



SHIRE OF WYNDHAM | EAST KIMBERLEY

# AGENDA ORDINARY COUNCIL MEETING

14 DECEMBER 2021

## **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

A handwritten signature in black ink, appearing to read 'V. E. Lawrence', written in a cursive style.

**VERNON LAWRENCE**

**CHIEF EXECUTIVE OFFICER**

### **NOTES**

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

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**SHIRE OF WYNDHAM EAST KIMBERLEY  
ORDINARY COUNCIL MEETING AGENDA  
KUNUNURRA COUNCIL CHAMBERS  
TO BE HELD ON TUESDAY 14 DECEMBER 2021 AT 5:00PM**

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**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 5.02pm.

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

|                 |   |
|-----------------|---|
| Cr D Menzel     | Shire President                             |
| Cr T Chafer     | Deputy Shire President                      |
| Cr N Brook      | Councillor                                  |
| Cr M Dear       | Councillor                                  |
| Cr D Hearty     | Councillor                                  |
| Cr M McKittrick | Councillor                                  |
| Cr C McNeil     | Councillor                                  |
| Cr J Farquhar   | Councillor (attending remotely)             |
| V Lawrence      | Chief Executive Officer                     |
| N Kearns        | Director Planning and Community Development |
| F Heading       | Director Corporate Services                 |
| S Maitland      | Minute Taker                                |
| Apologies       | S Dyson, Director Infrastructure            |
| P Wainwright    | Rate payer                                  |
| S Rushby        | Resident                                    |
| M Northover     | Resident                                    |
| S Sinclair      | Kimberley Echo                              |
| L Levi          | Staff                                       |

### **3. DECLARATION OF INTEREST**

- Financial Interest  
Nil
- Impartiality Interest  
Nil
- Proximity Interest  
Nil

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

Nil

### **5. PUBLIC QUESTION TIME**

Mr Philip Wainwright made a statement to Council regarding his reservations about COVID 19 and how the Shire is addressing the situation and handed papers over to the CEO.

### **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 23 November 2021.**

### **Council Decision**

**Minute Number: 14/12/2021 – 118558**

**That Council confirms the Minutes of the Ordinary Council Meeting held on 23 November 2021.**

**Moved: Cr J Farquhar**

**Seconded: Cr M McKittrick**

**Decision:8/0**

Note: The Minutes of the Ordinary Council Meeting held on 23 November 2021 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**

**3 November 2021 Ord Valley Muster 2022 Launch** and announcement of the Kimberley Moon performers. Attended by the CEO and Councillors.

**25 November 2021 Boab Metals** briefing attended by the Shire President and CEO. An updated provided on the progress of the Sorby Hills Project and introduction of new staff.

**26 November 2021 Northern Australia** roundtable with the Minister for Agriculture and Northern Australia and the Special Envoy for Northern Australia attended by the Shire President. Providing an

**30 November 2021 – 1 December 2021 UNIQCO** attended the Shire Office and held a series of meetings with Shire Executive and Staff to establish a cost benefit analysis for self performing works.

**2 December 2021 EWIN ELC** meeting to discuss matters relating to childcare with the CEO.

**2 December 2021 Argyle Diamond Mine / RIO Business After Hours** providing an update on progress of closure plans, attended by the Shire President, Deputy Shire President, Cr Brook and CEO.

**10 December 2021 East Kimberley Marketing Group meeting**

**10 December 2021 Anti-social behavior strategy group meeting**, attended by the Shire President and CEO at KDC.

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

- *16.1 Contract Extension - Contract C-04-13/14 For the Supply of Waste Disposal Goods and the Provision of Goods and Services in Respect to the Collection Of Waste*
- *16.2 Ord River Magpies Football Club Lease*

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

Nil

## 12. REPORTS

### 12.1. MATTERS ARISING FROM COMMITTEES OF COUNCIL

### 12.2. CHIEF EXECUTIVE OFFICER

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

|                                      |  |
|--------------------------------------|--|
| <b>DATE:</b>                         | 14 December 2021   |
| <b>AUTHOR:</b>                       | Executive Officer to the CEO                                     |
| <b>RESPONSIBLE OFFICER:</b>          | Vernon Lawrence, Chief Executive Officer                         |
| <b>DISCLOSURE OF INTERESTS:</b>      | NIL  |
| <b>COUNCIL'S ROLE IN THE MATTER:</b> | Leader - plan and provide direction through policy and practices |
| <b>VOTING REQUIREMENT:</b>           | Simple Majority  |

#### OFFICER'S RECOMMENDATION

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

#### Council Decision

Minute Number: 14/12/2021 – 118559

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

Moved: Cr C McNeil

Seconded: Cr N Brook

**Decision: 8/0**

#### PURPOSE

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

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



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

### **STATUTORY IMPLICATIONS**

Nil

### **POLICY IMPLICATIONS**

Nil

### **STRATEGIC IMPLICATIONS**

*Strategic Community Plan 2017-2027*

Focus Area 4: Civic Leadership

Goal 4.2: Good decision making through engagement with the community

Strategy 4.2.2: Ensure community input informs planning and decision making

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

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

### **RISK IMPLICATIONS**

Nil

### **FINANCIAL IMPLICATIONS**

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

### **COMMUNITY ENGAGEMENT**

No community engagement is required.

### **COMMENTS**

An update of actions from the November 2021 Council resolutions is detailed in Attachment 1.

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

### **ATTACHMENTS**

Attachment 1 - Council Action Register - November 2021

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

## 12.3. PLANNING AND COMMUNITY DEVELOPMENT

### 12.3.1. Quarter 1 Progress and performance report

|                                      |  |
|--------------------------------------|--|
| <b>DATE:</b>                         | 14 December 2021   |
| <b>AUTHOR:</b>                       | Senior Projects Officer  |
| <b>RESPONSIBLE OFFICER:</b>          | Nick Kearns, Director Planning and Community Development         |
| <b>FILE NO:</b>                      | CM.10.13   |
| <b>DISCLOSURE OF INTERESTS:</b>      | Nil  |
| <b>COUNCIL'S ROLE IN THE MATTER:</b> | Leader - plan and provide direction through policy and practices |
| <b>VOTING REQUIREMENT</b>            | Simple Majority  |

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

**That Council receives the Corporate Business Plan Quarterly Progress and Performance Report for July to September 2021 (Q1) at Attachment 1.**

#### **Council Decision**

**Minute Number: 14/12/2021 – 118560**

**That Council receives the Corporate Business Plan Quarterly Progress and Performance Report for July to September 2021 (Q1) at Attachment 1.**

**Moved: Cr J Farquhar**

**Seconded: Cr M Dear**

**Decision: 8/0**

#### **PURPOSE**

For the Council to receive the July to September 2021 Quarterly Progress and Performance Report.

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

The Shire produces Quarterly Progress and Performance Reports to provide an update of progress made in the applicable quarter towards the services and projects in the Corporate

Business Plan (CBP) and the achievement of the strategic goals set out in the Strategic Community Plan (SCP). Performance reporting assists with continuous improvement and the achievement of community outcomes and improvements to Shire services.

The following table provides context of regular reporting to Council.

|                          |   |
|--------------------------|---|
| Strategic Community Plan | <ul style="list-style-type: none"><li>• Annual Report to Council on progress towards the long term community goals</li></ul>  |
| Corporate Business Plan  | <ul style="list-style-type: none"><li>• Annual Report to Council on delivery of Shire services and projects.</li><li>• Quarterly reports to Council on delivery of Shire services and progress of projects.</li></ul> |
| Annual Budget            | <ul style="list-style-type: none"><li>• Annual report of financial performance against the annual budget</li><li>• Monthly reports to Council financial performance</li></ul>   |

The quarterly report reflects the progress of individual actions of the CBP which are linked to the Strategic Community Plan. This ensures each staff member is working towards achieving those specific directions that the Council has prioritised. The status of actions at the end of each financial year are listed as complete or deferred.

The Officer responsible for an action or task in the CBP is required to provide an update each quarter, giving an indication of how the action is progressing. This information is collated to provide an overview of how the organisation is performing to the CEO, Directors and Council to ensure that performance is being appropriately monitored and managed.

Quarterly progress reports are used to assist with the annual review of the CBP, to prioritise projects and services capturing Council's decision making, planning and evaluation.

### **STATUTORY IMPLICATIONS**

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

*This Act is intended to result in:*

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

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

### **POLICY IMPLICATIONS**

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

CP/COM-3100 - Community Engagement Policy

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

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

**STRATEGIC IMPLICATIONS**

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

**Focus Area 4: PERFORMANCE - Civic Leadership**

**Goal 4.2:** Good decision making through engagement with the community

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

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

**Shire Project: 405 - Coordinate the Integrated Planning and Reporting Framework**

**RISK IMPLICATIONS**

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

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

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

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

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

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

## **FINANCIAL IMPLICATIONS**

The attached quarterly report includes a financial summary.

## **COMMUNITY ENGAGEMENT**

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

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

## **COMMENTS**

The attached progress report provides commentary on the Shire's services, actions and projects for the first quarter of this financial year. It is important to note that this is "as at 30 September" i.e. a snapshot in time of the status at the end of the first quarter and that at the time of reporting the current status of a project may have since changed.

There are 49 actions/projects for year one (2021/22) of the Shire's Corporate Business plan. The table following summarises the reported status at the end of each quarter.

| Action status by Quarter | Quarter 1<br>(July – Sept) | Quarter 2<br>(Oct – Dec) | Quarter 3<br>(Jan – Mar) | Quarter 4 (Mar<br>– June) |
|--------------------------|----------------------------|--------------------------|--------------------------|---------------------------|
| Complete                 | 0                          |                          |                          |                           |
| Not started              | 9                          |                          |                          |                           |
| In progress              | 40                         |                          |                          |                           |
| On hold                  | 0                          |                          |                          |                           |
| Deferred                 | 0                          |                          |                          |                           |

The projects within the Corporate Business Plan are assigned annual tasks that are to be completed within the reporting period. Projects are also reviewed and funded as part of

Council's annual budget process. Responsible officers provide an indication of progress along this annual timeline and against the adopted budget.

| Action performance by Quarter | Q1  | Q2 | Q3 | Q4 |
|-------------------------------|-----|----|----|----|
| On time (as reported)         | 88% |    |    |    |
| On budget (as reported)       | 97% |    |    |    |

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

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

#### **ATTACHMENTS**

Attachment 1 - Quarterly Progress and Performance Report - July to September 2021 (Q1)

### 12.3.2. Community Engagement Policy

|                                      |  |
|--------------------------------------|--|
| <b>DATE:</b>                         | 14 December 2021   |
| <b>AUTHOR:</b>                       | Senior Projects Officer  |
| <b>RESPONSIBLE OFFICER:</b>          | Nick Kearns, Director Planning and Community Development         |
| <b>FILE NO:</b>                      | CM.11.2  |
| <b>DISCLOSURE OF INTERESTS:</b>      | Nil  |
| <b>COUNCIL'S ROLE IN THE MATTER:</b> | Leader - plan and provide direction through policy and practices |
| <b>VOTING REQUIREMENT</b>            | Simple Majority  |

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

**That Council:**

- 1. Adopt the Policy Community Engagement at attachment 1; and**
- 2. Notes the Community Engagement Guidelines will be updated to reflect the amended Policy.**

#### **Council Decision**

**Minute Number: 14/12/2021 – 118561**

**That Council:**

- 1. Adopt the Policy Community Engagement at attachment 1; and**
- 2. Notes the Community Engagement Guidelines will be updated to reflect the amended Policy.**

**Moved: Cr C McNeil**

**Seconded: Cr N Brook**

**Decision:8/0**

#### **PURPOSE**

For Council to consider the adoption of the reviewed Community Engagement Policy.

#### **BACKGROUND**

Council policies set governing principles and guide the direction of the organisation to align with community values and aspirations. These policies have a strategic, external focus and align with the mission, vision and strategic direction of the Shire.

Policies are reviewed regularly to ensure they remain current and relevant, and act as a guide to Elected Members and Officers. Policies provide Shire Officers with guidelines in which to act in accordance with Council's wishes and to enable Shire Officers to act promptly in line with Council's requirements, but without continual reference to Council.

The Shire's first Community Engagement Policy was adopted by Council in October 2011 to help inform the preparation of the Shire's (first) Strategic Community Plan under the Integrated Planning and Reporting requirements introduced under Section 5.56(1) and (2) of the Local Government Act 1995.

The review of community engagement processes is timely and responds to several drivers:

- Strategic Community Plan - to support the major review of the Strategic Community Plan in 2022
- Community expectations – to ensure the Shire is responding to community and stakeholder feedback on community engagement practices
- Continuous improvement – to ensure the Shire develops and improves engagement practices

The review of the Shire's Community Engagement policy commenced in 2021, following the completion of the Community Scorecard Survey. A total of 351 survey responses were received.

#### Policy review method

In reviewing the policy, the method set out in the CP/GOV 3112 Policy Management Policy was applied. This method included consideration of the following:

- Legislative requirements (changes)
- Industry standards and best practice
- Organisational standards
- Strategic objectives
- Community need

#### *Legislative requirements*

There are currently no legislative requirements related to the policy, however considering recommendations from the Local Government Act review, it is likely that some degree of legislative requirement will be introduced in the future.

#### *Industry standards*

The preparation and implementation of engagement strategies varies between municipalities and many have prepared comprehensive strategies. This policy is deliberately succinct in what it aims to achieve and, in most respects, aims to ensure 'genuine' engagement with those who should provide input and that should be informed, within a framework that encompasses the broad range of organisational activities, strategy formulation, projects and service delivery from inception to completion. It doesn't need to express a strategic approach



or describe how it may be implemented. Engagement and communication is, nevertheless, an integral element of how the organisation works.

#### *Organisational standards*

The current policy conforms to accepted policies and procedures of the municipality.

#### *Strategic objectives*

Community engagement underpins good and effective civic leadership, which is strongly reinforced in the Shire's Strategic Community Plan. It is reinforced also by community sentiment received in Community Scorecard Surveys – to have input and to be informed. It adds value to the implementation of Shire actions, to strategy and policy formulation and to decisions.

#### *Community need*

Community feedback indicates a high level of support for improved levels of community engagement.

A copy of the existing policy is at Attachment 2 and the updated policy at Attachment 1. The policy is supported by Community Engagement Guidelines that provide clarity on when it is appropriate to engage, and at what level. New guidelines are also being developed based on IAP2 best practice and won't require a specific decision of Council.

Officers gave public notice and invited the community to provide input into the review of the Community Engagement Policy. These comments have been considered and reflected in the updated policy. These include referring to other plans that support the engagement with hard to reach groups including the Disability Access and Inclusion Plan and the Aboriginal Engagement Plan.

### **STATUTORY IMPLICATIONS**

The Local Government Act 1995 empowers Council in the determination of policy under section 2.7 Role of Council - "(2)(b) determine the local government's policies."

Local governments in Western Australia are not currently required to have a Community Engagement Policy or Strategy, however considering recommendations from the Local Government Act review, it is likely that some degree of legislative requirement will be introduced in the future.

### **POLICY IMPLICATIONS**

The review of the Community engagement Policy has been undertaken as per the requirements set out in CP/GOV 3112 Policy Management Policy.

The Community engagement Policy will guide the delivery of community and stakeholder engagement across the organisation to inform decision-making, build relationships and strengthen community outcomes. The Shire will maintain Guidelines as a resource to assist officers in applying the policy and to determine appropriate community engagement levels, tools, plans and processes.

## **STRATEGIC IMPLICATIONS**

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

**Focus Area 4:** PERFORMANCE - 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

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

**Shire Project:** 405 - Coordinate the Integrated Planning and Reporting Framework

## **RISK IMPLICATIONS**

**Risk:** Failure to undertake effective community engagement strategies which develop the Shire's understanding of the needs and aspirations of the community, grow community capacity and ensure supportable outcomes are reached with stakeholders.

**Control:** Undertake a review of the Community Engagement Policy to ensure that Shire is undertaking effective community engagement activities to develop the Shire's understanding of the needs and aspirations.

## **FINANCIAL IMPLICATIONS**

Nil

## **COMMUNITY ENGAGEMENT**

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

- Reviewed feedback from the 2021 Community Scorecard Survey
- Public notice on Facebook and website inviting input into the review
- Online engagement portal on the Shire website

Engagement will take place in accordance with the Community Engagement Guidelines and will include:

- Public notice of the adoption of the policy
- Communication to Shire Officers and any training as required

## **COMMENTS**

A review of the Community Engagement Policy has been undertaken in order to meet the increasing expectations of our community and stakeholders, guide continuous improvement and ensure that our practice is relevant and up to date. Community feedback gathered during the community scorecard survey and community comment on the policy has helped

shape the revised Community Engagement Policy. The Shire received comments relating to a need for acknowledgement and engagement with Aboriginal people to be reflected in the Policy. In considering this the policy has included the development of the Aboriginal Engagement Plan that Officers have been developing.

The revised Policy sets out the Shire's engagement objectives and the guiding principles the Shire will follow in achieving its engagement objectives.

The following is a summary of the changes that have been made to the policy:

- Inclusion of a strategic context and how it relates to the Strategic Community Plan
- Harmonisation of key terms to align with the International Association for Public Participation (IAP2)
- State the Shire's engagement objectives
- State the principles that guide the Shire in achieving its engagement objectives
- Outlining the application of the policy and requirements for Community Engagement Guidelines as a resource to assist officers to determine appropriate Community Engagement levels, tools, plans and processes
- Refer to important plans that also support engagement such as the Disability Access and Inclusion Plan
- Extracts from the IAP2 have been moved from the policy and captured in the Community Engagement Guidelines
- Update the stated risk and control to reflect the risk listed in the strategic risk register

The reviewed policy has considered best practice community engagement for small to medium sized local governments and has also considered updates made to the IAP2 methodology. The reviewed policy will set the strategic direction of the Shire's community engagement practice and support the major review of the Strategic Community Plan following community comment on the draft policy.

It is recommended that the reviewed policy be adopted by Council to ensure it remains current and relevant. Following adoption of the policy Officers will finalise the Community Engagement Guidelines and Toolkit to reflect the updates to the policy.

## **ATTACHMENTS**

Attachment 1 - Community Engagement Policy for adoption

Attachment 2 - Existing Community Engagement Policy

### 12.3.3. Disability Access and Inclusion Plan

|                                      |  |
|--------------------------------------|--|
| <b>DATE:</b>                         | 14 December 2021   |
| <b>AUTHOR:</b>                       | Community Grants and Events Officer                              |
| <b>RESPONSIBLE OFFICER:</b>          | Nick Kearns, Director Planning and Community Development         |
| <b>FILE NO:</b>                      | CR.17.2  |
| <b>DISCLOSURE OF INTERESTS:</b>      | Nil  |
| <b>COUNCIL'S ROLE IN THE MATTER:</b> | Leader - plan and provide direction through policy and practices |
| <b>VOTING REQUIREMENT:</b>           | Simple Majority  |

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

**That Council adopts the updated Disability Access and Inclusion Plan 2021 - 2026 at Attachment 1.**

#### **Council Decision**

**Minute Number: 14/12/2021 – 118562**

**That Council adopts the updated Disability Access and Inclusion Plan 2021 - 2026 at Attachment 1.**

**Moved: Cr J Farquhar  
Seconded: Cr M McKittrick**

**Decision: 8/0**

#### **PURPOSE**

For Council to endorse the updated Disability Access and Inclusion Plan (2021 - 2026).

#### **BACKGROUND**

It is a requirement for all local governments to have and report on a Disability Access and Inclusion Plan (DAIP) under the *Disability Services Act 1993* (amended 2004). It is also an important 'informing' document for the Shire's Corporate Business Plan and influences capital works and service delivery. The Plan specifies requirements relevant to Shire facilities for the purpose of ensuring that people with a disability can access services, facilities and information in a way that promotes independence, opportunities and inclusion.

The current DAIP was approved by Council in February 2018.

### Reviewing the Document

Under the Disability Services Act 1993 (amended 2004) it is a legislative requirement that the DAIP must be reviewed and actions updated at least every five years. In June 2021, the Shire advertised for community members, disability service providers as well as current or potential customers with disabilities and their families and carers to attend a meeting. The intent from the meeting was to form a Disability Access and Inclusion Committee (DAIC).

The Committee's role is to review the adopted Disability Access and Inclusion Plan 2017-2022 and:

1. Assess how well the strategies captured within the plan are overcoming barriers and achieving the seven outcomes listed; and
2. Provide advice and guidance to update and record new actions listed in the seven outcomes and to prepare an updated document.

The Committee is set to continue once the document is adopted to assist Officers in implementing the identified actions.

Following the initial meeting, the DAIC was formed consisting of:

- Councillors - Cr Mat Dear and Cr Michelle McKittrick;
- Shire staff - Nick Kearns - Director Planning and Community Development, Nick Allen - Manager Community Development and Brooke Coleman-Smeekens - Community Grants and Events Officer;
- Disability Service Providers - Laura Little, NDIS Regional Manager - East Kimberley Job Pathways, Nafisa B Zueb, Program Coordinator - East Kimberley Job Pathways, Biba Nicholson, Occupational Therapist and Support Coordinator - Patches, Tobi Macnamara - Ord Valley Aboriginal Health Services, Sajo Prasad - Ord Valley Aboriginal Health Services.
- Residents - Tarna Waters, Les Ross, Daniel Cooney.

The Committee met on six occasions to review the 2017-2022 DAIP between June and December 2021. The feedback received has been vital in establishing new and updated outcomes for the 2021-2026 document. The lived experiences and industry knowledge ensure that the revised outcomes and actions in the updated DAIP will meet the needs of the community.

### Updates Made:

There were significant updates made to the actions within the seven outcome areas. The completed actions were removed and additional actions recommended. The following highlight the committee's priority outcomes, a full list of the reviewed outcomes can be found within the DAIP at Attachment 1.

#### **Outcome 1 - People with a Disability have equal opportunities to access events**

- Event application form to include “*Disability Service Commission, Disability Access Checklist*” and this information to be displayed on the Shire’s Event Calendar and Media releases. This will also include asking for a contact person regarding the event’s accessibility.
- An information sheet including disability access and inclusion information for each Shire managed park, facility and building that is available to the public.

#### **Outcome 2 - People with a Disability have equal opportunities to access buildings and other facilities**

- That the Shire conduct a Disability and Access facility audit on all Shire properties and facilities, including parks, recreation facilities, Shire managed buildings and housing.
- More accessible playgrounds and park equipment to be available for use in the Shire.
- More seating to be available around the Shire’s Parks and adjacent to footpaths.
- All new signage throughout Shire buildings and facilities to include braille.
- A hoist to be available at Wyndham Pool to transfer people from wheelchairs into the water.
- An audit to be undertaken on the new footpaths with some 20mm lips from the road to the path to be fixed.

#### **Outcome 3 - People with disability receive information from the Shire in a format that will enable them to access the information readily**

- Have the DAIP available in *Easy English* format.
- Allowing people with intellectual disabilities to easily access information on the Shire’s website/media releases through pictures, audio and other methods.
- Make the Shire’s website audio available.
- Build relationships with key contacts and encourage them to share information regarding their services/events to promote on Shire media channels.
- Ensure that Shire documents are formatted based on the principles for accessible printed information from Disability WA.

#### **Outcome 4 - People with a disability receive the same level and quality service from Shire employees**

- Give all existing and new staff training on good practice in managing feedback from people with disability and to give constructive feedback.

The Committee emphasised that their main priority is for the Shire to conduct an accessibility audit of Shire facilities and buildings. The Committee believes that this audit is essential for the Shire to know what areas it needs to focus on in terms of future budgeting to improve accessibility.

The Committee has endorsed the current draft of the document and it was released for public comment in November 2021 and no submissions were received.

## **STATUTORY IMPLICATIONS**

*Disability Services Act 1993*

## **POLICY IMPLICATIONS**

*CP GOV-3100 Community Engagement Policy*

## **FINANCIAL IMPLICATIONS**

Actions included in the document are linked to key outcomes. Some of these actions will have direct financial implications. Any projects and initiatives will be costed and referred to the budgetary process for prioritisation and implementation.

## **STRATEGIC IMPLICATIONS**

*Strategic Community Plan 2017-2027*

### **Focus Area 1: PEOPLE - Healthy vibrant active communities**

**Goal 1.1:** Bring community together and promote our rich culture and heritage

**Strategy 1.1.1:** Create a unified community that incorporates the needs of all cultures and generations

**Goal 1.2:** Increase participation in sporting, recreation and leisure activities

**Strategy 1.2.1:** Collaborate with a wide range of stakeholders to advocate and provide accessible facilities that supports a range of sporting and recreational activities

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

**Strategy 2.3.4:** Develop a well-connected, accessible and maintained network of shared paths and trails

**Strategy 2.2.1:** Provide and maintain infrastructure that promotes sustainable growth and positively impacts the well-being and lifestyle of residents and users

**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

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

**Strategy 4.2.2:** Ensure community input informs planning and decision making

**Strategy 4.3.1:** Develop customer focused corporate structure that reflects and meets the needs of the community

## **RISK IMPLICATIONS**

**Risk:** Failure to consult with the community resulting in loss of reputation

**Control:** Undertake community consultation in line with Council Policy *CP GOV-3100 Community Engagement*

## **COMMUNITY ENGAGEMENT**

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

- Creating the Shire's Disability Access and Inclusion Committee (DAIC), of which two Councillors have been nominated to represent.
- Discussing the Disability Access and Inclusion Plan (DAIP) in depth with the committee and getting their feedback, comments and barriers from their lived and industry experience.
- Input was also sought from the community in the form of a disability access and inclusion survey.
- The final draft of the DAIP was released for public comment in November 2021 which closed 2 December 2021 - There were no formal responses received.
- The DAIC reviewed and approved the final document at its Meeting on December 2 2021.

## **COMMENTS**

The Disability Access and Inclusion Plan (DAIP) has been updated in line with the requirements of the *Disability Services Act 1993* and has been subject to quality input and refinement by the Disability Access Inclusion Committee (DAIC), which includes representatives from industry and the community along with elected representatives and has been subject to additional public input.

The updated document includes a consistent and achievable range of actions that will address each of the outcome areas and will become an important guiding document for the organisation and is recommended for adoption.

## **ATTACHMENTS**

Attachment 1- Disability Access and Inclusion Plan 2021-2026



#### 12.3.4. Development Application - 144 Konkerberry Drive, Kununurra

|                                      |  |
|--------------------------------------|--|
| <b>DATE:</b>                         | 14 December 2021   |
| <b>AUTHOR:</b>                       | Senior Planning Officer                                  |
| <b>RESPONSIBLE OFFICER:</b>          | Nick Kearns, Director Planning and Community Development |
| <b>ASSESSMENT NO:</b>                | A1143P   |
| <b>DISCLOSURE OF INTERESTS:</b>      | Nil  |
| <b>COUNCIL'S ROLE IN THE MATTER:</b> | Regulator - enforce state legislation and local laws     |
| <b>VOTING REQUIREMENT</b>            | Simple Majority  |

#### OFFICER'S RECOMMENDATION

That Council grants development approval to use and develop land for an extension of an existing building (to include office space, ablutions and upper floor office and gym) and a reduction in car parking requirements at Lot 314 (144) Konkerberry Drive, Kununurra, subject to the following conditions:

1. Prior to the commencement of any development, an amended site plan shall be prepared and submitted for approval to the local government. The plan shall be amended to show:
  - (a) The universal (disabled) parking and shared bays located within the road reserve relocated 2m closer to the proposed addition at the front of the building to maintain a 4.5m wide accessway;
  - (b) Line marking to guide traffic past the universal (disabled) parking and shared bays.
2. Development must be in accordance with the attached approved plan(s) and subject to any modifications required as a consequence of any conditions of this approval. The approved plans must not be modified or altered without the prior written approval of the local government.
3. No development shall occur that will cause additional runoff of stormwater to adjacent properties. Stormwater runoff from roof and any sealed areas shall be directed onsite to garden areas, sumps or rainwater tanks, or directed into the local government's stormwater system in accordance with the local governments specifications. Stormwater will not be permitted to pond on the site or against any building or structure.
4. Prior to the occupation of the redeveloped portions of the site:
  - a. The areas set aside on the approved plan(s) for vehicle parking and access (including driveways and vehicle crossings) must be constructed, sealed, kerbed, drained and maintained to the satisfaction of the local government;

- b. The parking spaces must be delineated and marked to the satisfaction of the local government.
  - c. Landscaping must be established to the front of the site and thereafter maintained in good condition by the owner/operator.
- 5. Parking is not permitted within the road reserve or verge area, unless in constructed and approved car parking spaces, and all staff vehicles associated with the use of the site must be parked on the subject land.
- 6. All vehicles must enter and exit the site in a forward motion.
- 7. The proposed development must be finished in materials and colours to be compatible with existing development on site and all exposed roof areas must be muted colours (highly reflective materials are to be avoided).
- 8. All plumbing pipes must be ducted within the walls of the building.
- 9. During the construction stage adjoining lots must not be disturbed without the consent of the owner(s) in writing.
- 10. External lighting must be designed, baffled and located to not have a detrimental effect on adjoining land or road to the satisfaction of the local government.
- 11. All proposed buildings must be connected to the reticulated sewerage system.
- 12. Any works within the frontage of the property including, but not limited to:
  - a. Crossovers (alterations to existing or new),
  - b. Parking spaces,
  - c. Footpaths,
  - d. Pram rampsrequire separate approval from the local government's Infrastructure Directorate and must be designed and constructed in accordance with the applicable Australian Standards and local government specifications.
- 13. Signage, unless exempt by the Local Planning Scheme, requires a separate approval from the local government.

**Advice notes:**

- 1. In relation to Condition 11: The universal parking bay within the road reserve area must be constructed in accordance with AS 1428.1:2021 - Design for access and mobility.
- 2. The upper floor office and gym area will require an alternative design solution to comply with Building Regulations.

## **AMENDMENT**

Cr T Chafer moved to amend the motion on the basis that parking may impact the community should they start opening on the weekends, and put forward the following Amendment:

## **Council Decision**

**Minute Number: 14/12/2021 – 118563**

**That Council grants development approval to use and develop land for an extension of an existing building (to include office space, ablutions and upper floor office and gym) and a reduction in car parking requirements at Lot 314 (144) Konkerberry Drive, Kununurra, subject to the following conditions:**

- 1. Prior to the commencement of any development, an amended site plan shall be prepared and submitted for approval to the local government. The plan shall be amended to show:**
  - (a) The universal (disabled) parking and shared bays located within the road reserve relocated 2m closer to the proposed addition at the front of the building to maintain a 4.5m wide accessway;**
  - (b) Line marking to guide traffic past the universal (disabled) parking and shared bays.**
- 2. Development must be in accordance with the attached approved plan(s) and subject to any modifications required as a consequence of any conditions of this approval. The approved plans must not be modified or altered without the prior written approval of the local government.**
- 3. No development shall occur that will cause additional runoff of stormwater to adjacent properties. Stormwater runoff from roof and any sealed areas shall be directed onsite to garden areas, sumps or rainwater tanks, or directed into the local government's stormwater system in accordance with the local governments specifications. Stormwater will not be permitted to pond on the site or against any building or structure.**
- 4. Prior to the occupation of the redeveloped portions of the site:**
  - a. The areas set aside on the approved plan(s) for vehicle parking and access (including driveways and vehicle crossings) must be constructed, sealed, kerbed, drained and maintained to the satisfaction of the local government;**
  - b. The parking spaces must be delineated and marked to the satisfaction of the local government.**
  - c. Landscaping must be established to the front of the site and thereafter maintained in good condition by the owner/operator.**
- 5. Parking is not permitted within the road reserve or verge area, unless in constructed and approved car parking spaces, and all staff vehicles associated with the use of the site must be parked on the subject land.**
- 6. All vehicles must enter and exit the site in a forward motion.**
- 7. The proposed development must be finished in materials and colours to be compatible with existing development on site and all exposed roof areas must be muted colours (highly reflective materials are to be avoided).**
- 8. All plumbing pipes must be ducted within the walls of the building.**

9. During the construction stage adjoining lots must not be disturbed without the consent of the owner(s) in writing.
10. External lighting must be designed, baffled and located to not have a detrimental effect on adjoining land or road to the satisfaction of the local government.
11. All proposed buildings must be connected to the reticulated sewerage system.
12. Any works within the frontage of the property including, but not limited to:
  - a. Crossovers (alterations to existing or new),
  - b. Parking spaces,
  - c. Footpaths,
  - d. Pram rampsrequire separate approval from the local government's Infrastructure Directorate and must be designed and constructed in accordance with the applicable Australian Standards and local government specifications.
13. Signage, unless exempt by the Local Planning Scheme, requires a separate approval from the local government.
14. Parking arrangements are subject to review should operating hours be increased to include weekends.

**Advice notes:**

1. In relation to Condition 11: The universal parking bay within the road reserve area must be constructed in accordance with AS 1428.1:2021 - Design for access and mobility.
2. The upper floor office and gym area will require an alternative design solution to comply with Building Regulations.

**Moved: Cr T Chafer**

**Seconded: Cr J Farquhar**

**Decision: 8/0**

The Amended motion was passed to become the Substantive motion and this was put to Council.

**Council Decision**

**Minute Number: 14/12/2021 – 118564**

**That Council grants development approval to use and develop land for an extension of an existing building (to include office space, ablutions and upper floor office and gym) and a reduction in car parking requirements at Lot 314 (144) Konkerberry Drive, Kununurra, subject to the following conditions:**

- 1. Prior to the commencement of any development, an amended site plan shall be prepared and submitted for approval to the local government. The plan shall be amended to show:**
  - (a) The universal (disabled) parking and shared bays located within the road reserve relocated 2m closer to the proposed addition at the front of the building to maintain a 4.5m wide accessway;**
  - (b) Line marking to guide traffic past the universal (disabled) parking and shared bays.**
- 2. Development must be in accordance with the attached approved plan(s) and subject to any modifications required as a consequence of any conditions of this approval. The approved plans must not be modified or altered without the prior written approval of the local government.**
- 3. No development shall occur that will cause additional runoff of stormwater to adjacent properties. Stormwater runoff from roof and any sealed areas shall be directed onsite to garden areas, sumps or rainwater tanks, or directed into the local government's stormwater system in accordance with the local governments specifications. Stormwater will not be permitted to pond on the site or against any building or structure.**
- 4. Prior to the occupation of the redeveloped portions of the site:**
  - a. The areas set aside on the approved plan(s) for vehicle parking and access (including driveways and vehicle crossings) must be constructed, sealed, kerbed, drained and maintained to the satisfaction of the local government;**
  - b. The parking spaces must be delineated and marked to the satisfaction of the local government.**
  - c. Landscaping must be established to the front of the site and thereafter maintained in good condition by the owner/operator.**
- 5. Parking is not permitted within the road reserve or verge area, unless in constructed and approved car parking spaces, and all staff vehicles associated with the use of the site must be parked on the subject land.**
- 6. All vehicles must enter and exit the site in a forward motion.**
- 7. The proposed development must be finished in materials and colours to be compatible with existing development on site and all exposed roof areas must be muted colours (highly reflective materials are to be avoided).**
- 8. All plumbing pipes must be ducted within the walls of the building.**
- 9. During the construction stage adjoining lots must not be disturbed without the consent of the owner(s) in writing.**
- 10. External lighting must be designed, baffled and located to not have a detrimental effect on adjoining land or road to the satisfaction of the local government.**
- 11. All proposed buildings must be connected to the reticulated sewerage system.**

**12. Any works within the frontage of the property including, but not limited to:**

- a. Crossovers (alterations to existing or new),**
- b. Parking spaces,**
- c. Footpaths,**
- d. Pram ramps**

**require separate approval from the local government's Infrastructure Directorate and must be designed and constructed in accordance with the applicable Australian Standards and local government specifications.**

**13. Signage, unless exempt by the Local Planning Scheme, requires a separate approval from the local government.**

**14. Parking arrangements are subject to review should operating hours be increased to include weekends.**

**Advice notes:**

- 1. In relation to Condition 11: The universal parking bay within the road reserve area must be constructed in accordance with AS 1428.1:2021 - Design for access and mobility.**
- 2. The upper floor office and gym area will require an alternative design solution to comply with Building Regulations.**

**Moved: Cr M McKittrick**

**Seconded: Cr T Chafer**

**Decision: 8/0**

## **PURPOSE**

For Council to consider an application for development approval to use a portion of the building as an office, extend an existing building (to include office space, ablutions and upper floor office and gym) and a reduction in car parking requirements.

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

Council granted approval in November 2002 (Minute No.: 6035, 7 November 2002) for the development of a Showroom (Art Gallery) with a total of 6 parking bays, 4 bays to the rear of the building and 2 bays to the front of the property. The floor area of the gallery space was calculated at 373m<sup>2</sup> with an additional 12m<sup>2</sup> office space, and Council approved the application based on a car parking rate of 1 bay per 50m<sup>2</sup> up to 100m<sup>2</sup> and thereafter 1 bay per 100m<sup>2</sup>.

The current proposal requires a change of use of a portion of the building from Showroom (Art Gallery) to Office and includes the following development:

- Extension to the ground floor to the front property boundary on the western side of the existing building
- Extension to the ground floor at the rear of the existing building (ground floor office space and ablutions)

- Extension to the first floor (exercise area/gym, bathroom and office)
- Internal rearrangement of the building
- Three (3) parking bays to the front of the property (2 relocated)
- 1 disabled parking bay within the road reserve



Locality plan: 144 Konkerberry Drive, Kununurra

A copy of the application documents are provided at Attachment 1.

## **STATUTORY IMPLICATIONS**

### **Local Planning Strategy**

The Local Planning Strategy identifies that one key planning purpose for land within the Kununurra Townsite is to support local business, tourism and employment opportunities.

### **Local Planning Scheme No. 9 (LPS 9)**

Under LPS 9 **Lot 314** is zoned Commercial.

### **Car parking:**

The proposal will result in a floor area of 264m<sup>2</sup> to be used as office, with 217m<sup>2</sup> remaining as gallery space. The application proposes the 2 existing car parking spaces located at the

front of the property adjacent to the driveway to be removed and the development of 3 new parking spaces to the right of the gallery entrance and 1 universal (disabled) parking space within the road reserve to the front of the property. The 4 spaces to the rear are proposed to be retained.

Based on the revised gallery floor area, it is reasonable to assume that 3 of the original spaces would remain with the gallery and 1 space with the accommodation unit as per R-code requirements.

The following table shows the car parking requirements under LPS 9 for the current application:

| Space  | Area (m <sup>2</sup> ) | LPS 9 requirement                                  | Number of parking spaces required                 |
|--------|------------------------|--|---|
| Office | 264                    | 1 bay per 40m <sup>2</sup> Net Leasable Area (NLA) | 6.6 rounded to 7 spaces (as per LPS requirements) |

The following table shows the reduction in car parking requirements for the development as a whole:

| Number of parking spaces required under LPS 9                        | Number of Parking Bays proposed                       | Reduction sought |
|--|---|------------------|
| 3 spaces for existing gallery and 1 space for existing accommodation | 4 existing spaces                                     | 0 spaces         |
| 7 spaces for office  | 4 new spaces (1 space to be provided in road reserve) | 3 spaces         |

The application documents indicate there will be on average 4 full time staff, with a combination of full time, casual and part time staff and that the gallery has typically 1 staff member at any one time. It is envisioned that the majority of people visiting the office are between the ages of 12-25 years and will utilise a pick-up and drop-off service as part of the program being offered. Bicycle parking spaces will also be provided on-site.

## **POLICY IMPLICATIONS**

Nil

## **STRATEGIC IMPLICATIONS**

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

**Focus Area 4:** PERFORMANCE - Civic Leadership

**Goal 4.2:** Good decision making through engagement with the community

**Strategy 4.2.2:** Ensure community input informs planning and decision making

The strategic implications include:



- Works within adjoining road reserve; and
- Reduction in car parking for the development.

## **RISK IMPLICATIONS**

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

**Control:** Assessment against relative legislation and development controls to ensure informed decisions.

## **FINANCIAL IMPLICATIONS**

Nil

## **COMMUNITY ENGAGEMENT**

In accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015*, the application was advertised to adjoining land owners between 9 November and 23 November 2021 with no submissions received.

## **COMMENTS**

The proposal is considered to be consistent with the Local Planning Scheme and meets the objectives of the Commercial zone by providing a suitable use and development which complements the general area. The proposal meets the development standards of LPS 9 as it provides an active street frontage at ground level with residential components located to the rear or upper storey. Landscaping can be achieved to the front of the gallery space and around the proposed parking area. The development is of a good standard of urban design which will activate the commercial streetscape in this location.

The proposal requires a reduction of 3 spaces and the location of 1 universal (disabled) parking bay within the road reserve to accommodate the extension of the building and proposed office use. In relation to the provision of parking onsite, alternative parking arrangements have been considered including: the location of the development being in close proximity to the town centre facilitating people walking to the site; the inclusion of 5 bicycle parking spaces, and the availability of on street parking spaces in the immediate vicinity. The application also proposes a pick up-drop off service for clientele attending the office.

It is expected that the people visiting the office would utilise the pick-up and drop-off service proposed by the operators and staff will be encouraged to carpool or ride a bicycle where possible to reduce the demand on parking at the site. Events are generally held at the gallery when demand for parking is less and it can be reasonably assumed that the on-street parking in the immediate vicinity adequately accommodates for those events.

In order to ensure a minimum 4.5m accessway width across the frontage of the site, the Infrastructure Directorate have requested the universal (disabled) and shared parking bays be moved forward 2 metres closer to the proposed addition to the front of the building and

linemarking be implemented to guide traffic past the universal (disabled) bay. The applicant has been advised and has agreed to the proposed changes being conditional upon approval.

The proposal will result in greater activity in a currently under utilised commercial area and can be appropriately conditioned to address amenity and landscaping.

### **ATTACHMENTS**

Attachment 1 - Application Documents

### 12.3.5. Proposed Changes to Section 64 Liquor Restrictions

|                                      |  |
|--------------------------------------|--|
| <b>DATE:</b>                         | 14 December 2021   |
| <b>AUTHOR:</b>                       | Community Grants and Events Officer                      |
| <b>RESPONSIBLE OFFICER:</b>          | Nick Kearns, Director Planning and Community Development |
| <b>ASSESSMENT NO:</b>                | N/A  |
| <b>FILE NO:</b>                      | CR.22.2  |
| <b>DISCLOSURE OF INTERESTS:</b>      | Nil  |
| <b>COUNCIL'S ROLE IN THE MATTER:</b> | Advocator  |
| <b>VOTING REQUIREMENT:</b>           | Simple Majority  |

### OFFICER'S RECOMMENDATION

That Council writes to the Director of Liquor Control and Arbitration to advise of its support of licensees and the Kununurra Wyndham Alcohol Accord to have sufficient time to adequately respond to the proposal to change the Section 64 restrictions on take-away alcohol sales and to support the current BDR/TAMS trial and additional consultation with business and community as at Attachment 1.

### Council Decision

Minute Number: 14/12/2021 – 118565

That Council writes to the Director of Liquor Control and Arbitration to advise of its support of licensees and the Kununurra Wyndham Alcohol Accord to have sufficient time to adequately respond to the proposal to change the Section 64 restrictions on take-away alcohol sales and to support the current BDR/TAMS trial and additional consultation with business and community as at Attachment 1.

Moved: Cr D Menzel  
Seconded: Cr T Chafer

Decision: 8/0

### PURPOSE

For the Council to advocate on behalf of the Kununurra Wyndham Alcohol Accord with respect to the implementation of new (alcohol quantity) restrictions.

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

Advocator - advocate and support initiatives on behalf of the community

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

This matter was last considered at Council's September 2020 Ordinary Meeting (**Minute No.22/09/2020 - 118308**), where Council lodged a submission to support the implementation of a banned drinkers register - in preference to imposing new light alcohol restrictions across the Kimberley. A copy of that submission is at Attachment 1.

More recently, at the Kununurra and Wyndham Alcohol Accord Meeting on 17 November 2021 a number of licensees discussed their shared concerns with the limited timeframe afforded to industry to respond to the submissions provided by Police, Government agencies, and other stakeholders, which would include Council's submission lodged in September 2020.

The Accord's concern with the limited timeframe stems primarily from the substantial volume of supporting evidence provided by WA Police and other stakeholders, all of which would need to be reviewed in detail in order to provide a comprehensive response. It is the Accord's view that various Government agencies and other stakeholders were given over a year to provide their submissions, while the industry as a principal stakeholder has only been afforded five weeks to do the same. It is also a concern that the hospitality and tourism industry are suffering from extraordinary staff shortages, coupled with unprecedented demand and a significant increase in intra-state tourism, most notably in the two regions targeted by this inquiry. Licensees are understandably concerned that the narrow timeframe exacerbated by these dire staff shortages makes it impossible to provide a comprehensive response, especially in the lead up to Christmas. It is also noted that the entire Kimberley region is already subject to additional restrictions imposed under the Section 31 notice, while parts of the Pilbara are subject to various levels of restriction, with Licensees from both regions taking part in the voluntary Banned Drinking Register (BDR) trial.

The Kununurra and Wyndham Alcohol Accord (Accord) agree that the voluntary nature of the BDR trial in the Kimberley makes it totally reliant on the continued cooperation of all stakeholders and the initiation of an adversarial Section 64 process before the trial's conclusion runs the very real risk of undermining that cooperation and derailing the project. Given the substantial investment the WA Government has already made, which is strongly backed by the Kimberley Group of Councils, the Accord considers the BDR trial should be allowed to run its course without further intervention of additional restrictions changing the baseline required for proper evaluation of its efficacy. There is justifiable concern that if additional restrictions are implemented halfway through the BDR trial they would seriously undermine the veracity of the trial and its subsequent evaluation.

## **STATUTORY IMPLICATIONS**

Sections 175(1a) and 64 of the *Liquor Control Act 1988* enable the Department of Racing, Gaming and Liquor to impose additional licence conditions as restrictions on the sale of take away alcohol (quantities and trading hours) and which may be applied to a specific area or region.

The latest changes to the restrictions on take away alcohol sales in Kununurra and Wyndham were implemented in December 2017. Changed restrictions with respect to the sale of take away alcohol were proposed to be implemented in the Pilbara in 2019 but were defeated legally and so the current proposal is directed at the Kimberley only.

The Department of Racing, Gaming and Liquor has powers to vary individual licences, as would apply to the sale of alcohol in glass containers in addition to any limitation nominated within the Section 64 restrictions, subject to obtaining comment. The Department can also issue a notice under Section 31, which it did in 2020, in light of the COVID-19 State of Emergency, which had the effect of introducing Shire of Wyndham East Kimberley Section 64 restrictions to Broome and Derby.

## **POLICY IMPLICATIONS**

Nil

## **FINANCIAL IMPLICATIONS**

There are no financial implications.

## **STRATEGIC IMPLICATIONS**

*Strategic Community Plan 2017-2027*

**Focus Area 2:** PLACE - Enhancing the environment

**Focus Area 4:** PERFORMANCE - Civic Leadership

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

**Goal 4.2:** Good decision making through engagement with the community

**Strategy 4.1.1:** Advocate and lobby effectively on behalf of the community

**Strategy 4.1.2:** Foster relationships and partnerships with key stakeholders to achieve community outcomes

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

## **RISK IMPLICATIONS**

Nil

## **COMMUNITY ENGAGEMENT**

No community engagement has been undertaken as the Shire is not proposing any changes to alcohol restrictions.

### **COMMENTS**

Considering the existing measures already in place, along with the significant volume of evidence that needs to be properly considered before providing a comprehensive submission, licensees have sought an extension of time to respond, which is understood to be until the end of March 2022. To complement their request, a letter has been drafted to amplify the Shire's concerns with respect to the imposition of the new restrictions in light of the current BDR/TAMS trial and a draft of that letter is at Attachment 2. This will also reiterate the Council's previous concern with regard to the opportunity for more significant consultation - with business and community and complement the letter from the Accord which outlines a number of additional concerns, which is provided at Attachment 3.

### **ATTACHMENTS**

Attachment 1 - September 2020 letter to Director Liquor Licensing re availability of packaged liquor

Attachment 2 - Draft letter from the Shire to the Director Liquor Control and Arbitration

Attachment 3 - Draft letter from the Kununurra Wyndham Alcohol Accord to the Director Liquor Control and Arbitration

### 12.3.6. Proposed Lease - Ord River Paddlers

|                                      |  |
|--------------------------------------|--|
| <b>DATE:</b>                         | 14 December 2021   |
| <b>AUTHOR:</b>                       | Manager Planning and Regulatory Services                 |
| <b>RESPONSIBLE OFFICER:</b>          | Nick Kearns, Director Planning and Community Development |
| <b>ASSESSMENT NO:</b>                | A8136  |
| <b>FILE NO:</b>                      | CP.07.23   |
| <b>DISCLOSURE OF INTERESTS:</b>      | Nil  |
| <b>COUNCIL'S ROLE IN THE MATTER:</b> | Funder - provide funds or other resources                |
| <b>VOTING REQUIREMENT</b>            | Simple Majority  |

### OFFICER'S RECOMMENDATION

**That Council:**

1. Authorises the Chief Executive Officer to offer a 10 year lease, in accordance with Council Policy *CP/PMG-3780 Leasing of Council Managed Reserve Land - Community*, to the Ord River Paddlers Incorporated for Part Reserve 41812, being part Lot 668 on Deposited Plan 217491, and Part Reserve 30290, being Part Lot 707 on Deposited Plan 217504, Drovers Road Kununurra, subject to the approval of the Minister of Lands.
2. Terminates the existing lease.

### Council Decision

**Minute Number: 14/12/2021 – 118566**

**That Council:**

1. Authorises the Chief Executive Officer to offer a 10 year lease, in accordance with Council Policy *CP/PMG-3780 Leasing of Council Managed Reserve Land - Community*, to the Ord River Paddlers Incorporated for Part Reserve 41812, being part Lot 668 on Deposited Plan 217491, and Part Reserve 30290, being Part Lot 707 on Deposited Plan 217504, Drovers Road Kununurra, subject to the approval of the Minister of Lands.
2. Terminates the existing lease.

**Moved: Cr T Chafer**

**Seconded: Cr M McKittrick**

## **PURPOSE**

For Council to consider entering into a lease with Ord River Paddlers Incorporated.

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

At the Ordinary Council Meeting held on 23 May 2017 Council resolved as follows:

***Minute No: 23/05/2017-11678***

***Commissioner resolved:***

***That Council authorise the Chief Executive Officer to offer a 10 year lease to the Kununurra Dragon Boat Club for Part Reserve 41812 on Plan 217491, Part Lot 668 Old Darwin Road Kununurra, subject to the approval of the Minister of Lands.***

***Carried 1/0***

Subsequently, a 10 year lease between the Shire and the Kununurra Dragon Boat Club was executed, which commenced 1 July 2017.

Since that time the club has changed the incorporation name from Kununurra Dragon Boat Club (Inc) to Ord River Paddlers Incorporated, and have determined that the leased area is not adjacent to the inlet used to get the dragon boats in and out of the water, and tie up when in the water.

As such the club approached the Shire to amend the leased area to the area used by the Ord River Paddlers and to ultimately allow proposed development of a storage shed for the dragon boats.

Shire Officers met with representatives of the Club onsite to properly identify the new lease area, which (from the original location) will be approximately 10 - 15m southwards and will be about 8m shorter in length, but approximately 5m wider. This is to allow for the storage shed to be built and to ensure it is setback a suitable distance from the water's edge.

An aerial plan showing the proposed new lease area (pink line) in respect to the current lease area (orange boundary) is provided at Attachment 1. This plan also shows the proposed location of the storage shed.

As the new lease area is wider, it will now traverse two reserves (R 41812 and R 30290) managed by the Shire.



The Ord River Paddlers have submitted a building permit application for the proposed storage shed and Councillors will recall approving a facilities grant for this purpose at that last ordinary Meeting.

## **STATUTORY IMPLICATIONS**

### **Land Administration Act 1997**

Reserve 41812 is reserved under the Land Administration Act 1997 (LAA) for the purpose of 'Foreshore and Recreation', and Reserve 30290 for the purpose 'Racecourse, Recreation and Sporting Clubs'.

The Shire holds the management order for both reserves with power to lease for a maximum of 21 years, subject to consent from the Minister for Lands.

### **Local Government Act 1995**

Under section 3.58 of the Local Government Act 1995 (LGA), the leasing of land is included as a form of disposal of property and is required to be undertaken in accordance with this section of the LGA.

However, there are exemptions from the requirements outlined in *regulation 30 of the Local Government (Functions & General) Regulations 1996*, which states that a disposition of land is an exempt disposition if –

- (i) the land is disposed of to a body, whether incorporated or not -
  - (i) the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature; and
  - (iii) the members of which are not entitled or permitted to receive any pecuniary profit from the body's transactions."

As such, the proposed lease to the Ord River Paddlers would be considered an exempt disposition and the Shire can directly enter into a lease negotiation.

## **POLICY IMPLICATIONS**

The lease will be in accordance with Council Policy *CP/PMG-3780 Leasing of Council Managed Reserve Land-Community*.

## **STRATEGIC IMPLICATIONS**

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

**Focus Area 1:** PEOPLE - Healthy vibrant active communities

**Focus Area 2:** PLACE - Enhancing the environment

**Goal 1.2:** Increase participation in sporting, recreation and leisure activities

Strategy 1.2.3: Support and build capacity of community groups and clubs through community grants programs, advice and management of Shire reserves and facilities

Strategy 1.3.2: Support and assist community organisations to positively impact social wellbeing

**Goal 2.2:** Provide sustainable public infrastructure that serves the current and future needs of the community

Strategy 2.2.4: Promote the colocation of municipal, government and community facilities to create hubs to enhance access to services

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

### **RISK IMPLICATIONS**

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

**Control:** Continue to consider and where appropriate provide community leases to sustainability

### **FINANCIAL IMPLICATIONS**

There are no financial implications.

### **COMMUNITY ENGAGEMENT**

No community engagement is required.

### **COMMENTS**

The proposed amendment of the lease area does not impact on the intent of Council to lease an area to the club for them to establish a base of operation. However, in order to do this, a new lease is required to be entered into, which will still be subject to:

1. Council resolution to enter into a new lease;
2. Minister for Lands consent for the new lease; and
3. Termination of the current lease.

The proposed new lease will be consistent with the current lease, but will be amended to include both land parcels and the updated lease plan and will also include a licence area to provide non-exclusive access to the water, which is not provided for in the current lease.

As the existing lease has already been subject to a rent review (which is undertaken every 3 years for community leases) it is also proposed that the commencing rent for the new lease start at the current annual rental amount of \$500.45 plus GST.

A copy of the new draft Lease is provided as Attachment 2.

### **ATTACHMENTS**

Attachment 1 - Aerial Plan showing proposed amendment to Lease Area  
Attachment 2 - Draft Lease to Ord River Paddlers Incorporated

## 12.4. CORPORATE SERVICES

### 12.4.1. Interim Monthly Financial Reports October and November 2021

|                                      |   |
|--------------------------------------|---|
| <b>DATE:</b>                         | 14 December 2021  |
| <b>AUTHOR:</b>                       | Director Corporate Services   |
| <b>RESPONSIBLE OFFICER:</b>          | Felicity Heading, Director Corporate Services                         |
| <b>FILE NO:</b>                      | FM.09.25  |
| <b>DISCLOSURE OF INTERESTS:</b>      | Nil   |
| <b>COUNCIL'S ROLE IN THE MATTER:</b> | Regulator - Responsible for the enforcement of statutory requirements |
| <b>VOTING REQUIREMENT:</b>           | Simple Majority   |

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

**That Council receives the Interim Monthly Financial Reports for the periods ended 31 October 2021 and 30 November 2021.**

#### **Council Decision**

**Minute Number: 14/12/2021 – 118567**

**That Council receives the Interim Monthly Financial Reports for the periods ended 31 October 2021 and 30 November 2021.**

**Moved: Cr T Chafer  
Seconded: Cr N Brook**

**Decision: 8/0**

#### **PURPOSE**

For Council to receive the Interim Monthly Financial Reports for the periods ended 31 October 2021 and 30 November 2021.

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

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

At the 27 July 2021 Ordinary Council Meeting, the Council resolved the following:

**Council Decision**

**Minute Number: 27/07/2021 - 11496**

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

**Moved: Cr G Lodge**

**Seconded: Cr M McKittrick**

**Decision 9/0**

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

**STATUTORY IMPLICATIONS**

***Local Government Act 1995, Section 6.4.***

***6.4. Financial report***

*(1) A local government is to prepare an annual financial report for the preceding financial year and such other financial reports as are prescribed.*

*(2) The financial report is to —*

*(a) be prepared and presented in the manner and form prescribed; and*

*(b) contain the prescribed information.*

*(3) By 30 September following each financial year or such extended time as the Minister allows, a local government is to submit to its auditor —*

*(a) the accounts of the local government, balanced up to the last day of the preceding financial year; and*

*(b) the annual financial report of the local government for the preceding financial year.*

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

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

*(1A) In this regulation —*

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

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

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

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

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

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

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

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

- (a) an explanation of the composition of the net current assets of the month to which the statement relates, less committed assets and restricted assets; and*
- (b) an explanation of each of the material variances referred to in subregulation (1)(d); and*
- (c) such other supporting information as is considered relevant by the local government.*
- (3) The information in a statement of financial activity may be shown —*
  - (a) according to nature and type classification; or*
  - (b) by program; or*
  - (c) by business unit.*
- (4) A statement of financial activity, and the accompanying documents referred to in subregulation (2), are to be —*
  - (a) presented at an ordinary meeting of the council within 2 months after the end of the month to which the statement relates; and*
  - (b) recorded in the minutes of the meeting at which it is presented.*
- (5) Each financial year, a local government is to adopt a percentage or value, calculated in accordance with the AAS, to be used in statements of financial activity for reporting material variances.*

## **POLICY IMPLICATIONS**

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

## **FINANCIAL IMPLICATIONS**

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

## **STRATEGIC IMPLICATIONS**

*Strategic Community Plan 2017-2027*

Focus Area 4: Performance - Civic Leadership

Goal 4.4: Sustainably maintain the Shire's financial viability

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

## **RISK IMPLICATIONS**

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

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

## **COMMUNITY ENGAGEMENT**

No community engagement is required in relation to this item.

## **COMMENTS**

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

It should be noted that the Interim Monthly Financial Reports for the periods ending 31 October and 30 November 2021 do not include final figures and end of year adjustments for the year ended 30 June 2021. The final position for the 2020/21 financial year will be reported in the 2020/21 Annual Financial Statements.

### **ATTACHMENTS**

Attachment 1 - Interim Monthly Financial Report October 2021

Attachment 2 - Interim Monthly Financial Report November 2021

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

|                                      |   |
|--------------------------------------|---|
| <b>DATE:</b>                         | 14 December 2021  |
| <b>AUTHOR:</b>                       | Creditors Officer   |
| <b>RESPONSIBLE OFFICER:</b>          | Felicity Heading, Director Corporate Services                         |
| <b>FILE NO:</b>                      | FM.09.29  |
| <b>DISCLOSURE OF INTERESTS:</b>      | Nil   |
| <b>COUNCIL'S ROLE IN THE MATTER:</b> | Regulator - Responsible for the enforcement of statutory requirements |
| <b>VOTING REQUIREMENT:</b>           | Simple Majority   |

#### OFFICER'S RECOMMENDATION

That Council receive the lists of accounts paid from the Municipal and Trust funds for November 2021, being:

|   |                        |
|---|------------------------|
| Municipal EFT 141798 - 142038 (03/11/2021-30/11/2021) | \$ 4,874,087.31        |
| Municipal Cheques 52020 ( 26/11/2021)                 | \$ 42.95               |
| Trust EFT 502264- 502278 (01/11/2021 - 29/11/2021)    | \$ 17,442.00           |
| Payroll (03/11/2021 - 17/11/2021)                     | \$ 491,002.38          |
| Direct Bank Debits (01/11/2021-24/11/2021)            | \$ 227,433.49          |
| <b>Total</b>  | <b>\$ 5,610,008.13</b> |

#### Council Decision

Minute Number: 14/12/2021 – 118568

That Council receive the lists of accounts paid from the Municipal and Trust funds for November 2021, being:



|  |                        |
|--|------------------------|
| <b>Municipal EFT 141798 - 142038 (03/11/2021-30/11/2021)</b> | <b>\$ 4,874,087.31</b> |
| <b>Municipal Cheques 52020 (26/11/2021)</b>                  | <b>\$ 42.95</b>        |
| <b>Trust EFT 502264- 502278 (01/11/2021 - 29/11/2021)</b>    | <b>\$ 17,442.00</b>    |
| <b>Payroll (03/11/2021 - 17/11/2021)</b>                     | <b>\$ 491,002.38</b>   |
| <b>Direct Bank Debits (01/11/2021-24/11/2021)</b>            | <b>\$ 227,433.49</b>   |
| <b>Total</b>   | <b>\$ 5,610,008.13</b> |
| <b>Moved: Cr M McKittrick</b>                                |                        |
| <b>Seconded: Cr M Dear</b>                                   |                        |
| <b>Decision: 8/0</b>   |                        |

## **PURPOSE**

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

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

In accordance with Council's Delegations Register which was adopted by Council on 27 October 2020, the Council has delegated to the CEO the exercise of its power under Regulations 12 and 13 of the *Local Government (Financial Management) Regulations 1996* to make payments from Municipal Fund and Trust Fund.

## **STATUTORY IMPLICATIONS**

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

*Local Government (Financial Management) Regulations 1996* -

Regulation 5. CEO's duties as to financial management.

Regulation 11. Payments, procedures for making etc.

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

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

## **POLICY IMPLICATIONS**

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

## **FINANCIAL IMPLICATIONS**

There are no financial implications arising out of the preparation of this report. The financial implications arising from the payments made from the Municipal and Trust funds have been provided for in the 2021/22 Adopted Budget and any subsequent amendments thereto. This report provides for the ongoing management of the Shire's funds by providing the Council with sufficient information to monitor and review those payments made.

## **STRATEGIC IMPLICATIONS**

*Strategic Community Plan 2017-2027.*

Focus Area 4: Performance - Civic Leadership

Goal 4.4: Sustainably maintain the Shire's financial viability

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

## **RISK IMPLICATIONS**

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

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

## **COMMUNITY ENGAGEMENT**

No community engagement is required in relation to this item.

## **COMMENTS**

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

## **ATTACHMENTS**

Attachment 1 - List of Accounts Paid November 2021

## **12.5. INFRASTRUCTURE**

Nil

## **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**

### **15.1. Councillor Board Representation**

|                                      |  |
|--------------------------------------|--|
| <b>DATE:</b>                         | 14 December 2021   |
| <b>AUTHOR:</b>                       | Executive Officer to the CEO   |
| <b>RESPONSIBLE OFFICER:</b>          | Vernon Lawrence, Chief Executive Officer   |
| <b>FILE NO:</b>                      | GN.05.7  |
| <b>DISCLOSURE OF INTERESTS:</b>      | NIL  |
| <b>COUNCIL'S ROLE IN THE MATTER:</b> | Advocator - advocate and support initiatives on behalf of the community and the Kimberley. |
| <b>VOTING REQUIREMENT:</b>           | Simple majority  |

### **OFFICER'S RECOMMENDATION**

**That Council:**

- 1. Advise the Minister for Regional Development that Cr D Menzel was re-elected to the Shire of Wyndham East Kimberley Council on 16 October 2021; and**
- 2. Confirms Cr D Menzel's eligibility to continue to serve on the Kimberley Development Commission Board until the current term expires on 31/12/2022.**

### **Council Decision**

**Minute Number: 14/12/2021 – 118569**

**That Council:**

- 1. Advise the Minister for Regional Development that Cr D Menzel was re-elected to the Shire of Wyndham East Kimberley Council on 16 October 2021; and**
- 2. Confirms Cr D Menzel's eligibility to continue to serve on the Kimberley Development Commission Board until the current term expires on 31/12/2022.**

**Moved: Cr T Chafer**

**Seconded: Cr N Brook**

**Decision: 8/0**

## **PURPOSE**

This report provides for Council to confirm the Shire President as the Local Government Member on the Kimberley Development Commission board.

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

The Shire of Wyndham East Kimberley held an Ordinary Election on 16 October 2021 with newly elected members sworn in at a Special Meeting of Council held on 17 October 2021.

Representation on Council Committees, Working Groups and Board positions concluded prior to the Election. As per section 5.11 of the *Local Government Act* 1995 (the Act), new representation is required to be established for the next two years until the next Ordinary Election on 21 October 2023.

## **STATUTORY IMPLICATIONS**

Appointment to committees is covered by section 5.10 of the Local Government Act, 1995. The Act does not however specifically cover the appointment to committees and boards that are not a committee of Council. Councillors are able to nominate themselves under section 5.10(2) and under section 5.10(4) the Shire President is to be appointed to any committees they inform the local government that they would like to sit on.

### **5.10. Committee members, appointment of**

(1) A committee is to have as its members —

(a) persons appointed\* by the local government to be members of the committee (other than those referred to in paragraph (b)); and

(b) persons who are appointed to be members of the committee under subsection (4) or (5).

*\* Absolute majority required.*

(2) At any given time each council member is entitled to be a member of at least one committee referred to in section 5.9(2)(a) or (b) and if a council member nominates himself or herself to be a member of such a committee or committees, the local government is to include that council member in the persons appointed under subsection (1)(a) to at least one of those committees as the local government decides.

(3) Section 52 of the *Interpretation Act 1984* applies to appointments of committee members other than those appointed under subsection (4) or (5) but any power exercised under section 52(1) of that Act can only be exercised on the decision of an absolute majority of the council.

(4) If at a meeting of the council a local government is to make an appointment to a committee that has or could have a council member as a member and the mayor or

president informs the local government of his or her wish to be a member of the committee, the local government is to appoint the mayor or president to be a member of the committee.

(5) If at a meeting of the council a local government is to make an appointment to a committee that has or will have an employee as a member and the CEO informs the local government of his or her wish —

- (a) to be a member of the committee; or
- (b) that a representative of the CEO be a member of the committee,

the local government is to appoint the CEO or the CEO's representative, as the case may be, to be a member of the committee.

[Section 5.10 amended: No. 16 of 2019 s. 18.]

#### **5.11. Committee membership, tenure of**

(1) Where a person is appointed as a member of a committee under section 5.10(4) or (5), the person's membership of the committee continues until —

(a) the person no longer holds the office by virtue of which the person became a member, or is no longer the CEO, or the CEO's representative, as the case may be; or

(b) the person resigns from membership of the committee; or

(c) the committee is disbanded; or

(d) the next ordinary elections day,

whichever happens first.

(2) Where a person is appointed as a member of a committee other than under section 5.10(4) or (5), the person's membership of the committee continues until —

(a) the term of the person's appointment as a committee member expires;  
or

(b) the local government removes the person from the office of committee member or the office of committee member otherwise becomes vacant; or

(c) the committee is disbanded; or

(d) the next ordinary elections day,

whichever happens first.

### **POLICY IMPLICATIONS**

There are no policy implications associated with this report.

### **FINANCIAL IMPLICATIONS**

There are no financial implications associated with this item other than the commitment of human resources and time to attend the Kimberley Development Commission board meetings.

### **STRATEGIC IMPLICATIONS**

*Strategic Community Plan 2017-2027*

Focus Area 4: Civic Leadership

Goal: 4.1: Effective representation through advocacy at a regional, state and national level

Strategy 4.1.2: Actively represent the community and provide input to decision making at the regional, state and federal levels that impact the Shire

Strategy 4.1.3: Identify and contribute to collaborative and partnership initiatives that benefit the community

### **RISK IMPLICATIONS**

NIL

### **COMMUNITY ENGAGEMENT**

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

### **COMMENTS**

Cr Menzel currently serves on the Board of the Kimberley Development Commission alongside Cr Male (Shire of Broome) as the 2 local government members.

Both Cr Menzel and Cr Malel were successfully re-elected and therefore continue to serve their existing term. The Kimberley Development Commission have advised that there is no requirement to nominate additional Councillors at this point, but suggested Council confirm Cr Menzels re-election and continued eligibility to sit on the KDC Board to the Minister for Regional Development.

### **ATTACHMENTS**

Nil

## **16. MATTERS BEHIND CLOSED DOORS**

The Presiding member moved that Council move in camera at 6:07pm.

### **Council Decision**

**Minute Number: 14/12/2021 – 118570**

**That Council move in-camera to discuss confidential matters in Agenda item 16 at 6.07pm.**

**Moved: Cr D Menzel**

**Seconded: Cr T Chafer**

**Decision: 8/0**

**Members of the Gallery left the Chambers**

### **Council Decision**

**Minute Number: 14/12/2021 – 118571**

**That Council move out of camera 6:51pm.**

**Moved: Cr D Menzel**

**Seconded: Cr M Dear**

**Decision: 8/0**

**The Shire President read the Council Resolutions to the Gallery.**



**16.1. CONTRACT EXTENSION - CONTRACT C-04-13/14 FOR THE SUPPLY OF WASTE DISPOSAL GOODS AND THE PROVISION OF GOODS AND SERVICES IN RESPECT TO THE COLLECTION OF WASTE**

|                                 |  |
|---------------------------------|--|
| <b>DATE:</b>                    | 14 December 2021                         |
| <b>AUTHOR:</b>                  | Senior Procurement and Contracts Officer |
| <b>RESPONSIBLE OFFICER:</b>     | Vernon Lawrence, Chief Executive Officer |
| <b>DISCLOSURE OF INTERESTS:</b> | Nil                                      |
| <b>VOTING REQUIREMENTS:</b>     | Simple Majority                          |

**OFFICER'S RECOMMENDATION**

That Council;

1. Authorises the Chief Executive Officer to execute a twelve (12) month extension to *Contract C-04-13/14: for the Supply of Waste Disposal Goods and the Provision of Goods and Services in respect to the Collection of Waste*, with Cleanaway Pty Ltd;
2. Note that subject to Cleanaway Pty Ltd accepting a Contract extension, the end date of the Contract will be extended to 30 June 2023.

**Council Decision**

Minute Number: 14/12/2021 – 118572

That Council;

1. Authorises the Chief Executive Officer to execute a twelve (12) month extension to *Contract C-04-13/14: for the Supply of Waste Disposal Goods and the Provision of Goods and Services in respect to the Collection of Waste*, with Cleanaway Pty Ltd;
2. Note that subject to Cleanaway Pty Ltd accepting a Contract extension, the end date of the Contract will be extended to 30 June 2023.

Moved: Cr T Chafer

Seconded: Cr J Farquhar

Decision: 8/0

**PURPOSE**

The purpose of this Agenda item is to request that Council consider awarding an extension of time for Contract C-04-13/14: *for the Supply of Waste Disposal Goods and the Provision of Goods and Services in Respect to the Collection of Waste* with Cleanaway Pty Ltd.

Where a Contract extension is approved by Council, Shire officers would seek to extend the Contract for a further twelve (12) months. Where Cleanaway also accepts the proposed extension, the Shire would be guaranteed the delivery of waste services provisions up until 30 June 2023.

## 16.2. ORD RIVER MAGPIES FOOTBALL CLUB LEASE

|                                      |   |
|--------------------------------------|---|
| <b>DATE:</b>                         | 14 December 2021  |
| <b>AUTHOR:</b>                       | Director Planning and Community Development                       |
| <b>RESPONSIBLE OFFICER:</b>          | Nick Kearns, Director Planning and Community Development          |
| <b>ASSESSMENT NO:</b>                | A7620   |
| <b>FILE NO:</b>                      | CP.07.22  |
| <b>DISCLOSURE OF INTERESTS:</b>      | Nil   |
| <b>COUNCIL'S ROLE IN THE MATTER:</b> | Provider - provide physical infrastructure and essential services |
| <b>VOTING REQUIREMENT</b>            | Simple Majority   |

### OFFICER'S RECOMMENDATION

That Council:

1. Reaffirms its decision of 24 July 2018 to offer a 21 year lease to the Ord River Magpies Football Club Inc (Ord River Magpies) for Part Lot 504 on Plan 61898, Part Reserve 29799, 199 Coolibah Drive, Kununurra, as detailed in Attachment 6 (lease terms), subject to the approval of the Minister for Lands;
2. Authorises the Chief Executive Officer to negotiate the non-material lease terms, and for the sake of clarity affirms that the material terms are those provisions, detailed in the draft Lease in Attachment 6 in respect to Rent, Rent review, Rates and taxes, Lessee's obligation to effect insurances, use of the Premises, Maintenance and works (material lease terms);
3. Directs the Chief Executive Officer to finalise execution of the lease within 60 days of the date of this decision;
4. Authorises the Chief Executive Officer to issue the Ord River Magpies with a Notice of Termination and to Vacate the Reserve and remove the clubrooms and facilities in the event that the Ord River Magpies refuse the offer of lease on the material lease terms or to execute the lease within 60 days of the date of this decision, and
5. Authorises the Chief Executive Officer to negotiate an in-principle offer to purchase the clubrooms and facilities constructed by the Ord River Magpies in the event that the Ord River Magpies does not accept the material lease terms and does not wish to remove its clubrooms and facilities conditional on the negotiated in-principle offer to purchaser being reflected in a purchase agreement supported by an independent valuation both of which are to be referred back to Council for approval.

### **Council Decision**

**Minute Number: 14/12/2021 – 118573**

**That Council:**

- 1. Reaffirms its decision of 24 July 2018 to offer a 21 year lease to the Ord River Magpies Football Club Inc (Ord River Magpies) for Part Lot 504 on Plan 61898, Part Reserve 29799, 199 Coolibah Drive, Kununurra, as detailed in Attachment 6 (lease terms), subject to the approval of the Minister for Lands;**
- 2. Authorises the Chief Executive Officer to negotiate the non-material lease terms, and for the sake of clarity affirms that the material terms are those provisions, detailed in the draft Lease in Attachment 6 in respect to Rent, Rent review, Rates and taxes, Lessee's obligation to effect insurances, use of the Premises, Maintenance and works (material lease terms);**
- 3. Directs the Chief Executive Officer to finalise execution of the lease within 60 days of the date of this decision;**
- 4. Authorises the Chief Executive Officer to issue the Ord River Magpies with a Notice of Termination and to Vacate the Reserve and remove the clubrooms and facilities in the event that the Ord River Magpies refuse the offer of lease on the material lease terms or to execute the lease within 60 days of the date of this decision, and**
- 5. Authorises the Chief Executive Officer to negotiate an in-principle offer to purchase the clubrooms and facilities constructed by the Ord River Magpies in the event that the Ord River Magpies does not accept the material lease terms and does not wish to remove its clubrooms and facilities conditional on the negotiated in-principle offer to purchaser being reflected in a purchase agreement supported by an independent valuation both of which are to be referred back to Council for approval.**

**Moved: Cr T Chafer**

**Seconded: Cr M Dear**

**Decision: 8/0**

### **PURPOSE**

For the Council to consider matters relevant to its decision in 2018 of the offer of a community lease to the Ord River Magpies Football Club Inc which has yet to be formalised.

## **17. CLOSURE**

The Shire President declared the meeting closed at 6:52pm.