)*

Confidential Attachment 1 - Compliance Audit Return 2023

## **8. MATTERS BEHIND CLOSED DOORS**

## **9. CLOSURE**