

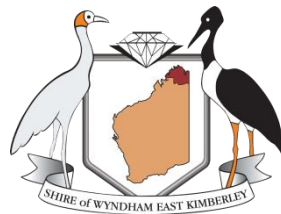
I hereby certify that the Minutes of the Ordinary Council Meeting held  
are a true and accurate record of the proceedings contained therein.

---

Shire President

---

Date



SHIRE OF WYNDHAM | EAST KIMBERLEY

# MINUTES ORDINARY COUNCIL MEETING

20 November 2018

## **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



**CARL ASKEW**

**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.**

## **C O N T E N T S**

<b>1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS .....</b>	<b>4</b>
<b>2. RECORD OF ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE (PREVIOUSLY APPROVED) .....</b>	<b>4</b>
<b>3. DECLARATION OF INTEREST .....</b>	<b>4</b>
<b>4. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE .....</b>	<b>5</b>
<b>5. PUBLIC QUESTION TIME .....</b>	<b>6</b>
<b>6. APPLICATIONS FOR LEAVE OF ABSENCE .....</b>	<b>6</b>
<b>7. PETITIONS.....</b>	<b>6</b>
<b>8. CONFIRMATION OF MINUTES .....</b>	<b>7</b>
<b>9. ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION .....</b>	<b>7</b>
<b>10. MATTERS FOR WHICH THE MEETING MAY BE CLOSED.....</b>	<b>7</b>
<b>11. DEPUTATIONS / PRESENTATIONS / SUBMISSIONS.....</b>	<b>7</b>
<b>12. REPORTS .....</b>	<b>8</b>
<b>12.1. MATTERS ARISING FROM COMMITTEES OF COUNCIL .....</b>	<b>8</b>
<b>12.1.1. Consideration of Recommendations Contained within the Minutes of the Audit (Finance and Risk) Committee Meeting of 5 November 2018.....</b>	<b>8</b>
<b>12.2. CHIEF EXECUTIVE OFFICER.....</b>	<b>15</b>
<b>12.2.1. Standing Item - Outstanding Actions from Previous Council Resolutions</b>	<b>15</b>
<b>12.2.2. Standing Item - Use of the Common Seal .....</b>	<b>17</b>
<b>12.2.3. Request to attend OCM 11 December 2018 via electronic means .....</b>	<b>20</b>
<b>12.3. PLANNING AND COMMUNITY DEVELOPMENT .....</b>	<b>26</b>
<b>12.3.1. Corporate Business Plan Adjustments 2018/19 .....</b>	<b>26</b>
<b>12.4. CORPORATE SERVICES .....</b>	<b>31</b>
<b>12.4.1. Monthly Financial Report October 2018 .....</b>	<b>31</b>
<b>12.4.2. List Of Accounts Paid From Municipal Fund and Trust Fund .....</b>	<b>34</b>
<b>12.5. INFRASTRUCTURE .....</b>	<b>37</b>
<b>12.5.1. Policy Review - CP/REM-3620 Fire Breaks .....</b>	<b>37</b>
<b>13. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN .....</b>	<b>43</b>
<b>14. QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN .....</b>	<b>43</b>
<b>15. URGENT BUSINESS APPROVED BY THE PERSON PRESIDING OR BY DECISION .....</b>	<b>43</b>
<b>16. MATTERS BEHIND CLOSED DOORS .....</b>	<b>43</b>
<b>17. CLOSURE .....</b>	<b>43</b>

**SHIRE OF WYNDHAM EAST KIMBERLEY**  
**ORDINARY COUNCIL MEETING MINUTES**  
**WYNDHAM COUNCIL CHAMBERS**  
**TO BE HELD ON 20 NOVEMBER 2018 AT 5:00PM**

---

**1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS**

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.

The Shire President declared the Meeting open at 5.06pm

**2. RECORD OF ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE (PREVIOUSLY APPROVED)**

**ATTENDANCE**

Cr D Menzel	Shire President
Cr T Chafer	Deputy Shire President
Cr N Brook	Councillor
Cr M Dear	Councillor
Cr J Farquhar	Councillor
Cr G Lodge	Councillor
Cr M McKittrick	Councillor
Cr D Pearce	Councillor
Cr A Petherick	Councillor
C Askew	Chief Executive Officer
N Kearns	Director Planning and Community Development
S Dyson	Director Infrastructure
V Lawrence	Director Corporate Services
N Lennon	Minute Taker

**3. DECLARATION OF INTEREST**

- Financial Interest
- Nil

- Impartiality Interest

Councillor	Item	Title	Description of interest
Cr G Lodge	12.2.3	Request to attend OCM 11 December 2018 via Electronic Means	Cr G Lodge declared an impartiality interest as the applicant for the remote attendance.

- Proximity Interest

Nil

#### 4. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

##### Question 1 - Donna Aladin Resident

Have the Shire staff (eg ANYONE WITH COMPUTER ACCESS EMPLOYED IN THE SHIRE BUILDING) have access to emails that are sent to COUNCILLORS?

*The CEO provided the following response*

All individual SWEK email addresses are secure and private. Therefore no staff can access a Councillor's individual email unless they have been provided the email account password by the Councillor to enable access to the account or where that Councillor has shared or forwarded emails to staff. Access by staff to multiple email accounts is only permitted where there is a generic email address such as rates@swek.wa.gov.au and is only granted on the basis of operational necessity. Councillors are aware of the privacy arrangements relating to their individual SWEK emails.

The State Records Commission policy regarding the records of local government elected members requires the creation and retention of records of the "...communications and transactions of elected members which constitute evidence affecting the accountability of the Council and the discharge of its business." This policy applies regardless of a record's format or where it was received. Elected Members must create and keep records of communications or transactions, which convey information relating to local government business or functions. These records should be forwarded to the Local Government Administration for capture into the official recordkeeping system.

##### Question 2 - Donna Aladin Resident

What is the SWEK policy regarding who is in charge of checking and ENFORCING and actually doing the fire breaks on rural properties PLUS shire responsible land?

*The CEO provided the following response*

All Rangers are responsible/delegated to inspect and enforce firebreaks, issue Hazard Reduction Notices and infringe/recommend prosecution. The actual process of physically creating/renewing a firebreak is completed by Ranger staff with the correct qualifications, other Shire staff (Depot staff) or contracted to outside agencies. These are completed utilising heavy equipment such as front end loaders, slashers, skid steers and backhoes.

DFES and DBCA are consulted prior to June 1 and fire breaks are installed every year prior to this date as required under the *Bush Fire Act 1954*.

Ranger Standard Operating Procedures (SOP's) include procedures for inspections, caution letters, infringements and explanation letters and use of photographic evidence, with all correspondence recorded in our records system including all conversations between staff and the property owners.

### **Question 3 - Donna Aladin Resident**

Do you think these checks have been done according to SWEK policies? As it's obvious they hadn't been done in a long time.

*The CEO provided the following response*

All checks are completed as part of Ranger SOP's every year and are recorded accordingly within our records system. Rangers have issued 75 Hazard Reduction Notices throughout 2017/18. Your statement "*As its obvious they hadn't been done in a long time*" is incorrect.

### **Question 4 - Donna Aladin Resident**

When was the last time the SWEK responsible land had their fire breaks done, BEFORE the fires?

*The CEO provided the following response*

April/May 2018 (Prior to June 1) – All Shire land firebreaks, including other non-Shire land firebreaks where completed.

### **Question 1 – Darren Spackman Resident**

Delineators are being placed on Packsaddle Road. Is this being done to any standard and if so, what standard is the work being done to?

*The Director of Infrastructure provided the following response*

The Shire have been following the Main Roads WA specification 602 and the Main Roads WA guidepost spacing table on their website.

## **5. PUBLIC QUESTION TIME**

Nil

## **6. APPLICATIONS FOR LEAVE OF ABSENCE**

Nil

## **7. PETITIONS**

Nil

## **8. CONFIRMATION OF MINUTES**

### **OFFICER'S RECOMMENDATION**

**That Council confirms the Minutes of the Ordinary Council Meeting held on 30 October 2018**

#### **Council Decision**

**Minute Number: 20/11/2018 - 115878**

**Moved: Cr J Farquhar**

**Seconded: Cr T Chafer**

**That Council confirms the Minutes of the Ordinary Council Meeting held on 30 October 2018**

**Decision: 9/0**

Note: The Minutes of the Ordinary Council Meeting held on 30 October 2018 are provided under separate cover via [www.swek.wa.gov.au](http://www.swek.wa.gov.au)

## **9. ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION**

The Shire President referred to the recent visit to the Wyndham Airport for the official opening of the Airbus Facility.

The Shire President also made reference to a meeting with Hon Alannah MacTiernan MLC Minister for Regional Development; Agriculture and Food; Minister assisting the Minister for State Development, Jobs and Trade. At the Meeting Minister MacTiernan announced the recipients of the State Government's Digital Farm Grants Program. The successful applicant CIPHERTEL will deliver services to 40 farming enterprises covering Kununurra townsite, industrial area, Ord River South/ Central and Ord River North.

The Shire president commended Cr T Chafer and Cr M McKittrick for their participation in the Remembrance Day Services in Kununurra and Wyndham respectively. This year marked 100 years since the armistice that ended the fighting in WW1. The Centenary was marked in Kununurra by the unveiling of a plaque on Anzac Hill.

## **10. MATTERS FOR WHICH THE MEETING MAY BE CLOSED**

Nil

## **11. DEPUTATIONS / PRESENTATIONS / SUBMISSIONS**

Nil

## 12. REPORTS

### 12.1. MATTERS ARISING FROM COMMITTEES OF COUNCIL

#### 12.1.1. Consideration of Recommendations Contained within the Minutes of the Audit (Finance and Risk) Committee Meeting of 5 November 2018

<b>DATE:</b>	20 November 2018
<b>AUTHOR:</b>	Director Corporate Services
<b>RESPONSIBLE OFFICER:</b>	Carl Askew, Chief Executive Officer
<b>ASSESSMENT NO:</b>	Various - As Detailed in the Minutes of the 5 November 2018 Audit (Finance and Risk) Committee meeting
<b>FILE NO:</b>	Various - As Detailed in the Minutes of the 5 November 2018 Audit (Finance and Risk) Committee meeting
<b>DISCLOSURE OF INTERESTS:</b>	Nil

### VOTING REQUIREMENT

Simple Majority

Councillor T Chafer moved and Councillor M McKittrick Seconded that all recommendations from the Audit (Finance and Risk) Committee Meeting be moved “en bloc”.

### COMMITTEE RECOMMENDATION 1

**That Council, with reference to Item 7.1 “*Proposed Meeting Dates for the Audit (Finance and Risk) Committee for 2019*” as detailed in the 5 November 2018 Audit (Finance and Risk) Committee Agenda/Minutes, endorse:**

- 1. That the Audit (Finance and Risk) Committee meetings for 2019 are held in accordance with the following dates, times and place:**

<b>Date</b>	<b>Time</b>	<b>Place</b>
<b>Monday, 11 February 2019</b>	<b>5:00 pm</b>	<b>Council Chambers, Kununurra</b>
<b>Monday, 13 May 2019</b>	<b>5:00 pm</b>	<b>Council Chambers, Kununurra</b>
<b>Monday, 12 August 2019</b>	<b>5:00 pm</b>	<b>Council Chambers, Kununurra</b>
<b>Monday, 4 November 2019</b>	<b>5:00 pm</b>	<b>Council Chambers, Kununurra</b>

**2. That local public notice of the meetings outlined in recommendation (1) above is provided in accordance with Regulation 12 of the *Local Government (Administration) Regulations 1996*.**

**Council Decision**

**Minute Number: 20/11/2018 - 115879**

**Moved: Cr T Chafer**

**Seconded: Cr M McKittrick**

**That Council, with reference to Item 7.1 “*Proposed Meeting Dates for the Audit (Finance and Risk) Committee for 2019*” as detailed in the 5 November 2018 Audit (Finance and Risk) Committee Agenda/Minutes, endorse:**

- 1. That the Audit (Finance and Risk) Committee meetings for 2019 are held in accordance with the following dates, times and place:**

<b>Date</b>	<b>Time</b>	<b>Place</b>
<b>Monday, 11 February 2019</b>	<b>5:00 pm</b>	<b>Council Chambers, Kununurra</b>
<b>Monday, 13 May 2019</b>	<b>5:00 pm</b>	<b>Council Chambers, Kununurra</b>
<b>Monday, 12 August 2019</b>	<b>5:00 pm</b>	<b>Council Chambers, Kununurra</b>
<b>Monday, 4 November 2019</b>	<b>5:00 pm</b>	<b>Council Chambers, Kununurra</b>

- 2. That local public notice of the meetings outlined in recommendation (1) above is provided in accordance with Regulation 12 of the *Local Government (Administration) Regulations 1996*.**

**Decision: 9/0**

**VOTING REQUIREMENT**

Simple Majority

## **COMMITTEE RECOMMENDATION 2**

That Council, with reference to Item 7.2 *“Insurance Claims Report”* as detailed in the 5 November 2018 Audit (Finance and Risk) Committee Agenda and Minutes, notes the Insurance Claims Report and associated confidential attachments.

### **Council Decision**

Minute Number: 20/11/2018 - 115880

Moved: Cr T Chafer

Seconded: Cr M McKittrick

That Council, with reference to Item 7.2 *“Insurance Claims Report”* as detailed in the 5 November 2018 Audit (Finance and Risk) Committee Agenda and Minutes, notes the Insurance Claims Report and associated confidential attachments.

Decision: 9/0

## **VOTING REQUIREMENT**

Simple Majority

## **COMMITTEE RECOMMENDATION 3**

That Council, with reference to Item 7.3 *“Standing Item - Rates Debtors”* as detailed in the 5 November 2018 Audit (Finance and Risk) Committee Minutes, accept the report that the actions being undertaken by the administration in regard to rates debtors, including rates debts in legal process are sufficient and appropriate.

### **Council Decision**

Minute Number: 20/11/2018 - 115881

Moved: Cr T Chafer

Seconded: Cr M McKittrick

That Council, with reference to Item 7.3 *“Standing Item - Rates Debtors”* as detailed in the 5 November 2018 Audit (Finance and Risk) Committee Minutes, accept the report that the actions being undertaken by the administration in

regard to rates debtors, including rates debts in legal process are sufficient and appropriate.

Decision: 9/0

#### **VOTING REQUIREMENT**

Simple Majority

#### **COMMITTEE RECOMMENDATION 4**

That Council, with reference to Item 7.4 “*Audit and Management Report 2017-18*” as detailed in the 5 November 2018 Audit (Finance and Risk) Committee Minutes, notes the office report and associated attachments.

#### **Council Decision**

Minute Number: 20/11/2018 - 115882

Moved: Cr T Chafer

Seconded: Cr M McKittrick

That Council, with reference to Item 7.4 “*Audit and Management Report 2017-18*” as detailed in the 5 November 2018 Audit (Finance and Risk) Committee Minutes, notes the office report and associated attachments.

Decision: 9/0

#### **VOTING REQUIREMENT**

Simple Majority

#### **COMMITTEE RECOMMENDATION 5**

That Council, with reference to Item 7.5 “*Standing Item - Sundry Debtors*” as detailed in the 5 November 2018 Audit (Finance and Risk) Committee Minutes, accept that the actions being undertaken by the administration in regard to sundry debtors including sundry debts in legal process are sufficient and appropriate.

**Council Decision**

**Minute Number: 20/11/2018 - 115883**

**Moved: Cr T Chafer**

**Seconded: Cr M McKittrick**

**That Council, with reference to Item 7.5 “*Standing Item - Sundry Debtors*” as detailed in the 5 November 2018 Audit (Finance and Risk) Committee Minutes, accept that the actions being undertaken by the administration in regard to sundry debtors including sundry debts in legal process are sufficient and appropriate.**

**Decision: 9/0**

**VOTING REQUIREMENT**

Simple Majority

**COMMITTEE RECOMMENDATION 6**

**That Council, with reference to Item 7.6 “*Standing Item - Leases*” as detailed in the 5 November 2018 Audit (Finance and Risk) Committee Minutes, note the Confidential Lease Schedule and the New and Renewal Lease Schedule attached to the Agenda of the 5 November 2018 Audit (Finance and Risk) Committee Meeting.**

**Council Decision**

**Minute Number: 20/11/2018 - 115884**

**Moved: Cr T Chafer**

**Seconded: Cr M McKittrick**

**That Council, with reference to Item 7.6 “*Standing Item - Leases*” as detailed in the 5 November 2018 Audit (Finance and Risk) Committee Minutes, note the Confidential Lease Schedule and the New and Renewal Lease Schedule attached to the Agenda of the 5 November 2018 Audit (Finance and Risk) Committee Meeting.**

**Decision: 9/0**

## **VOTING REQUIREMENT**

Simple Majority

## **PURPOSE**

To consider the recommendations from the Audit (Finance and Risk) Committee made at its meeting held on 5 November 2018.

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

Leader - plan and provide direction through policy and practices

Regulator - enforce state legislation and local laws

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

The background and details supporting the recommendations are contained in the Audit (Finance and Risk) Committee meeting minutes of 13 August 2018.

## **STATUTORY IMPLICATIONS**

Various - detailed within the Minutes of the 5 November 2018 Audit (Finance and Risk) Committee meeting.

## **POLICY IMPLICATIONS**

Various - detailed within the Minutes of the 5 November 2018 Audit (Finance and Risk) Committee meeting.

## **FINANCIAL IMPLICATIONS**

Various - detailed within the Minutes of the 5 November 2018 Audit (Finance and Risk) Committee meeting.

## **STRATEGIC IMPLICATIONS**

*Strategic Community Plan 2017-2027*

Focus Area 4: Civic Leadership

Goal 4.4: Sustainably maintain the Shire's financial viability

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

Strategy 4.3.2: Create a culture that encourages innovation, collaboration, best practice and organisational discipline to improve efficiency, effectiveness and productivity  
Strategy 4.4.4: Apply best practice financial management to ensure long term sustainability

### **RISK IMPLICATIONS**

Various - detailed within the Minutes of the 5 November 2018 Audit (Finance and Risk) Committee meeting.

### **COMMUNITY ENGAGEMENT**

Various - detailed within the Minutes of the 5 November 2018 Audit (Finance and Risk) Committee meeting.

### **COMMENTS**

Various - detailed within the Minutes of the 5 November 2018 Audit (Finance and Risk) Committee meeting.

### **ATTACHMENTS**

Nil

## **12.2. CHIEF EXECUTIVE OFFICER**

### **12.2.1. Standing Item - Outstanding Actions from Previous Council Resolutions**

<b>DATE:</b>	20 November 2018
<b>AUTHOR:</b>	Executive Assistant
<b>RESPONSIBLE OFFICER:</b>	Carl Askew, Chief Executive Officer
<b>DISCLOSURE OF INTERESTS:</b>	Nil

### **VOTING REQUIREMENT**

Simple Majority

### **OFFICER'S RECOMMENDATION**

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

#### **Council Decision**

**Minute Number: 20/11/2018 - 115885**

**Moved: Cr T Chafer**

**Seconded: Cr A Petherick**

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

**Decision: 9/0**

### **PURPOSE**

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

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

Leader - plan and provide direction through policy and practices

## **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

## **FINANCIAL IMPLICATIONS**

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

## **STRATEGIC IMPLICATIONS**

Focus Area 4: Civic Leadership

Strategy 4.2.2: Ensure community input informs planning and decision making

## **RISK IMPLICATIONS**

Nil

## **COMMUNITY ENGAGEMENT**

No community engagement is required.

## **COMMENTS**

This report includes actions from the October 2018 Council resolutions (Attachment 1).

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

## **ATTACHMENTS**

Attachment 1 - Council Action Register - October 2018

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

### 12.2.2. Standing Item - Use of the Common Seal

<b>DATE:</b>	20 November 2018
<b>AUTHOR:</b>	Executive Assistant
<b>RESPONSIBLE OFFICER:</b>	Carl Askew, Chief Executive Officer
<b>DISCLOSURE OF INTERESTS:</b>	Nil

### **VOTING REQUIREMENT**

Simple Majority

### **OFFICER'S RECOMMENDATION**

**That Council receives the report on the application of the Shire of Wyndham East Kimberley Common Seal for the period 21 August 2018 to 16 November 2018.**

#### **Council Decision**

**Minute Number: 20/11/2018 - 115886**

**Moved: Cr N Brook**

**Seconded: Cr T Chafer**

**That Council receives the report on the application of the Shire of Wyndham East Kimberley Common Seal for the period 21 August 2018 to 16 November 2018.**

**Decision: 9/0**

### **PURPOSE**

For Council to receive this report on the application of the Shire of Wyndham East Kimberley Common Seal for the period 21 August 2018 to 16 November 2018.

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

Regulator - enforce state legislation and local laws

### **STATUTORY IMPLICATIONS**

*Local Government Act 1995*

#### **9.49A. Execution of documents**

*(1) A document is duly executed by a local government if —*

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

## **POLICY IMPLICATIONS**

Nil

## **FINANCIAL IMPLICATIONS**

Nil

## **STRATEGIC IMPLICATIONS**

Focus Area 4: Civic Leadership

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

## **RISK IMPLICATIONS**

Nil

## **COMMUNITY ENGAGEMENT**

No community engagement is required.

## **COMMENTS**

There was one document for the time period of 21 August 2018 to 16 November 2018 with the Shire of Wyndham East Kimberley Common Seal applied.

The following document has had the Shire of Wyndham East Kimberley Common Seal applied:

<b>Date of Use</b>	<b>Document</b>
14/11/2018	Deed of Variation - Agreement for Lease - Lot 507 Chestnut Avenue

## **ATTACHMENTS**

Nil

### 12.2.3. Request to attend OCM 11 December 2018 via Electronic Means

*Cr G Lodge declared an impartiality interest as the applicant for the remote attendance.*

<b>DATE:</b>	20 November 2018
<b>AUTHOR:</b>	Communications & Marketing Officer
<b>RESPONSIBLE OFFICER:</b>	Carl Askew Chief Executive Officer
<b>FILE NO:</b>	GN.06.7
<b>DISCLOSURE OF INTERESTS:</b>	Nil

### **VOTING REQUIREMENT**

Absolute Majority

### **OFFICER'S RECOMMENDATION**

**That Council approve Cr Lodge's participation in the Ordinary Meeting of Council to be held 11 December 2018 via simultaneous communications (video conferencing) from 12 Glenleigh Rd Busselton WA 6280.**

### **Council Decision**

**Minute Number: 20/11/2018 - 115887**

**Moved: Cr T Chafer**

**Seconded: Cr J Farquhar**

**That Council approve Cr Lodge's participation in the Ordinary Meeting of Council to be held 11 December 2018 via simultaneous communications (video conferencing) from 12 Glenleigh Rd Busselton WA 6280.**

**Decision: 9/0**

### **PURPOSE**

Cr Lodge has advised the Chief Executive Officer that he will be in Perth at the time of the December Ordinary Council Meeting and that he will therefore need to participate via simultaneous communications - video conferencing.

Cr Lodge will participate for the entire Ordinary Council Meeting.

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

Leader - plan and provide direction through policy and practices

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

Cr Lodge has not previously sought to participate in a Council meeting via instantaneous communication.

Cr Lodge has provided the current request in the correct format (writing) and included required details (clearly identified location) as 12 Glenleigh Rd Busselton WA 6280.

## **STATUTORY IMPLICATIONS**

*Local Government Act 1995 Section 5.25(1)(ba) and 5.25(2)*

### **5.25.                    *Regulations about council and committee meetings and committees***

*(1) Without limiting the generality of section 9.59, regulations may make provision in relation to*

- (a) the matters to be dealt with at ordinary or at special meetings of councils; and*
- (b) the functions of committees or types of committee; and*
- (ba) the holding of council or committee meetings by telephone, video conference or other electronic means; and*
- (c) the procedure to be followed at, and in respect of, council or committee meetings; and*
- (d) methods of voting at council or committee meetings; and*
- (e) the circumstances and manner in which a decision made at a council or a committee meeting may be revoked or changed (which may differ from the manner in which the decision was made); and*
- (f) the content and confirmation of minutes of council or committee meetings and the keeping and preserving of the minutes and any documents relating to meetings; and*
- (g) the giving of public notice of the date and agenda for council or committee meetings; and*
- (h) the exclusion from meetings of persons whose conduct is not conducive to the proper conduct of the meetings and the steps to be taken in the event of persons refusing to leave meetings; and*
- (i) the circumstances and time in which the unconfirmed minutes of council or committee meetings are to be made available for inspection by members of the public; and*
- (j) the circumstances and time in which notice papers and agenda relating to any council or committee meeting and reports and other documents which could be —*

- (i) *tabled at a council or committee meeting; or*
- (ii) *produced by the local government or a committee for presentation at a council or committee meeting, are to be made available for inspection by members of the public.*

(2) *Regulations providing for meetings to be held by telephone, video conference or other electronic means may modify the application of this Act in relation to those meetings to the extent necessary or convenient to facilitate the holding of those meetings in that way.*

*[Section 5.25 amended by No. 64 of 1998 s. 28.]*

## **Local Government (Administration) Regulations 11(a) and 14A**

### **11. Minutes, content of (Act s. 5.25(1)(f))**

*The content of minutes of a meeting of a council or a committee is to include —*

- (a) *the names of the members present at the meeting; and*
- (b) *where a member enters or leaves the meeting during the course of the meeting, the time of entry or departure, as the case requires, in the chronological sequence of the business of the meeting; and*
- (c) *details of each motion moved at the meeting, the mover and the outcome of the motion; and*
- (d) *details of each decision made at the meeting; and*
- (da) *written reasons for each decision made at the meeting that is significantly different from the relevant written recommendation of a committee or an employee as defined in section 5.70 (but not a decision to only note the matter or to return the recommendation for further consideration); and*
- (e) *a summary of each question raised by members of the public at the meeting and a summary of the response to the question; and*
- (f) *in relation to each disclosure made under section 5.65 or 5.70 in relation to the meeting, where the extent of the interest has also been disclosed, the extent of the interest.*

*[Regulation 11 amended in Gazette 23 Apr 1999 p. 1717.]*

### **14A. Attendance by telephone etc. (Act s. 5.25(1)(ba))**

(1) *A person who is not physically present at a meeting of a council or committee is to be taken to be present at the meeting if —*

- (a) *the person is simultaneously in audio contact, by telephone or other means of instantaneous communication, with each other person present at the meeting; and*
  - (b) *the person is in a suitable place; and*
  - (c) *the council has approved\* of the arrangement.*
- (2) *A council cannot give approval under subregulation (1)(c) if to do so would mean that at more than half of the meetings of the council, or committee, as the case may be, in that financial year, a person who was not physically present was taken to be present in accordance with this regulation.*

(3) A person referred to in this regulation is no longer to be taken to be present at a meeting if the person ceases to be in instantaneous communication with each other person present at the meeting.

(4) In this regulation —

**suitable place** means a place that the council has approved\* as a suitable place for the purpose of this regulation and that is located —

- (a) in a townsite or other residential area; and
- (b) 150 km or further from the place at which the meeting is to be held under regulation 12, measured along the shortest road route ordinarily used for travelling;

**townsite** has the same meaning given to that term in the Land Administration Act 1997 section 3(1).

\* Absolute majority required.

[Regulation 14A inserted in Gazette 31 Mar 2005 p. 1031.]

### **Land Administration Act 1997 - section 3 (1)**

#### **3. Terms used**

(1) In this Act, unless the contrary intention appears —

**townsite** means townsite referred to in section 26(1);

#### **26. Land districts and townsites, constitution etc. of**

(1) In this section —  
townsite —

- (a) means townsite constituted under subsection (2); and
- (b) except in subsection (2)(a), includes land referred to in clause 37 of Schedule 9.3 to the Local Government Act 1995.
- (2) Subject to section 26A, the Minister may by order —
  - (a) constitute land districts and townsites; and
  - (b) define and redefine the boundaries of, name, rename and cancel the names of, and, subject to this section, abolish land districts and townsites; and
  - (c) name, rename and cancel the name of any topographical feature, road or reserve.
- (3) An order made under subsection (2) may include such matters enabled to be effected under an order made under another provision of this Act as the Minister thinks fit.

[Section 26 amended by No. 38 of 2005 s. 8.]

### **POLICY IMPLICATIONS**

Nil

### **FINANCIAL IMPLICATIONS**

Nil

## **STRATEGIC IMPLICATIONS**

Strategic Community Plan 2017-2027

Focus Area 4: Civic Leadership

## **RISK IMPLICATIONS**

**Risk:** Failure to comply with legislative requirements leading to damage of reputation and/or financial loss.

## **COMMUNITY ENGAGEMENT**

No community engagement is required.

## **COMMENTS**

*Section 5.25(ba) of the Local Government Act* provides for the holding of council or committee meetings by telephone, video conference or other electronic means. The record of meeting attendance must contain the name and other required details of any member not physically present who has been approved by council (absolute majority required) to attend a council or committee meeting by telephone, video conference or by other electronic means (*Administration Regulations 11(a) and 14A*).

For the purposes of *Administration Regulation 14A*, a person who is not physically present at a council or committee meeting is to be taken to be present if;

- the person is simultaneously in audio contact with each other person present at the meeting by telephone or other instantaneous communication means;
- the person is in a suitable place (approved by absolute majority); and
- the council has approved (by absolute majority) of the arrangement.

For a person to not physically attend a council or a committee meeting, the council has to approve (by absolute majority) a suitable place for the person to be physically present at during the course of the specific meeting. A suitable place prescribed by *Administration Regulation 14A(4)*, is one that is located;

- in a town site (as defined under *section 3(1) of the Land Administration Act 1997*) or other residential area; and
- 150 km or further from the place at which the meeting is to be held, in accordance with the notice calling the meeting.

The minutes of a meeting, where an approval is granted relating to a member's attendance at a council or committee meeting by telephone, video conference or other electronic means, must clearly show that the council has approved of the arrangement and clearly identify the approved suitable place. The minutes must also confirm that such approval was adopted by absolute majority.

## **ATTACHMENTS**

Attachment 1 - Written application by Cr G Lodge

## **12.3. PLANNING AND COMMUNITY DEVELOPMENT**

### **12.3.1. Corporate Business Plan Adjustments 2018/19**

<b>DATE:</b>	20 November 2018
<b>AUTHOR:</b>	Senior Integrated Planning and Reporting Officer
<b>RESPONSIBLE OFFICER:</b>	Nick Kearns, Director Planning and Community Development
<b>ASSESSMENT NO:</b>	N/A
<b>FILE NO:</b>	CM.10.10
<b>DISCLOSURE OF INTERESTS:</b>	Nil

### **VOTING REQUIREMENT**

Absolute Majority

### **OFFICER'S RECOMMENDATION**

**That Council adopts the changes to the Corporate Business Plan 2018/19 to 2021/22 as detailed in the attached 2018/19 CBP actions arising from adjustments to the adopted Budget.**

#### **Council Decision**

**Minute Number: 20/11/2018 - 115888**

**Moved: Cr T Chafer**

**Seconded: Cr G Lodge**

**That Council adopts the changes to the Corporate Business Plan 2018/19 to 2021/22 as detailed in the attached 2018/19 CBP actions arising from adjustments to the adopted Budget.**

**Decision: 9/0**

### **PURPOSE**

The purpose of this report is to consider changes to the adopted Corporate Business Plan 2018/19 to 2021/22 arising from adjustments to the adopted Budget.

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

Advocator - advocate and support initiatives on behalf of the community and the Kimberley

Facilitator - bring stakeholders together

Funder - provide funds or other resources

Leader - plan and provide direction through policy and practices

Provider - provide physical infrastructure and essential services

Regulator - enforce state legislation and local laws

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

Council, pursuant to the provisions of section 5.56 of the *Local Government Act 1995* and Regulation 19DA of the *Local Government (Administration) Regulations 1996*, adopted the Corporate Business Plan 2018/19 to 2021/22 at the Ordinary Council Meeting held on the 26 June 2018 which reflected the 2018/19 Annual Budget funding allocation in the key programs and projects to be undertaken in the 2018/19 financial year and which incorporates Council's consideration of any community comments received.

At the time of the preparation of the 2018/19 Budget, estimates of both capital and operating expenditure and revenue had to be made as actual data could not be determined at that time. It was the intention that once the actual data was available then the budget would be revisited to adjust budget allocations for any change in circumstances due to any material variance between actual data and estimated data. Changes to the Municipal Fund Budget for the 2018/19 financial year was then considered by Council at the Ordinary Council Meeting on 30 October 2018 subsequently adopted (**Minute Number: 30/10/2018 - 115873**).

## **STATUTORY IMPLICATIONS**

Section 5.56(1) and (2) of the *Local Government Act 1995* requires that each local government is 'to plan for the future of the district', by developing plans in accordance with the regulations. The *Local Government (Administration) Regulations 1996* (s19DA) outlines the requirements for a Corporate Business plan.

## **FINANCIAL IMPLICATIONS**

The adjustment to the Corporate Business Plan is based on the updated Annual Budget and any financial implications are captured in the corresponding report.

## **STRATEGIC IMPLICATIONS**

*Strategic Community Plan 2017-2027*

Focus Area 4: Civic Leadership

Goal 4.2: Good decision making through engagement with the community

Strategy 4.2.1: Engage and communicate with all sections of the community to better understand needs and priorities

Strategy 4.2.2: Ensure community input informs planning and decision making

- Strategy 4.2.3: Ensure community awareness of issues, activities and decisions affecting the Shire
- Goal: 4.3: Ensure a strong and progressive organisation delivering customer focused services
- Strategy 4.3.1: Be adaptive, responsive with a strong customer focus
- Strategy 4.3.2: Create a culture that encourages innovation, collaboration, best practice and organisational discipline to improve efficiency, effectiveness and productivity
- 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

### *Corporate Business Plan 2018/19*

CBP Action: #53 - Ensure compliance with the Integrated Planning and Reporting Framework

CBP Task: Facilitate Annual review of CBP, Provide quarterly CBP progress reports

### **RISK IMPLICATIONS**

**Risk:** Shire undertakes activities outside of the Corporate Business Plan that are not recorded and monitored

**Control:** Update the Corporate Business Plan to reflect the adjustments made to the Annual Budget

### **COMMUNITY ENGAGEMENT**

No community engagement is required as the changes reflect those in the updated Annual Budget 2018/19.

### **COMMENTS**

The following changes to the actions and tasks in the Corporate Business Plan have been made in response to the updates to the Annual Budget:

#### Changes to existing actions in the Corporate Business Plan

Action ID	Action Title	Change to action
293	EKRA - Upgrade and increase airport car parking capacity to meet customer needs	There was no planned activity in 2018/19. The Responsible Officer proposes to add the following task to 2018/19: <b><i>Upgrade main car park adjoining the Terminal</i></b>
301	Gibb River-Kalumburu Road Renewal / Upgrade	Existing action and task carryover of \$555,371 increasing the annual 18/19 task budget to \$1,432,371.

416	Identify and access sustainable water source for Wyndham reticulation	Existing action and task updated with carryover funds of \$60,000.
448	KLC - Renewal of Kununurra Leisure Centre	Update 18/19 task budget to \$50,000 to fund new concept designs for pool renewal. Out years also updated based on latest estimates with pool construction in 20/21 and 21/22.
509	Road Reconstruction - Lake Argyle	Existing action and task carryover of \$1,047,984 increasing the annual 18/19 task budget to \$2,069,501.
553	EKRA - Develop Safety and Emergency Management Capabilities	There was no planned activity in 2018/19. The Responsible Officer proposes to add the following task to 2018/19: <b><i>Undertake a Desktop Exercise</i></b>
554	EKRA - Taxiway and Apron Upgrades	There was no planned activity in 2018/19. The Responsible Officer proposes to add the following task to 2018/19: <b><i>Undertake upgrade and ensure airside lighting at EKRA meets CASA standards</i></b>
257	Road and Drainage Reconstruct - Kununurra North	Drainage works previously captured in the Action #392 are transferred to #257 including: 2018/19: stormwater management strategy for Kununurra based on findings of the CARDNO report; Out years: drainage improvement works on Weaber Plain Road

#### Actions removed from the Corporate Business Plan

Action ID	Action Title	Change to action
392	Drainage - Kununurra flood mitigation works and South Eastern ORIA	Action task carried over from 2017/18 "completing storm water management strategy" has been merged with Action #257 to include road and drainage works

#### New Actions added to the Corporate Business Plan

Action ID	Action Title	Change to action
236	EKRA - Maintain air-strip in a safe and well serviced condition	Following report to Council in September regarding The Responsible Officer proposes to add the following task to 2018/19: <b><i>Undertake geotechnical investigations to confirm</i></b>

		<b><i>ground conditions and identify the most effective remediation techniques for the runway strip</i></b>
267	Drainage - Wyndham	There was no planned activity in 2018/19. Drainage work to Gambier Street planned for 2017/18 has carried over into 2018/19 with a budget adjustment of \$146,000. The following task will be added to 2018/19: <b><i>Drainage upgrade - Gambier Street</i></b>

## **ATTACHMENTS**

Attachment 1 - 18/19 CBP Actions amendment arising from adjustments to the Adopted Budget

Attachment 2 - 18/19 CBP 4 year Projects and Actions Update

## 12.4. CORPORATE SERVICES

### 12.4.1. Monthly Financial Report October 2018

<b>DATE:</b>	20 November 2018
<b>AUTHOR:</b>	Coordinator Financial Management
<b>RESPONSIBLE OFFICER:</b>	Vernon Lawrence, Director Corporate Services
<b>FILE NO:</b>	FM.09.5
<b>DISCLOSURE OF INTERESTS:</b>	Nil

### **VOTING REQUIREMENT**

Simple Majority

### **OFFICER'S RECOMMENDATION**

**That Council receives the monthly financial report as at 31 October 2018.**

#### **Council Decision**

**Minute Number: 20/11/2018 - 115889**

**Moved: Cr M McKittrick**

**Seconded: Cr M Dear**

**That Council receives the monthly financial report as at 31 October 2018.**

**Decision:9/0**

### **PURPOSE**

For Council to receive the monthly financial report for the period ended 31 October 2018.

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

Regulator - enforce state legislation and local laws

### **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 26 June 2018 Ordinary Council Meeting, the Council resolved the following:

## **COUNCIL DECISION**

**Minute Number: 26/06/2018-115800**

**Moved: Cr M Mckittrick**

**Seconded: Cr M Dear**

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

**Carried 9/0**

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

## **STATUTORY IMPLICATIONS**

*Local Government Act 1995, Section 6.4.*

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

## **POLICY IMPLICATIONS**

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

## **FINANCIAL IMPLICATIONS**

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

## **STRATEGIC IMPLICATIONS**

*Strategic Community Plan 2017-2027*

Focus Area 4: Civic Leadership

Goal 4.4: Sustainably maintain the Shire's financial viability

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

## **RISK IMPLICATIONS**

**Strategic Risk:** Failure to comply with legislative requirements leading to damage of reputation and/or financial loss.

**Control:** Annual audit performed.

### **COMMUNITY ENGAGEMENT**

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

No community engagement is required.

### **COMMENTS**

Comments in relation to budget to actual variances are included as notes in the Financial Report attached.

### **ATTACHMENTS**

Attachment 1 - Monthly Financial Report for the period to 31 October 2018.

#### 12.4.2. List of Accounts Paid From Municipal Fund and Trust Fund

<b>DATE:</b>	20 November 2018
<b>AUTHOR:</b>	Creditors Officer
<b>RESPONSIBLE OFFICER:</b>	Vernon Lawrence, Director Corporate Services
<b>FILE NO:</b>	FM.09.20
<b>DISCLOSURE OF INTERESTS:</b>	Nil

#### VOTING REQUIREMENT

Simple Majority

#### OFFICER'S RECOMMENDATION

That Council receives the listing of accounts paid from the Municipal and Trust funds, being:

Municipal EFT 133192 - 133512 (04 Oct 18 - 30 Oct 18)	\$ 2,127,592.07
Municipal cheques 51829 - 51844 (04 Oct 18 - 25 Oct 18)	\$ 204,839.66
Trust cheques 1193 (11 Oct 18)	\$ 250.00
Trust EFT 501677 - 501697 (14 Sept 18 - 31 Oct 18)	\$ 8,836.00
Payroll (10 Oct 18 - 29 Oct 18)	\$ 490,937.80
Direct bank debits (01 Oct 18 - 25 Oct 18)	\$ 109,328.78
<b>TOTAL</b>	<b>\$ 2,941,784.31</b>

#### Council Decision

Minute Number: 20/11/2018 - 115890

Moved: Cr T Chafer

Seconded: Cr M Dear

That Council receives the listing of accounts paid from the Municipal and Trust funds, being:

Municipal EFT 133192 - 133512 (04 Oct 18 - 30 Oct 18)	\$ 2,127,592.07
Municipal cheques 51829 - 51844 (04 Oct 18 - 25 Oct 18)	\$ 204,839.66

Trust cheques 1193 (11 Oct 18)	\$ 250.00
Trust EFT 501677 - 501697 (14 Sept 18 - 31 Oct 18)	\$ 8,836.00
Payroll (10 Oct 18 - 29 Oct 18)	\$ 490,937.80
Direct bank debits (01 Oct 18 - 25 Oct 18)	\$ 109,328.78
<b>TOTAL</b>	<b>\$ 2,941,784.31</b>
<b>Decision: 9/0</b>	

## **PURPOSE**

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

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

Regulator - enforce state legislation and local laws.

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

In accordance with Councils Delegations Register 2017/18 which was adopted by the Council on the 22 August 2017, the Council has delegated to the CEO the exercise of its power under regulations 12 and 13 of the *Local Government (Financial Management) Regulations 1996* to make payments from Municipal Fund and Trust Fund.

## **STATUTORY IMPLICATIONS**

*Local Government Act 1995* – Section 5.42

*Local Government (Financial Management) Regulations 1996* – Regulations 5, 11, 12, 12(1)(a) and 13.

## **POLICY IMPLICATIONS**

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

## **FINANCIAL IMPLICATIONS**

There are no financial implications arising out of the preparation of this report. The financial implications arising from the payments made from the Municipal and Trust funds have been provided for in the 2018/19 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 payments made.

## **STRATEGIC IMPLICATIONS**

*Strategic Community Plan 2017-2027.*

Focus Area 4: Civic Leadership

Goal 4.4: Sustainably maintain the Shire's financial viability

Strategy 4: Apply best practice financial management to ensure long term sustainability.

## **RISK IMPLICATIONS**

**Risk:** Failure to comply with legislative requirements leading to damage of reputation and/or financial loss.

**Controls:** Annual Financial Audit. Annual Compliance Return to Department of Local Government, Sport and Cultural Industries.

## **COMMUNITY ENGAGEMENT**

No community engagement is required.

## **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, amount of payment, date of payment and sufficient information to identify the transaction. The list is to be presented to the Council at the next ordinary meeting of the Council following the preparation of the list and is to be recorded in the minutes of the meeting at which it is presented.

## **ATTACHMENTS - Item 12.4.1**

Attachment 1 - List of Accounts Paid October 2018

## 12.5. INFRASTRUCTURE

### 12.5.1. Policy Review - CP/REM-3620 Fire Breaks

<b>DATE:</b>	20 November 2018
<b>AUTHOR:</b>	Director Infrastructure
<b>RESPONSIBLE OFFICER:</b>	Stuart Dyson, Director Infrastructure
<b>FILE NO:</b>	ES.03.1
<b>DISCLOSURE OF INTERESTS:</b>	Nil

### VOTING REQUIREMENT

Simple Majority.

### OFFICER'S RECOMMENDATION

**That Council adopt the reviewed CP/REM- 3620 Fire Breaks Policy as set out in attachment 1 of this report**

Cr T Chafer put forward an alternate motion.

### Council Decision

**Minute Number: 20/11/2018 - 115891**

**Moved: Cr T Chafer**

**Seconded: Cr D Pearce**

**That Council refer the Policy back to the administration for review and re-presenting to Council.**

**Decision: 9/0**

### PURPOSE

For Council to consider the reviewed policy CP/REM- 3620 - Fire Breaks.

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

Leader - plan and provide direction through policy and practices.

Regulator - enforce state legislation and local laws.

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

This policy was last reviewed in 2015 and was adopted by Council at the 25 August 2015 meeting.

## **COUNCIL DECISION**

**Minute No. 11067**

**Moved: Cr B Robinson**

**Seconded: Cr K Wright**

**That Council:**

- 1. Rescinds, order FC2 Fire Break Order,**
- 2. Adopts the amended policy CP/REM 3620 (Attachment 3) with a change to 9.2 in the amended policy to read:**  
**Properties within a specific area may be exempt from the above requirements if they are within an established fire break area that is maintained by the affected landowner and approved by the Shire.**

**Carried Unanimously 7/0**

## **STATUTORY IMPLICATIONS**

*Bush Fires Act 1954 Section 33 applies to this matter.*

### **BUSH FIRES ACT 1954 - SECT 33**

#### **33 . Local government may require occupier of land to plough or clear fire-break**

(1) Subject to subsection (2) a local government at any time, and from time to time, may, and if so required by the Minister shall, as a measure for preventing the outbreak of a bush fire, or for preventing the spread or extension of a bush fire which may occur, give notice in writing to an owner or occupier of land situate within the district of the local government or shall give notice to all owners or occupiers of land in its district by publishing a notice in the *Government Gazette* and in a newspaper circulating in the area requiring him or them as the case may be within a time specified in the notice to do or to commence to do at a time so specified all or any of the following things —

(a) to plough, cultivate, scarify, burn or otherwise clear upon the land fire-breaks in such manner, at such places, of such dimensions, and to such number, and whether in parallel or otherwise, as the local government may and is hereby empowered to determine and as are specified in the notice, and thereafter to maintain the fire-breaks clear of inflammable matter;

(b) to act as and when specified in the notice with respect to anything which is upon the land, and which in the opinion of the local government or its duly authorised officer, is or is likely to be conducive to the outbreak of a bush fire or the spread or extension of a bush fire,

and the notice may require the owner or occupier to do so —

(c) as a separate operation, or in co-ordination with any other person, carrying out a similar operation on adjoining or neighbouring land; and

(d) in any event, to the satisfaction of either the local government or its duly authorised officer, according to which of them is specified in the notice.

(2) A notice in writing under subsection (1) may be given to an owner or occupier of land by posting it to him at his last postal address known to the local government and may be given to an owner of land by posting it to him at the address shown in the rate record kept by the local government pursuant to the [Local Government Act 1995](#), as his address for the service of rate notices.

(2a) The provisions of subsection (2) are in addition to and not in derogation of those of sections 75 and 76 of the *Interpretation Act 1984*.

(3) The owner or occupier of land to whom a notice has been given under subsection (1) and who fails or neglects in any respect duly to comply with the requisitions of the notice is guilty of an offence.

Penalty: \$5 000.

(4) Where an owner or occupier of land who has received notice under subsection (1) fails or neglects to comply with the requisitions of the notice within the time specified in the notice —

(a) the local government may direct its bush fire control officer, or any other officer of the local government, to enter upon the land of the owner or occupier and to carry out the requisitions of the notice which have not been complied with; and

(b) the bush fire control officer or other officer may, in pursuance of the direction, enter upon the land of the owner or occupier with such servants, workmen, or contractors, and with such vehicles, machinery, and appliances as he deems fit, and may do such acts, matters and things as may be necessary to carry out the requisitions of the notice.

(5) The amount of any costs and expenses incurred by the bush fire control officer or other officer in doing the acts, matters, or things provided for in subsection (4) —

(a) shall be ascertained and fixed by the local government and a certificate signed by the mayor or president of the local government shall be *prima facie* evidence of the amount; and

(b) may be recovered by the local government in any court of competent jurisdiction as a debt due from the owner or occupier of land to the local government.

(5a) A local government may make local laws in accordance with subdivision 2 of Division 2 of Part 3 of the [Local Government Act 1995](#) —

(a) requiring owners and occupiers of land in its district to clear fire-breaks in such manner, at such places, at such times, of such dimensions and to such number, and whether in parallel or otherwise, as are specified in the local laws and to maintain the fire-breaks clear of inflammable matter;

(b) providing that things required by the local laws to be done shall be done to the satisfaction of the local government or its duly authorised officer.

(5b) Where an owner or occupier of land fails or neglects in any respect to comply with the requirements of local laws made under subsection (5a) the provisions of subsections (3), (4) and (5) apply *mutatis mutandis* as if those requirements were the requisitions of a notice given under subsection (1).

(5c) Nothing in subsection (5a) affects the power of a local government to give notice under subsection (1) nor its duty to do so if so required by the Minister.

(5d) Where the provisions of local laws made under subsection (5a) are inconsistent with those of a notice given under subsection (1) or under section 34 or 35, the provisions of that notice shall, to the extent of the inconsistency, prevail.

(6) A local government may, at the request of the owner or occupier of land within its district, carry out on the land, at the expense of the owner or occupier, any works for the removal or abatement of a fire danger, and the amount of the expense, if not paid on demand, may be recovered from the owner or occupier by the local government in a court of competent jurisdiction as a debt due from the owner or occupier to the local government.

(7) Nothing in this section authorises a local government —

(a) to set fire to the bush, or to require an owner or occupier of land to set fire to the bush, contrary to the provisions of section 17; or

(b) to make local laws authorising or requiring bush to be set on fire contrary to the provisions of section 17.

(8) Any amount recoverable by a local government under this section as a debt due from the owner or occupier of land is, until paid in full —

(a) a debt due from each subsequent owner in succession; and

(b) a charge against the land with the same consequences as if it were a charge under the *Local Government Act 1995* for unpaid rates; and

(c) recoverable by the local government in the same manner as rates imposed in respect of the land are recoverable under that Act.

(9) In this section —

**owner or occupier of land** includes a prescribed department of the Public Service that occupies land or a prescribed State agency or instrumentality that owns or occupies land.

*[Section 33 amended by No. 11 of 1963 s. 15; No. 113 of 1965 s. 8(1); No. 65 of 1977 s. 32 and 48; No. 51 of 1979 s. 3 and 5; No. 8 of 1987 s. 8; No. 14 of 1996 s. 4; No. 38 of 2002 s. 28 and 39; No. 70 of 2003 s. 7; No. 19 of 2010 s. 52(4).]*

## **POLICY IMPLICATIONS**

No further implications are made by this policy.

The policy binds the Shire to key commitments in the containment of wildfire and to the allocation of resources to implement fire suppression.

## **FINANCIAL IMPLICATIONS**

There are no direct additional financial implications in adopting the revised policy.

## **STRATEGIC IMPLICATIONS**

*Strategic Community Plan 2017-2027*

*Focus Area 2: Enhancing the environment.*

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

*Strategy 2.3.5: Enforce effective public health and safety.*

*Focus Area 4: Civic Leadership.*

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

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

## **RISK IMPLICATIONS**

### **Risk:**

Inability to deliver levels of service expected by the community.

### **Controls:**

Current budget and service levels.

Develop agreed standards of service and communicate with the community.

## **COMMUNITY ENGAGEMENT**

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

No community engagement is required.

## **COMMENTS**

This policy has been updated to reflect the current standards required for maintaining compliant Fire Breaks as per Attachment 1.

The updates included in this review consists of:

1. Minor rewording and formatting corrections.
2. Addition of specific sections of the Bush Fires Act 1954 in which a duly authorised person appointed by the Shire of Wyndham East Kimberley is able to enforce compliance under.
3. Addition of item 5. "Rural Living Areas" to the Policy Statements section.

## **ATTACHMENTS**

Attachment 1 - CP/REM- 3620 Fire Breaks Policy

**13. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil

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

Nil

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

Nil

**16. MATTERS BEHIND CLOSED DOORS**

Nil

**17. CLOSURE**

The Shire President declared the meeting closed at 5.46pm