

SHIRE OF WYNDHAM EAST KIMBERLEY

Ordinary Council Meeting: Agenda

28 November 2023



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.**

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**SHIRE OF WYNDHAM EAST KIMBERLEY
ORDINARY COUNCIL MEETING
AGENDA
WYNDHAM COUNCIL CHAMBERS
TO BE HELD ON TUESDAY 28 NOVEMBER 2023 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**

Cr Bradley Kyne has provided a request for a leave of absence for the 23 November 2023 Ordinary Council Meeting.

OFFICER RECOMMENDATION

That Council approve a leave of absence for *Cr Bradley Kyne* for the 23 November 2023 Ordinary Council Meeting.

- 7. PETITIONS**
- 8. CONFIRMATION OF MINUTES**

OFFICER'S RECOMMENDATION

That Council confirms the Minutes of the Ordinary Council Meeting held on 24 October 2023

Note: The Minutes of the Ordinary Council Meeting held on 24 October 2023 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

12.2. OFFICE OF THE CEO

12.2.1. Standing Item - Outstanding Actions from Previous Council Resolutions

DATE	28 November 2023
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

Various, as referenced in individual reports presented to the Council.

FINANCIAL IMPLICATIONS

Various, as referenced in individual reports presented to the Council.

COMMUNITY ENGAGEMENT

No community engagement is required.

COMMENTS

An update of actions from the October 2023 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 - November 2023

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

12.2.2. Ord Biosecurity Plan

DATE	28 November 2023
AUTHOR	Chief Executive Officer
RESPONSIBLE OFFICER	Vernon Lawrence, Chief Executive Officer
DISCLOSURE OF INTERESTS	Nil
COUNCIL'S ROLE IN THE MATTER	Advocator - advocate and support initiatives on behalf of the community Funder - provide funds or other resources Partner - Collaboration with external stakeholders to deliver service and projects.
VOTING REQUIREMENT	Absolute Majority

OFFICER'S RECOMMENDATION

That Council endorses the allocation of \$15,000 from the Biosecurity Reserve to fund the update of the Biosecurity Plan for the Ord.

PURPOSE

The purpose of the report is for Council to consider an appropriation of funds for a consultancy service to review and update the OrdGuard Biosecurity Plan.

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

The OrdGuard Biosecurity Plan was prepared in 2005 and is overdue for a comprehensive review and refresh. Since agriculture is a major contributor to our local economy, biosecurity is a real risk to the economic wellbeing of our community. There have also been some significant changes to the components of our agricultural industry since the development of the 2005 plan.

At the last meeting of the Ord Biosecurity Group, it was suggested that \$15,000 be allocated from the Shire's Biosecurity Reserve for the purpose of updating the OrdGuard Biosecurity Plan, including:

- Identification of existing and potential threats to industries.
- Prioritise surveillance required for early warning for pests, including plant pests and diseases, feral animals, weeds, and aquaculture pests.
- Inclusion of an Action plan.
- Clearly defined tasks and responsibilities for the group and others involved in the development of the plan.
- Outline a plan for an annual review of the plan to ensure it is relevant to industry.

The scope of work is in line with that provided at Attachment 1.

Procurement of a consultant to undertake the work, along with project administration would be undertaken by the Ord Biosecurity Group of which the Shire is a member.

Previous decisions (relevant to the Biosecurity Reserve)

The history relating to the Biosecurity Reserve is that at the Council meeting on the 15 March 2005, Council agreed to establish a Biosecurity Reserve to assist the region to maintain a competitive advantage in relation to area freedom status of certain pests and diseases. This was done at the request of the Kununurra Crop Pest Committee to ensure market access particularly to products impacted by Mediterranean Fly and Silver Leaf White leaf Fly. The fund was introduced for the 2005/06 year, through Council's adopted budget, and raised funds via rates. A total of \$50,000 in each of 2005/06 and 2006/07 was raised, giving the original fund balance of \$100,000.

Council's Audit Committee considered whether this fund should be capped at its meeting on 13 March 2007 and recommended to Council that the fund be continued and be capped at \$200,000, with it earning interest. Council considered the Audit Committee recommendation to cap this fund at \$200,000 at its Council meeting on the 17 April 2007, and deferred the matter back to the May Briefing Session to enable further consideration with the Ord Guard Committee and Department of Agriculture and Food. At the May 2007 Council meeting, the Council resolved to:

COUNCIL RESOLUTION

Minute No. 7730

Moved: Cr K Wright

Seconded: Cr D Ausburn

1. That rate contributions to the Biosecurity fund continue until such time as the Biosecurity Reserve attains \$200,000.
2. That the attached policy titled Biosecurity Policy be presented to the June Council Briefing Session.

Carried Unanimously: 8/0

In October 2014, a further report was presented to Council as urgent business. The purpose of this report was for Council to consider providing funding from its Biosecurity Reserve for the installation of signage at the Shire entry points from the Northern Territory advising of the risk to local farming from infection by the Cucumber Green Mottle Mosaic Virus.

At that meeting, Council resolved to:

COUNCIL RESOLUTION

Minute No. 10632

Moved: Cr S Cooke

Seconded: Cr K Wright

1. A maximum allocation of \$10,000 from its Bio Security Reserve for the purpose of manufacture and installation of signage and preparation of hand out material, regarding the Cucumber Green Mottle Mosaic Virus at the NT Quarantine Station,
2. Creation of new General Ledger accounts to record the transactions; and
3. Amending the adopted 2014/15 Budget to reflect this allocation as part of the mid-year budget review process.

Carried Unanimously: 8/0

At a Special Council Meeting held 8 July 2015 Council considered releasing funds from the Shire's Biosecurity reserve for a Mediterranean Fruit Fly (Medfly) eradication program, Council resolved:

COUNCIL DECISION

Minute No. 11021

Moved: Cr J Moulden
Seconded: Cr R Dessert

That Council:

Considers DAFWA to be the lead agency in any medfly eradication program and

- 1) Pursuant to section 6.8 of the Local Government Act, authorises expenditure of \$10,000 from the biosecurity reserve to be paid to DAFWA Kununurra Regional Office to initiate an eradication program immediately
- 2) Authorise additional expenditure to a maximum of \$10,000 from the biosecurity reserve, subject to all SWEK contributions being matched by DAFWA on a dollar for dollar basis, with DAFWA to confirm its contribution in writing.
- 3) Requests the CEO to write to the Minister and requests that DAFWA immediately develop an eradication plan for future outbreaks, including appropriate financial commitment.

Carried Unanimously 7/0

In July 2015 Council rescinded its resolution of 8 July 2015 and support the Shire entering into a Memorandum of Understanding (MoU) with DAFWA and Industry in relation to biosecurity within the region and more specifically pest eradication programs such as the current proposed program for Mediterranean Fruit Fly (Medfly).

COUNCIL DECISION

Minute No. 11049

Moved: Cr G King

Seconded: Cr B Robinson

That Council revokes its decision Minute number 11021 of 8 July 2015 reproduced below;

That Council considers DAFWA to be the lead agency in any medfly eradication program and

- 1) Pursuant to section 6.8 of the Local Government Act, authorises expenditure of \$10,000 from the biosecurity reserve to be paid to DAFWA Kununurra Regional Office to initiate an eradication program immediately
- 2) Authorise additional expenditure to a maximum of \$10,000 from the biosecurity reserve, subject to all SWEK contributions being matched by DAFWA on a dollar for dollar basis, with DAFWA to confirm its contribution in writing.
- 3) Requests the CEO to write to the Minister and requests that DAFWA immediately develop an eradication plan for future outbreaks, including appropriate financial commitment.

Carried unanimously 8/0

STATUTORY IMPLICATIONS

The statutory implications for the Shire relate only to the movement of funds from Reserves to fund the work to be undertaken.

Local Government Act 1995

6.8. Expenditure from municipal fund not included in annual budget

(1) A local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure —

(a) is incurred in a financial year before the adoption of the annual budget by the local government; or

(b) is authorised in advance by resolution*; or

(c) is authorised in advance by the mayor or president in an emergency.

* Absolute majority required.

(1a) In subsection (1) —

additional purpose means a purpose for which no expenditure estimate is included in the local government's annual budget.

(2) Where expenditure has been incurred by a local government —

(a) pursuant to subsection (1)(a), it is to be included in the annual budget for that financial year; and

(b) pursuant to subsection (1)(c), it is to be reported to the next ordinary meeting of the council.

POLICY IMPLICATIONS

Council currently has no policy related to this matter.

STRATEGIC IMPLICATIONS

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

Goal 9: Conserving Country - Protect and enhance our unique natural environment for generations to come

Goal Outcome 9.1: Protect and enhance our natural environment - We care for and enjoy our unique natural environment

Strategy 9.1: Work in partnership to implement cooperative programs to manage waste, land, fire, pathogens, introduced animals and weeds

RISK IMPLICATIONS

Risk: Failure to plan for and manage developments leading to biosecurity risks for the agricultural industry within the Shire.

Control: Engage with community members and organisations involved with biosecurity responsibilities.

FINANCIAL IMPLICATIONS

The Shire has a Biosecurity Reserve which has \$285,951 in it. During the last financial year the reserve accrued \$9,187 in interest. The purpose of this reserve is to hold funds for use in emergency situations that threatened the biosecurity of the East Kimberley.

Asset Considerations

There are no assets or asset management considerations to consider in this report.

COMMUNITY ENGAGEMENT

No community engagement is required.

COMMENTS

The Shire Administration has recently been asked to attend the Ord Biosecurity Group meetings. Arising out of this engagement, the Shire has been approached to assist with the funding for this body of work. Officers have considered the request and agree that biosecurity threats for our agriculture sector need to be investigated. The plan will need to identify biosecurity priorities and establish risk reduction strategies.

A disbursement of \$15,000 for the purpose of updating the OrdGuard Biosecurity Plan would identify all biosecurity priorities and risk reduction strategies and the funding would not greatly impact the balance held in the Biosecurity Reserve and is considered to be in line with the purpose of the reserve.

It is recommended that Council agree with the request from the Ord Biosecurity Group to allocate \$15,000 from the Biosecurity Reserve to update the Biosecurity Plan.

ATTACHMENTS

Attachment 1 - Request for Funds RE: Biosecurity Plan

Confidential Attachment 2 - Scope of work for updating the OrdGuard Biosecurity Plan

12.2.3. Extraordinary Election

DATE	28 November 2023
AUTHOR	Chief Executive Officer
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	Absolute Majority

OFFICER'S RECOMMENDATION

That Council:

- 1. Endorses 12 April 2024 for an extraordinary election to fill the two vacancies for Councillor not filled following the Local Government elections of 21 October 2023;**
- 2. Notes that the Electoral Commission has agreed in terms of section 4.9(2) of the Local Government Act 1995, to hold the extraordinary election on 12 April 2024, more than 4 months after the vacancy occurred;**
- 3. Declares that, in accordance with section 4.20(4) of the Local Government Act 1995, the Electoral Commissioner be responsible for the conduct of the extraordinary election;**
- 4. Endorses that, in accordance with section 4.61(2) of the Local Government Act 1995, that the method of conducting the extraordinary election will be as a postal election, and**
- 5. Notes, as there was no election for Councillors, the funding of the costs provided for in the Annual Budget for the ordinary election will be carried over for the extraordinary election which is estimated to be \$30,000.**

PURPOSE

The purpose of this report is for Council to endorse the date of 12 April 2024 as the date for the extraordinary election and for the Electoral Commissioner to be responsible for the extraordinary election and for the election to be a postal election.

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

On 7 September 2023, nominations for the position of Councillor closed. Only three nominations were received for a possible five vacancies and so the three nominees who put their names forward were duly elected without having to conduct an election. At the conclusion of the election for the Shire President it became evident that there were two vacancies that remained to be filled. The Shire was left with two options to investigate: to have an extraordinary election, or to investigate whether it was possible to reduce the numbers to run with seven elected members.

Council had considered an extraordinary election at their Ordinary Council Meeting of 23 November 2021.

Council Decision

Minute Number: 23/11/2021 – 118548

That Council:

1. Endorses 12 March 2022 for an extraordinary election to fill the vacancy of Councillor following the resignation of Cr Alma Petherick;
2. Notes that the Electoral Commission has agreed in terms of section 4.9(2) of the Local Government Act 1995, to hold the extraordinary election on 12 March 2022, more than 4 months after the vacancy occurred;
3. Declares that, in accordance with section 4.20(4) of the Local Government Act 1995, the Electoral Commission be responsible for the conduct of the extraordinary election together with any other elections which may be required;
4. Endorses that, in accordance with section 4.61(2) of the Local Government Act 1995, that the method of conducting the extraordinary election will be as a postal election, and
5. Refers the funding of the costs associated with the extraordinary election to the Shire's Mid-year Budget Review.

Moved: Cr J Farquhar

Seconded: Cr M McKittrick

Against: Cr T Chafer, Cr C McNeil

STATUTORY IMPLICATIONS

The Local Government Act, 1995 has provisions that are relevant to this report and in particular Division 2 and Division 4. The legislation recognises the situation where there are not sufficient nominees to fill the available vacancies and that an extraordinary is required to fill such vacancies of a Councillor.

Division 2

2.17. Members of council where mayor or president elected by electors

- (1) If the method of filling the office of mayor or president is election by electors, the council is to consist of —
- (a) the mayor or president; and
 - (b) a number of councillors that is —
 - (i) not less than the minimum number of councillors under subsection (3); but
 - (ii) not more than the maximum number of councillors under subsection (4).

Note for this paragraph:

For the council of the City of Perth, the number of councillors is 8 — see the City of Perth Act 2016 section 9.

- (2) One of the councillors is to hold the office of deputy mayor or deputy president in conjunction with their office as a councillor.
- (3) For the purposes of subsection (1)(b)(i), the minimum number of councillors is as follows —
- (a) if the district's population is not more than 75 000 — 4 councillors;
 - (b) otherwise — 8 councillors.
- (4) For the purposes of subsection (1)(b)(ii), the maximum number of councillors is as follows —
- (a) if the district's population is not more than 5 000 — 6 councillors;
 - (b) if the district's population is more than 5 000 but not more than 75 000 — 8 councillors;
 - (c) otherwise — 14 councillors.

2.18. Fixing and changing number of councillors

- (1) When a local government is newly established the Governor, by order made on the recommendation of the Minister, is to —
- (a) specify the number of offices of councillor on the council of the local government; and
 - (b) if the district is to have a ward system, specify the numbers of offices of councillor for the wards.
- (2) When an order is made under section 2.2 discontinuing a ward system for a district, the number of offices of councillor on the council remains unchanged unless the order specifies otherwise.
- (3) The Governor, on the recommendation of the Minister, may make an order —

- (a) changing the number of offices of councillor on a council; or
- (b) specifying or changing the number of offices of councillor for a ward; or
- (c) as to a combination of those matters.
- (4) The Minister can only make a recommendation under subsection (1) or (3) if the Advisory Board has recommended under Schedule 2.2 that the order in question should be made.
- (5) This section is subject to section 2.18A.

2.34. How extraordinary vacancies occur in offices elected by council

- (1) The office of a member of a council as a councillor mayor or president, deputy mayor or deputy president becomes vacant if the member —
 - (a) ceases to be a councillor under section 2.32; or
 - (b) resigns from the office; or
 - (c) does not make the declaration required by section 2.29(2) within 2 months after being elected to the office; or
 - (d) being the deputy mayor or deputy president, is elected by the council as mayor or president of the council.
- (2) A person who holds an office referred to in subsection (1) immediately before an ordinary elections day continues to hold that office after that day (whether or not he or she ceases to be a councillor on that day) until his or her term of office ends under item 11 or 12 of the Table to section 2.28.

[Section 2.34 amended: No. 2 of 2012 s. 9.]

Division 4

4.8. Extraordinary elections

- (1) If the office of a councillor or of an elector mayor or president becomes vacant under section 2.32 an election to fill the office is to be held except if the vacancy is filled under Schedule 4.1A or 4.1B.
- (2) An election is also to be held under this section if section 4.57 or 4.58 so requires.
- (3) An election under this section is called an extraordinary election.

[Section 4.8 amended: No. 2 of 2012 s. 10.]

4.9. Election day for extraordinary election

- (1) Any poll needed for an extraordinary election is to be held on a day decided on and fixed —
 - (a) by the mayor or president, in writing, if a day has not already been fixed under paragraph (b); or
 - (b) by the council at a meeting held within one month after the vacancy occurs, if a day has not already been fixed under paragraph (a).
- (2) The election day fixed for an extraordinary election is to be a day that allows enough time for the electoral requirements to be complied with but, unless the Electoral Commissioner approves or section 4.10(b) applies, it cannot be later than 4 months after the vacancy occurs.
- (3) If at the end of one month after the vacancy occurs an election day has not been fixed, the CEO is to notify the Electoral Commissioner and the Electoral Commissioner is to —
 - (a) fix a day for the holding of the poll that allows enough time for the electoral requirements to be complied with; and
 - (b) advise the CEO of the day fixed.

4.17. Cases in which vacant offices can remain unfilled

- (1) If a member's office becomes vacant under section 2.32 on or after the third Saturday in July in the election year in which the term of the office would have ended under the Table to section 2.28, the vacancy is to remain unfilled and the term of the member who held the office is to be regarded in section 4.6 as ending on the day on which it would have ended if the vacancy had not occurred.
- (2) If a member's office becomes vacant under section 2.32 —
 - (a) after the third Saturday in January in the election year in which the term of the office would have ended under the Table to section 2.28; but
 - (b) before the third Saturday in July in that election year, the council may, with the approval of the Electoral Commissioner, allow the vacancy to remain unfilled and, in that case, the term of the member who held the office is to be regarded in section 4.6 as ending on the day on which it would have ended if the vacancy had not occurred.

4.57. Less candidates than vacancies

- (1) *If, at the close of nominations, there are no candidates for the office or offices to be filled at the election, an extraordinary election is to be held to fill the office or offices as if it or they had become vacant on the day after the close of nominations.*
- (2) *If, at the close of nominations, the number of candidates is less than the number of offices to be filled at the election —*
 - (a) *the candidate or candidates is or are elected; and*
 - (b) *an extraordinary election is to be held to fill the remaining office or offices as if it or they had become vacant on the day after the close of nominations.*
- (3) *If, at the close of nominations for an extraordinary election required under subsection (1) or (2) there are no candidates or the number of candidates is less than the number of offices to be filled at the election, the council may appoint* to any unfilled office a person who would be eligible to be a candidate for election to the office and who is willing to accept the appointment.*

** Absolute majority required.*
- (4) *A person appointed under subsection (3) is to be regarded as having been elected.*

POLICY IMPLICATIONS

There are no specific policies that will need to be addressed from a content point of view.

There are some policies that will have some application depending on the direction Council prefers to pursue:

- POL-1009 Council Elections – Caretaker Period
- POL-1005 Code of Conduct for Council Members Committee Members and Candidates for Local Government Elections
- POL-1001 Elected Member Allowances & Entitlements
- POL-1004 Elected Member Continuing Professional Development

STRATEGIC IMPLICATIONS

Nil

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: Ensuring that a full complement of Councillors are present, engaged and well informed of community priorities and needs.

FINANCIAL IMPLICATIONS

The cost of an extraordinary election has been estimated to be approximately \$30,000. Since there was no ordinary election for Councillors the remaining funds provided for in the Annual Budget of \$25,550 will be carried over for the extraordinary election. Should there be any shortfall, this will be addressed at the mid-year budget review.

COMMUNITY ENGAGEMENT

No community engagement process is required for this decision of Council.

COMMENTS

There are two options that are available to Council:

1. The Local Government Act, 1995 requires that if the number of candidates is less than the number of offices to be filled an extraordinary election is to be held (section 4.57(2)(b)). In this case three candidates nominated for five offices to be filled. An extraordinary election would be held for this option to fill the remaining two vacancies.
2. The second option is to commence a process whereby the number of Councillors is reduced from eight to six. This process would comply with requirements of section 2.17 as it would fall between the minimum number of four and the maximum number of eight. This option would mean that the process of a Ward and Representation Review would have to be undertaken, the details of which are set out in Schedule 2.2 of the Local government Act, 1995. The process to change the numbers can be initiated by the local government and on completing the review, report in writing to the Advisory Board proposing by absolute majority that a recommendation be made to the Minister to make an order to effect the change in the numbers. The Governor in turn, on the recommendation of the Minister, may make an order to reduce the numbers of councillors. The order would then be published in the Government Gazette before becoming effective. This is a time consuming process.

Councillors will be aware of a number of pros and cons to each of these options. There will also be a number of views out in the community as to what the preferred course of action should be. However, we are bound to act within the parameters of the legislation and with reference to the policy, procedures and advice from the Department of Local Government Sport and Cultural Industries. To this end the Shire has engaged with the Department of Local Government Sport and Cultural Industries which provided the following advice.

“Whilst it is open for the Shire to undertake a ward and representation review and propose to reduce the number of council member offices, the process does take some time as the Shire will need to undertake the review and advertise its proposal before the Shire Council can consider any submissions and resolve its position. Then the outcome of the review and Council’s proposal will need to be considered by the Local Government Advisory Board (LGAB), and if the proposal is compliant and meets the criteria set out in Schedule 2.2 of the Local Government Act, the LGAB makes a recommendation to the Minister, who then instructs the Executive Council to prepare the Governor Orders, and finally gazettal.”

“And in addition to the above, the effective date of any change to council member office numbers usually commences from the date of the next ordinary election. Whilst there may be scope to consider an earlier effective date, I expect the LGAB would need to seek legal advice on the matter to consider that.”

It appears that practically the Shire will have to conduct an extraordinary election in order to meet its compliance obligations in a timely manner under the Local Government Act, 1995. The question of a reduction in numbers can still be undertaken but with the view of reducing them at an ordinary election.

Following the briefing on 14 November 2023, the Shire President fixed the date for an extraordinary election on 12 April 2024. The Electoral Commissioner has accepted this date and requires Council to resolve that it be responsible for the conduct of the extraordinary election and that the extraordinary election be held as a postal election.

ATTACHMENTS

Attachment 1 - Letter from the Electoral Commissioner

12.3. PLANNING AND COMMUNITY DEVELOPMENT

12.3.1. Quarterly Progress Report - Q1 July to September

DATE	28 November 2023
AUTHOR	Senior Projects Officer
RESPONSIBLE OFFICER	Nick Kearns, Director Planning and Community Development
FILE NO	CM.10.19
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 receives the Corporate Business Plan Quarterly Progress and Performance Report for July to September 2023 (Q1) at Attachment 1.

PURPOSE

For the Council to receive the July to September 2023 Quarterly Progress and Performance Report.

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

The Shire produces Quarterly Progress and Performance Reports to provide an update of progress made in the applicable quarter towards the services and projects in the Corporate Business Plan (CBP) and the achievement of the strategic goals set out in the Strategic Community Plan (SCP). Performance reporting assists with continuous improvement and the achievement of community outcomes and improvements to Shire services.

STATUTORY IMPLICATIONS

The *Local Government Act 1995* provides a framework for the operations of local governments in Western Australia. *Section 1.3 (2)* states:

This Act is intended to result in:

- a) Better decision making by local governments;*
- b) Greater community participation in the decisions and affairs of local governments;*
- c) Greater accountability of local governments to their communities; and*

d) *More efficient and effective government.*

The Shire's Corporate Business Plan and quarterly progress reports are in line with the Western Australian Government's Integrated Planning and Reporting Framework which requires planning and reporting on local government activities.

POLICY IMPLICATIONS

The Quarterly Progress and Performance Report supports the following policy objectives:

CP/COM-3100 - Community Engagement Policy

The Community Engagement Policy aims to improve the outcomes and benefits of effective community engagement including:

- Increased community awareness about services, planning and program delivery;
- Increased awareness of the needs, priorities and diversity of the community, which in turn ensures that service provision and planning functions are aligned appropriately;
- Council and the community working together to address local issues where appropriate.

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 10.1: Community engagement - Community is engaged in decision making with opportunities to share their views on things that affect them

Strategy 10.1: The Shire will regularly inform the community about Shire projects, programs and services, and seek community input into decision making

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 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 that the Corporate Business Plan captures Council direction and decisions

and directs the organisation to deliver those services and projects. The organisation will report to Council at the end of each quarter to monitor the implementation of operational priorities and activities and report on the achievement of the Corporate Business Plan and Strategic Community Plan goals.

Risk: Failure to create and maintain an organisational culture which promotes a safe and positive work environment, fosters employee satisfaction, motivates employees to perform and increases organisational effectiveness.

Control: The Corporate Business Plan Progress and Performance Report provides a mechanism for tracking progress of actions and projects. Regular reporting of progress to CEO, Directors and Council will ensure that performance is monitored and managed through the Integrated Planning and Reporting Framework.

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.

Control: The Corporate Business Plan Progress and Performance Report provides a mechanism for Council to track progress of disbursement of funds to projects that meet the needs of the Shire's forward planning requirements.

FINANCIAL IMPLICATIONS

The attached quarterly report includes a financial summary.

Asset Considerations

The attached quarterly report includes a capital works summary.

COMMUNITY ENGAGEMENT

The Shire provides the community and Council with reports and updates regarding the achievements against the Corporate Business Plan on an ongoing basis. Some of these mechanisms include:

- Quarterly Progress Reports are made available on the Shire's website.
- Ongoing Council reports.
- Newsletters.
- Website updates.
- Media releases.

COMMENTS

The attached progress report provides commentary on the Shire's services, actions and projects for the first quarter of this financial year. It is important to note that this is "as at 30

September” i.e. a snapshot in time of the status at the end of the first quarter and that at the time of reporting the current status of a project may have since changed.

There are 27 activities for year one (2023/24) of the Shire’s Corporate Business plan. These activities have been broken down into 47 tasks. The attached report summarises tasks by activity and provides a progress update for the end of the quarter.

Shire officers recommend that Council receive the attached report to support Council to oversee the Shire’s performance and allocation of the Shire resources. It will also help to inform the community about the Shire’s progress in relation to the plans and strategies documented in the Shire’s Corporate Business Plan and will be made available on the Shire website.

Council may also wish to note that the second quarter progress report will offer the Shire an opportunity to undertake a mid-year review of actions/projects within the Corporate Business Plan. A mid-year review will ensure that the planned activities and reporting remain strategically aligned.

ATTACHMENTS

Attachment 1 – Quarterly Progress Report - Q1 July to September

12.3.2. Community Grants Program

DATE	28 November 2023
AUTHOR	Community Grants and Events Officer
RESPONSIBLE OFFICER	Nick Kearns, Director Planning and Community Development
ASSESSMENT NO	N/a
FILE NO	GS.05.44
DISCLOSURE OF INTERESTS	Nil
COUNCIL'S ROLE IN THE MATTER	Funder - provide funds or other resources
VOTING REQUIREMENT	Simple Majority

OFFICER'S RECOMMENDATION

That Council:

- 1. Approves the allocation of funding under the Community Grant Program for three consecutive years from 2023/24 to 2025/26 (inclusive) for the following events:**
 - a) Kununurra Agricultural Society for the annual Kununurra Agricultural Show - \$25,000**
 - b) Kununurra Water Ski Club for the annual Dam to Dam - \$15,000**
 - c) Kununurra Water Ski Club for the annual Ski Show WA - \$5,000**
 - d) Kimberley Action Sports for the annual Lake Argyle Adventure Race - \$17,000**
 - e) Lake Argyle Swim Incorporated for the annual Lake Argyle swim - \$35,000**
 - f) Ord Valley Events Incorporated for the annual Ord Valley Muster - \$50,000**
 - g) Ord Valley Events Incorporated for the annual Taste of the Kimberley - \$20,000**
 - h) Kununurra Campdraft and Rodeo Association for the annual Muster Rodeo - \$20,000**
 - i) East Kimberley Chamber of Commerce and Industry for the East Kimberley Business Excellence Awards - \$10,000**
 - j) Ord River Sports Club for the Kununurra Black Tie- \$7,000**
- 2. Approves the allocation of funding under the Community Grant Program for three consecutive years from 2023/24 to 2025/26 (inclusive) for the following Programs:**
 - a) Kununurra Neighbourhood House for the KNH Community Shed Program - \$13,000**
 - b) Kununurra Toy and Puzzle Library for the Building Capacity Program - \$3,000**
- 3. Approves the allocation of funding under the Community Grant Program for Facilities Grants – Property and Buildings to the following applicants:**
 - a) Kununurra Visitor Centre - \$3,880 for Argyle Homestead Museum Mobility**

Access

- b) Ord River Paddlers - \$8,000 for Dragon Boats Major Maintenance project.
- c) Kununurra Race Club - \$13,619 for Concept Master Plan Design.
- d) Kununurra Toy and Puzzle Library - \$8,000 for the Community and Corporate Events project.
- e) Ord River Sports Club - \$20,000 for the Ablution Upgrade and Accessible Toilet Installation.

4. Approves all funding subject to grant recipients meeting the following conditions:

- Entering into a Funding Agreement with the Shire of Wyndham East Kimberley;
- Providing an acquittal at the completion of each year's project;
- The Shire will complete an internal review of the event each year to assess suitability for following years funding (on multi year funded projects);
- Suitable (agreed) acknowledgement of the support of the Shire of Wyndham East Kimberley;
- All necessary approvals and insurances are obtained prior to the project.

5. Requests the Chief Executive Officer to give public notice to advise of successful and unsuccessful applicants

PURPOSE

For Council to consider applications for funding lodged under the Community Grant Program.

NATURE OF COUNCIL'S ROLE IN THE MATTER

Funder - provide funds or other resources

BACKGROUND

The Shire's Community Grant Program supports not for profit, community based organisations and groups that provide sporting, cultural, environmental, and community services within the Shire. This support is to foster high-quality programs, community events, facilities and services that provide benefit to the community in alignment with the Council's Strategic Community Plan.

The aim of the Community Grant Program is to provide financial assistance to local community groups and organisations that make positive contributions to the quality of life within the local government area.

The Community Grant Program, as that relates to the current round, has three funding streams: Events; Community Programs and for Buildings and Facilities. In July 2020, Council adopted an updated Community Grant Program Policy and Guidelines which enabled approval for up to three years of funding for the Events and Community Programs streams and last financial year was the final year of automatic approval which means all community groups need to apply and be reconsidered this year. The Shire also provides Quick Grants (up to \$500), the Future Leaders Award and Community Support Grants – the latter being directly related to the financial impacts of a State of Emergency and are currently not open for application.

This year, the Shire received twenty applications for funding under the Community Grant Program. Since then, three submissions have been withdrawn for reasons outlined in the comments section of this document. Of the remaining 17 applications, ten are for events, two

are for community programs and five relate to buildings and facilities. The Shire received an Events Grant application form 2 weeks late from the East Kimberley Chamber of Commerce and Industries for their Business Excellence Awards. The reason the application was received late is because there was a confusion on their end about if EKCCI can apply for more than one grant.

Event Applications

Nine on time applications were lodged under the community programs event funding stream and one late event application was received. These were from Kununurra Agricultural Society, Ord River Sports Club (auspicing for the Black Tie Fundraiser), two from Kununurra Water Ski Club, Kimberley Rugby League, Kimberley Action Sports, Lake Argyle Swim Inc, two from Ord Valley Events Inc, Kununurra Campdraft and Rodeo Association and the late application was from East Kimberley Chamber of Commerce and Industry.

Kununurra Agricultural Society (KAS) - Kununurra Agricultural Show

KAS requested \$25,000 per year for three financial years for the Kununurra Agricultural Show. The event includes kids activities and entertainment, art, photography and animal competitions, live music, fireworks, amusement rides and food vendors. The show allows local agricultural, business and tourist industry people to display and demonstrate their products, abilities and services. It was indicated that the \$25,000 requested would be used to fund entertainment fees, equipment and airfares.

Ord River Sports Club (Auspicing) - Black Tie Fundraiser

Denise Lindsell requested \$7,000 for the Kununurra Black Tie Fundraiser, a local event raising funds for bowel cancer and GI cancer. The event will include sunset at Kununurra Race Course, canapes, a silent and live auction, a raffle and live music not seen before in Kununurra. It was indicated that the \$7,000 requested would be used to fund catering and entertainment travel.

Kununurra Water Ski Club - Dam to Dam

The Ski Club has requested \$15,000 per year for three financial years for the annual Dam to Dam. The Dam 2 Dam is a 55 kilometre dinghy race on the Ord River and throughout the day the club provides a variety of entertainment options including live race entertainment, live music, children's games and open bar facility for spectators. It was proposed that the grant funding would go towards advertising, event hire fees, merchandise insurances and permit fees.

Kununurra Water Ski Club - WA Ski Show

The Ski Club have also requested a \$5,000 grant to bring a WA Ski Show to Kununurra during one of their Sunset Market events next year. The ski show includes entertaining the audience with a variety of high speed, artistic and team combination acts including waterski, trick-ski, wakeboarding and barefoot. The grant funding would be used to fund travel and accommodation expenses for the talent and fuel costs for the show.

Kimberley Action Sports - Lake Argyle Adventure Race

Kimberley Action Sports requested \$23,000 per year for 3 years for the Lake Argyle Adventure race, a multi-sports event involving a Swim, Trail Run, Mountain Bike and Paddle in and around Lake Argyle and Carr Boyd Ranges. The event attracts over 300 participants and spectators every year. It was proposed that the grant funding will go towards marketing, merchandise, equipment hire and transport and entertainment.

Lake Argyle Swim Inc - Lake Argyle Swim

The Lake Argyle Swim is a significant annual sporting event in Kununurra, they have requested \$43,000 per year for 3 years. The event provides an opportunity to swim in the freshwater expanse of Lake Argyle, competing solo, in teams of 2 or 4 in a 20km or 10km

race. The event draws in participants from interstate and from within WA as well as local participants. If received, grant funding will go towards professional marketing and promotion, MC and entertainment fees and travel, merchandise and equipment hire and transport.

Ord Valley Events (OVE) - Ord Valley Muster

Ord Valley Events have requested \$50,000 per year for 3 years towards the East Kimberleys biggest annual festival containing more than 10 events over 8 days. The event aims to showcase and reinforce the unique characteristics of the location, people and culture and assist with WA's competitive positioning when competing for tourists. It is proposed that the grant funding will go towards public relations and marketing, sponsorship procurement and operations management.

Ord Valley Events (OVE) - Taste Of The Kimberley

OVE have also requested an additional \$30,000 per year for 3 years towards the Taste of the Kimberley. The event is a multi-day event that aims to provide agritourism experiences across the Kimberley, and provide an opportunity for visitors to explore, understand, and experience agriculture. It was indicated that the grant funds would go towards marketing, entertainment and travel, event costs such as security and first aid and venue and equipment hire.

Kununurra Campdraft and Rodeo Association - Muster Rodeo

The Rodeo Association has requested \$20,000 per year for 3 years towards the Muster (May) Rodeo. The program features many events including children's poddy rides, barrel racing, bull riding and bronc riding. Shire funds are proposed to cover entertainment fees and travel, insurances and security.

Chamber of Commerce and Industry - East Kimberley Business Excellence Awards

The East Kimberley Chamber of Commerce and Industry (EKCCI) requested \$10,000 per year for 3 years to the East Kimberley Business Excellence Awards which will be a three-course sit down dinner for the 2023 Award ceremony. The event will be exclusive to local business owners and will act as a networking event. It was indicated that the \$10,000 requested would be used to fund event planner, catering, entertainment, venue hire and decorations.

The total funding requested in this years' budget for event applications submitted is \$228,000.

Community Programs Grant Applications

Two applications were lodged under the Community Programs funding stream. These were from Kununurra Neighbourhood House and Kununurra Toy and Puzzle Library.

Kununurra Neighbourhood House

Kununurra Neighbourhood House have requested \$15,000 per year for three financial years to go towards their Community Shed Program. The program is inspired by the Men's Shed movement however is open to everyone, regardless of gender, age or ability. Kununurra Neighbourhood House was set up to help prevent or relieve social isolation and foster a sense of belonging and purpose. The total project cost in the application is estimated at \$37,500 and the Shire funding would cover costs associated with the program.

Kununurra Toy and Puzzle Library (KTPL)

KTPL applied for a \$3,000 grant per year for three financial years to assist them with their building capacity program. The program aims to have several outcomes including increased access to essential resources, improved social connection and community engagement, enhanced learning outcomes for children, increased awareness of the importance of play-based learning and increased sustainability of the Library. The total cost of the program is

estimated at \$22,490 and the Shire grant will go towards resources and equipment, storage and labelling of toys and volunteers vouchers.

The total funding requested in this years' budget for Community Programs is \$18,000.

Facilities Grant - Building and Property Applications

Five applications were received under the Facilities Grant - Building and Property. They were lodged by Kununurra Visitor Centre, Ord River Paddlers, Kununurra Race Club, Kununurra Toy and Puzzle Library and Ord River Sports Club.

Kununurra Visitor Centre

The Kununurra Visitor Centre requested funding to build an accessible ramp at the Argyle Homestead Museum. The concrete ramp and entry path will be from the bus parking area to the museum and will improve access for people with prams, wheelchairs, walkers or mobility issues. The total project cost in the application is estimated at \$7,766, of which the Shire would provide \$3,880.

Ord River Paddlers

Ord River Paddlers has 10 aluminium dragon boats, which are used for regular weekly training, social paddles and the annual Ord River Marathon event held in June each year. They have requested \$12,146.75 (50% of the total project cost) for major maintenance and upgrades to 5 boats. Major maintenance will require the replacement of damaged keels and installation of footrest bars, sandblasting, minor welds and repainting.

Kununurra Race Club

The Kununurra Race Club would like to complete a Concept Master Plan for an upgrade at the Kununurra Race Club that will turn it into a Community Events Precinct. The Concept Master Plan will look at upgrades to: Roads, Power, Buildings & Facilities, Water Access, Earthworks. The total project cost in the application is estimated at \$27,238, of which the Shire would provide \$13,619.

Kununurra Toy and Puzzle Library

Kununurra Toy and Puzzle Library have requested \$8,490 to purchase a trailer and new toys to extend its business beyond the existing members to include a well considered corporate and community event hire solution. It is envisaged that local families, community groups, small and large scale events can access wonderful, safe and high quality Toy Library resources under a fee for service arrangement.

Ord River Sports Club

The Ord River Sports Club has requested \$20,00 to construct a unisex accessible toilet within the existing sports club building to increase accessibility for members of the club and community. The total works will cost \$51,000 and will involve extending the existing ablution area and install a centrally located unisex accessible toilet, to be accessed from the main restaurant/bistro room.

The total funding requested under the Facilities Grant - Buildings and Property stream, across all projects, is \$58,136.

The total funding requested across all funding streams is \$304,135.75.

STATUTORY IMPLICATIONS

There are no statutory implications associated with this matter, however other approvals such as planning, building or event approvals may be required.

POLICY IMPLICATIONS

POL-3002 Community Grant Program is applicable to the consideration of this matter.

FINANCIAL IMPLICATIONS

The budget allocation for all funding streams within the Community Grant Program is \$365,000. Of this, Council has committed funding of \$79,393.06 for Rates Assistance Grants, and Shire officers recommend withholding \$12,000 for quick grants and future leader award grants. This leaves \$273,606.94 remaining for Council to distribute, of which officers have recommended funding \$273,499.00 which is outlined in Attachment 1.

STRATEGIC IMPLICATIONS

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

Focus Area: CONNECTION

Focus Area: LIVEABILITY

Focus Area: SUSTAINABILITY

Goal 4: Access to education - Education and training opportunities for everyone

Goal 8: Connecting our cultures - Celebrating our rich culture and heritage

Goal outcome 2.2: Access to sport and recreation facilities and services - Sport and recreation facilities and services are accessible and well maintained

Goal outcome 2.3: Access to community groups and clubs - Access to strong supportive community groups and clubs

Goal outcome 4.2: Inclusive education pathways - Residents can access a broad range of educational opportunities, including alternative education pathways

Goal outcome 8.1: Community participation - Active and resilient community groups and volunteers

Goal outcome 8.2: Culture and art - Celebrate the East Kimberley's art, culture and heritage

Strategy 2.2: The Shire will collaborate with a wide range of stakeholders to advocate and provide accessible facilities that support a range of sporting and recreational activities

Strategy 2.3: Shire will support and build the capacity of community groups and clubs through community grants programs, advice and management of Shire reserves and facilities

Strategy 8.1: Support an increase in community participation in community groups and volunteering

RISK IMPLICATIONS

Risk: Failure to facilitate community development initiatives which support positive social outcomes for community members, including; health, aged care, youth services and Indigenous services.

Control: Community Grant Program aims to support community lead community development initiatives through financial assistance.

COMMUNITY ENGAGEMENT

Engagement has previously taken place in accordance with the Community Engagement Guidelines and included:

- Sharing a Community Grants flyer on Facebook, the Coles and Neighbourhood House notice boards and on the Shires website
- Directly contacting 41 local not-for-profit groups by email to ensure they were aware the Shires Annual Grants round was open

COMMENTS

All of the applications are considered eligible under the Community Grant Program. Officers recommend funding all applications as each organisation's project makes positive contributions to the quality of life within the local government area in alignment with the Shire Community Strategic Plan. Due to the limited budget, officers have had to adjust some recommended amounts so as to remain fair for all applicants and stay in budget. This was based on previously awarded amounts and benefit to the wider community.

Since receiving applications, three applicants have withdrawn their submissions, Kununurra APEX (Auspicing for St John's), East Kimberley Chamber of Commerce and Industries and Kimberley Rugby League.

Kununurra APEX auspiced Kununurra St John's Ambulance Building and Infrastructure Grant. St John's had applied for \$5,000 to place defibrillators available to the public in surrounding areas of higher populations, where ambulance response times are greater than 10 minutes. The places included Packsaddle, Valentine Falls estate, Crossing Falls and at the Kununurra Water Ski Club. The reason the application was rescinded is because they received funding from other sources.

East Kimberley Chamber of Commerce had applied for a Community Programs Grant as well as the Events Grant. The Community Programs Grant was deemed ineligible for funding through the Shires grant program and so officers discussed alternate ways the Shire is able to support. Council endorsed signing a Memorandum of understanding with East Kimberley Chamber of Commerce and Industry at the October Ordinary Council Meeting.

Kimberley Rugby League submitted an Events Grant Application requesting \$5,000 for the Junior Rugby Top End Round Robin to be held in Kununurra. Due to fears of weather and the Fitzroy bridge closing other WA teams decided they would not come to Kununurra in 2023 so their application was withdrawn.

ATTACHMENTS

Attachment 1: Annual Grants Assessment Matrix 2023/24

12.3.3. Request to alter Heritage List and Local Heritage Survey

DATE	28 November 2023
AUTHOR	Senior Planning Officer
RESPONSIBLE OFFICER	Nick Kearns, Director Planning and Community Development
FILE NO	LP.01.6
DISCLOSURE OF INTERESTS	Nil
COUNCIL'S ROLE IN THE MATTER	Leader - plan and provide direction through policy and practices Regulator - enforce state legislation and local laws
VOTING REQUIREMENT	Simple Majority

OFFICER'S RECOMMENDATION

That Council in accordance with the requirements of the *Planning and Development (Local Planning Schemes) Regulations 2015*, authorises the Chief Executive Officer to:

1. Amends and updates the Heritage List and Local Heritage Survey (as per Attachment 5);
2. Notifies the Heritage Council of Western Australia, all affected property owners and occupiers of the amendments to the Heritage List, and
3. Advertises the amendments to the Heritage List and Local Heritage Survey.

PURPOSE

For Council to consider adoption of amendments and revisions to the Local Heritage Survey and Heritage List following advertising of the two requests to alter the Heritage List and Local Heritage Survey.

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

During community engagement for Local Planning Policy 16 - 'Heritage Places' earlier in 2023, two submissions were received seeking amendment to allocated heritage categories for three places in Wyndham and removal of a heritage place in Kununurra from the adopted Heritage List and Local Heritage Survey. A copy of the submissions is at Attachment 1.

In response to the requests to amend the adopted Heritage List and Local Heritage Survey, Council resolved at the May 2023 Ordinary Council Meeting for officers to undertake community and stakeholder engagement. That engagement was undertaken between 30 June and 31 July 2023, via the Kimberley Echo newspaper, the Bastion newsletter and the Shire's website. No additional public submissions were received during that time. During the advertising period, comments were also sought from both the Kununurra and Wyndham Historical Society's and the Shire's Heritage Consultant - Heritage Intelligence WA. A copy of the comments received is at Attachment 2.

To ensure a consistent assessment process is applied throughout Western Australia, there are guidelines for the preparation of a Local Heritage Survey and Heritage List and guidelines for the assessment of local heritage places, which determines the levels of heritage significance.

Noting that relevant to the assessment criteria, there are five indicators of heritage significance and that a place only needs one to be considered on the Local Heritage Survey. Places with high levels of responses to the criteria (indicators) are 'worthy' of Category 2 listing in the Local Heritage Survey. A copy of the guidelines for Heritage Lists and Heritage Surveys are at Attachment 3 and 4 for reference.

Heritage significance applies not only to buildings and structures, but also to the role a site or place played in the history and development of the area where it is located. The condition of a building or site is not an element of assessment nor is it a factor against the heritage significance of a place. For example, a ruinous place still has heritage value despite lacking integrity (ability to be restored).

It is not uncommon for a heritage listing to be perceived as a burden, however the inclusion of a place or building on the heritage list does not mean demolition or development cannot occur. Including a place on the heritage list gives the place recognition and protection under the local planning scheme and provides a process to ensure that due consideration is given to the heritage value of a place, including the buildings, prior to development or demolition occurring.

Local Planning Policy 16 'Heritage Places' (LPP 16) was prepared to provide guidance around application requirements and incentives to encourage the protection and restoration of heritage properties. The incentives proposed include: the waiver of development application fees, variance to planning scheme requirements (on merit) and potential for a Shire Heritage Grant, subject to budgetary considerations. The intention of the policy was to simplify the planning process and potentially encourage the conservation and enhancement of heritage.

The majority of places registered on the Shire's Heritage List and listed in the Local Heritage Survey were included in the previous Municipal Heritage Inventory (including three of the four places/sites in question). There were also several new places/sites included in the new documents, following site visits and assessment by the Shire's Heritage Consultant.

SUBMISSIONS

The submissions received are summarised below, together with comments from the Shire's Heritage Consultant, and the Kununurra and Wyndham Historical Societies:

Name	Summary of submission	Response
Paul Cavanagh	<p>Submission requesting levels of significance (categories) for the following properties/sites to be revised:</p> <ul style="list-style-type: none"> • Lot 3 DP43166; Lot 4 DP62465; Lot 400 DP223234, 38 O'Donnell Street, Wyndham (Former Wyndham Hotel) Suggest Category 4, not Category 2 	<p><u>Heritage Intelligence - Consultant Response</u> Heritage List inclusion does not prevent demolition or development, it provides a process to ensure that due consideration is given to the heritage value of the site.</p> <p>The site of the Wyndham Hotel has considerable cultural heritage value associated with the earliest town in Western Australia. Recommendation: retain as Category 2.</p> <p><u>Wyndham Historical Society - Response</u> The Wyndham Historical Society agrees the remains of the hotel do not warrant a Category 2 rating. Recommendation: support Category 4 listing.</p> <p><u>Kununurra Historical Society - Response</u> The Kununurra Historical Society recommends that all future development in Wyndham needs to consider the history of the site.</p>
	<ul style="list-style-type: none"> • Lot 1767 DP192452, 12-28 O'Donnell Street Wyndham (Former Port Hospital) Suggest Category 3, not Category 2. 	<p><u>Heritage Intelligence - Consultant Response</u> The site has considerable historic and social significance for the provision of health and medical services up until 1970. The social significance of the place of medical, and RFDS services and later the prison evokes a sense of place in the Wyndham Community.</p> <p>Recommendation: retain as Category 2. The place is of considerable cultural heritage value associated with the earliest town in Western Australia.</p> <p><u>Wyndham Historical Society - Response</u> The Wyndham Historical Society believes the former hospital is historically significant and warrants a Category 2 rating. Recommendation: retain as Category 2.</p> <p><u>Kununurra Historical Society - Response</u> The Kununurra Historical Society recommends that all future development in Wyndham needs to consider the history of the site.</p>

	<ul style="list-style-type: none"> • Lot 395 and 396 DP223234, 34 O'Donnell Street, Wyndham (Truscott Shed and site of CD&D Store) Suggest Category 3, not Category 2 	<p><u>Heritage Intelligence - Consultant Response</u> The place is recognised as a ruin and while the shed is in poor condition it is worthy of restoration. The shed has significance as the last remaining example in Wyndham and for its World War Two associations. Recommendation: Support Category 3 in the recognition that the place will not be restored, despite its rarity significance.</p> <p><u>Wyndham Historical Society - Response</u> The Wyndham Historical Society agrees that the Truscott Shed warrants a Category 3 rating. Recommendation: support Category 3 rating.</p> <p><u>Kununurra Historical Society - Response</u> The Kununurra Historical Society recommends that all future development in Wyndham needs to consider the history of the site.</p>
<p>Kimberley Agricultural Investment (KAI)</p>	<ul style="list-style-type: none"> • Lot 100 DP67850, 47 Coolibah Drive, Kununurra (PWD Mess Hall (former) & Single men's Quarters (site)) Submission requesting clarity around Level 2 categorisation and the impacts/restrictions this places on redevelopment, business and the site 	<p><u>Heritage Intelligence - Consultant Response</u> Heritage List inclusion does not prevent demolition or development, it provides a process to ensure that due consideration is given to the heritage value of the site, prior to any development. Heritage list inclusion puts no onus on upgrading anything with reference to heritage no is it a directive to do anything with the building. When development is proposed, it is considered with respect to the heritage elements on the site and the impact on those elements.</p> <p>The place is of considerable cultural heritage value associated with the development of the Ord River dam and the Kununurra town's social life and tourism Recommendation: retain as Category 2.</p> <p><u>Kununurra Historical Society - Response</u> The site is a significant heritage site and Category 2 listing should remain to at least consider this heritage in any or all future use by the owners. Requests from owners should not be a reason to downgrade.</p> <p>The Society also provided additional information and the correct name for the site, which was acknowledged by the Shire's Heritage Consultant, who recommends updating the place record to include this information. She was also supportive of the Society's recommendation to retain Category 2 listing.</p> <p>Recommendation: retain Category 2 listing.</p>

The heritage consultant and the relevant Historical Societies were in agreement with respect to:

- the category level assigned to Lot 1767 DP192452, 12-28 O'Donnell Street Wyndham (Former Port Hospital) remaining as Category 2, due to the historical significance of the site both to the town and the area in general,
- the category level assigned to Lot 100 DP67850, 47 Coolibah Drive, Kununurra (PWD Mess Hall (former) & Single men's Quarters (site) remaining as Category 2, due to the heritage significance and early associations with the development of Kununurra; and
- the proposed change of Lot 395 and 396 DP223234, 34 O'Donnell Street, Wyndham (Truscott Shed and site of CD&D Store) being downgraded from Category 2 to Category 3, with the heritage consultant noting that despite the rarity significance, it is unlikely the place will be restored.

The heritage consultant and Wyndham Historical Society did not agree with the Category level assigned to Lot 3 DP43166; Lot 4 DP62465; Lot 400 DP223234, 38 O'Donnell Street, Wyndham (former Wyndham Hotel). It is noted that this is a new place/site inclusion to the current Local Heritage List and Local Heritage Survey, and the significance centres more around the place as the location of the 'pub' rather than the building itself. The structural integrity of the site is fairly low, with the majority of buildings and structures having been removed from the site over the last few years. In this instance Officers are of the opinion that the category could be downgraded from a Category 2 to a Category 3, similar to the site of the CD&D Store and the Truscott Shed.

As part of their comments, the Kununurra Historical Society also noted inconsistencies with some of the information in the Heritage List and Local Heritage Survey in relation to Listing 6: 47 Coolibah Drive, Kununurra (PWD Mess Hall (former) & Single men's Quarters. The Kununurra Historical Society recommends that the references to 'single men's quarters' and the 'Ord River Sports Club' be deleted from the listing, as these are incorrect and not specifically related to this listing. A copy of the proposed changes is at Attachment 5.

The Wyndham Historical Society in their comments, recommended the following places/building also be incorporated as Category 2 listings:

- The former Post Office
- Former Shire Hall

The Shire's Heritage Consultant has provided the following comments in relation to the above request by the Wyndham Historical Society:

- The former Post Office (WT6)
The building is of cultural heritage significance, as is the site of this c.1927 building. The post office function was continued at another site in Wyndham (3 Mile) from 1968, this also recognised for this purpose. The recommendation of Category 3 has been considered in comparison with other heritage places in Wyndham Port town, all of which also have some significance for the original site function.
- The former Shire Hall (WT4 - former Wyndham Road Board Office)
The former Road Board office is of cultural heritage significance as is this site of the Mechanic's institute and social events in the c.1927 building. The recommendation of Category 3 has been considered in comparison with other heritage places in Wyndham Port town, all of which also have some significance for the original site function.

Officers have advised both respondents of the proposed recommendations to the Local Heritage Survey and Heritage List.

The proposed amendments to the Heritage List and Local Heritage Survey are included as Attachment 6.

STATUTORY IMPLICATIONS

The *Heritage Act 2018, Planning and Development Act and Planning and Development (Local Planning Schemes) Regulations 2015 Schedule 2, Part 2, Division 2* are relevant to this matter.

The new Act transitioned the compilation of municipal heritage inventories to local heritage surveys, which was much of the same excepting that the survey documents are reworded to better reflect its purpose as a survey of community heritage resources and to provide more flexibility to municipalities to include 'places' of cultural significance, as opposed to 'buildings'.

POLICY IMPLICATIONS

State Planning Policy 3.5 'Historic Heritage Conservation' (SPP 3.5) is relevant to this matter. Council adopted Local Planning Policy (LPP) 16 'Heritage Places' at the 30 March 2023 Ordinary Council Meeting, which accords with and sits alongside the requirements of SPP 3.5, with the intention of providing guidance on undertaking development at heritage places, including conservation and adaptation for new uses. The Policy also includes allowance for dispensation from some planning requirements and incentives for private landowners of heritage places to encourage heritage conservation.

STRATEGIC IMPLICATIONS

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

Focus Area: CONNECTION

Goal 8: Connecting our cultures - Celebrating our rich culture and heritage

Goal Outcome 8.2: Culture and art - Celebrate the East Kimberley's art, culture and heritage

RISK IMPLICATIONS

Risk: Failure to develop appropriate, meaningful policies which enable the administration to perform in an effective and efficient way.

Control: Policies prepared in accordance with relevant legislative requirements and updated in accordance with an agreed schedule and operational requirements.

FINANCIAL IMPLICATIONS

There are no financial implications.

COMMUNITY ENGAGEMENT

Engagement for the proposed modifications to the Local Heritage Survey and Heritage List has taken place in accordance with the Community Engagement Guidelines and included:

- Letters to the Kununurra Historical Society and Wyndham Historical Society seeking comments on the proposed modifications; and
- Correspondence to the Shire's Heritage Consultant, Laura Grey of Heritage Intelligence WA, seeking comments on the proposed modifications;
- A notice in the Kimberley Echo Newspaper; and
- A notice in the Bastion Bulletin; and
- Advertising via the Shire's website and Facebook page
- Notification to submitters (requesting changes) - to let them know comments and recommendations and to seek additional submissions prior to Council making a decision on the matter.

COMMENTS

The Shire is home to one of Western Australia's oldest towns, Wyndham, and one of the youngest towns, Kununurra. As such the sites, places and buildings of heritage significance are varied but all have an important part to play in telling the story of the Shire.

Heritage significance is not just buildings or structures, it is also the role the site or place played in the history and development of the area where it is located. The condition of a building or site is not an element of assessment and is not a factor against the heritage significance of a place, for example a ruinous place still has heritage value despite lacking integrity (ability to be restored).

In determining the heritage significance of a site or place, there are State-wide guidelines to ensure a consistent assessment process is applied in determining heritage significance levels/categories and in the preparation of local government Heritage documents. Both the Shire's Local Heritage List and Local Heritage Survey were prepared in line with the relevant guidelines and each site/place was assessed against the same criteria.

Of the four sites subject to these requests, three were previously included in the Shire's Municipal Heritage Inventory with each listing noting the heritage significance of the place, which is consistent with the categories applied in the new documents. The other site/place, the Wyndham Hotel, is a new inclusion to the Shire's Heritage documents and its significance is not necessarily the building itself, but rather the community's association of the site/place as the location of the 'Wyndham Pub'. The Pub would have played a significant role in the history and development of the Port area being a place of social interaction, whether that was a positive or a negative role, the place has local and social value, including memories and emotional associations and connections to the place and the people who were there.

As noted by the Kununurra Historical Society, just because a land owner doesn't agree with a category or listing, this does not justify changing a listing or removing a site/place from heritage documents. Likewise, allowing a building or site to fall into disrepair should not be seen as a fait-accompli for demolition and subsequent removal/deletion of the heritage significance of the place or building. Similarly the listing of a place or property on the Shire's Heritage List or Local Heritage Survey should not be seen as an automatic presumption by the Shire against redevelopment or 'repurposing' of a place.

A heritage place or building can be extended, re-developed or even demolished, with approval, but the significance of the place and the role it played to the community needs to be acknowledged and, in most cases, recorded in some way to ensure that the significance is not lost to future generations. Local Planning Scheme No. 9 (LPS 9) and Local Planning Policy 16 (LPP 16) provide a framework to ensure the most appropriate action is accorded to each site or place in question.

ATTACHMENTS

Attachment 1 – Submissions

Attachment 2 – Historical Society and Heritage Consultant Comments

Attachment 3 - Guidelines for Heritage List

Attachment 4 - Guidelines for Local Heritage Surveys

Attachment 5 - Proposed update to Heritage List and Local Heritage Survey

12.4. CORPORATE SERVICES

12.4.1. POL-1015 Surveillance Devices - Policy Review, POL-2015 Closed Circuit Television (CCTV) - New Policy and WI-2015 Closed-Circuit Television (CCTV) Management and Operation Manual - Review

DATE	28 November 2023
AUTHOR	Director Planning and Community Development
RESPONSIBLE OFFICER	Felicity Heading, Director Corporate Services
DISCLOSURE OF INTERESTS	Nil
COUNCIL'S ROLE IN THE MATTER	Provider - provide physical infrastructure and essential services
VOTING REQUIREMENT	Simple Majority

OFFICER'S RECOMMENDATION

That Council adopts the following documents:

- **WI-2015 Closed-Circuit Television (CCTV) Management and Operations Manual (Attachment 1)**
- **POL-2015 Closed-Circuit Television (CCTV) policy (Attachment 2)**
- **POL-1015 Surveillance Devices policy (Attachment 3)**

PURPOSE

For Council to update documents relevant to the operation of the Shire's CCTV system and other surveillance devices.

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

The original CCTV Management and Operations Manual was adopted by Council at their August 2019 Ordinary Meeting. This followed the installation of an extensive CCTV system which was principally funded under the Federal Government's Safer Communities Fund. The Management and Operations Manual was also adopted in absence of a complementing policy, which is proposed to be addressed with the adoption and update of related policy.

The Management and Operations Manual was reviewed by a legal expert who also prepared the accompanying (new) CCTV Policy and who reviewed the existing Surveillance Devices policy. These documents therefore accord with relevant legislation, being the Surveillance Devices Act 1998.

The main change to the CCTV Management and Operations Manual has been to extract all those elements that are best captured within a policy document, including matters relating to:

- Ownership and control
- Retention, handling (access to) and storage of data

- Confidentiality
- Complaint management

Otherwise, opportunity has been taken to simplify the balance of the CCTV Management and Operations Manual. In this aspect, therefore, it is largely unchanged, but useful for the purpose of providing greater detail with respect to the previously mentioned policy matters. A copy of this (updated) document is provided at Attachment 1.

The draft Closed-Circuit Television (CCTV) Surveillance policy is provided at Attachment 2. The purpose of this policy is to guide the operation, expansion and strategic development of the Shire's CCTV system as will be reflected in any management and operational matters or which may pertain to future strategy, which is separately being prepared. The use of CCTV surveillance in any case needs to be always within the public interest and to safeguard people's privacy.

The Surveillance Devices policy has been updated with respect to references to relevant legislation but is otherwise unchanged, noting that this policy is focused on devices such as dashcams and body cams - not CCTV. It is provided at Attachment 3.

STATUTORY IMPLICATIONS

Relevant legislation includes:

- *Surveillance Devices Act 1998*
- *State Records Act 2000*
- *Freedom of Information Act 1992*

POLICY IMPLICATIONS

The documents have been reviewed in line with the Shire's Policy Management Policy, having regard to:

- Legislative requirements
- Industry standards
- Organisational standards
- Strategic linkages
- Community need and expectations

The documents attached to this report in draft will be changed to match the Shire's conventions around naming and set-out, which is mostly 'cosmetic', prior to being presented to Council for adoption.

STRATEGIC IMPLICATIONS

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

Goal 1: Safe communities - A community where we all feel safe

Goal Outcome 1.2: Safe Physical Environment - People feel safe on the streets and in public areas and can engage in healthy vibrant active lives

RISK IMPLICATIONS

Risk implications include privacy, safety and sustainability - all of which are managed by the proposed CCTV Management and Operation Manual and which are covered within the draft policies.

FINANCIAL IMPLICATIONS

Nil

Asset Considerations

Nil

COMMUNITY ENGAGEMENT

No community engagement is required.

COMMENTS

The proposed policy updates, including the CCTV Management and Operation Manual meet the requirements of Council policy as that relates to their review. They more accurately reflect changes to legislation and are drafted clearer and complementary to the associated policies.

The CCTV Management and Operations Manual still backs up the Shire's extensive CCTV system within a detailed framework that includes 'rules' around the use or misuse of data and remedies that would be available which are reinforced by Council policy.

ATTACHMENTS

Attachment 1 - WI-2015 Closed-Circuit Television (CCTV) Management and Operation Manual

Attachment 2 - POL-2015 Closed-Circuit Television (CCTV)

Attachment 3 - POL-1015 Surveillance Devices

12.4.2. Monthly Financial Report

DATE	28 November 2023
AUTHOR	Manager Finance
RESPONSIBLE OFFICER	Felicity Heading, Director Corporate Services
FILE NO	FM.09.36
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 30 September 2023 and 31 October 2023.

PURPOSE

For Council to receive the Monthly Financial Reports for the periods ended 30 September 2023 and 31 October 2023.

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 27 June 2023 Ordinary Council Meeting, the Council resolved the following:

Council Decision

Minute Number: 27/06/2023 - 118865

That Council, pursuant to Regulation 34(5) of the Local Government (Financial Management) Regulations 1996, approves the materiality level for monthly reporting to be set at +/- 10% and +/- \$50,000 at financial statement level.

*Moved: Cr D Menzel
Seconded: Cr T Chafer*

Decision 8/0

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 the previous month (the **relevant 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 relevant month; and

(c) actual amounts of expenditure, revenue and income to the end of the relevant month; 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 relevant month and a note containing a summary explaining the composition of the net current assets.

(1B) The detail included under subregulation (1)(e) must be structured in the same way as the detail included in the annual budget under regulation 31(1) and (3)(a).

(1C) Any information relating to exclusions from the calculation of a budget deficiency that is included as part of the budget estimates referred to in subregulation (1)(a) or (b) must be structured in the same way as the corresponding information included in the annual budget.

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

(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 must be shown according to nature classification.

(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 relevant month; 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.

[Regulation 34 inserted: Gazette 31 Mar 2005 p. 1049-50; amended: Gazette 20 Jun 2008 p. 2724; SL 2022/88 r. 8; SL 2023/106 r. 19.]

35. Financial position statement required each month

(1) A local government must prepare each month a statement of financial position showing the financial position of the local government as at the last day of the previous month (the previous month) and —

(a) the financial position of the local government as at the last day of the previous financial year; or

(b) if the previous month is June, the financial position of the local government as at the last day of the financial year before the previous financial year.

(2) A statement of financial position must be —

(a) presented at an ordinary meeting of the council within 2 months after the end of the previous month; and

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

[Regulation 35 inserted: SL 2023/106 r. 20.]

POLICY IMPLICATIONS

The Significant Accounting Policies incorporated within the 2023/24 annual budget have 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 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 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.

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

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 in relation to this item.

COMMENTS

Changes to the *Local Government (Financial Management) Regulations 1996* effective for the 2023/24 financial year mean the reporting requirements for the Monthly Financial Reports

have changed with additional information required to be reported including a Statement of Financial Position (Balance Sheet) and an explanation of Net Current Assets.

Moore Australia has prepared the attached Monthly Financial Report in accordance with the amended regulations.

ATTACHMENTS

Attachment 1 - Monthly Financial Report September 2023

Attachment 2 - Monthly Financial Report October 2023

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

DATE:	28 November 2023
AUTHOR:	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 receives the lists of accounts paid from the Municipal and Trust funds for October 2023 being:

Municipal EFT 146698 - 146971 (04/10/23 - 27/10/23)	\$ 1,714,033.56
Payroll (04/10/23 - 18/10/23)	\$ 510,199.60
Direct Bank Debits (03/10/23 - 19/10/23)	\$ 14,933.94
Total	\$ 2,239,167.10

PURPOSE

For Council to receive the list of accounts paid from the Municipal Fund and Trust Fund in order to meet 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

Amendments to the *Local Government (Financial Management) Regulations 1996 (Regulation 13A)* now require the List of Accounts Paid to include payments by employees via purchasing cards. The attached report includes these payments.

Local Government Act 1995 - Section 5.42 Delegation of some power and duties to CEO

(1) A local government may delegate* to the CEO the exercise of any of its powers or the discharge of any of its duties under —

- (a) this Act other than those referred to in section 5.43; or
- (b) the Planning and Development Act 2005 section 214(2), (3) or (5).

* Absolute majority required.

(2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.

Local Government (Financial Management) Regulations 1996 -

Regulation 5. CEO's duties as to financial management (in part)

(1) Efficient systems and procedures are to be established by the CEO of a local government —
(e) to ensure proper authorisation for the incurring of liabilities and the making of payments; and

Regulation 11. Payments, procedures for making etc.

(1) A local government is to develop procedures for the authorisation of, and the payment of, accounts to ensure that there is effective security for, and properly authorised use of —

- (a) cheques, credit cards, computer encryption devices and passwords, purchasing cards and any other devices or methods by which goods, services, money or other benefits may be obtained; and
- (b) petty cash systems.

(2) A local government is to develop procedures for the approval of accounts to ensure that before payment of an account a determination is made that the relevant debt was incurred by a person who was properly authorised to do so.

(3) Payments made by a local government —

(a) subject to subregulation (4), are not to be made in cash;
and

(b) are to be made in a manner which allows identification
of —

- (i) the method of payment; and
- (ii) the authority for the payment; and
- (iii) the identity of the person who authorised the payment.

(4) Nothing in subregulation (3)(a) prevents a local government from making payments in cash from a petty cash system.

Regulation 12. Payments from municipal fund or trust fund, restrictions on making.

(1) A payment may only be made from the municipal fund or the trust fund —

(a) if the local government has delegated to the CEO the exercise of its power to make payments from those funds — by the CEO; or

(b) otherwise, if the payment is authorised in advance by resolution of the council.

Regulation 13. Payments from municipal fund or trust fund by CEO, CEO's duties etc.

(1) If the local government has delegated to the CEO the exercise of its power to make payments from the municipal fund or the trust fund, a list of accounts paid by the CEO is to be prepared each month showing for each account paid since the last such list was prepared —

- (a) the payee's name; and
- (b) the amount of the payment; and
- (c) the date of the payment; and
- (d) sufficient information to identify the transaction.

(2) A list of accounts for approval to be paid is to be prepared each month showing —

(a) for each account which requires council authorisation in that month —

- (i) the payee's name; and
- (ii) the amount of the payment; and
- (iii) sufficient information to identify the transaction;

and

(b) the date of the meeting of the council to which the list is to be presented.

(3) A list prepared under subregulation (1) or (2) is to be —

- (a) presented to the council at the next ordinary meeting of the council after the list is prepared; and
- (b) recorded in the minutes of that meeting.

13A. Payments by employees via purchasing cards

(1) If a local government has authorised an employee to use a credit, debit or other purchasing card, a list of payments made using the card must be prepared each month showing the following for each payment made since the last such list was prepared —

- (a) the payee's name;
- (b) the amount of the payment;
- (c) the date of the payment;
- (d) sufficient information to identify the payment.

(2) A list prepared under subregulation (1) must be —

- (a) presented to the council at the next ordinary meeting of the council after the list is prepared; and
- (b) recorded in the minutes of that meeting.

[Regulation 13A inserted: SL 2023/106 r. 6.]

POLICY IMPLICATIONS

Shire of Wyndham East Kimberley Delegation Register 2022-2023 Sub-delegation 6 "Payments from the Municipal Fund and Trust Fund" applies subject to compliance with Council policy *POL-2004 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 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, as well as to comply with legislative requirements.

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 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.

Control: 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 Council after the list is prepared and is to be recorded in the minutes of the meeting at which it is presented as required by the applicable regulations.

Amendments to the *Local Government (Financial Management) Regulations 1996 (Regulation 13A)* now require the List of Accounts Paid to include payments by employees via purchasing cards. The attached List of Accounts Paid includes these payments.

ATTACHMENTS

Attachment 1 - List of Accounts Paid October 2023

12.5. INFRASTRUCTURE

12.5.1. Protection Barrier Locations Coolibah Drive and Ivanhoe Road

DATE	28 November 2023
AUTHOR	Director Infrastructure and Strategic Projects
RESPONSIBLE OFFICER	Paul Webb, Director Infrastructure and Strategic Projects
FILE NO	GS.05.13
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 approves the construction works for the 'Kununurra Disruptive and Protective Hardcover' at the intersections of Ivanhoe Road and Coolibah Roads, North and South as demonstrated in Attachments 1 and 2.

PURPOSE

The administration seeks a formal decision on the installation of hardcover points in the Kununurra townsite.

NATURE OF COUNCIL'S ROLE IN THE MATTER

Advocator - advocate and support initiatives on behalf of the community
Leader - plan and provide direction through policy and practices

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

Council Decision

Minute Number: 23/08/2022 - 118701

That Council approve the Administration to:

- 1. Commence with the design for construction of 'Disruptive and Protective Hardcover installations', in consultation with Local Police, the consideration of the placement being subject to appropriate engineering standards to reduce run off road impact object crash speeds to 40kmh or lower and the installation being aesthetic fit for purpose to the satisfaction of Council;*
- 2. Accept the receipt of grant funding in the amount of \$49,500 to be allocated to this project;*
- 3. Determine detailed costings for the project; and*
- 4. Seek Council approval for the final project design and costings before project commencement.*

Moved: Cr M McKittrick

Seconded: Cr M Dear

Decision: 9/0

STATUTORY IMPLICATIONS

Local Government Act 1995, Part 3, Division 1, 3.1 (1) the general function of a local government is to provide for the good government of persons in its district.

POLICY IMPLICATIONS

POL-4012 Shire Road Network

This policy provides guidance on the extent of the Shire's public road network.

FINANCIAL IMPLICATIONS

Estimated construction cost based on market price is \$15,000 for both intersections. Based on the simplicity of the project, construction will be progressed through self-performing works, and as such project delivery cost may be much lower, but fits within the current budget allocation.

STRATEGIC IMPLICATIONS

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

Focus Area 2: PLACE - Enhancing the environment

Goal 2.3: Make towns safe and inviting for locals and visitors

Strategy 2.3.1: Lead an interagency approach to address community safety concerns including crime reduction planning and programs

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

Shire Project: 212 - Implement a Community Safety and Crime Prevention Plan

Service Area: Asset Management and Capital Works Engineering Services

RISK IMPLICATIONS

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

Control: Work with local agencies to progress warranted sustainable projects that provide tangible benefits to the community

COMMUNITY ENGAGEMENT

Engagement has taken place in accordance with the Community Engagement Guidelines and included:

- Liaison with Local Police on installation type and locations.
- Further communications with Council on preliminary installation to ensure compatibility with town aesthetic
- Letter of support from MG Corporation

Additionally, property owners in the immediate area will be contacted to inform them of the project and modifications will be made to suit the occupant where they do not jeopardise the primary purpose of the project.

COMMENTS

This matter was last discussed at the 07 February Briefing Session, being an ongoing budget item to install a number of hardcover protection barriers around the Kununurra townsite, at the request of Local Police.

The request from WA Police follows concerns from business owners and residents in relation to stolen cars and ram raiding and to improve efforts to stop these cars speeding through the town and evading apprehension to which they undertook an analysis and identified all priority areas for the protective hardcover installations, which has previously been provided to Councillors.

WEABER AND ERYTHRINA

The matter of construction of a hardcover proposal at the intersection of Weaber Plains Road and Erythrina Street was put to Briefing in August 2022. The matter was then put to the August OCM, where Council resolved;

Council Decision

Minute Number: 23/08/2022 - 118701

That Council approve the Administration to:

- 1. Commence with the design for construction of 'Disruptive and Protective Hardcover installations', in consultation with Local Police, the consideration of the placement being subject to appropriate engineering standards to reduce run off road impact object crash speeds to 40kmh or lower and the installation being aesthetic fit for purpose to the satisfaction of Council;*
- 2. Accept the receipt of grant funding in the amount of \$49,500 to be allocated to this project;*
- 3. Determine detailed costings for the project; and*
- 4. Seek Council approval for the final project design and costings before project commencement.*

Moved: Cr M McKittrick

Seconded: Cr M Dear

Decision: 9/0

Installation of hardcover protection was put to the October OCM, installation of Weaber Plain Road and Erythrina Street, where Council resolved;

Council Decision

Minute Number: 25/10/2022 - 118745

That Council:

- 1. Approve construction works for the 'Kununurra Disruptive and Protective Hardcover' at the intersection of Weaber Plain Road and Erythrina Street as demonstrated on the attached plan; and*
- 2. Approve the allocation of a total budget of \$99,000 for GL Account 04120333 Kununurra Disruptive & Protective Hardcovers, funded as follows:*
 - a. Kimberley Community Action Fund Grant \$49,500; and*
 - b. Reallocation of budget from GL Account 02040248 Security Trial \$49,500.*

Moved: Cr J Farquhar

Seconded: Cr M Dear

Decision: 8/0

WEABER AND VICTORIA

Council approved this works at the February 2023 OCM

COUNCIL DECISION

Minute Number: 21/02/2023 - 118786

That Council approves the construction works for the 'Kununurra Disruptive and Protective Hardcover' at the intersection of Weaber Plain Road and Victoria Highway, Kununurra, as demonstrated on the plan at Attachment 1.

Moved: Cr T Chafer

Seconded: Cr N Brook

Decision: 8/0

At the time of writing this report, the installation of the Weaber Plain and Victoria Highway has been completed, including bollard placement in the path (per specification) and trees planted on approach along the highway East and West. It was the intent of the design to have trees planted closer to the intersection, unfortunately, there are a significant amount of underground services at the intersection that prohibit planting at the desired locations. Instead of proximity, more trees were planted on approach to try to soften the entry. Community services is also working to seek options to place laser cut metal silhouettes on a number of rocks to create an entry statement component to the project.

This item seeks to provide installation at the Coolibah intersections with Ivanhoe Road, both being locations used by stolen vehicles. Plans are provided in the Attachments and show approximate locations on the cadastral boundary on the approach. These locations are somewhat minor compared to the previous project, but still require attention based on local aesthetics. Additional trees will be planted in an attempt to soften the visual impact of a line of rocks at the town entry. The same previous request for standardisation of rock installation will be implemented being local lateritic (brown) rock.

Currently the administration is sourcing suitable rocks from the Carlton Hill Road pit from recent gravel pushup. Contract cost for rock supply and install is around \$14,000. If the Shire sources the stone the contract placement cost amounts to around \$7,000.

Recent tree plantings have been locally sourced Boab trees, however, it is felt that a good shade tree may be better suited to the Coolibah locations, and some feedback would be appreciated from Council preferred species for planting at the end of the dry season.

ATTACHMENTS

Attachment 1 - Coolibah North

Attachment 2 - Coolibah South

12.5.2. POL-4016 Street Tree Removal - New Policy

DATE	28 November 2023
AUTHOR	Director Infrastructure and Strategic Projects
RESPONSIBLE OFFICER	Paul Webb, Director Infrastructure and Strategic Projects
ASSESSMENT NO	N/A
FILE NO	ET.02
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:

- **Adopts the new Council Policy POL-4016 Street Tree Removal; and**
- **Authorise the Chief Executive Officer to advertise the adoption of POL-4016 Street Tree Removal and publish the Policy on the Shire Website as soon as practicable.**

PURPOSE

This report requests Council to adopt a new policy to provide direction for the removal of street trees. The proposed policy relates to the removal of street trees only, and does not pertain to tree planting or total tree assets.

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

This matter has been raised in the March 2022 briefing of Council where the Shire was requested to consider the removal of an existing healthy tree in the Kununurra townsite, the result of which prompted Council to request the creation of a Street Tree removal policy.

STATUTORY IMPLICATIONS

Local Government Act 1995, Part 3, Division 1, General function (1)

POLICY IMPLICATIONS

POL-4010 Asset Management

POL-4004 Vehicle Crossover Subsidy

POL-4002 Private Works and Developments on Road Verges and Shire Managed Land

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 4.4.3: Adequately plan for and fund asset maintenance and renewal to deliver planned services

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

Shire Project: 408 - Coordinate regular reviews of Shire services and development of Service Delivery Plans

Service Area: Asset Management and Capital Works
Asset Management

RISK IMPLICATIONS

Risk: Failure to ensure that customer services at the Shire are accessible and effective in resolving issues, providing services and delivering information to the community.

Control: Implement a policy in relation to street tree removals to provide clear definition on when and why the Shire administration will consider street tree removal.

FINANCIAL IMPLICATIONS

There are no significant financial implications arising from this report that cannot be accommodated in the current budget of Council.

COMMUNITY ENGAGEMENT

Community engagement has been considered and it is suggested that the Policy once adopted be advertised for comment as street trees contribute a great deal towards the look and feel of the Shire. Comments to be considered by the Administration and the Policy amended if required.

COMMENTS

The administration has previously progressed street tree removals by customer request, and at the best consideration of staff at the time. In many instances, continued requests may leave the administration in a position to make a decision, with no foundational understanding of what the Council's wishes may be.

The proposed policy is based upon the WALGA document, 'Street Trees, Guidance Report', and is available on www.walga.asn.au. Standard conditions related to consideration of a tree removal are;

- *The tree is diseased and is beyond remedial treatment, or dead*
- *The tree has been assessed by the Shire as structurally weak and/or dangerous, placing the public at risk or jeopardising safety*

- *The tree has been irreparably damaged*
- *The tree is hazardous to motorists/pedestrians owing to interference in the suitable sitelines presented by the trees alignment or spacing*
- *The tree is affected to road widening, service modification/relocation or other infrastructure works and all other options to retain the tree have been deemed by the Shire to be inappropriate*
- *The tree is dangerously in contact with overhead power lines or distributor wires to properties and where, for reasons of growth habit pertaining to the variety, selective pruning is not practical with the only option being severe lopping*
- *The tree is classified as a noxious weed or prohibited by state or federal legislatures*
- *The tree precludes reasonable development of an adjoining property and there is no reasonable alternative to removal*
- *The tree is causing damage to Shire asset that exceeds the cost of owning the tree, and in the opinion of the Shire is required to be removed to protect that asset.*

These conditions will eliminate ad hoc removal of healthy trees that should otherwise remain in place.

There are instances where a developer or ratepayer will attempt to apply pressure on Shire officers in relation to a tree removal, usually in relation to perceived risk or hazard pertaining to a particular tree. It is a given that all large trees will have some level of inherent risk associated with it, usually in relation to root intrusion, the falling of the tree, or limb loss, however, if the tree is healthy and not posing any imminent threat that requires, in the opinion of the inspecting authorised officer, removal would not be considered if:

- *The tree obscures or potentially obscures views (other than safe sight lines)*
- *The tree variety is disliked*
- *The tree variety causes nuisance by way of leaf, fruit and/or bark shedding or the like*
- *The tree causes allergies*
- *The tree is in the way of a non-essential crossover or verge paving option*
- *The tree shades private gardens, solar panels, pools, etc.*
- *Unsubstantiated 'potential' damage if the tree may fall, or from growth damage*

Additionally, it is the officers experience that extremely committed individuals may press points of potential risk or tree health with officers. In which instance, through the policy, Council may extend the offer for a proponent to:

Should there be a disagreement on the outcome of the health of a tree, the requesting agent may at their own cost, engage the services of a suitably qualified, reputable, professional arborist to assess the health, or other matter, relevant to the tree in question, the matter to be then put to Council for consideration with a copy of that qualified report. The Arborist must supply copies of any credentials to substantiate professional credentials.

The proposed policy relates to Shire maintained street trees only, and not to private trees, natural trees or naturally seeded trees in Shire reserves or Shire maintained open space.

ATTACHMENTS

Attachment 1 - POL-4016 Street Tree Removal

12.5.3. POL-4015 Private Street Tree Planting - New Policy

DATE	28 November 2023
AUTHOR	Director Infrastructure and Strategic Projects
RESPONSIBLE OFFICER	Director Infrastructure and Strategic Projects
FILE NO	ET.02
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:

- **Adopts Policy *POL-4015 Private Street Tree Planting*; and**
- **Authorise the Chief Executive Officer to advertise the adoption of *POL-4015 Private Street Tree Planting*, and publish the Policy on the Shire Website as soon as practicable.**

PURPOSE

This report requests Council to approve a new policy relating to private street tree planting in the road reserve only, and does not pertain to a wider tree planting program or total tree assets.

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

Request for a private Street Tree planting policy has been raised at previous briefing meetings.

STATUTORY IMPLICATIONS

Local Government Act 1995, Part 3, Division 1, General function (1)

POLICY IMPLICATIONS

POL-4010 Asset Management

POL-4004 Vehicle Crossover Subsidy

POL-4002 Private Works and Developments on Road Verges and Shire Managed Land

STRATEGIC IMPLICATIONS

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

Focus Area: LIVEABILITY

Goal 6: Accessible places - Places that are connected, accessible and well maintained

Goal Outcome 6.2: Access to services - Attractive and resilient Town Centres that connect residents and visitors to shops and services

Strategy 6.2: Plan and deliver vibrant, attractive town centres that support services for residents and visitors

RISK IMPLICATIONS

Risk: Failure to secure land which promotes heritage and meets the operational and service delivery requirements of the Shire.

Control: Develop plans and programs that meet the needs of Council and the community.

FINANCIAL IMPLICATIONS

Any future program will be subject to provision of an annual budget for purchase of significantly mature trees, to minimise risk of potential vandalism to new planting. New budget will also need to provide for maintenance of stock held in the Shire Depot.

Asset Considerations

Council currently owns and maintains 1243 trees in road verges and parks. Condition rating has been completed, but no value has yet been placed on this asset group. Council does not currently have a replacement or planting program.

COMMUNITY ENGAGEMENT

Community engagement has been considered and it is suggested that the Policy once adopted be advertised for comment as street trees contribute a great deal towards the look and feel of the Shire. Comments to be considered by the Administration and the Policy amended accordingly if required.

COMMENTS

This matter has been raised at briefing, as a request for private street tree plantings. Subject to normal considerations of site distances, service locations and potential damage to existing Shire assets, trees should be installed to improve local amenity, provide shade, increase local fauna and generally add to canopy cover and minimise thermal footprint of hard structure development.

Comment is requested from Briefing to determine if this policy is adequate for Private Street Tree plantings.

ATTACHMENTS

Attachment 1 - POL-4015 Private Street Tree Planting

12.5.4. Access to Lot 1264 by Managers of Lot 655 Messmate Way.

DATE	28 November 2023
AUTHOR	Director Infrastructure and Strategic Projects
RESPONSIBLE OFFICER	Paul Webb, Director Infrastructure and Strategic Projects
ASSESSMENT NO	A1195
FILE NO	Nil
DISCLOSURE OF INTERESTS	To Be Advised - Financial and Proximity Interests
COUNCIL'S ROLE IN THE MATTER	Partner - Collaboration with external stakeholders to deliver service and projects.
VOTING REQUIREMENT	Absolute Majority

OFFICER'S RECOMMENDATION

That Council request the Chief Executive Officer formulate a Memorandum of Understanding with Cambridge Gulf Limited, at the cost of the applicant, for use of Reserve 42799 Messmate Way, subject to, but not limited;

- **No permanent or semi-permanent structures are to be placed upon the reserve 42799**
- **Surface levels on the hardstand part of Reserve 42799 are not to be altered without consent of the Shire, or in such a way that will reduce the capacity of existing flood routing through Reserve 42799.**
- **The Shire reserves the right to undertake works on Reserve 42799 to mitigate any obstruction to drainage through the location without hindrance or penalty.**
- **Public utility/service providers reserve the right to undertake works on Reserve 42799 without hindrance or penalty.**

PURPOSE

Cambridge Gulf Limited have requested access to Vesting Shire Reserve R42799, Current Purpose Public Utilities and Access, for car parking and landscaping.

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

Nil

STATUTORY IMPLICATIONS

If approved, an MOU agreement for use will be formed.

POLICY IMPLICATIONS

Nil at this time

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: Engage with opportunities to reduce the Shires asset load.

FINANCIAL IMPLICATIONS

Nil to the Shire.

MOU agreement to the satisfaction of the Shire at the cost of the applicant

COMMUNITY ENGAGEMENT

No community engagement is required.

COMMENTS

A representative of Cambridge Gulf Limited (CGL) has approached the Shire Administration requesting access to Shire Reserve 42799 (Lot 501 on DP423702). The purpose of the request is to include Lot 501 on DP423702 into the fenceline of Lot 655 as either parking or landscaping. (Attachment 1, Attachment 2)

Disposal of the lot cannot be considered as there are other interests in the land (other service providers), and the main interest of the Shire of Wyndham East Kimberley is that Reserve 42799 acts as a drainage reserve for flood routing from Beefwood Street.

Brief discussion has identified that the levels of the surface through Reserve 42799 would need to be retained, so as not to interfere with flood routing or back charging drainage water. Additionally, no permanent or semi permanent structure would be permissible at this location. All services provided would be required to have uninterrupted access to the reserve to work, maintain or upgrade their assets without encumbrance.

Attachment 3 demonstrates the current condition of Reserve 42799. The location is maintained to a 'fire cut' standard, that being to minimise fire risk only. Being a main entry to

town, this level of service is generally low, unsightly and unappealing, being functional only, not aesthetic. Despite fencing and a gate being installed at the rear of the location, foot traffic continues to force through the location leaving broken glass and general litter in their wake, adding to the general untidiness of the location.

Legal advice has been sought by the reporting officer, and the land can be 'disposed' through the mechanism of an MOU. This would not release any of the rights of the Shire or other utilities, but would facilitate an agreed level of use to the proponent. Provision of access to the Reserve by CGL *may* assist in reducing foot traffic to the location, but would most certainly improve the visual amenity of the location at no cost to the Shire.

Any works on the Reserve would be subject to approval by the Shire, but would most likely be limited to car parking or landscaping.

If the Council were to support the benefits of this interest, the reporting officer will contact CGL and the Shires Legal contractors to formulate an agreed MOU.

ATTACHMENTS

Attachment 1 – Location Lot 501 on DP423702

Attachment 2 – Cadastral and Lot Information

Attachment 3 – Messmate Reserve Lot 501 on DP423702

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. BOAB HAULAGE

DATE	28 November 2023
AUTHOR	Director Infrastructure and Strategic Projects
RESPONSIBLE OFFICER	Director Infrastructure and Strategic Projects
FILE NO	RD.08.1
DISCLOSURE OF INTERESTS	Nil
COUNCIL'S ROLE IN THE MATTER	Funder - provide funds or other resources 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* 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.*

VOTING REQUIREMENT

Simple Majority

PURPOSE

Council to consider allowance for haulage operations for extraordinary use on the Shires Restricted Access Vehicle Network by Boab Metals Limited.

17. CLOSURE