



SHIRE OF WYNDHAM | EAST KIMBERLEY

AUDIT (FINANCE & RISK) COMMITTEE MEETING

13 MARCH 2023

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SHIRE OF WYNDHAM EAST KIMBERLEY
AGENDA OF THE
AUDIT (FINANCE AND RISK) COMMITTEE
KUNUNURRA COUNCIL CHAMBERS
HELD ON TUESDAY, 13 MARCH 2023 AT 5:00 PM

1. DECLARATION OF OPENING

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

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

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

2. RECORD OF ATTENDANCE / APOLOGIES

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

4. DECLARATION OF INTEREST

- Financial Interest
- Impartiality Interest
- Proximity Interest

5. CONFIRMATION OF MINUTES OF PREVIOUS MEETING

That the Minutes of the Audit (Finance and Risk) Committee meeting of 5 December 2023 be accepted as a true and accurate record of proceedings.

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

6. DEPUTATIONS / PRESENTATIONS / SUBMISSIONS / NOTICES OF MOTIONS

7. REPORTS

7.1. STANDING ITEM - RATES DEBTORS

DATE:	13 March 2023
AUTHOR:	Rates Officer
RESPONSIBLE OFFICER:	Felicity Heading, Director Corporate Services
FILE NO:	FM.11.166
DISCLOSURE OF INTERESTS:	Nil
VOTING REQUIREMENT:	Simple Majority
NATURE OF COUNCIL'S ROLE IN THE MATTER:	Leader - plan and provide direction through policy and practices

OFFICER'S RECOMMENDATION

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

PURPOSE

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

BACKGROUND/PREVIOUS CONSIDERATIONS BY COUNCIL/COMMITTEE

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

Minute No. 7936

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

Carried Unanimously 5/0

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

Minute No: 8148

Moved: Cr J Parker Seconded: Cr F Mills

That Council:

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

Carried Unanimously 8/0

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

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

STATUTORY IMPLICATIONS

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

POLICY IMPLICATIONS

The following Council Policies are relevant to this item:

CP/FIN-3212 Rates and Charges Debt Collection

CP/FIN-3219 Covid-19 Financial Hardship - Rates and Sundry Debtors

CP/COM-3582 Community Grant Program

FINANCIAL IMPLICATIONS

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

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

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

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

COMMUNITY ENGAGEMENT

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

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

COMMENTS

Rates and Services Debtors Summary

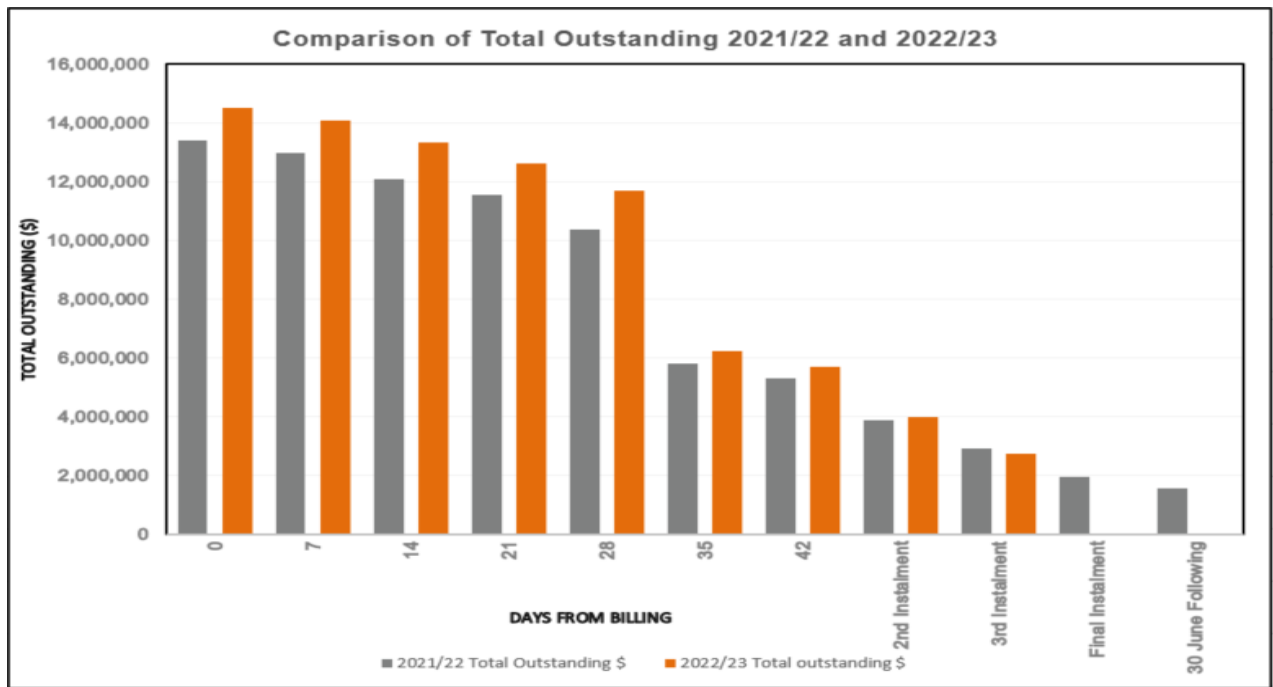
Rates & Services Levied 2022/23 (including arrears) at 09 March 2023	Overdue at 09 March 2023
\$14,603,818	\$1,945,323

Rates for the financial year of 2022/23 were raised on 17 July 2022 and notices issued on 29 July 2022. Interim rating occurs periodically throughout the year. Annual rates were due for payment on 2 September 2022. The Overdue amount of \$1,945,323 is analysed in the Confidential Attachment. Details of rates debtors provided in this report are as at 09 March 2023.

Comparison of Rates received 2021/22 and 2022/23

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

		2021/22			2022/223		
Days from Billing		Total Outstanding	Received	% of Total Outstanding at Billing Received	Total outstanding	Received	% of Total Outstanding at Billing Received
		\$	\$	%	\$	\$	%
0	Notices Issued	13,400,297			14,507,172		
7		12,971,055	429,243	3.20%	14,095,693	411,479	3.07%
14		12,077,485	1,322,812	9.87%	13,345,969	1,161,203	8.67%
21		11,537,328	1,862,970	13.90%	12,634,998	1,872,174	13.97%
28		10,387,700	3,012,597	22.48%	11,706,759	2,800,413	20.90%
35		5,804,063	7,596,235	56.69%	6,236,183	8,270,989	57.01%
42		5,323,931	8,076,366	60.27%	5,716,613	8,790,559	60.59%
2nd Instalment		3,880,755	9,519,543	71.07%	3,979,275	10,527,897	72.57%
3rd Instalment		2,916,039	10,484,258	78.24%	2,744,415	11,762,757	81.08%
Final Instalment		1,957,079	11,443,219	85.40%			
30 June Following		1,571,136	11,829,161	88.28%			
Total			11,829,161			11,762,757	



Instalment Status Report at 09 March 2023

Instalment Option	Number of Properties	% Total Properties*	Properties up to date	Properties Behind	Instalments Overdue \$	% of Properties Overdue
2 Instalment	154	5.50%	114	40	\$28,857	25.97%
4 Instalment	442	15.77%	331	111	\$46,008	25.11%
All Instalment Payers	596	21.27%	445	151	\$74,865	25.34%
2,802	*excluding non-rateable properties					

Additional Information

Impact of COVID-19

It should be noted that in response to the COVID-19 pandemic a number of initiatives have been put in place to assist ratepayers, businesses and the community in general that impact the Shire's debt collection processes. These include the adoption of Council policy *CP/FIN-3219 COVID-19 Financial Hardship - Rates and Sundry Debtors* to allow those experiencing financial hardship to apply for debt relief including the waiver of interest and fees and charges, and minor amendments to the existing policy *CP/FIN-3212 Rates and Charges Debt Collection* to allow for extended payment arrangement terms and for greater discretion in debt collection. During the 2020/21 financial year legal action was placed on hold for all accounts. In the 2021/22 financial year legal action recommenced with only those ratepayers approved under Council policy *CP/FIN-3219 COVID-19 Financial Hardship - Rates and Sundry Debtors* being exempt.

To date Fourteen applications for Financial Hardship have been received from ratepayers. Fourteen have been approved. Since introducing the Policy in April 2020, two of the eligible properties have since sold leaving twelve approved ratepayers. Of these twelve, six have paid in full leaving a total outstanding amount of \$104,241.79 for the remaining six ratepayers.

ATTACHMENTS

(Confidential Attachments provided under separate cover).

Confidential Attachment 1 - Rates Debtors at 09 March 2023

7.2. STANDING ITEM - SUNDRY DEBTORS

DATE:	13 March 2023
AUTHOR:	Manager Finance
RESPONSIBLE OFFICER:	Felicity Heading, Director Corporate Services
FILE NO:	FM.07.02
DISCLOSURE OF INTERESTS:	Nil
COUNCIL'S ROLE IN THE MATTER:	Leader - Plan and provide direction through policy and practices
VOTING REQUIREMENT:	Simple Majority

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

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

PURPOSE

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

NATURE OF COUNCIL'S ROLE IN THE MATTER

Leader - plan and provide direction through policy and practices.

BACKGROUND/PREVIOUS CONSIDERATIONS BY COUNCIL/COMMITTEE

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

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

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

Further changes were recommended to the Audit Committee at the February 2014 meeting to modify the report by removing the categories previously reported and to report sundry debtors as a whole, with airport debtors still being identified separately and that only debtors in excess of \$20,000 be provided with more detail. These changes were supported by the Committee and have been considered in the writing of this report.

STATUTORY IMPLICATIONS

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

POLICY IMPLICATIONS

Policies relevant to this item:

Council Policy *CP/FIN-3214 Sundry Debt Collection*

Council Policy *CP/FIN-3219 Covid-19 Financial Hardship - Rates and Sundry Debtors*

FINANCIAL IMPLICATIONS

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

It should be noted however, that as outlined in section 9 of the *CP/FIN-3214 Sundry Debt Collection Policy*, when possible 'Debt collection and legal fees associated with the recovery of outstanding debts will be recovered from the sundry debtor to the extent allowable under legislation and will be assessed on a case by case basis'.

STRATEGIC IMPLICATIONS

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

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

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

COMMUNITY ENGAGEMENT

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

No community engagement is required however there is regular contact with debtors generally.

COMMENTS

Sundry Debtors (General) Summary as at 31 January 2023

Categories	90 Days		60 Days	30 Days	Current	Total
	<u>No</u>	\$	\$	\$	\$	\$
Sundry Debtors	251	306,346	40,219	272,608	1,659,519	2,278,692

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

Sundry Debtors (Airport Landing Fees) Summary as at 31 January 2023

Categories	90 Days		60 Days	30 Days	Current	Total
	<u>No</u>	\$	\$	\$	\$	\$
Kununurra Airport	63	57,329	6,252	56,547	124,881	245,009
Wyndham Airport	2	95	385	143	2,230	2,853
Total	65	57,424	6,637	56,690	127,111	247,862

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

Additional Information

Virgin Administration

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

Impact of COVID-19

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

ATTACHMENTS

(Confidential attachments provided under separate cover).

Confidential Attachment 1 - Sundry Debtors at 31 January 2023

7.3. STANDING ITEM - INSURANCE CLAIMS

DATE:	13 March 2023
AUTHOR:	Director Corporate Services
RESPONSIBLE OFFICER:	Felicity Heading, Director Corporate Services
FILE NO:	RM.01.2
DISCLOSURE OF INTERESTS:	Nil
COUNCIL'S ROLE IN THE MATTER:	Leader - Plan and provide direction through policy and practices
VOTING REQUIREMENT:	Simple Majority

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

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

PURPOSE

To report to the Audit (Finance and Risk) Committee (the Committee) the insurance claims that have been lodged for the 2020/21, 2021/22 and 2022/23 financial years, the associated costs and the status of the claims.

BACKGROUND/PREVIOUS CONSIDERATIONS BY COUNCIL/COMMITTEE

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

STATUTORY IMPLICATIONS

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

POLICY IMPLICATIONS

The following Shire documents are relevant to this report:

- Corporate Insurance Strategy
- CP GOV-3108 Risk and Opportunity Management Policy

FINANCIAL IMPLICATIONS

Insurance premiums have been considered in the 2021/22 and 2022/23 budget processes. The Shire has, in terms of its insurance policies, insurance excesses that it has to absorb as a “first loss” in the event of a claim. These excesses are set out in the detailed insurance schedules accompanying the insurance policies.

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

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

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

Control: Audit Regulation 17 Conducted every three years and recommendations implemented.

Annual review of insurance cover.

COMMUNITY ENGAGEMENT

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

No community engagement is required.

COMMENTS

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

The attachments detail the cost of claims across four categories where claims were made for the financial years 2020/21, 2021/22 and 2022/23. These can be summarised as follows:

	2020/21		2021/22		2022/23 (YTD)	
	Number of Claims	Estimated Costs	Number of Claims	Estimated Costs	Number of Claims	Estimated Costs
WorkCare	9	\$452,562	6	\$14,860	2	\$19,775
Property	9	\$105,818	5	\$357,886	1	\$50,000
Liability	0	\$0	5	\$3,203	0	\$0
Motor Vehicle	1	\$1,405	2	\$3,164	1	\$28,531
Total	19	\$559,785	18	\$379,113	4	\$98,306

WorkCare

There were nine WorkCare claims submitted in 2020/21 with the total paid to date of \$438,652, outstanding amounts of \$13,910 and estimated total costs of \$452,562. Eight of these claims have been finalised and one is current with a negotiated settlement reached for this claim. It should be noted that the estimated costs are conservative and it is anticipated that actual costs will be considerably less than this amount.

There were six claims submitted in 2021/22, with costs paid to date of \$5,256, outstanding amounts of \$9,604 and estimated total costs of \$14,860. Four of these claims have been finalised, one was withdrawn and one has been paid on a “without prejudice” basis.

There have been two claims to date in 2022/23. Both have been accepted with one finalised with a cost of \$957. The other claim has incurred \$11,226 and estimated total costs of \$18,818.

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

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

Property

There were nine claims for property damage lodged during the 2020/21 year all of which have been finalised. The total cost of the claims was \$105,818. There were five claims lodged in 2021/22, two of which have been finalised and three that are current. The total estimated costs are \$357,686. There has been one claim to date in 2022/23, with an estimated total cost of \$50,000.

Liability

There were no liability claims lodged for the 2020/21 year. There were five liability claims lodged in 2021/22, three of which have been denied. The total estimated costs for the remaining two claims is \$3,203. There have been no claims lodged to date in 2022/23

Motor Vehicle

One motor vehicle claim was lodged for the 2020/21 year with costs totaling \$1,405. There were two claims lodged in 2021/22 with total costs of \$3,164. There has been one claim lodged to date in 2022/23 with a total estimated cost of \$28,531.

ATTACHMENTS

(Confidential Attachments provided under separate cover).

Confidential Attachment 1 - LGIS WorkCare Claims Report

Confidential Attachment 2 - LGIS Property Claims Report

Confidential Attachment 3 - LGIS Liability Claims Report

Confidential Attachment 4 - LGIS Motor Vehicle Claims Report

Confidential Attachment 5 - Quarterly Safety and Wellbeing Report December 2022

7.4. STANDING ITEM - LEASES

DATE:	13 March 2023
AUTHOR:	Manager Finance
RESPONSIBLE OFFICER:	Felicity Heading, Director Corporate Services
FILE NO:	CP.07 and CP.16
DISCLOSURE OF INTERESTS:	Nil
COUNCIL'S ROLE IN THE MATTER:	Leader - Plan and provide direction through policy and practices
VOTING REQUIREMENT:	Simple Majority

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

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

PURPOSE

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

NATURE OF COUNCIL'S ROLE IN THE MATTER

Provider - provide physical infrastructure and essential services.

BACKGROUND/PREVIOUS CONSIDERATIONS BY COUNCIL/COMMITTEE

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

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

Minute No. A066

Moved: Cr Keith Wright

Seconded Cr Frederic Mills

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

Carried Unanimously 4/0

STATUTORY IMPLICATIONS

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

POLICY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

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

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

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

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

COMMUNITY ENGAGEMENT

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

No community engagement is required.

COMMENTS

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

ATTACHMENTS

(Confidential attachments provided under separate cover)

Confidential Attachment 1 - Lease Schedule

Confidential Attachment 2 - New and Renewal Lease Schedule

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

DATE:	13 March 2023
AUTHOR:	Director Corporate Services
RESPONSIBLE OFFICER:	Felicity Heading, Director Corporate Services
FILE NO:	CM.01.1
DISCLOSURE OF INTERESTS:	Nil
NATURE OF COUNCIL'S ROLE IN THE MATTER:	Leader - plan and provide direction through policy and practices.

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

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

PURPOSE

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

NATURE OF COUNCIL'S ROLE IN THE MATTER

Leader - plan and provide direction through policy and practices

Regulator - enforce state legislation and local laws

BACKGROUND/PREVIOUS CONSIDERATIONS BY COUNCIL/COMMITTEE

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

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

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

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

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

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

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

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

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

COMMITTEE RESOLUTION

Minute Number: CA527

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

- 1. Noted the results of the Chief Executive Officer's review on the appropriateness and effectiveness of the Shire's systems and procedures in relation to risk management, internal control and legislative compliance as required by Regulation 17 of the Local Government (Audit) Regulations 1996 in the report at Attachment 1; and***
- 2. Noted the results of the Chief Executive Officer's review of the appropriateness and effectiveness of the financial management systems and procedures of the Shire as required by Regulation 5(2)(c) of the Local Government (Financial Management) Regulations 1996 in the report at Attachment 1; and***
- 3. Endorsed that the implementation of the improvements outlined within the report will be prioritised and implemented in a staged approach and reported to future Audit (Finance and Risk) Committee meetings.***

Moved: Cr Hearty

Seconded: Cr Farquhar

Decision: 3/0

STATUTORY IMPLICATIONS

Local Government (Audit) Regulations 1996

17. CEO to review certain systems and procedures

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

(a) risk management; and

(b) internal control; and

(c) legislative compliance.

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

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

Local Government (Financial Management) Regulations 1996

5. CEO's duties as to financial management

(2) The CEO is to —

(a) ensure that the resources of the local government are effectively and efficiently managed; and

(b) assist the council to undertake reviews of fees and charges regularly (and not less than once in every financial year); and

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

POLICY IMPLICATIONS

- Code of Conduct for Council Members, Committee Members and Employees
- CP/GOV -3108 Risk Management

FINANCIAL IMPLICATIONS

The cost of Moore Australia conducting the review and the preparation of the report was \$23,031.48 excl. GST. Any financial implications arising from the recommendations contained within the attached report have been considered within the 2022/23 budget process and at the mid-year budget review following the budget adoption.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2012-2022

Focus Area 4: PERFORMANCE - Civic Leadership

Goal 4.4: Sustainably maintain the Shire's financial viability

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

RISK IMPLICATIONS

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

Control: Review policies and procedures in accordance with review schedule

COMMUNITY ENGAGEMENT

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

COMMENTS

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

ATTACHMENTS

(Confidential attachments provided under separate cover)

Confidential Attachment 1 - Regulations 17 and 5(2)(c) Review Action Plan and Progress Report - March 2023.

7.6. COMPLIANCE AUDIT RETURN 2022

DATE:	13 March 2023
AUTHOR:	Director Corporate Services
RESPONSIBLE OFFICER:	Vernon Lawrence, Chief Executive Officer
FILE NO:	CM.01.1
DISCLOSURE OF INTERESTS:	Nil

VOTING REQUIREMENT

Absolute Majority

OFFICER'S RECOMMENDATION

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

- 1. Note the 2022 Compliance Audit Return has been completed;**
- 2. Authorise the Shire President and the Chief Executive Officer to certify the 2022 Compliance Audit Return; and**
- 3. Authorise the Chief Executive Officer to submit the 2022 Compliance Audit Return to the Department of Local Government by 31 March 2023.**

PURPOSE

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

NATURE OF COUNCIL'S ROLE IN THE MATTER

Regulator - Responsible for the enforcement of statutory requirements.

BACKGROUND/PREVIOUS CONSIDERATIONS BY COUNCIL/COMMITTEE

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

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

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

STATUTORY IMPLICATIONS

Local Government Act (1995)

Part 7, Division 4

7.13. Regulations as to audits

(1) Regulations may make provisions as follows —

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

Local Government (Audit) Regulations 1996

14. Compliance audits by local governments

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

(b) adopted by the council; and

(c) recorded in the minutes of the meeting at which it is adopted.

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

(1) After the compliance audit return has been presented to the council in accordance with regulation 14(3) a certified copy of the return together with —

(a) a copy of the relevant section of the minutes referred to in regulation 14(3)(c); and

(b) any additional information explaining or qualifying the compliance audit, is to be submitted to the Executive Director by 31 March following the period to which the return relates.

(2) In this regulation —

certified in relation to a compliance audit return means signed by —

(a) the mayor or president; and

(b) the CEO.

POLICY IMPLICATIONS

There are no policy implications associated with this report.

FINANCIAL IMPLICATIONS

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

STRATEGIC IMPLICATIONS

Strategic Community Plan 2017-2027

Focus Area 4: Civic Leadership

RISK IMPLICATIONS

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

Control: Annual Completion Compliance Audit Return

Control: Interim and Annual Financial Audits

Control: Strategic Risk Reporting Quarterly to Audit Finance and Risk Committee

COMMUNITY ENGAGEMENT

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

COMMENTS

The preparation of the compliance return for 2022 is substantially the same as the 2021 compliance return. The Shire has met its compliance obligations as set out in Attachment 1.

There were two finance matters noted as Significant in the Management letter accompanying the Auditor's Report. The Shire has determined that these matters require action and has prepared a report stating what action will be taken. A copy of this report will be forwarded to the Minister within three months and will be published on the Shire website in accordance with s7.12A(3), s7.12A(4)(a), s7.12A(4)(b) and s7.12A(5) of the *Local Government Act 1995*.

ATTACHMENTS

Attachment 1 - Compliance Audit Return 2022

8. MATTERS BEHIND CLOSED DOORS

9. CLOSURE