



SHIRE OF WYNDHAM | EAST KIMBERLEY

AGENDA ORDINARY COUNCIL MEETING

13 DECEMBER 2022

DISCLAIMER

Members of the Public are advised that recommendations to Council contained within this Agenda and decisions arising from the Council meeting can be subject to alteration.

Applicants and other interested parties should refrain from taking any action until such time as written advice is received confirming Council's decision with respect to any particular issue.

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

Signed on behalf of Council



VERNON LAWRENCE

CHIEF EXECUTIVE OFFICER

NOTES

- 1. Councillors wishing to make alternate motions to officer recommendations are requested to provide notice of such motions electronically to the minute taker prior to the Council Meeting.**
- 2. Councillors needing clarification on reports to Council are requested to seek this from relevant Officers prior to the Council meetings.**

1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS	4
2. RECORD OF ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE (PREVIOUSLY APPROVED)	4
3. DECLARATION OF INTEREST	4
4. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE	4
5. PUBLIC QUESTION TIME	4
6. APPLICATIONS FOR LEAVE OF ABSENCE	4
7. PETITIONS	4
8. CONFIRMATION OF MINUTES.....	4
9. ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION	4
10. MATTERS FOR WHICH THE MEETING MAY BE CLOSED	4
11. DEPUTATIONS / PRESENTATIONS / SUBMISSIONS	4
12. REPORTS	4
12.1. MATTERS ARISING FROM COMMITTEES OF COUNCIL.....	4
12.1.1. Consideration of recommendations contained within the minutes of the Audit (Finance and Risk) Committee of 5 December 2022.....	5
12.2. OFFICE OF THE CEO.....	8
12.2.1. Standing Item - Outstanding Actions from Previous Council Resolutions.	8
12.2.2. Standing Item - Use of the Common Seal.....	10
12.3. PLANNING AND COMMUNITY DEVELOPMENT	12
12.3.1. Proposed excision of portion of Reserve 51750, Crossing Falls Road - Telecommunications Tower.....	12
12.4. CORPORATE SERVICES.....	17
12.4.1. List of Accounts Paid From Municipal Fund and Trust Fund.....	17
12.4.2. Monthly Financial Reports	19
12.5. INFRASTRUCTURE.....	22
12.5.1. Request to Upgrade Haulage Route - Concessional Loading	22
13. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN	26
14. QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN	26
15. URGENT BUSINESS APPROVED BY THE PERSON PRESIDING OR BY DECISION	26
16. MATTERS BEHIND CLOSED DOORS	26
16.1. REQUEST FOR TENDER T05 – 22/23: SUPPLY, DESIGN AND CONSTRUCTION OF THE KUNUNURRA LEISURE CENTRE AQUATIC REDEVELOPMENT – STAGE 1.....	27
16.2. DISPOSAL OF LAND (LEASE AND SALE) - AIRPORT LAND	29
17. CLOSURE	30

**SHIRE OF WYNDHAM EAST KIMBERLEY
ORDINARY COUNCIL MEETING AGENDA
KUNUNURRA COUNCIL CHAMBERS
TO BE HELD ON TUESDAY 13 DECEMBER 2022 AT 5:00PM**

1. **DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS**
2. **RECORD OF ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE (PREVIOUSLY APPROVED)**
3. **DECLARATION OF INTEREST**
 - Financial Interest
 - Impartiality Interest
 - Proximity Interest
4. **RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**
5. **PUBLIC QUESTION TIME**
6. **APPLICATIONS FOR LEAVE OF ABSENCE**
7. **PETITIONS**
8. **CONFIRMATION OF MINUTES**

OFFICER'S RECOMMENDATION

<p>That Council confirms the Minutes of the Ordinary Council Meeting held on 22 November 2022</p>

Note: The Minutes of the Ordinary Council Meeting held on 22 November 2022 are provided under separate cover via www.swek.wa.gov.au

9. **ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION**
10. **MATTERS FOR WHICH THE MEETING MAY BE CLOSED**
11. **DEPUTATIONS / PRESENTATIONS / SUBMISSIONS**
12. **REPORTS**
- 12.1. **MATTERS ARISING FROM COMMITTEES OF COUNCIL**

12.1.1. Consideration of recommendations contained within the minutes of the Audit (Finance and Risk) Committee of 5 December 2022

DATE:	13 December 2022
AUTHOR:	Director Corporate Services
RESPONSIBLE OFFICER:	Vernon Lawrence, Chief Executive Officer
ASSESSMENT NO:	Various - As Detailed in the Minutes of the 5 December 2022 Audit (Finance and Risk) Committee meeting
FILE NO:	Various - As Detailed in the Minutes of the 5 December 2022 Audit (Finance and Risk) Committee meeting
DISCLOSURE OF INTERESTS:	Nil
COUNCILS ROLE IN THE MATTER:	Leader - Plan and provide direction through policy and practices Regulator - Responsible for the enforcement of statutory requirements
VOTING REQUIREMENT:	Simple Majority

COMMITTEE RECOMMENDATION 1

That Council, with reference to Item 7.1 “*Standing Item - Rates Debtors*” as detailed in the 5 December 2022 Audit (Finance and Risk) Committee Agenda/Minutes, accept the report that the actions being undertaken by the administration in regard to rates debtors including rates debts in legal process are sufficient and appropriate.

COMMITTEE RECOMMENDATION 2

That Council, with reference to Item 7.2 “*Standing Item - Sundry Debtors*” as detailed in the 5 December 2022 Audit (Finance and Risk) Committee Agenda/Minutes, accept the report that the actions being undertaken by the administration in regard to sundry debtors including sundry debts in legal process are sufficient and appropriate.

COMMITTEE RECOMMENDATION 3

That Council, with reference to Item 7.3 “*Standing Item - Insurance Claims*” as detailed in the 5 December 2022 Audit (Finance and Risk) Committee Agenda/Minutes, note the Insurance Claims Report and associated attachments to the Agenda/Minutes of the 5 December 2022 Audit (Finance and Risk) Committee meeting.

COMMITTEE RECOMMENDATION 4

That Council, with reference to Item 7.4 “*Standing Item - Leases*” as detailed in the 5 December 2022 Audit (Finance and Risk) Committee Agenda/Minutes, note the Confidential Lease Schedule and the New and Renewal Lease Schedule attached to the Agenda/Minutes of the 5 December 2022 Audit (Finance and Risk) Committee Meeting.

COMMITTEE RECOMMENDATION 5

That Council, with reference to Item 7.5 “*Review of Financial Management, Risk Management, Legislative Compliance and Internal Controls*” as detailed in the 5 December 2022 Audit (Finance and Risk) Committee Agenda/Minutes:

Note the progress report contained within the Confidential Attachments to the 5 December 2022 Audit (Finance and Risk) Committee Agenda/Minutes 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

To consider the recommendations from the Audit (Finance and Risk) Committee made at its meeting held on 5 December 2022.

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

The background and details supporting the recommendations are contained within the Minutes of the 5 December 2022 Audit (Finance and Risk) Committee meeting and confidential attachments to the Agenda/Minutes.

STATUTORY IMPLICATIONS

Various - detailed within the Minutes of the 5 December 2022 Audit (Finance and Risk) Committee meeting and confidential attachments to the Agenda/Minutes.

POLICY IMPLICATIONS

Various - detailed within the Minutes of the 5 December 2022 Audit (Finance and Risk) Committee meeting and confidential attachments to the Agenda/Minutes.

FINANCIAL IMPLICATIONS

Various - detailed within the Minutes of the 5 December 2022 Audit (Finance and Risk) Committee meeting and confidential attachments to the Agenda/Minutes.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2017-2027

Focus Area 4: PERFORMANCE - Civic Leadership

Goal: 4.3: Ensure a strong and progressive organisation delivering customer focused services

Strategy 4.3.2: Integrate all planning, resources and reporting in accordance with best practice and statutory requirements.

Goal 4.4: Sustainably maintain the Shire's financial viability

Strategy 4.4.4: Apply best practice financial management to ensure long term sustainability

RISK IMPLICATIONS

Various - detailed within the Minutes of the 5 December 2022 Audit (Finance and Risk) Committee meeting and confidential attachments to the Agenda/Minutes.

COMMUNITY ENGAGEMENT

Various - detailed within the Minutes of the 5 December 2022 Audit (Finance and Risk) Committee meeting and confidential attachments to the Agenda/Minutes.

COMMENTS

Various - detailed within the Minutes of the 5 December 2022 Audit (Finance and Risk) Committee meeting and confidential attachments to the Agenda/Minutes.

ATTACHMENTS

Nil

12.2. OFFICE OF THE CEO

12.2.1. Standing Item - Outstanding Actions from Previous Council Resolutions

DATE:	13 December 2022
AUTHOR:	Executive Officer to the CEO
RESPONSIBLE OFFICER:	Vernon Lawrence, Chief Executive Officer
DISCLOSURE OF INTERESTS:	NIL
COUNCIL'S ROLE IN THE MATTER:	Leader - plan and provide direction through policy and practices
VOTING REQUIREMENT:	Simple Majority

OFFICER'S RECOMMENDATION

That Council notes the report - Outstanding Actions from Previous Council Resolutions.

PURPOSE

To report to the Council on the progress of and provide comment on outstanding actions from Council resolutions.

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

At each meeting of Council, resolutions are made which require actions to be taken by officers to implement those resolutions. This monthly update advises the Council as to the status of the implementation of resolutions.

STATUTORY IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Strategic Community Plan 2017-2027

Focus Area 4: Civic Leadership

Goal 4.2: Good decision making through engagement with the community

Strategy 4.2.2: Ensure community input informs planning and decision making

Goal 4.3: Ensure a strong and progressive organisation delivering customer focused services

Strategy 4.3.2: Create a culture that encourages innovation, collaboration, best practice and organisational discipline to improve efficiency, effectiveness and productivity

FINANCIAL IMPLICATIONS

Not applicable as referenced in individual reports presented to the Council.

COMMUNITY ENGAGEMENT

No community engagement is required.

COMMENTS

An update of actions from the November 2022 Council resolutions are detailed in Attachment 1.

Attachment 2 summarises all other actions that are outstanding from previous Council resolutions.

ATTACHMENTS

Attachment 1 - Council Action Register - Completed - December 2022

Attachment 2 - Council Action Register - Outstanding Actions from Previous Council Resolutions

12.2.2. Standing Item - Use of the Common Seal

DATE:	13 December 2022
AUTHOR:	Executive Officer to the CEO
RESPONSIBLE OFFICER:	Vernon Lawrence, Chief Executive Officer
DISCLOSURE OF INTERESTS:	NIL
COUNCIL'S ROLE IN THE MATTER:	Regulator - enforce state legislation and local laws
VOTING REQUIREMENT:	Simple Majority

OFFICER'S RECOMMENDATION

That Council receives the report on the application of the Shire of Wyndham East Kimberley Common Seal for the period 19 November 2022 to 9 December 2022.

PURPOSE

For Council to receive this report on the application of the Shire of East Kimberley Common Seal for the period 19 November 2022 to 9 December 2022.

STATUTORY IMPLICATIONS

Local Government Act 1995

9.49A. Execution of documents

- (1) *A document is duly executed by a local government if —*
 - (a) *the common seal of the local government is affixed to it in accordance with subsections (2) and (3); or*
 - (b) *it is signed on behalf of the local government by a person or persons authorised under subsection (4) to do so.*
- (2) *The common seal of a local government is not to be affixed to any document except as authorised by the local government.*
- (3) *The common seal of the local government is to be affixed to a document in the presence of —*
 - (a) *the mayor or president; and*
 - (b) *the chief executive officer or a senior employee authorised by the chief executive officer, each of whom is to sign the document to attest that the common seal was so affixed.*
- (4) *A local government may, by resolution, authorise the chief executive officer, another employee or an agent of the local government to sign documents on behalf of the local government, either generally or subject to conditions or restrictions specified in the authorisation.*
- (5) *A document executed by a person under an authority under subsection (4) is not to be regarded as a deed unless the person executes it as a deed and is permitted to do so by the authorisation.*

- (6) *A document purporting to be executed in accordance with this section is to be presumed to be duly executed unless the contrary is shown.*
- (7) *When a document is produced bearing a seal purporting to be the common seal of the local government, it is to be presumed that the seal is the common seal of the local government unless the contrary is shown.*

POLICY IMPLICATIONS

NIL

STRATEGIC IMPLICATIONS

Strategic Community Plan 2017-2027

Focus Area 4: Civic Leadership

Goal 3.1: To deliver the critical infrastructure that will create the conditions for economic growth across the Shire

RISK IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

COMMUNITY ENGAGEMENT

No community engagement is required.

COMMENTS

There 1 document for the time period of 19 November 2022 to 9 December 2022 with the Shire of Wyndham East Kimberley Common Seal applied as per the table below:

Date of Use	Document
08/12/2022	Contract with ASK Waste Management Pty Ltd

ATTACHMENTS

Nil

12.3. PLANNING AND COMMUNITY DEVELOPMENT

12.3.1. Proposed excision of portion of Reserve 51750, Crossing Falls Road - Telecommunications Tower

DATE:	13 December 2022
AUTHOR:	Senior Planning Officer
RESPONSIBLE OFFICER:	Nick Kearns, Director Planning and Community Development
ASSESSMENT NO:	A7924P
DISCLOSURE OF INTERESTS:	Nil
COUNCIL'S ROLE IN THE MATTER:	Facilitator - bring stakeholders together Regulator - enforce state legislation and local laws
VOTING REQUIREMENT	Simple Majority

OFFICER'S RECOMMENDATION

The Council:

- (1) Resolves to excise a portion of Reserve 51750, Lot 555 on DP402308, Crossing Falls Road, Kununurra for the purposes of 'installation, maintenance and operation of telecommunications network facility'; and**
- (2) Authorises the Chief Executive Officer to complete any necessary negotiations to enable:**
 - (a) the excision of the land site from Reserve 51750;**
 - (b) lease from the State of WA; and**
 - (c) sublease between the Shire and the carrier.**

PURPOSE

For Council to consider the excision of a portion of Reserve 51750, Lot 555 on Deposited Plan 402308, Crossing Falls Road, Kununurra

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

Crossing Falls was identified as a suitable location to install a new Telstra facility to improve telecommunications in the region as part of the Australian Government Regional Connectivity Program. The mobile telecommunication signal in this area is currently low with limited access to the existing mobile towers located in the town and the proposed facility will improve mobile signal in the area south of the Kununurra township.

Telstra have engaged Acquirecomm to undertake the process and they have approached the Shire with a view of excising a portion of Reserve 51750 at Crossing Falls Road, to facilitate the construction of a new Telecommunications facility.

Reserve 51750, Lot 555 on Deposited Plan 402308 is located on the corner of Crossing Falls Road and Cherubin Road, Kununurra and the Shire has a Management Order for the purpose of 'Community Fire Brigade'. Located on the reserve is the fire shed building (including ablution and office), a wastewater system and a gravel parking area which fronts Crossing Falls Road.



Locality Plan: Lot 555 Crossing Falls Road, Kununurra

Subject to the issue of a Development Application, it is proposed to construct a compound of 8m by 12 metres (96 square metres in area), which will include a 43.4 metre tall tower and ancillary low impact equipment shelter and be enclosed by a 2.5m high fence. The development will be located approximately 10 metres to the north-west of the fire shed building.

Prior to the issue of a development application for the works, tenure for the site needs to be secured. There are two options for the Shire to consider with regards to proceeding with regards to tenure:

Option 1 - Direct Lease between State and Carrier:

Option1 will require a Crown Land Enquiry form to be lodged by the Shire requesting excision of the subject land site from the reserve under section 51 of the *Land Administration Act 1997* (LAA).

Prior to the subject land being excised from the reserve, a sub divisional deposited plan will need to be prepared by a licensed surveyor and in addition to this, a Statutory Declaration from the Shire advising whether any portion of the subject land has been:

1. Transferred, granted or created in a registrable form in favour of any other person; or
2. Potentially contaminated (in order to comply with the *Contaminated Sites Act 2003*).

Following the excision of the subject land site from the reserve, the State would then enter into a lease directly with the carrier. And the Shire would have no further involvement with that portion of the site.

Option 2 - Lease between Shire and State and sublease between Shire and Carrier:

Option 2 will require a Crown Land Enquiry form to be lodged by the Shire requesting:

- Excision of the subject land site from the reserve under section 51 of the *LAA*;
- The grant of a lease to the Shire under section 79 of the *LAA* for the purpose of 'installation, maintenance and operation of telecommunications network facility'; and
- The grant of any necessary easements to the Shire under section 144 of the *LAA* for the purposes of access and services.

Prior to the subject land being excised from the reserve, a subdivisional deposited plan will need to be prepared by a licensed surveyor and in addition to this, a Statutory Declaration from the Shire advising whether any portion of the subject land has been:

1. Transferred, granted or created in a registrable form in favour of any other person; or
2. Potentially contaminated (in order to comply with the *Contaminated Sites Act 2003*).

Prior to subleasing the proposed lease area, the Shire will need to submit a draft sublease to the Department for approval under section 18 of the *LAA*.

The Shire will be required to pay 50% of the current unimproved rental value of the site to the State as a lease payment, and the Shire can then sublease the subject land site to the carrier for a nominated amount, up to 100% of the nominated current unimproved rental value of the site. There is potential then, that any money received as rent above the Shire's lease amount, could then be distributed amongst the Rural Fire Brigades (Crossing Falls, Ivanhoe and Packsaddle Brigades) to provide assistance towards improvements to facilities and equipment or towards operational or maintenance costs.

STATUTORY IMPLICATIONS

Land Administration Act 1997

POLICY IMPLICATIONS

CP/PMG-3781 'Lease of Council Managed/Owned Land - Commercial'

CP/PMG-3780 'Leasing of Council Managed Reserve Land - Community'

STRATEGIC IMPLICATIONS

This matter relates to the following sections of the *Strategic Community Plan 2017-2027*:

Focus Area 4: Civic Leadership

Goal: 4.3: Ensure a strong and progressive organisation delivering customer focused services

Strategy 4.3.2: Integrate all planning, resources and reporting in accordance with best practice and statutory requirements

RISK IMPLICATIONS

Risk: Failure to make Council decisions which allow for efficient and effective use of operational resources to deliver services which meet the needs of the community and region, comply with statutory requirements and promote economic and social development.

Control: Ensure Council decisions facilitate and support improvements to essential infrastructure and services, including mobile communication, in accordance with statutory requirements and community benefit.

FINANCIAL IMPLICATIONS

All costs associated with the proposal can be on-costed to the carrier, including survey and transfer costs.

COMMUNITY ENGAGEMENT

Community engagement is not required to undertake this process, however upon receipt of a development application for the telecommunication facility, the application will be advertised to residents within the immediate area for comment.

COMMENTS

Due to the remote nature of our Shire, telecommunication service is often inconsistent with poor signal and this is even more so for the areas outside townsites. Limited phone service and internet signal has significant impacts on the people residing in outlying areas, inhibiting their contact with emergency services and loved ones, often impacting mental health. The Crossing Falls site was chosen as a suitable site for a new telecommunications facility as part of an Australian Government funding stream to improve digital connectivity across regions, rural and remote Australia. The location of the facility will provide improved access to Telstra services for residents living in the area south of the Kununurra Township, including the Packsaddle and Crossing Falls areas and other outlying communities.

To facilitate the installation of the new facility, the Shire has been approached with regards to the potential of excising a portion of Reserve 51750 at Crossing Falls Road. While the Reserve purpose is for Community Fire Brigade, it is considered that the location of the tower at the site would occupy land which is currently not utilised by the Fire Brigade and the overall benefit to the community through improved mobile phone and internet coverage is significant.

Option 1 will require the Shire to request the portion of land be removed from the Reserve, and the carrier would then enter into a lease directly with the State. Option 2, will still require the portion of land to be removed from the Reserve, however following that the Shire would enter into a lease with the State, and then a sublease arrangement directly with the carrier.

It is considered that of the two options put forward by the Department of Planning, Lands and Heritage, Option 2 will provide the best overall community outcome, by allowing the potential of some sublease income to be distributed between the rural fire brigades (Crossing Falls, Ivanhoe and Packsaddle).

Being able to facilitate the delivery of improved phone and internet coverage to outlying areas will be of social and economic benefit to our community and it is recommended that Council resolve to support Option 2.

ATTACHMENTS

Attachment 1 - Proposed Development Plans

12.4. CORPORATE SERVICES

12.4.1. List of Accounts Paid From Municipal Fund and Trust Fund

DATE:	13 December 2022
AUTHOR:	Finance - Creditors Officer
RESPONSIBLE OFFICER:	Felicity Heading, Director Corporate Services
FILE NO:	FM.09.32
DISCLOSURE OF INTERESTS:	Nil
COUNCIL'S ROLE IN THE MATTER:	Regulator - Responsible for the enforcement of statutory requirements
VOTING REQUIREMENT:	Simple Majority

OFFICER'S RECOMMENDATION

That Council receive the lists of accounts paid from the Municipal and Trust funds for November 2022, being:

Municipal EFT 144333 - 144538 (03/11/2022 - 30/11/2022)	\$ 2,155,856.87
Trust EFT 20221005-22021027 (01/11/2022 - 29/11/2022)	\$ 5,664.55
Payroll (02/11/2022 - 30/11/2022)	\$ 784,367.29
Direct Bank Debits (01/11/2022 - 23/11/2022)	\$ 236,752.95
Total	\$ 3,182,641.66

PURPOSE

To present the list of accounts paid from the Municipal Fund and Trust Fund in accordance with the requirements of the *Local Government (Financial Management) Regulations 1996*.

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

In accordance with Council's Delegations Register which was adopted by Council on 27 September 2022, the Council has delegated to the CEO the exercise of its power under Regulations 12 and 13 of the *Local Government (Financial Management) Regulations 1996* to make payments from Municipal Fund and Trust Fund.

STATUTORY IMPLICATIONS

Local Government Act 1995 - Section 5.42 Delegation of some power and duties to CEO
Local Government (Financial Management) Regulations 1996 -

Regulation 5. CEO's duties as to financial management.
Regulation 11. Payments, procedures for making etc.
Regulation 12. Payments from municipal fund or trust fund, restrictions on making.
Regulation 13. Payments from municipal fund or trust fund by CEO, CEO's duties etc.

POLICY IMPLICATIONS

Sub-delegation 12 "Payments from the Municipal Fund and Trust Fund" applies subject to compliance with *Council Policy CP/FIN-3204 Purchasing*.

FINANCIAL IMPLICATIONS

There are no financial implications arising out of the preparation of this report. The financial implications arising from the payments made from the Municipal and Trust funds have been provided for in the 2022/23 Adopted Budget and any subsequent amendments thereto. This report provides for the ongoing management of the Shire's funds by providing the Council with sufficient information to monitor and review those payments made.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2017-2027.

Focus Area 4: Performance - Civic Leadership

Goal 4.4: Sustainably maintain the Shire's financial viability

Strategy 4.4.4: Apply best practice financial management to ensure long term sustainability.

RISK IMPLICATIONS

Risk: Failure to manage the disbursement of funds to meet the needs of the Shires forward planning requirements, including the Strategic Community Plan, Corporate Business Plan, Long Term Financial Plan and Annual Budget.

Controls: Monthly Financial Report and List of Accounts Paid reported to Council on a monthly basis as required by Legislation and Regulations.

COMMUNITY ENGAGEMENT

No community engagement is required in relation to this item.

COMMENTS

In accordance with statutory requirements, each payment from the Municipal Fund or the Trust Fund is to be noted on a list compiled each month showing: the payee's name; the amount of the payment; the date of the payment; and sufficient information to identify the transaction. The list is to be presented to Council at the next ordinary meeting of Council after the list is prepared and is to be recorded in the minutes of the meeting at which it is presented.

ATTACHMENTS

Attachment 1 - List of Accounts Paid November 2022

12.4.2. Monthly Financial Reports

DATE:	13 December 2022
AUTHOR:	Manager Finance
RESPONSIBLE OFFICER:	Felicity Heading, Director Corporate Services
FILE NO:	FM.09.32
DISCLOSURE OF INTERESTS:	Nil
COUNCIL'S ROLE IN THE MATTER:	Regulator - Responsible for the enforcement of statutory requirements
VOTING REQUIREMENT:	Simple Majority

OFFICER'S RECOMMENDATION

That Council receives the Monthly Financial Reports for the periods ended 31 October 2022 and 30 November 2022.

PURPOSE

For Council to receive the Interim Monthly Financial Reports for the periods ended 31 October 2022 and 30 November 2022.

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

Council is to prepare monthly financial reports as required by section 34 of the *Local Government (Financial Management Regulations) 1996*.

At the 28 June 2022 Ordinary Council Meeting, the Council resolved the following:

Council Decision

Minute Number: 28/06/2022 - 118681

That Council, in accordance with Regulation 34(5) of the Local Government (Financial Management) Regulations 1996, approves the materiality level for monthly reporting to be set at +/- 10% and +/- \$20,000 at account level and +/- 10% and +/- \$100,000 at financial statement level.

Moved: Cr M Dear

Seconded: Cr J Farquhar

Decision 7/0

The above materiality levels have been applied in the preparation of this report.

STATUTORY IMPLICATIONS

Local Government Act 1995, Section 6.4.

6.4. Financial report

- (1) A local government is to prepare an annual financial report for the preceding financial year and such other financial reports as are prescribed.*
- (2) The financial report is to —*
 - (a) be prepared and presented in the manner and form prescribed; and*
 - (b) contain the prescribed information.*
- (3) By 30 September following each financial year or such extended time as the Minister allows, a local government is to submit to its auditor —*
 - (a) the accounts of the local government, balanced up to the last day of the preceding financial year; and*
 - (b) the annual financial report of the local government for the preceding financial year.*

Local Government (Financial Management) Regulations 1996, Regulation 34.

34. Financial activity statement required each month (Act s. 6.4)

(1A) In this regulation —

committed assets means revenue unspent but set aside under the annual budget for a specific purpose.

(1) A local government is to prepare each month a statement of financial activity reporting on the revenue and expenditure, as set out in the annual budget under regulation 22(1)(d), for that month in the following detail —

(a) annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c); and

(b) budget estimates to the end of the month to which the statement relates; and

(c) actual amounts of expenditure, revenue and income to the end of the month to which the statement relates; and

(d) material variances between the comparable amounts referred to in paragraphs (b) and (c); and

(e) the net current assets at the end of the month to which the statement relates.

(2) Each statement of financial activity is to be accompanied by documents containing —

(a) an explanation of the composition of the net current assets of the month to which the statement relates, less committed assets and restricted assets; and

(b) an explanation of each of the material variances referred to in subregulation (1)(d); and

(c) such other supporting information as is considered relevant by the local government.

(3) The information in a statement of financial activity may be shown —

(a) according to nature and type classification; or

(b) by program; or

(c) by business unit.

(4) A statement of financial activity, and the accompanying documents referred to in subregulation (2), are to be —

(a) presented at an ordinary meeting of the council within 2 months after the end of the month to which the statement relates; and

(b) recorded in the minutes of the meeting at which it is presented.

(5) Each financial year, a local government is to adopt a percentage or value, calculated in accordance with the AAS, to be used in statements of financial activity for reporting material variances.

POLICY IMPLICATIONS

CP/FIN-3201 Significant Accounting Policies has been applied in the preparation of the report.

FINANCIAL IMPLICATIONS

There are no additional costs associated with the preparation of this report. Monthly financial reporting is a primary financial management and control process. This report provides Council with the ability to oversee the Shire's financial performance against budgeted targets.

STRATEGIC IMPLICATIONS

This matter relates to the following sections of the *Strategic Community Plan 2017-2027*

Focus Area 4: Performance - Civic Leadership

Goal 4.4: Sustainably maintain the Shire's financial viability

Strategy 4.4.4: Apply best practice financial management to ensure long term sustainability

RISK IMPLICATIONS

Risk: Failure to manage the disbursement of funds to meet the needs of the Shire's forward planning requirements, including the Strategic Community Plan, Corporate Business Plan, Long Term Financial Plans and Annual Budget.

Controls: Monthly Financial Report and List of Accounts Paid reported to Council on a monthly basis as required by Legislation and Regulations.

COMMUNITY ENGAGEMENT

No community engagement is required in relation to this item.

COMMENTS

The Shire has engaged Moore Australia to prepare the Monthly Financial Report on an ongoing basis. The basis of the report is the same as for previous Monthly Financial Reports but in addition to the Statements of Financial Activity by Program and by Nature or Type, the report includes summary information in the form of graphs showing budgets versus actuals, an executive summary of key financial activities, and additional explanatory notes to the financial statements.

Comments in relation to budget versus actual variances are included at note 14 in the Financial Statements.

Council should note that the report is an interim report as the audit of the 2021/22 Annual Financial Statements needs to be finalised before a final position for 30 June 2022 can be reported.

ATTACHMENTS

Attachment 1 - Monthly Financial Report October 2022

Attachment 2 - Monthly Financial Report November 2022

12.5. INFRASTRUCTURE

12.5.1. Request to Upgrade Haulage Route - Concessional Loading

DATE:	07 December 2022
AUTHOR:	Director Infrastructure and Strategic Projects
RESPONSIBLE OFFICER:	Paul Webb, Director Infrastructure and Strategic Projects
FILE NO:	RD.08.1
DISCLOSURE OF INTERESTS:	Nil
COUNCIL'S ROLE IN THE MATTER:	Leader - plan and provide direction through policy and practices Provider - provide physical infrastructure and essential services
VOTING REQUIREMENT	Simple Majority

OFFICER'S RECOMMENDATION

That Council:

- 1. Conditionally support applications made to Main Roads Western Australia for the upgrade of access on Restricted Access Vehicle Routes to concessional loading on the following Shire Roads;**
 - **Moonamang Road from SLK 0 to the Northern Territory Border;**
 - **Weaber Plain Road from the intersection of Mills Road to the connection of Moonamang Road;**
 - **Mills Road, from the intersection with Weaber Plain Road, to the intersection with Ivanhoe Road; and**
 - **Ivanhoe Road, from the intersection with Mills Road to the intersection with Victoria Highway**
- 2. Endorse the following conditions to be satisfied;**
 - **Applications are subject to Main Roads Western Australia Operating Conditions, *Restricted Access Vehicles Prime Mover, Trailer Combinations, Appendices 2, Low Volume Road Conditions*;**
 - **Route approval and conditions subject to Main Roads Department Western Australia.**

PURPOSE

As the Sorby Hills mine may move into operation in the near future, it is the intent of this report to facilitate conditional access to the road network in order to support industry requirements. It

is however inherent on the Council to manage assets for the 'betterment of the region', which also requires ongoing care and maintenance of that asset. Conditional access dependent on Council approval will allow Council to consider haulage operations (extra ordinary use), and facilitate discussion for conditions of use, whilst also providing some industry certainty about the use of road for industry related activity.

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

Nil

STATUTORY IMPLICATIONS

- *Local Government Act 1995, Subdivision 5 - Certain provisions about thoroughfares*
- *Road Traffic Act 1974, Part VI, Miscellaneous, 5.84 Liability for damage to roads etc.*
- *National Transport Commission (Road Transport Legislation- Restricted Access Vehicle Regulations) Regulations 2006.*

POLICY IMPLICATIONS

CP/OPS - 3659 Asset Management

STRATEGIC IMPLICATIONS

This matter relates to the following sections of the *Strategic Community Plan 2017-2027*:

Focus Area 3: PROSPERITY - Economic Prosperity

Goal 3.1: To deliver the critical infrastructure that will create the conditions for economic growth across the Shire

Strategy 3.1.2: Improve access and transport links to the East Kimberley (air, road and sea)

Strategy 3.1.3: Plan and advocate for infrastructure that supports business

This matter relates to the following sections of the *Corporate Business Plan 2021-2025*:

Shire Project: 301 - Advocate for investment in regional transport infrastructure

Service Area: Asset Management and Capital Works
Asset Management

RISK IMPLICATIONS

Risk: Failure to provide effective advocacy for the Shire and the Region to develop projects, support industry and provide opportunities for all.

Control: Implement a process of contribution or maintenance that enables ongoing long-term use of the road network.

FINANCIAL IMPLICATIONS

Extra ordinary use of roads causes road wear, may require road upgrades, and has a higher maintenance and replacement cost to ratepayers and other road users. This report will facilitate some form of road contribution for future works on the proposed route, in conjunction with other grant funding opportunities.

COMMUNITY ENGAGEMENT

No community engagement is required.

COMMENTS

As the possibility of new large industry operating in the Shire eventuate, is it necessary to be prepared in advance to minimise delay in legislative process for the use of road for haulage campaigns. It is apparent that Moonamang Road, Mills Road, and sections of Mills Road and Ivanhoe Road will be required for use by various types of industry vehicles for haulage campaigns (cotton, mining resources and aqua-culture produce).

Haulage roads and intersections are *very* expensive to build, maintain and replace, and Council do not currently have the financial ability to fully fund any part of these operations, which is evident in the current condition of those assets. The reporting officer seeks the support of Council to seek conditional, concessional loading on the proposed route from Main Roads Western Australia, that route being;

- Moonamang Road from SLK 0 to the Northern Territory Border
- Weaber Plain Road from the intersection of Mills Road to the connection of Moonamang Road
- Mills Road, from the intersection with Weaber Plain Road, to the intersection with Ivanhoe Road
- Ivanhoe Road, from the intersection with Mills Road to the intersection with Victoria Highway

It is important to note that this officer request is a *conditional* request for use of the route. This in no way removes the authority of the Council to deny or approve any use of the road subject to conditions. As the Shire does not currently have any form of policy as guidance for the administration or business operators, at a minimum, reference to Main Roads Heavy Vehicle Operations (MRD HVO). Subject to an application to Council, conditions subject to that document that may partially or wholly be considered *may* be;

“Type A” Low Volume Roads:

- (a) *Current written approval from the road owner, endorsing use of the road, must be obtained, carried in the vehicle and produced upon request; and*
- (b) *Operation is not permitted while the school bus is operating on the particular road. Operators must contact the relevant schools directly for school bus timetables; or where direct contact can be made with the school bus driver, operation is permitted once the school bus driver confirms all school drop-offs / pick-ups have been completed on the particular road; and*
- (c) *Headlights must be switched on at all times; and*

- (d) *When travelling at night, the RAV must travel at a maximum speed of 40km/h and display an amber flashing warning light on the prime mover; and*
- (e) *No operation on unsealed road segment when visibly wet, without road owner's approval; and*
- (f) *Direct radio contact must be maintained with other RAV's to establish their position on or near the road (UHF channel 40).*

"Type B" Low Volume Roads:

- (a) *All conditions stipulated for "Type A" Low Volume roads apply; and*
- (b) *For a single lane road, the road must not to be entered until the driver has established via radio contact that there is no other RAV on the road travelling in the oncoming direction, and*
- (c) *The RAV must not exceed a speed of 40 km/h.*

Condition (a) in the Type A Low Volume Road category, allows the administration to formulate a road use agreement that requires route assessment, maintenance, route upgrade and determinations that ensure the safety of all road users and ongoing maintenance of the asset in use, to be presented to Council for consideration.

This document request for approval *does not* automatically allow for use of the identified network to concessional loading, but it does identify that Council will consider that use subject to the conditions listed for RAV concessional loading.

ATTACHMENTS

Attachment 1 - prime mover trailer combinations operating conditions

13. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

14. QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN

15. URGENT BUSINESS APPROVED BY THE PERSON PRESIDING OR BY DECISION

16. MATTERS BEHIND CLOSED DOORS

16.1. REQUEST FOR TENDER T05 – 22/23: SUPPLY, DESIGN AND CONSTRUCTION OF THE KUNUNURRA LEISURE CENTRE AQUATIC REDEVELOPMENT – STAGE 1

DATE:	13 December 2022
AUTHOR:	Project Manager
RESPONSIBLE OFFICER:	Chris Grant, Acting Director Planning and Community Development
FILE NO:	CM.16.438
DISCLOSURE OF INTERESTS:	Nil
COUNCIL’S ROLE IN THE MATTER:	Provider - provide physical infrastructure and essential services
VOTING REQUIREMENT:	Simple Majority

This item is to be considered behind closed doors as per the Local Government Act 1995 section 5.23(2)(c):

5.23. Meetings generally open to public

(2) *If a meeting is being held by a council or by a committee referred to in subsection (1)(b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following —*

- (a) *a matter affecting an employee or employees; and*
- (b) *the personal affairs of any person; and*
- (c) *a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting; and*
- (d) *legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting; and*
- (e) *a matter that if disclosed, would reveal —*
 - (i) *a trade secret; or*
 - (ii) *information that has a commercial value to a person; or*
 - (iii) *information about the business, professional, commercial or financial affairs of a person, where the trade secret or information is held by, or is about, a person other than the local government; and*
- (f) *a matter that if disclosed, could be reasonably expected to —*
 - (i) *impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law; or*
 - (ii) *endanger the security of the local government’s property; or*
 - (iii) *prejudice the maintenance or enforcement of a lawful measure for protecting public safety; and*
- (g) *information which is the subject of a direction given under section*

- 23(1a) of the Parliamentary Commissioner Act 1971; and*
- (h) such other matters as may be prescribed.*
- (3) A decision to close a meeting or part of a meeting and the reason for the decision are to be recorded in the minutes of the meeting.*

PURPOSE

To consider the tenders received for RFT 05 – 22/23 for the Design and Construction of the Kununurra Leisure Centre Aquatic Redevelopment – Stage 1. To negotiate a contract with the preferred tenderer and subsequently, subject to agreement, award a Letter of Intent and a contract.

16.2. Disposal of Land (Lease and Sale) - Airport Land

DATE:	13 December 2022
AUTHOR:	Manager Planning and Regulatory Services
RESPONSIBLE OFFICER:	Nick Kearns, Director Planning and Community Development
ASSESSMENT NO:	A1000, A8045
FILE NO:	CP.02.1
DISCLOSURE OF INTERESTS:	Nil
COUNCIL'S ROLE IN THE MATTER:	Provider - provide physical infrastructure and essential services
VOTING REQUIREMENT:	Simple Majority

This item is to be considered behind closed doors as per the Local Government Act 1995 section 5.23(2)(e):

5.23. Meetings generally open to public

(2) *If a meeting is being held by a council or by a committee referred to in subsection (1)(b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following —*

- (a) *a matter affecting an employee or employees; and*
- (b) *the personal affairs of any person; and*
- (c) *a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting; and*
- (d) *legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting; and*
- (e) *a matter that if disclosed, would reveal —*
 - (i) *a trade secret; or*
 - (ii) *information that has a commercial value to a person; or*
 - (iii) *information about the business, professional, commercial or financial affairs of a person, where the trade secret or information is held by, or is about, a person other than the local government; and*
- (f) *a matter that if disclosed, could be reasonably expected to —*
 - (i) *impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law; or*
 - (ii) *endanger the security of the local government's property; or*
 - (iii) *prejudice the maintenance or enforcement of a lawful measure for protecting public safety; and*
- (g) *information which is the subject of a direction given under section 23(1a) of the Parliamentary Commissioner Act 1971; and*
- (h) *such other matters as may be prescribed.*

(3) *A decision to close a meeting or part of a meeting and the reason for the decision are to be recorded in the minutes of the meeting.*

PURPOSE

For Council to consider the disposal of land, via lease and sale, at the East Kimberley Regional Airport and Wyndham Airport.

17. CLOSURE