

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

Commissioner

Date



SHIRE OF WYNDHAM | EAST KIMBERLEY

MINUTES ORDINARY COUNCIL MEETING

28 March 2017

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**SHIRE OF WYNDHAM EAST KIMBERLEY
ORDINARY COUNCIL MEETING MINUTES
KUNUNURRA COUNCIL CHAMBERS
HELD ON 28 MARCH 2017 AT 5:00PM**

1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

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

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

Members of the Public are also advised that everyone attending Council Meetings, be they members of the public, staff or Councillors, are bound by the Meeting Procedures Local Law 2016

The Commissioner opened the meeting at 5:02pm.

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

R Yuryevich	Commissioner
C Askew	Chief Executive Officer
L Gee	Director Community Development
D Klye	Director Infrastructure
V Lawrence	Director Corporate Services
M Le Riche	Executive Assistant (Minute Taker)

Gallery

K Wright	
L Ellis	Guerinoni & Son
F Heading	SWEK
P deKruif	Kimberley Echo
G Hocking	SWEK
J Ninyette	SWEK
P Bracegirdle	SWEK
R Storey	SWEK
M Davidson	SWEK
M Stewart	SWEK

3. DECLARATION OF INTEREST

- Financial Interest
Nil
- Impartiality Interest

Councillor/Officer	Item	Title	Description of Interest
D Klye	16.1	T13 16/17	I have a personal relationship with one of the Tenderers in this matter

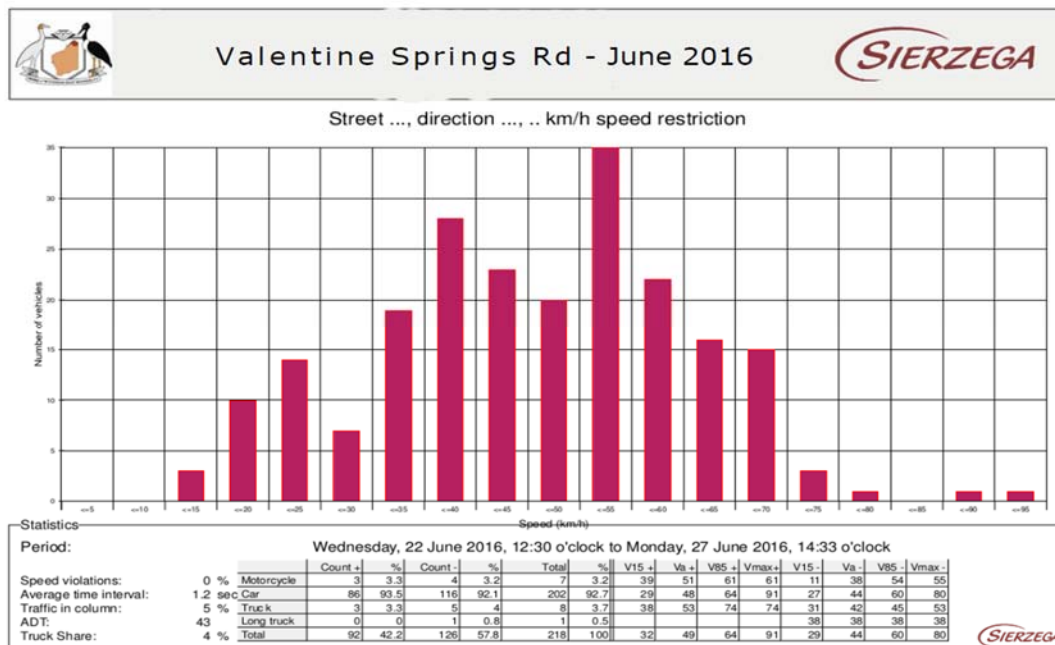
- Proximity Interest
Nil

4. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Question from Mark Northover, Kununurra, 6743 - taken on notice at the 28 February 2017 Ordinary Council Meeting.

Question: Do you have a road count for Valentines Spring Road?

The most recent road count for Valentines Spring Road was conducted in June 2016, a copy of which is attached.



5. PUBLIC QUESTION TIME

Nil

6. APPLICATIONS FOR LEAVE OF ABSENCE

Nil

7. PETITIONS

Nil

8. CONFIRMATION OF MINUTES

OFFICER'S RECOMMENDATION

That Council confirms the Minutes of the Ordinary Council Meeting held on 28 February 2017

Note: The Minutes of the Ordinary Council Meeting held on 28 February 2017 are provided under separate cover via www.swek.wa.gov.au

COUNCIL DECISION

Minute No: 28/03/2017 – 11624

Commissioner resolved:

That Council confirms the Minutes of the Ordinary Council Meeting held on 28 February 2017

Carried 1/0

9. ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION

Nil

10. MATTERS FOR WHICH THE MEETING MAY BE CLOSED

16.1 - T13 16/17 Periodic Various Grading of Kalumburu and Port Warrender Roads and Mt Elizabeth and Ellenbrae Access Roads for a Period of Two Years

16.2 - Disposal of Asset; Weed Harvester

11. DEPUTATIONS / PRESENTATIONS / SUBMISSIONS

Nil

12. REPORTS

12.1. MATTERS ARISING FROM COMMITTEES OF COUNCIL

12.1.1. Consideration of Recommendations Contained Within the Minutes of the Audit (Finance and Risk) Committee Meeting of 27 February 2017

DATE:	16 March 2017
AUTHOR:	Director Corporate Services
RESPONSIBLE OFFICER:	Carl Askew, Chief Executive Officer
ASSESSMENT NO:	Various - As Detailed in the Minutes of the 27 February 2017 Audit (Finance and Risk) Committee meeting
FILE NO:	Various - As Detailed in the Minutes of the 27 February 2017 Audit (Finance and Risk) Committee meeting
DISCLOSURE OF INTERESTS:	Nil

VOTING REQUIREMENT

Simple Majority

COMMITTEE'S RECOMMENDATION 1

That Council, with reference to Item 7.2 "*Standing Item - Sundry Debtors*", accepts that the actions being undertaken by the administration in regard to sundry debtors including sundry debts in legal process are sufficient and appropriate.

COUNCIL DECISION

Minute No: 28/03/2017 – 11625

Commissioner resolved:

That Council, with reference to Item 7.2 "*Standing Item - Sundry Debtors*", accepts that the actions being undertaken by the administration in regard to sundry debtors including sundry debts in legal process are sufficient and appropriate.

Carried 1/0

VOTING REQUIREMENT

Simple Majority

COMMITTEE'S RECOMMENDATION 2

That Council, with reference to Item 7.3 “*Standing Item - Rates Debtors*”, accepts the report that the actions being undertaken by the administration in regard to rates debtors, including rates debts in legal process are sufficient and appropriate.

COUNCIL DECISION

Minute No: 28/03/2017 - 11626

Commissioner resolved:

That Council, with reference to Item 7.3 “*Standing Item - Rates Debtors*”, accepts the report that the actions being undertaken by the administration in regard to rates debtors, including rates debts in legal process are sufficient and appropriate.

Carried 1/0

VOTING REQUIREMENT

Simple Majority

COMMITTEE'S RECOMMENDATION 3

That Council, with reference to Item 7.4 “*Standing Item - Insurance Claims*”, notes the Confidential Insurance Claims Register attached to the Agenda of the 27 February 2017 Audit (Finance and Risk) Committee meeting.

COUNCIL DECISION

Minute No: 28/03/2017 - 11627

Commissioner resolved:

That Council, with reference to Item 7.4 “*Standing Item - Insurance Claims*”, notes the Confidential Insurance Claims Register attached to the Agenda of the 27 February 2017 Audit (Finance and Risk) Committee meeting.

Carried 1/0

Note: In moving recommendation 3 the Commissioner questioned the need this report to come to council as this is “operational” in nature.

VOTING REQUIREMENT

Simple Majority

COMMITTEE'S RECOMMENDATION 4

That Council, with reference to Item 7.5 “*Standing Item - Leases*”, notes:

- 1. The Confidential Lease Schedule and the New and Renewal Lease Schedule attached to the Agenda of the 27 February 2017 Audit (Finance and Risk) Committee Meeting; and**
- 2. Notes a report be presented to Council in relations to the alignment of payment arrangements for leases to commence from 1 July.**

COUNCIL DECISION

Minute No: 28/03/2017 – 11628

Commissioner resolved:

That Council, with reference to Item 7.5 “*Standing Item - Leases*”, notes:

- 1. The Confidential Lease Schedule and the New and Renewal Lease Schedule attached to the Agenda of the 27 February 2017 Audit (Finance and Risk) Committee Meeting; and**
- 2. Notes a report be presented to Council in relations to the alignment of payment arrangements for leases to commence from 1 July.**

Carried 1/0

VOTING REQUIREMENT

Simple Majority

COMMITTEE'S RECOMMENDATION 5

That Council, with reference to Matters Behind Closed Doors Item 8.1 “*Update on the Recovery of Outstanding Rates - Assessments A2574, A2569 and A411*”, notes:

- 1. The further investigations and actions undertaken regarding options for the recovery of outstanding rates for Assessments A2574, A2569, and A411 in accordance with relevant legislation; and**
- 2. That a further updated report will be included in the next Audit (Finance and Risk) Committee Agenda.**

COUNCIL DECISION

Minute No: 28/03/2017 – 11629

Commissioner No:

That Council, with reference to Matters Behind Closed Doors Item 8.1 “Update on the Recovery of Outstanding Rates - Assessments A2574, A2569 and A411”, notes:

- 1. The further investigations and actions undertaken regarding options for the recovery of outstanding rates for Assessments A2574, A2569, and A411 in accordance with relevant legislation; and**
- 2. That a further updated report will be included in the next Audit (Finance and Risk) Committee Agenda.**

Carried 1/0

The Commissioner moved minute numbers 11625, 11626, 11627, 11628 and 11629 en bloc.

PURPOSE

To consider the recommendations from the Audit (Finance and Risk) Committee made at its meeting held on 27 February 2017.

NATURE OF COUNCIL'S ROLE IN THE MATTER

Leader - plan and provide direction through policy and practices

Regulator - enforce state legislation and local laws

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

The background and details supporting the recommendations are contained in the Audit (Finance and Risk) Committee meeting minutes of 27 February 2017.

STATUTORY IMPLICATIONS

Various - detailed within the Minutes of the 27 February 2017 Audit (Finance and Risk) Committee meeting.

POLICY IMPLICATIONS

Various - detailed within the Minutes of the 27 February 2017 Audit (Finance and Risk) Committee meeting.

FINANCIAL IMPLICATIONS

Various - detailed within the Minutes of the 27 February 2017 Audit (Finance and Risk) Committee meeting.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2012-2022

Goal 1: Strong leadership and governance that underpins a more strategic approach to community engagement, regional development and organisational sustainability

Objective 1.4: Business innovation, efficiency and improved services

Strategy 1.4.1 : Ensure legislative compliance and follow best practice principles in planning and service delivery

Strategy 1.4.3 : Maintain Council's long term financial viability

RISK IMPLICATIONS

Various - detailed within the Minutes of the 27 February 2017 Audit (Finance and Risk) Committee meeting.

COMMUNITY ENGAGEMENT

Various - detailed within the Minutes of the 27 February 2017 Audit (Finance and Risk) Committee meeting.

COMMENTS

Various - detailed within the Minutes of the 27 February 2017 Audit (Finance and Risk) Committee meeting.

ATTACHMENTS

Attachment 1 - Minutes Audit (Finance and Risk) Committee Meeting 27 February 2017

12.1.2. Compliance Audit Return

DATE:	28 March 2017
AUTHOR:	Senior Governance & Risk Officer
RESPONSIBLE OFFICER:	Carl Askew, Chief Executive Officer
FILE NO:	CM.13.2
DISCLOSURE OF INTERESTS:	Nil

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council accept the Audit (Finance and Risk) Committee recommendation to adopt the Compliance Audit Return for 2016.

COUNCIL DECISION

Minute No: 28/03/2017 – 11630

Commissioner resolved:

That Council accept the Audit (Finance and Risk) Committee recommendation to adopt the Compliance Audit Return for 2016.

Carried 1/0

PURPOSE

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

NATURE OF COUNCIL'S ROLE IN THE MATTER

Leader - plan and provide direction through policy and practices

BACKGROUND/PREVIOUS CONSIDERATIONS BY COUNCIL/COMMITTEE

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

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

The Compliance Audit is one of the tools that allows Council to monitor how the organisation is functioning in regard to compliance (or otherwise) with the various legislation that pertains to local government administration and decision making.

Regulations require that upon completion of the Compliance Audit Return the return is to be:

- presented to the Council at a meeting of the Council;
- adopted by the Council; and
- recorded in the minutes of the meeting at which it is adopted.

The Compliance Audit is submitted using an online Compliance Audit Return that is prepared by the Department of Local Government.

STATUTORY IMPLICATIONS

The Department of Local Government Compliance Framework is aimed at providing transparency about the Shire's approach to compliance as well as giving the sector and the public certainty about its approach to managing complaints made against the sector (or individuals within it).

The Department of Local Government Compliance Framework is aimed at providing transparency about the Shire's approach to compliance as well as giving the sector and the public certainty about its approach to managing complaints made against the sector (or individuals within it).

LOCAL GOVERNMENT ACT 1995

Part 7, Division 4

7.13. Regulations as to audits

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

LOCAL GOVERNMENT (AUDIT) REGULATIONS 1996

14. Compliance audits by local governments

- (1) *A local government is to carry out a compliance audit for the period 1 January to 31 December in each year.*

- (2) *After carrying out a compliance audit the local government is to prepare a compliance audit return in a form approved by the Minister.*
- (3A) *The local government's audit committee is to review the compliance audit return and is to report to the council the results of that review.*
- (3) *After the audit committee has reported to the council under subregulation (3A), the compliance audit return is to be —*
 - (a) *presented to the council at a meeting of the council; and*
 - (b) *adopted by the council; and*
 - (c) *recorded in the minutes of the meeting at which it is adopted.**[Regulation 14 inserted in Gazette 23 Apr 1999 p. 1724□5; amended in Gazette 30 Dec 2011 p. 5580-1.]*

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

- (1) *After the compliance audit return has been presented to the council in accordance with regulation 14(3) a certified copy of the return together with —*
 - (a) *a copy of the relevant section of the minutes referred to in regulation 14(3)(c); and*
 - (b) *any additional information explaining or qualifying the compliance audit,**is to be submitted to the Executive Director by 31 March next following the period to which the return relates.*
- (2) *In this regulation —*
 - certified in relation to a compliance audit return means signed by —*
 - (a) *the mayor or president; and*
 - (b) *the CEO.*

POLICY IMPLICATIONS

No policy implications apply in preparation of this report.

FINANCIAL IMPLICATIONS

There are no financial implications associated with this item.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2012-2022

Goal 1: Strong leadership and governance that underpins a more strategic approach to community engagement, regional development and organisational sustainability

Objective 1.4: Business innovation, efficiency and improved services

Strategy 1.4.1 : Ensure legislative compliance and follow best practice principles in planning and service delivery

RISK IMPLICATIONS

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

Operational Risk: Non-compliance regulations.

COMMUNITY ENGAGEMENT

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

No community engagement is required.

COMMENTS

The Audit (Finance & Risk) Committee considered the 2016 Compliance Audit Return at the meeting held 27 February 2017 and resolved to accept the report (Minute No: C340-27/02/2017).

Subsequent to the Audit (Finance & Risk) Committee meeting, the Officer received advice that the Audit (Finance & Risk) Committee has a delegated authority (to meet annually with the Shire's Auditors) which was not reported in the Compliance Audit Return.

The Compliance Audit Return has therefore had a minor amendment at Section 2 Delegation/Duty, points 1 to 5 to reflect this information.

The Officer sought advice and clarification from the Regulatory Section of the Department of Local Government and Communities who suggested that to better reflect the intent of the Act, Delegation 33 should be removed from the Shire's Council to CEO Delegation Register and be included in a new "Council to Committee" Delegation Register. This action will take place at the next review of the Shire's Delegation Register in August 2017.

ATTACHMENTS

Attachment 1 - 2016 Compliance Audit Report (Council version)

12.2. CHIEF EXECUTIVE OFFICER

12.2.1. June Ordinary Council Meeting

DATE:	28 March 2017
AUTHOR:	Executive Assistant
RESPONSIBLE OFFICER:	Carl Askew, Chief Executive Officer
DISCLOSURE OF INTERESTS:	Nil

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council reschedule the Ordinary Council Meeting approved for 20 June 2017 to 13 June 2017 and request the Chief Executive Officer advertise the change in accordance with the *Local Government Act 1995*.

COUNCIL DECISION

Minute No: 28/03/2017 – 11631

Commissioner resolved:

That Council reschedule the Ordinary Council Meeting approved for 20 June 2017 to 13 June 2017 and request the Chief Executive Officer advertise the change in accordance with the *Local Government Act 1995*.

Carried 1/0

PURPOSE

For Council to consider moving the June Ordinary Council Meeting to allow for Shire representation at the Developing Northern Australia Conference to be held in Cairns on 19 and 20 June 2017.

NATURE OF COUNCIL'S ROLE IN THE MATTER

Leader - plan and provide direction through policy and practices

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

In June 2016 representatives of the Shire of Wyndham East Kimberley (Shire President, Deputy Shire President and Chief Executive Officer), along with representatives of other

Shires in the Kimberley Regional Group attended the 2016 Developing Northern Australia Conference which was held in Darwin. The conference proved to be beneficial from an information and networking perspective for those who attended.

At the Ordinary Council Meeting held 25 October 2016 Council resolved to accept the following dates, times and locations for Ordinary Council Meetings:

COUNCIL DECISION

Minute No: 25/11/16-11522

Commissioner resolved:

That Council adopt the proposed meeting dates/times and locations for 2017:

Month	Ordinary Council Meeting	Location of OCM
January	24 January	Kununurra
February	28 February	Wyndham
March	28 March	Kununurra
April	26 April	Kununurra
May	23 May	Wyndham
June	20 June	Kununurra
July	18 July	Kununurra
August	22 August	Wyndham
September	26 September	Kununurra
October*	22 October – SCM*	Kununurra*
October	31 October	Kununurra
November	28 November	Wyndham
December	19 December	Kununurra

Note: All meetings will commence at 5.00pm.

* Note: Special Council Meeting following Council Elections on Saturday 21 October 2017 to swear in new Council.

Carried 1/0

The June and July 2017 OCM's have been scheduled third Tuesday of their respective months. This means that the June OCM date coincides with the date of the 2017 Developing Northern Australia Conference.

STATUTORY IMPLICATIONS

In accordance with the *Local Government Act 1995*:

5.3. Ordinary and special council meetings

(1) A Council is to hold Ordinary Meetings and may hold special meetings

(2) Ordinary meetings are to be held not more than three months apart.

5.5. Convening council meetings

(1) The CEO is to convene an ordinary meeting by giving each Council member at least 72 hours notice of the date, time and place of the meeting and an agenda for the meeting

In accordance with the *Local Government (Administration) Regulations 1996, Section 2*:

12 Meetings, public notice of

(1) At least once each year a local government is to give local public notice of the dates on which and the time and place at which —

(a) the ordinary council meetings;

are to be held in the next 12 months.

(2) A local government is to give local public notice of any change to the date, time or place of a meeting referred to in subregulation (1).

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Minor expenditure will be incurred to ensure the appropriate statutory advertising occurs.

There will also be travel/accommodation/registration expenditure for the Developing Northern Australia Conference for any Shire representative, but these have been factored into the 2016/17 Annual Budget allocation for the Kimberley Regional Group Meetings.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2012-2022

Goal 1: Strong leadership and governance that underpins a more strategic approach to community engagement, regional development and organisational sustainability

Objective 1.2: Alignment of regional and local priorities with other agencies and community groups

Objective 1.3: Advocacy of East Kimberley issues and opportunities at regional, state and national levels

Objective 1.4: Business innovation, efficiency and improved services

Strategy 1.2.1 : Work collaboratively with agencies for forward planning and to expand opportunities and to reduce wastage and duplication

Strategy 1.3.1 : Actively provide input to decision making at the Regional, State and Federal levels on behalf of the community

Strategy 1.4.1 : Ensure legislative compliance and follow best practice principles in planning and service delivery

RISK IMPLICATIONS

Nil

COMMUNITY ENGAGEMENT

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

Local public notice of the amended Ordinary Council Meeting date in accordance with legislative requirements.

COMMENTS

In January 2017 an invitation was received from the organisers of the Developing Northern Australia Conference for submissions to present. Whilst this invitation has not been taken up there will be a presentation from within the Zone. The conference represents significant benefit for Shire representatives (Commissioner and Chief Executive Officer) to attend. Kimberley, Pilbara, Northern Territory and northern Queensland LGA representatives will be in attendance.

Ordinary Council Meetings (OCM) have historically been set as either the fourth Tuesday or the last Tuesday of the month. The dates for each year's meetings are set in October of the previous year.

The June and July 2017 OCM's have been scheduled third Tuesday of their respective months. This means that the June OCM dates coincides with the date of the 2017 Developing Northern Australia Conference.

ATTACHMENTS

Nil

12.2.2. Standing Item - Outstanding Actions from Previous Council Resolutions

DATE:	28 March 2017
AUTHOR:	Governance and Communications Officer
RESPONSIBLE OFFICER:	Carl Askew, Chief Executive Officer
DISCLOSURE OF INTERESTS:	Nil

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

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

COUNCIL DECISION

Minute No: 28/03/2017 – 11632

Commissioner resolved:

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

Carried 1/0

PURPOSE

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

NATURE OF COUNCIL'S ROLE IN THE MATTER

Leader - plan and provide direction through policy and practices

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

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

STATUTORY IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

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

STRATEGIC IMPLICATIONS

Strategic Community Plan 2012-2022

Goal 1: Strong leadership and governance that underpins a more strategic approach to community engagement, regional development and organisational sustainability

Objective 1.4: Business innovation, efficiency and improved services

Strategy 1.4.1 : Ensure legislative compliance and follow best practice principles in planning and service delivery

RISK IMPLICATIONS

Nil

COMMUNITY ENGAGEMENT

No community engagement is required.

COMMENTS

This report includes actions from February resolutions (Attachment 1).
Attachment 2 summarises all other actions that are outstanding from previous Council resolutions.

ATTACHMENTS

Attachment 1 - Council Action Register Current
Attachment 2 - Outstanding Actions from Previous Council Resolutions

12.2.3. Standing Item - Use of the Common Seal

DATE:	28 March 2017
AUTHOR:	Governance and Communications Officer
RESPONSIBLE OFFICER:	Carl Askew, Chief Executive Officer
DISCLOSURE OF INTERESTS:	Nil

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council receives the report on the application of the Shire of Wyndham East Kimberley Common Seal for the period 23 February 2017 to 23 March 2017.

COUNCIL DECISION

Minute No: 28/03/2017 – 11633

Commissioner resolved:

That Council receives the report on the application of the Shire of Wyndham East Kimberley Common Seal for the period 23 February 2017 to 23 March 2017.

Carried 1/0

PURPOSE

For Council to receive this report on the application of the Shire of East Kimberley Common Seal for the period 23 February 2017 to 23 March 2017.

NATURE OF COUNCIL'S ROLE IN THE MATTER

Regulator - enforce state legislation and local laws

STATUTORY IMPLICATIONS

Local Government Act 1995

9.49A. Execution of documents

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

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

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Strategic Community Plan 2012-2022

Goal 1: Strong leadership and governance that underpins a more strategic approach to community engagement, regional development and organisational sustainability

Objective 1.4: Business innovation, efficiency and improved services

Strategy 1.4.1 : Ensure legislative compliance and follow best practice principles in planning and service delivery

RISK IMPLICATIONS

Nil

COMMUNITY ENGAGEMENT

No community engagement is required.

COMMENTS

The following documents have had the Shire of Wyndham East Kimberley Common Seal applied:

Date of Use	Document
03/03/2017	Navigational Aids Lease

ATTACHMENTS

Nil

12.3. COMMUNITY DEVELOPMENT

12.3.1. Community Lease - Ord River Sports Club

DATE:	28 March 2017
AUTHOR:	Manager Community Services
RESPONSIBLE OFFICER:	Louise Gee, Director Community Development
ASSESSMENT NO:	A1160
FILE NO:	CP.07.3
DISCLOSURE OF INTERESTS:	Nil

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council authorise the Chief Executive Officer to offer a 21 year lease to the Ord River Sports Club for Lot 2313 Chestnut Avenue Kununurra as detailed in Attachment 1, subject to the following:-

- a. All outstanding roof works being completed by the Ord River Sports Club.
- b. Certification by a suitably qualified consultant that all roof works have been completed in accordance with the Pritchard Francis Ord River Sports Club Roof Structural Condition Report dated 24 May 2016.
- c. The approval of the Minister of Lands.

COUNCIL DECISION

Minute No: 28/03/2017 - 11634

Commissioner resolved:

That Council authorise the Chief Executive Officer to offer a 21 year lease to the Ord River Sports Club for Lot 2313 Chestnut Avenue Kununurra as detailed in Attachment 1, subject to the following:-

- a. All outstanding roof works being completed by the Ord River Sports Club.
- b. Certification by a suitably qualified consultant that all roof works have been completed in accordance with the Pritchard Francis Ord River Sports Club Roof Structural Condition Report dated 24 May 2016.
- c. The approval of the Minister of Lands.

Carried 1/0

PURPOSE

To inform Council of the intent to offer a lease to the Ord River Sports Club for Lot 2313 Chestnut Avenue Kununurra, subject to the approval of the Minister for Lands.

NATURE OF COUNCIL'S ROLE IN THE MATTER

Leader- plan and provide direction through policy and practices

BACKGROUND

The Ord River Sports Club is located on Lot 2313 Chestnut Avenue, Kununurra. The previous lease expired on 28 April 2009; the Club has operated as a tenant at will since this date.

At the Ordinary Council Meeting 31 May 2016 Council considered two officer's recommendations relating to the proposed lease for the Ord River Sports Club as follows:-

COUNCIL DECISION

Minute No: 11365

That Council:

- 1. Revoke Minute No 10865 of the 24 March 2015 Ordinary Council Meeting:**

"That Council directs the Acting Chief Executive Officer to:

- 1. Include in the lease terms that the lease rental fee should be set at \$500.00 plus GST for the first 12 months of the lease; and that the subsequent lease rental fee will be in accordance with an independent valuation.***
- 2. Include in the Lease terms that the lease rental will be reviewed after a 12 month period and then subsequently every 3 years."***

OFFICER'S RECOMMENDATION

That Council:

- 1. Request the Chief Executive Officer to write to the Ord River Sports Club Inc. in response to the Club's email dated 16 April 2016 detailing that in accordance with Council Policy CP-3560 Leasing of Council Managed Reserve Land - Community:**

- a. The Ord River Sports Club Inc. must complete the following itemised roof maintenance actions as outlined in Attachment 3 - 1.1.1, 1.2.1, 1.2.2, 1.2.3, 1.3.1, 1.4.1, 1.4.2, 2.1.1, 2.4.1, 2.4.2, 3.1.1, 3.1.2, 3.2.1, 3.2.2, 3.3.1, 3.3.2, 3.4.1, 3.5.1, 3.5.2, 3.5.3, 4.1.1, 4.1.2, 4.2.1 to ensure there is no water**

ingress prior to signing the proposed lease.

b. The Shire of Wyndham East Kimberley will complete the following itemised roof structural actions as outlined in Attachment 3 - 2.2.1, 2.3.1. Damaged ceiling tiles (items 3.1.3, 3.2.3, 3.3.3, 3.4.2, 4.1.3, 4.2.2) will be replaced on receiving confirmation from Ord River Sports Club Inc. of their completion of outstanding roof maintenance actions.

c. The Shire will not accept responsibility for the building structure, or ongoing maintenance costs within the proposed lease.

d. Rent for the proposed lease will be set at \$500.00 plus GST per annum, indexed for CPI (Perth) and reviewed every three years.

e. Rates concession options for the term of the lease will not be included in the lease.

f. The Shire will not accept responsibility for the Car Park area or access roads within the lease.

g. The Lease is to include a clause reserving the Lessor's right to terminate the lease if this termination is deemed by Council to be of significant community benefit.

2. Subject to the above inclusions, compliance with all terms within the draft lease, and approval from Department of Lands, authorise the Chief Executive Officer and Shire President to execute a lease with the Ord River Sports Club Inc.

A foreshadowed motion to the Officer's Recommendation above was put as follows:-

That recommendation 2, point 1 (d) be amended to read.

Rent for the proposed lease will be based on a valuation of fair market rent with a CPI rent review conducted annually, and a market review to be undertaken every five years at the cost of the Lessee, with a CPI rent review to be conducted all other years for the term of the lease.

The foreshadowed motion was lost.

An amendment to the motion to remove point g regarding the inclusion of the termination clause was then put as follows:-

COUNCIL DECISION

Minute No: 11367

That Council:

- 1. Request the Chief Executive Officer to write to the Ord River Sports Club Inc. in response to the Club's email dated 16 April 2016 detailing that in accordance with Council Policy CP-3560 Leasing of Council Managed Reserve Land - Community:**

- a. The Ord River Sports Club Inc. must complete the following itemised roof maintenance actions as outlined in Attachment 3 - 1.1.1, 1.2.1, 1.2.2, 1.2.3, 1.3.1, 1.4.1, 1.4.2, 2.1.1, 2.4.1, 2.4.2, 3.1.1, 3.1.2, 3.2.1, 3.2.2, 3.3.1, 3.3.2, 3.4.1, 3.5.1, 3.5.2, 3.5.3, 4.1.1, 4.1.2, 4.2.1 to ensure there is no water ingress prior to signing the proposed lease.
 - b. The Shire of Wyndham East Kimberley will complete the following itemised roof structural actions as outlined in Attachment 3 - 2.2.1, 2.3.1. Damaged ceiling tiles (items 3.1.3, 3.2.3, 3.3.3, 3.4.2, 4.1.3, 4.2.2) will be replaced on receiving confirmation from Ord River Sports Club Inc. of their completion of outstanding roof maintenance actions.
 - c. The Shire will not accept responsibility for the building structure, or ongoing maintenance costs within the proposed lease.
 - d. Rent for the proposed lease will be set at \$500.00 plus GST per annum, indexed for CPI (Perth) and reviewed every three years.
 - e. Rates concession options for the term of the lease will not be included in the lease.
 - f. The Shire will not accept responsibility for the Car Park area or access roads within the lease.
2. Subject to the above inclusions, compliance with all terms within the draft lease, and approval from Department of Lands, authorise the Chief Executive Officer and Shire President to execute a lease with the Ord River Sports Club Inc.

Lost 3/5

The Officer's Recommendation was then put as follows; this motion was also lost.

COUNCIL DECISION

Minute No: 11368

That Council:

1. Request the Chief Executive Officer to write to the Ord River Sports Club Inc. in response to the Club's email dated 16 April 2016 detailing that in accordance with Council Policy CP-3560 Leasing of Council Managed Reserve Land - Community:
 - a. The Ord River Sports Club Inc. must complete the following itemised roof maintenance actions as outlined in Attachment 3 - 1.1.1, 1.2.1, 1.2.2, 1.2.3, 1.3.1, 1.4.1, 1.4.2, 2.1.1, 2.4.1, 2.4.2, 3.1.1, 3.1.2, 3.2.1, 3.2.2, 3.3.1, 3.3.2, 3.4.1, 3.5.1, 3.5.2, 3.5.3, 4.1.1, 4.1.2, 4.2.1 to ensure there is no water ingress prior to signing the proposed lease.
 - b. The Shire of Wyndham East Kimberley will complete the following itemised roof structural actions as outlined in Attachment 3 - 2.2.1, 2.3.1. Damaged ceiling tiles (items 3.1.3, 3.2.3, 3.3.3, 3.4.2, 4.1.3, 4.2.2) will be replaced on receiving confirmation from Ord River Sports Club Inc. of their completion of outstanding roof maintenance actions.

- c. **The Shire will not accept responsibility for the building structure, or ongoing maintenance costs within the proposed lease.**
 - d. **Rent for the proposed lease will be based on a valuation of fair market rent with a CPI rent review conducted annually, and a market review to be undertaken every five years at the cost of the Lessee, with a CPI rent review to be conducted all other years for the term of the lease.**
 - e. **Rates concession options for the term of the lease will not be included in the lease.**
 - f. **The Shire will not accept responsibility for the Car Park area or access roads within the lease.**
 - g. **The Lease is to include a clause reserving the Lessor's right to terminate the lease if this termination is deemed by Council to be of significant community benefit.**
- 2. Subject to the above inclusions, compliance with all terms within the draft lease, and approval from Department of Lands, authorise the Chief Executive Officer and Shire President to execute a lease with the Ord River Sports Club Inc.**

Lost 3/5

Further discussions on the terms of the proposed lease of Lot 2313 Chestnut Avenue, Kununurra to the Ord River Sports Club occurred at the 14 June 2016 Councillor Briefing.

STATUTORY IMPLICATIONS

Land Administration Act 1997

Reserve 33112 is reserved under the *Land Administration Act 1997* (LAA) for the purpose of Sporting Club and Associated Activities.

The Shire holds the management order for this reserve with power to lease for a maximum term of 21 years, subject to consent of 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 -
 - (ii) 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 Sports Club Inc. is considered to be an exempt disposition.

POLICY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

The annual lease fee for this property will be set at \$500.00 per annum, excluding GST, indexed for CPI as per Council Policy *CP/PMG Leasing of Council Managed Reserve Land-Community*.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2012-2022

Goal 3: Protection and enhancement of lifestyle values, community facilities and the environment to provide safe and inviting communities.

Objective 3.4: Protection and enhancement of community facilities

Objective 3.4.3: Ensure Shire facilities are planned and managed to meet community needs

Objective 3.5: An active outdoor lifestyle is encouraged and promoted

Strategy 3.5.2 : Encourage cooperation between sporting groups and assist them in building capacity

RISK IMPLICATIONS

Non compliance with the Department of Local Government and Communities advisory standards and regulations.

COMMUNITY ENGAGEMENT

Engagement has taken place in accordance with the Shire' Community Engagement Guidelines and includes:

- Open communication with the Ord River Sports Club throughout the lease process.

COMMENTS

The Club has provided the Shire with a Business Plan (Attachment 2), therefore in accordance with Council Policy *CP/PMG-3780 Leasing of Council Managed Reserve Land-Community* it is proposed to offer the Club a 21 year lease. It should be noted that the Clubs Business Plan was formulated in 2014 and may require amendments to reflect today's operating environment. The leases execution is subject to all requirements relating to the

buildings roofed areas being undertaken by the Club in relation to the Officer's original Recommendation 1a. Shire staff have been informed by the Club that the highlighted maintenance work is underway. Shire contractors have completed all works that were required in the Officer's Recommendation 1b and are awaiting the Ord River Sports Club or their agents to complete outstanding roof works to enable engineering certification to occur re the main roofs structural integrity.

ATTACHMENTS

Attachment 1 - Copy of Lease Document

Attachment 2- Copy of Business Plan

12.3.2. Corporate Business Plan 2016/17 Midyear Review

DATE:	28 March 2017
AUTHOR:	Senior Integrated Planning and Reporting Officer
RESPONSIBLE OFFICER:	Louise Gee, Director Community and Development
FILE NO:	CM.10.3
DISCLOSURE OF INTERESTS:	Nil

VOTING REQUIREMENT

Absolute Majority

OFFICER'S RECOMMENDATION

That Council note the December 2016 review of the Corporate Business Plan 2016/17 - 2019/20.

COUNCIL DECISION

Minute No: 28/03/2017 – 11635

Commissioner resolved:

That Council note the December 2016 review of the Corporate Business Plan 2016/17 - 2019/20.

Carried 1/0

PURPOSE

For the Council to receive and adopt the December 2016 review of the Corporate Business Plan 2016/17 - 2019/20 and Progress Report.

The Corporate Business Plan is the Shire of Wyndham East Kimberley's 4-year service and project delivery program. It is aligned to the strategic direction and priorities set within the 10-year Strategic Community Plan 2012–2022.

The purpose of the Plan is to demonstrate the operational capacity of the Shire to achieve its aspirational outcomes and objectives over the medium-term. All operational planning and reporting is driven by the Corporate Business Plan, which is reviewed annually to ensure priorities are achievable and effectively timed.

Quarterly progress against services and programs is reported against the Strategic Community Plan's three Goals of:

- Goal 1: Strong leadership and governance that underpins a more strategic approach to community engagement, regional development and organisational sustainability
- Goal 2: Greater returns from regional investment to ensure sustainable provision of appropriate physical and social infrastructure
- Goal 3: Protection and enhancement of lifestyle values, community facilities and the environment to provide safe and inviting communities.

The attached Corporate Business Plan Progress Report (refer Attachment 1) details the progress for the first half of the 2016/17 financial year in implementing Council's Corporate Business Plan. To deliver the initiatives detailed in the Corporate Business Plan 2016/17 - 2019/20, a comprehensive internal program has been developed which is regularly reviewed by the Executive Management Team to ensure work priorities are being met.

NATURE OF COUNCIL'S ROLE IN THE MATTER

Leader - Plan and provide direction through policy and practices

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

The Corporate Business Plan is the Shire's 4-year planning document. It gives effect to the first four years of the Strategic Community Plan and is pivotal in ensuring that the medium term commitments are both strategically aligned and affordable.

Monitoring and reporting is integral to the Integrated Planning and Reporting Framework. Monitoring and reporting on the progress against the Corporate Business Plan ensures that the Shire is working towards the achievement of community priorities and aspirations.

The Corporate Business Plan Year 2016/17 - 2019/20 was adopted by Council at the 15 September 2016 Special Council Meeting in conjunction with the Annual Budget 2016 -2017. At this meeting Council resolved as follows:-

COUNCIL DECISION

Minute No: 11495

Moved: Cr B Robinson

Seconded: Cr N Perry

Pursuant to the provisions of section 5.56 of the *Local Government Act 1995* and Regulation 19DA of the *Local Government (Administration) Regulations 1996*, the Council adopt the Corporate Business Plan 2016/17 to 2019/20 as contained in Attachment 7 of this agenda, for the Shire of Wyndham East Kimberley which has:

- 1. Incorporated Council's consideration of the public submissions received;**

2. Reflects key programs and projects to be undertaken in 2016/17 in accordance with the 2016/17 Annual Budget.

Carried 5/4

For: Cr J Parker, Cr S Cooke, Cr B Robinson, Cr N Perry, Cr E Bolto

Against: Cr K Wright, Cr S Rushby, Cr A Petherick, Cr D Spackman

The Corporate Business Plan is a component of the Integrated Planning and Reporting Framework introduced in Western Australia as part of the State Government's Local Government Reform Program in 2010.

STATUTORY IMPLICATIONS

Council must comply with the statutory requirements of the Integrated Planning and Reporting Framework.

Local Government Act 1995

5.56. Planning for the future

- (1) A local government is to plan for the future of the district.
- (2) A local government is to ensure that plans made under subsection (1) are in accordance with any regulations made about planning for the future of the district.

Local Government (Administration) Regulations 1996

Part 5 Annual reports and planning

Division 3 Planning for the future

19DA. Corporate business plans, requirements for (Act s. 5.56)

1. A local government is to ensure that a corporate business plan is made for its district in accordance with this regulation in respect of each financial year after the financial year ending 30 June 2013.
2. A corporate business plan for a district is to cover the period specified in the plan, which is to be at least 4 financial years.
3. A corporate business plan for a district is to —
 - a. set out, consistently with any relevant priorities set out in the strategic community plan for the district, a local government's priorities for dealing with the objectives and aspirations of the community in the district; and
 - b. govern a local government's internal business planning by expressing a local government's priorities by reference to operations that are within the capacity of the local government's resources; and
 - c. develop and integrate matters relating to resources, including asset management, workforce planning and long-term financial planning.
4. A local government is to review the current corporate business plan for its district every year.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Strategic Community Plan 2012-2022

Goal 1: Strong leadership and governance that underpins a more strategic approach to community engagement, regional development and organisational sustainability

Objective 1.4: Business innovation, efficiency and improved service

Strategy 1.4.1: Ensure legislative compliance and follow best practice principles in planning and service delivery

RISK IMPLICATIONS

Progress against the Corporate Business Plan is a regular item for Executive Management Team meetings to ensure appropriate and relevant resources are deployed to assist, where possible, for actions to be completed by identified due dates.

COMMUNITY ENGAGEMENT

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

Informing - Item is a report to Council on the progress against the Corporate Business Plan.

COMMENTS

Status of the active action items

The attached report details the progress for the first half of the 2016/17 financial year in implementing Council's Corporate Business Plan. Corporate Business Plan Actions are linked to the Strategic Community Plan. The Strategic Community Plan 2012-2022 is the long-term strategic planning document that outlines the Shire's commitment to achieving the vision and aspirations of its community and key stakeholders. The report groups the Shire's active action's under their relevant Goal, Objectives and Strategies. A commentary is provided against each action completed, and project status is reported via colour coding which indicates if the project has been completed, is on track or slightly behind schedule.

For each item listed in the report there is:

- An assigned responsible directorate - each action is assigned to a directorate to implement
- Action percentage complete - a measure of the amount of the task that has been completed as a percentage
- Action progress - a summary of the action status, 'Not Started' no activity has occurred, 'In Progress' work has started on the action, 'Complete' the task has been completed

- Quarter Update - Action Update for the Quarter by Responsible Officers
- Complete by 30th June - Will the 2016/17 milestones set for the action be complete within the current financial year.

2016/17 action milestones within the attached report (refer Attachment 1) at risk of not being completed by the end of the financial year 2016/17 (30 June 2017), are highlighted in the end column “Action complete by 30th June.” There are 49 items that are at risk of not being completed by the 30 June 2017. A number of issues have affected the progress of these actions including; prioritisation of resources, staff resources due to vacancies, impact of weather, grant funding applications not successful or external funding to-date not being secured.

As at 30 December 2016 17% of action item milestones for 2016/17 financial year had been completed, 55% were in progress and 28% had not started. An overview of the status of the active action items within the Shire’s Corporate Business Plan are shown in the below table:

Action Status	Actions
Not started (Action has not been started)	59
In Progress (Action has started and in progress)	119
Complete (Action has been completed)	37

The pie chart illustrates the distribution of active actions: 17% are complete (grey slice), 28% have not started (blue slice), and 55% are in progress (orange slice).

Reporting against the Strategic Community Plan’s Strategies the below table summarises the number of active actions and their status in the Corporate Business Plan 2016/17 - 2019/20:

Strategy	Actions	% complete
Goal 1: Strong leadership and governance that underpins a more strategic approach to community engagement, regional development and organisational sustainability	59	32%
1.1.1: Investigate and implement options to encourage and integrate community input in Council planning, policies & decisions making	1	10%
1.1.2: Improve planning processes to ensure broader engagement and identification of relevant issues from all parties	6	29%
1.2.1: Work collaboratively with agencies for forward planning to expand opportunities and reduce wastage and duplication	1	50%

1.2.2: Work collaboratively with the other Kimberley Shires to create and manage regionally beneficial projects	6	39%
1.2.3: Promote the colocation of community facilities and sharing of resources among community groups	1	0%
1.3.1: Actively provide input to decision making at the Regional, State and Federal levels on behalf of the community	2	50%
1.3.2: Actively participate in the review and implementation of municipal services to remote and Aboriginal communities	1	50%
1.4.1: Ensure legislative compliance and follow best practice principles in planning and service delivery	14	43%
1.4.2: Improve the efficiency and productivity of Shire services	5	33%
1.4.3: Maintain Council's long term financial viability	6	7%
1.4.4: Deliver cost effective and efficient corporate services	13	21%
1.4.5: Attract and maintain a skilled, motivated and professional workforce	3	15%
Goal 2: Greater returns from regional investment to ensure sustainable provision of appropriate physical and social infrastructure	95	39%
2.1.2: Promote and support major events that benefit locals and attract visitors to the area	2	25%
2.2.1: Promote the expansion of residential and industrial land	6	74%
2.2.2: Support agricultural opportunities	3	22%
2.2.3: Advocate for improved availability of adequate water resources	1	50%
2.2.4: Enhance and expand tourism opportunities in the East Kimberley and improve access to significant tourism destinations	4	50%
2.2.5: Advocate for improved telecommunications and internet services	1	50%
2.2.6: Support local initiatives that promote entrepreneurial activities and a greater diversity of industries in the East Kimberley	1	50%
2.2.7: Advocate for a range of affordable housing options and styles that cater to a broad market including key worker housing	1	25%
2.2.8: Support and advocate for further development of the East Kimberley regional airport to attract more aircraft and greater competition	7	36%
2.2.9: Lobby for improvements to transport infrastructure, particularly for heavy haulage and shipping	2	5%
2.3.1: Manage and maintain assets in a strategic and cost effective manner	49	44%
2.3.2: Plan, design and budget for sustainable infrastructure	5	8%
2.4.1: Advocate for improved health and community services	2	30%

2.4.2: Ensure community compliance with Environmental Health regulations	3	43%
2.4.3: Support early childhood and family support services	1	50%
2.4.4: Provide an environment where youth are empowered to develop their potential	4	20%
2.5.2: Advocate for the introduction of culturally appropriate alternative education for Indigenous people	1	0%
2.5.3: Advocate for the establishment of more school based apprenticeships	1	0%
2.5.4: Encourage activities that promote adult educational opportunities including family support and life skills programs	1	0%
Goal 3: Protection and enhancement of lifestyle values, community facilities and the environment to provide safe and inviting communities	62	50%
3.1.1: Support activities that promote volunteerism and active participation in community events and programs	8	84%
3.1.3: Support the community by providing access to local funding and sponsorship opportunities	3	67%
3.1.4: Facilitate activities that link communities	1	50%
3.2.1: Provide an integrated approach to waste management that includes waste minimisation strategies	3	50%
3.2.2: Ensure energy efficiency and low carbon options are used to reduce the Shire's energy costs and carbon footprint	1	50%
3.3.10: Adopt a partnership approach for emergency and fire management planning, preparedness, response and recovery	2	25%
3.3.2: Promote greater vibrancy and activity within town centres, particularly through a mix of restaurants and accommodation	1	90%
3.3.4: Ensure a well-connected and maintained network of shared paths	1	30%
3.3.6: Collaborate with Police and other agencies to review and make recommendations with regard to improved safety and reduced vandalism in towns	4	41%
3.3.8: Ensure quality, consistent and responsive development and building assessment approval processes and enforcement	5	68%
3.3.9: Provide animal control in accordance with legislative requirements	3	50%
3.4.1: Manage, maintain and upgrade public parks and amenities to ensure they meet community need and are accessible to people of all ages and abilities	10	22%
3.4.2: Consider cultural values in all planning and design phases	1	50%
3.4.3: Ensure Shire facilities are planned and managed to meet community needs	6	55%
3.4.4: Provide and support a more effective range of sport and recreation services and facilities including a new leisure and aquatic facility in Kununurra	4	43%
3.5.1: Promote an increase in the number of public events particularly outdoor	2	75%

events and those for youth and which promote cultural diversity		
3.5.2: Encourage cooperation between sporting groups and assist them in building capacity	1	50%
3.5.3: Increase access to the lake, gulf and rivers, including boat ramps, according to demand usage and safety considerations	6	30%

Summary of changes to the Corporate Business Plan 2016/17 - 2019/20

The Shire of Wyndham East Kimberley commissioned a review of Risk Management, Legislative Compliance and Internal Controls under Regulation 17 of the *Local Government (Audit) Regulations 1996*. The review identified areas for possible improvement. These recommendations have been included as Actions in the Corporate Business Plan. These additional Actions are listed in the below Table:

ID	Strategy	Action Title
523	R17.6.2	Amend <i>CP/FIN-3204 Purchasing Policy</i> for extension or variation of a contract's scope after a contract is signed
518	R17.6.2	Remove <i>E9 Traffic Signs Policy</i> from the Shire website
522	R17.6.2	Ensure <i>CP/FIN-3201 Significant Accounting Policy</i> is reviewed annually
521	R17.6.2	Review <i>CP/FIN-3200 Strategic Rating Policy</i> - amended to remove any defined rates in the dollar and minimum payment levels
520	R17.6.2	Review the policies in the Local Planning Policy Manual and update if required
519	R17.6.2	Review <i>E10 Roadside Advertising Policy</i>
524	R17.6.2	Review <i>F20 Fixed Assets Policy</i> and incorporated within the broader Asset Management Policy
516	R17.6.2	Development of an Insurance Strategy and Policy
515	R17.6.2	Develop an Occupational Safety and Health Policy
514	R17.6.2	Develop a Record Keeping Compliance Policy
513	R17.6.2	Develop a Legislative Compliance Policy
512	R17.6.2	Develop an Internal Control Policy
510	R17.6.2	Develop a Risk Management Policy and present to Council
517	R17.6.2	Amend Alcohol Management Policy
526	R17.7.2	Asset Management Plan - Develop and adopt an Asset Management Plan
525	R17.7.2	Workforce Management - Review, update and present to Council for consideration and adoption
530	R17.7.2	Develop Cyclone Procedures

529	R17.7.2	Records Disaster Management Plan - The Plan be amended
528	R17.7.2	Business Continuity Management Plan - Finalise and present to Council for consideration and adoption
527	R17.7.2	Long Term Financial Plan - Develop and adopt a Long-Term Financial Plan
531	R17.7.2	Internal Controls Policy - A policy developed reflecting Council's commitment to risk based internal controls throughout the organisation
535	R17.7.3	Staff Training - Development of a training matrix
536	R17.7.3	Staff Qualifications - Documented procedures developed to ensure staff qualifications are current and copies are maintained on file
537	R17.7.3	Ensure all contractors and volunteer staff undergo induction before commencing
534	R17.7.3	Establish a process to re-induct employees so they are aware of ongoing changes
532	R17.7.3	Review the Code of Conduct to include volunteers and contractors in the scope
533	R17.7.3	Ensure The Occupational Health and Safety Committee commence regular meetings
540	R17.7.4	Develop Procedures to ensure contractors have appropriate insurance cover
541	R17.7.5	Develop IT Disaster Recovery Plan and IT Security Plan
542	R17.8.2	Minutes of Executive Management Team meetings be maintained
543	R17.8.3	Develop Strategic and Operational Risk Register
544	R17.8.3	Develop Occupational Health and Safety Incidents register
545	R17.8.3	Develop Litigation/Claims Register
547	R17.8.5	Develop a Community Complaints Handling procedure
546	R17.8.5	Improve Employee Complaints/Grievance Handling

ATTACHMENTS

Attachment 1 - December 2016 review of the Corporate Business Plan 2016/17 - 2019/20

12.3.3. Policy Review - CP/COM-3582 Community Grant Scheme

DATE:	28 March 2017
AUTHOR:	Manager Community Services
RESPONSIBLE OFFICER:	Louise Gee, Director Community Development
FILE NO:	GS.05.3
DISCLOSURE OF INTERESTS:	Nil

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council adopt the revised Council Policy *CP/COM 3582 - Community Grant Scheme* as detailed in Attachment 1.

COUNCIL DECISION

Minute No: 28/03/2017 – 11636

Commissioner resolved:

That Council adopt the revised Council Policy *CP/COM 3582 - Community Grant Scheme* as detailed in Attachment 1.

Carried 1/0

PURPOSE

For Council to adopt the revised Council Policy *CP/COM-3582 Community Grant Scheme*.

NATURE OF COUNCIL'S ROLE IN THE MATTER

Leader - plan and provide direction through policy and practices

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

The Community Grants Scheme has been in place for a number of years. The purpose of the Scheme is to provide equitable, consistent and accessible financial support for community programs, projects and events. These funding opportunities offer not for profit, community based, sporting, cultural, environmental, service groups and association's financial assistance to foster high quality programs, community events, facilities and services that provide benefit to the community of the Shire of Wyndham East Kimberley.

The Community Grants Scheme Policy was reviewed in August 2015 to further increase accountability in the Shire's financial support processes. The 2016 review required only minimal changes to be made in relation to the acquittal process for grants over \$5,000.

Council resolved at the 28 February 2017 Ordinary Council Meeting to rescind *CP/FIN-3209 Rates Concession (Rateable Land)* and to include requests for rates concessions from community groups through the Community Grants Scheme.

STATUTORY IMPLICATIONS

There are no statutory implications associated with this report.

POLICY IMPLICATIONS

The adopted revised *CP/COM 3582 Community Grant Scheme* will replace the existing Policy.

FINANCIAL IMPLICATIONS

There are no financial implications associated with this report. It is proposed that the budget required to provide rate concessions to community groups will be included in the annual Community Grants budget in the draft 2017/18 Budget. To ensure that funding is available for rates assistance it is proposed that a General Ledger Account be established for the Community Grant Scheme with three Job Numbers - Annual Grants; Quick Grants; Rates Assistance.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2012-2022

Goal 3: Protection and enhancement of lifestyle values, community facilities and the environment to provide safe and inviting communities.

Objective 3.1: A broad range of lifestyle opportunities and activities are available for East Kimberley residents

Strategy 3.1.3 : Support the community by providing access to local funding and sponsorship opportunities.

RISK IMPLICATIONS

Non-compliance with the Department of Local Government and Communities advisory standards and regulations.

COMMUNITY ENGAGEMENT

Engagement will take place in accordance with the Shire's Community Engagement Guidelines and includes:

A letter will be forwarded to all applicable community groups advising of the new process for applying for Shire rates assistance through the Community Grants Scheme. A meeting invitation will also be forwarded to all community groups to attend an Information Session on the Community Grants Scheme, including the inclusion of rates assistance.

COMMENTS

The changes to the Community Grants Scheme will affect all organisations who were previously able to apply for a rates concession under Council Policy *CP/FIN-3209 Rates Concession (Rateable Land)*.

The ability for community groups to seek assistance with Shire rates will occur through the Community Grants Scheme. This will provide a more streamlined approach for community groups requesting financial assistance from the Shire for events, infrastructure, etc. and also rate assistance, as community groups will only need to complete one application form, which will detail all requests from the community organisation for Shire financial assistance.

Attachment 1 outlines the proposed changes to Council Policy *CP/COM 3582 Community Grant Scheme* to reflect the amended rates assistance process.

The provision of Shire rates assistance to community groups will also allow for this expenditure to be captured into the Recreation and Culture Expenditure account which is a factor in determining the quantum of Commonwealth Financial Assistance Grants, the Western Australian Local Government Grants Commission takes into account. The previous process of dealing with this process through Council Policy *CP/FIN-3209 Rates Concession (Rateable Land)* did not allow for rate concession amounts to be taken into account in this calculation.

The 2017/18 Community Grants round is scheduled to open on 1 May 2017 with submissions due by 30 June 2017.

ATTACHMENTS - Item 12.3.3

Attachment 1 - Revised *CP/COM 3582 Community Grant Scheme*

12.3.4. Policy Review - CP/PMG 3780 Leasing of Council Managed Reserve Land - Community

DATE:	28 March 2017
AUTHOR:	Manager Community Services
RESPONSIBLE OFFICER:	Louise Gee, Director Community Development
FILE NO:	CP.08.28
DISCLOSURE OF INTERESTS:	Nil

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council advertise for community comment the revised *CP/PMG 3780 Leasing of Council Managed Reserve Land - Community* for 28 days as outlined in Attachment 1.

COUNCIL DECISION

Minute No: 28/03/2017 - 11638

Commissioner resolved:

That Council advertise for community comment the revised *CP/PMG 3780 Leasing of Council Managed Reserve Land - Community* for 28 days as outlined in Attachment 1.

Carried 1/0

PURPOSE

For Council to advertise the draft revised *CP/PMG 3780 Leasing of Council Managed Reserve Land - Community*.

NATURE OF COUNCIL'S ROLE IN THE MATTER

Leader - plan and provide direction through policy and practices

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

Council's Community Lease Policy was reviewed and endorsed at the 30 August 2016 Ordinary Council Meeting.

COUNCIL DECISION

Minute No: 11461

Moved: Cr N Perry

Seconded: Cr E Bolto

That Council adopt the revised CP/PMG 3780 Leasing of Council Managed Reserve Land - Community as attached.

Carried 5/4

For: Cr J Parker, Cr S Cooke, Cr N Perry, Cr E Bolto, Cr B Robinson

Against: Cr K Wright, Cr S Rushby, Cr A Petherick, Cr D Spackman

The revised Policy has been utilised by the Shire to develop a generic community lease template that has been used for current community lease negotiations.

STATUTORY IMPLICATIONS

There are no statutory implications.

POLICY IMPLICATIONS

There are no Policy implications.

FINANCIAL IMPLICATIONS

There are no financial implications associated with this report.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2012-2022

Goal 1: Strong leadership and governance that underpins a more strategic approach to community engagement, regional development and organisational sustainability

Objective 1.4: Business innovation, efficiency and improved services

Strategy 1.4.1: Ensure legislative compliance and follow best practice principles in planning and service delivery

RISK IMPLICATIONS

Non-compliance with the Department of Local Government and Communities advisory standards and regulations

COMMUNITY ENGAGEMENT

Engagement will take place in accordance with the Shire's Community Engagement Guidelines and includes:

Public advertising of the Policy for a minimum period of 28 days.

In addition, all organisations that either hold, or have expressed interest in a community lease will be contacted directly as to the proposed change.

COMMENTS

It is recognised that in certain circumstances it is appropriate for the leased community facility to be utilised to generate profit. Council Policy *CP/PMG 3780 Leasing of Council Managed Reserve Land - Community* has been revised to provide increased guidance for Council and community groups who are considering generating profit through commercial activity. Refer Attachment 1. The revised Policy emphasises that this opportunity may be pursued by community groups if the profit is used to support the development and maintenance of the facilities for the purpose of providing a community service.

The revised Policy also outlines the criteria Council shall utilise in determining when the profit-generating uses are acceptable. Criteria to be utilised is outlined below:-

- The use is ancillary and/or complementary to the main use
- The Income generated
- The income generated is placed into a financial reserve account for the development or maintenance of the facility
- Rental fees charged by the Lessees are valued at a commercial rate
- The use is supported by the Reserve purpose
- The area occupied by the profit making facilities
- The use provides an additional service not otherwise provided
- The community benefit outweighs the competitive advantage
- The use does not contravene any written law
- The use is not considered a nuisance or an unacceptable negative impact
- If the use is competing with a commercial enterprise.

Clause 3 - Lease Rent of *CP/PMG 3780 Leasing of Council Managed Reserve Land - Community* was also amended to include the following requirement:-

The Lessee will be invoiced for the lease rental from 1 July annually; where leases are commenced other than 1 July the lease rental will be invoiced for the proportion of the year to 1 July, to align future lease payments to 1 July.

ATTACHMENTS

Attachment 1 - Draft revised *CP/PMG 3780 Leasing of Council Managed Reserve Land - Community*.

12.3.5. Community Lease - Ord Pistol Club

DATE:	28 March 2017
AUTHOR:	Manager Community Services
RESPONSIBLE OFFICER:	Louise Gee, Director Community Development
ASSESSMENT NO:	A2866
FILE NO:	CP.07.6
DISCLOSURE OF INTERESTS:	Nil

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council authorise the Chief Executive Officer to offer a 10 year lease to the Ord Pistol Club for a portion of Reserve 52813 on Plan 92081, Lot 375 Old Darwin Road Kununurra as detailed in Attachment 2, subject to the approval of the Minister of Lands.

COUNCIL DECISION

Minute No: 28/03/2017 - 11639

Commissioner resolved:

That Council authorise the Chief Executive Officer to offer a 10 year lease to the Ord Pistol Club for a portion of Reserve 52813 on Plan 92081, Lot 375 Old Darwin Road Kununurra as detailed in Attachment 2, subject to the approval of the Minister of Lands.

Carried 1/0

PURPOSE

To inform Council of the intent to offer a lease to the Ord Pistol Club for a portion of Reserve 52813 on Plan 92081, Lot 375 Old Darwin Road, Kununurra, subject to the approval of the Minister of Lands.

NATURE OF COUNCIL'S ROLE IN THE MATTER

Leader- plan and provide direction through policy and practices

BACKGROUND

The Ord Pistol Club is located on Lot 375, Old Darwin Road. The previous lease expired on 30 March 2014; the Club has operated as a tenant at will since this date.

On 13 August 2015, Officers met with the Club to discuss the preparation of a new lease. The Club have expressed that they are considering relocating to allow for additional firearm use that is not currently able to be used due to the layout of the existing site. An alternate location has not been identified and it was believed that this is likely to be some time away.

Even with the possible relocation in mind, the Club have requested a 21 year lease on the current site. The Club has requirements to prove land tenure for regulatory reasons and a longer lease would provide additional security for this purpose. The Club were advised that as per *Policy CP/PMG-3780 Leasing of Council Managed Reserve Land-Community*, they would be required to submit a business plan for a 21 year lease. As yet the Club have not submitted a business plan to the Shire.

The outcome of discussions with the Ord Pistol Club were reported to the 22 September 2015 Ordinary Council Meeting where Council resolved as follows:-

COUNCIL DECISION

Minute No. 11123

Moved: Cr K Wright

Seconded: Cr B Robinson

That Council request the Chief Executive Officer to enter into negotiations with the Ord Pistol Club for a lease over a portion of Reserve 31780, Lot 375 Drovers Road Kununurra, subject to the approval of the Minister of Lands.

Carried Unanimously 8/0

STATUTORY IMPLICATIONS

Land Administration Act 1997

The original Reserve 31780 was reserved under the *Land Administration Act 1997* (LAA) for the purpose of 'Recreation (National Parks/Conservation)'.

Initial discussions with the Department of Lands indicated that the Department were supportive of a Shire request that Lot 375 be amended to Recreation (Pistol Club), with the remaining reserve maintained as (National Park/Conservation). Approval was received on the 31 January 2017 from the Department of Lands for the requested change of the Reserve purpose to Recreation (Pistol Club) part Reserve 52813 on Plan 92081.

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

POLICY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

The Ord Pistol Club currently pay a rental of \$100.00 per annum. This will be increased to \$500.00 per annum increasing by CPI annually on the execution of the Lease.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2012-2022

Goal 3: Protection and enhancement of lifestyle values, community facilities and the environment to provide safe and inviting communities.

Objective 3.4: Protection and enhancement of community facilities

Objective 3.4.3: Ensure Shire facilities are planned and managed to meet community needs

Objective 3.5: An active outdoor lifestyle is encouraged and promoted

Strategy 3.5.2 : Encourage cooperation between sporting groups and assist them in building capacity

RISK IMPLICATIONS

Non compliance with the Department of Local Government and Communities advisory standards and regulations.

COMMUNITY ENGAGEMENT

Engagement has taken place in accordance with the Shire' Community Engagement Guidelines and includes:

- Open communication with the Ord Pistol Club throughout the lease negotiation process.

COMMENTS

To date the Club have have not provided the Shire with a business plan, therefore in accordance with Council Policy *CP/PMG-3780 Leasing of Council Managed Reserve Land-Community* it is proposed to offer the Club a standard lease term of 10 years.

Due to the potential contamination of Lot 375 Drovers Road from firearm activities the proposed Lease includes a clause placing responsibility for any environmental clean-up on the Lessee.

ATTACHMENTS

Attachment 1- Map of Ord Pistol Club Site

Attachment 2 - Draft Lease - Ord Pistol Club

12.3.6. Application for Amendment of Development Approval for Chalets at Lot 530 River Farm Road

DATE:	28 March 2017
AUTHOR:	Senior Planning Officer
RESPONSIBLE OFFICER:	Louise Gee, Director Community Development
ASSESSMENT NO:	A118
FILE NO:	A118P
DISCLOSURE OF INTERESTS:	Nil

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council grant a 6 month extension to the term of the development approval for the use and development of Two Chalets at Lot 530 River Farm Road Kununurra subject to the following:

- 1. Use and Development shall be in accordance with the approved plans and subject to any modifications required as a consequence of any conditions of this approval. The endorsed plans shall not be modified or altered without the written consent of the local government.**
- 2. If the development the subject of this approval is not substantially commenced by 21 June 2017, the approval will lapse and be of no further effect.**
- 3. A maximum of two (2) chalets are to be developed, forming part of a farm stay facility, and must only be used to accommodate short-stay guests, where occupation by any person is limited to a maximum of three (3) months in any twelve (12) month period.**
- 4. A revised site plan shall be submitted to the Shire, prior to the issue of a building permit. Once approved, this plan will be endorsed and will then form part of this approval. The plan shall be drawn to scale and show:**
 - a. The development of two (2) chalets:**
 - i. Within the previously approved building envelope;**
 - ii. Setback a minimum of 20 metres from the front property boundary; and**
 - iii. Setback a minimum of 40 metres from side boundaries.**

13. Each chalet should be provided with at least one parking space.

14. Potable water is to be supplied to each chalet.

COUNCIL DECISION

Minute No: 28/03/2017 – 11640

Commissioner resolved:

That Council grant a 9 month extension to the term of the development approval for the use and development of Three Chalets at Lot 530 River Farm Road Kununurra subject to the following:

1. The proposed chalet development forming part of a tourist facility must only be used to accommodate short-stay guests, where occupation by any person is limited to a maximum of three (3) months in any twelve (12) month period. Any change of use will require consent from Council.
2. All development shall occur in accordance with the approved plans and these conditions of approval.
3. If the development the subject of this approval is not substantially commenced by 28 September 2017, the approval will lapse and be of no further effect.
4. The approved management plan must be implemented and reviewed on the basis set out in the approved management plan.
5. Prior to the construction of the proposed chalet development, all promotional information intended to be displayed must be submitted to the Shire for approval.
6. The Applicant is to provide the following disclosure statement to prospective guests at the time of booking. This disclosure statement must be provided as part of the terms and conditions provided to the prospective guest prior to booking taking place:

“You will be staying in an active agricultural area where normal farming practices may result in nuisances including odour, spray drift, noise, dust and smoke. These practices may be carried out by our farm or adjoining farms when you are staying in a chalet at the property.”
7. Prior to the use commencing (by way of initial occupation by any guests) of each of the chalets, relevant Shire Officers are to inspect that chalet to confirm compliance with the management plan.
8. The proposed chalet development must at all times remain subordinate in scale, scope and intensity to the predominant agricultural nature of the property.
9. By 30 July each year, the following information must be submitted to Council:

- (a) The guest register showing the name, address and dates of occupation for each guest.
- (b) Any documentation required to be provided under the approved management plan (if applicable) and the revised biosecurity measures, if any.

10. Each chalet should be provided with at least one parking space.
11. The Applicant is to implement planting generally in accordance with the landscaping plan, and must ensure that the landscaping at full growth provides:
 - A visually impermeable barrier between the chalets and River Farm Road;
 - A visually impermeable barrier in the locations shown on the landscaping plan to the east, along the existing driveway, to the west, along the existing firebreak, and to the north, adjacent to the existing shed;
 - Effective barriers to chemical spray drift from off-site chemical sources; and
 - That host plants are not to be located less than 10 metres to a chalet (measured from the closest edge of foliage to chalet building) to address biosecurity requirements.
12. The approved landscaping must be maintained, and vegetation replaced where required to ensure ongoing compliance with the landscaping plan throughout the life of the chalet use and while the chalet buildings are in place.
13. Potable water is to be supplied to each chalet.

REASON FOR VARYING OFFICER'S RECOMMENDATION

To reflect the original decision of Council and current Town Planning Scheme No.7, whereas the officer's recommendation took into account proposed Town Planning Scheme No.9.

PURPOSE

Proposal

The applicant has applied for an extension of the term of a development approval granted on 22 December 2014 for three Chalets at Lot 530 River Farm Road, Kununurra.

Details

Three chalets, two with floor areas of 72m² and one with a floor area of 60.5m², each surrounded by verandah and carport areas that measure 23.7m x 13.8m. Each chalet will comprise a kitchen, bathroom, laundry and living area, with two of the chalets to consist of 2 bedrooms and one of the chalets proposed to have 3 bedrooms.

Applicant's Justification

The applicant justification for the requested extension to the term of the development approval is provided at Attachment 1.

NATURE OF COUNCIL'S ROLE IN THE MATTER

Regulator - enforce state legislation and local laws

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

An application for planning approval was lodged on 19 December 2013 by Rob Storey and Vicky Biorac for the development of 3 Chalets at Lot 530 River Farm Road, Kununurra.

This application was considered at the Ordinary Council Meeting held on 25 March 2014 whereat the application was refused as follows:

COUNCIL DECISION

Minute No. 10352

Moved: Cr R Dessert

Seconded: Cr S Cooke

That Council refuses the planning application for 3 chalets at Lot 530 River Farm Road, Kununurra, for the following reasons:

- 1) The proposal does not comply with the requirements under *Town Planning Scheme no. 7 – Kununurra and Environs* for incidental development within the Rural Agricultural area as it does not provide an appropriate biosecurity management strategy; and**
- 2) The property is considered Prime Agricultural Land by Department of Agriculture and Food WA and therefore would be compromised by the introduction of tourist accommodation.**

Tied 4/4

**For: Cr D Learbuch, Cr J Moulden, Cr S Cooke, Cr R Dessert
Against: Cr K Wright, Cr B Robinson, Cr D Spackman, Cr G King
Casting Vote: Cr J Moulden For**

Following Council's decision the applicant, in accordance with section 252(1) of the *Planning and Development Act 2005* (as amended), lodged an appeal with the State Administrative Tribunal (SAT), and a number of direction hearings and mediation sessions were held to discuss the matter.

Following mediation held in Kununurra on Tuesday 23 September, a SAT Order was issued, dated 26 September 2014, which required that:

1. The Shire will convey without prejudice draft conditions to the applicant by the 3 October 2014.
2. The applicant will provide a response to the conditions together with an amended development proposal plus attachments including an amended site plan.
3. The Shire, pursuant to section 31(1) of the *State Administrative Tribunal Act 2004 (WA)* is invited to reconsider its decision at its meeting on or before the 18 November 2014.

4. The proceeding is adjourned to a directions hearing at 11am on Friday 28 November 2014.

In accordance with these Orders, the Shire provided the applicant's solicitor with 'without prejudice' draft conditions on the 3 October. The applicant's solicitor subsequently provided a response to these conditions on 10 October 2014, however advised that the applicant requested additional time (to 24 October 2014) to submit their development proposal.

The SAT agreed to the extension, and issued new Orders to state that the Shire is invited to reconsider its decision at its meeting on or before 16 December 2014.

An amended application for planning approval was lodged on 7 November 2014 by the applicants Solicitor, and was considered at the Ordinary Council Meeting on 16 December., where the application was approved subject to conditions (**Minute No. 10722**). A development approval consistent with this decision was issued on 22 December 2014, refer Attachment 2.

This approval, required a revised floor plan to be provided for chalet 1, which has since been provided as shown at Attachment 3.

A building permit application has been lodged for the development, however is pending Council consideration of the application to extend the term of the development approval, and further information being lodged by the applicant.

The property is located on the northern side of River Farm Road and has an area of 8.7 ha. The land is zoned Rural Agriculture 2 under Town Planning Scheme No. 7 – Kununurra and Environs (TPS 7). Surrounding land uses comprise of agriculturally farmed properties and a café/gallery adjacent to the property on the western side.



Location Plan

The property contains approximately 3.3ha of mango crops, a single dwelling, three sheds and a dam. In October 2016, the applicant was issued with a retrospective development approval to utilise a transportable unit located within one of these sheds as a Caretaker's Dwelling. The applicant has also applied for a Building Approval Certificate (BA13) for the Caretaker's Dwelling, however the application is pending an inspection and additional information being provided.

STATUTORY IMPLICATIONS

Planning and Development (Local Planning Schemes) Regulations 2015 - Deemed Provisions

The *Planning and Development (Local Planning Schemes) Regulations 2015* came into effect on 19 October 2015, and included deemed provisions (Schedule 2) which apply to all planning schemes throughout Western Australia, and take precedence if there is any inconsistency with existing scheme provisions. The deemed provisions primarily relate to the administrative functions of a scheme, such as the process for making and amending local planning policies or development applications.

Clause 77(1)(a) of the deemed provisions allows an owner of land in respect of which development approval has been granted to make an application to request the local government to amend the approval so as to extend the period within which any development must be substantially commenced.

Clause 77 (2)(a) outlines that such an application should be treated as if it is an application for development approval, and 77(2)(b) allows such an application to be made during or after the period within which development approval must be substantially commenced.

Clause 67 of the deemed provisions outlines the matters the local government is to have due regard to in considering an application which include the aims and provisions of the Scheme and

“the requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the Planning and Development (Local Planning Schemes) Regulations 2015 or any other proposed planning instrument that the local government is seriously considering adopting or approving.”

Town Planning Scheme No. 7 – Kununurra and Environs (TPS7)

The land at the subject lot is zoned Rural Agriculture 2 under TPS No. 7. Clause 11.3.2 of the Scheme requires Council to have regard to the purpose of the zone. The objectives of this zone are:

- a) *To ensure the adequate supply of land for intensive agricultural and horticultural holdings in localities of adequate water supply and suitable soil types;*
- b) *To promote the use of these lots for the production of horticultural crops and associated uses.*

Chalet development is an ‘IP’ (not permitted unless such use is incidental to the predominant use of the land as determined by the Council) use in the Rural Agriculture 2 zone.

The Scheme defines Chalet as: follows:

Chalet *means an individual self contained unit usually comprising cooking facilities, ensuite, living area, and one or more bedrooms designed to accommodate short-stay guests, forming part of a tourism facility and where occupation by any person is limited to a maximum of three (3) months in any twelve (12) month period.*

Clause 5.20 (previously Clause 5.22)

This clause (introduced in Amendment 18) of the Scheme sets out development requirements for non-agricultural development in the Rural Agriculture 2 zone.

Clause 5.20.1 Setbacks - provides that setbacks for incidental development in the Rural Agriculture 2 zone shall be 20m, 35m and 35m to the front, side and rear boundaries.

Clause 5.20.2 Other Incidental uses - sets out that Council may permit the development and use of the land for the following uses:

Art and Craft Centre

Art Gallery

Bed and Breakfast

Cabin Chalet

Farm Stay

Plant Nursery

Wayside Stall, provided that:

(a) The applicant submit a management plan addressing how potential conflicts, impacts and compatibility with existing and potential agricultural land uses – both internal and external to the site – are to be managed as per the requirements of SPP 2.5, and including but not limited to the following:

i. Prior to construction of any units, the applicant shall submit a management plan developed in consultation with the Department of Agriculture and Food Western Australia and other relevant agencies or stakeholders, detailing measures to manage the following impacts:

- a. Dust and noise;
- b. Visual amenity; and
- c. Biosecurity

ii. Prior to construction, all promotional information intended to be displayed shall be submitted to Council for approval;

iii. Prior to occupation, relevant officers shall inspect accommodation to ensure biosecurity information is displayed in a prominent place; and

iv. Prior to occupation, relevant officers shall inspect the procedures to ensure that all workers are made aware of the biosecurity issues and preventative measures prior to take residence with the accommodation.

(b) The proponent submit an Agriculture Impact Statement, in accordance with the information prescribed in State Planning Policy 2.5 (SPP2.5);

(c) The proposed development remains as a subordinate use in scale, scope and intensity to the predominant agricultural nature of the site;

(d) The proposed development is advertised;

(e) A maximum of three (3) accommodation units is permitted on lots in the Rural Agricultural Zone 1, Rural Agricultural Zone 2 and the General Agricultural Zone;

(f) All accommodation units shall:

- i. Be separated from the nearest residential building on an adjacent property by a minimum of 70 metres;
- ii. Comply with the setback provisions in the Scheme; and
- iii. Have screening vegetation planted and maintained to shield the neighbouring property from accommodation units.

Draft Local Planning Scheme No. 9

The subject lot is zoned Local Horticulture in the draft Scheme. The objectives for the zone including recommended modifications as endorsed by Council at the 20 December 2016 Ordinary Council Meeting are:

- (i) *to identify and protect intensive agricultural land of local significance;*
- (ii) *to provide for a diversity of sustainable intensive agriculture and value-adding opportunities;*
- (iii) *to protect existing and potential agriculture production areas from inappropriate land use;*
- (iv) *to maintain the rural character of the area; and*
- (v) *to avoid activities causing adverse environmental impacts and any other land management practices that would be detrimental to the amenity of the area.*

In addition a new clause has been introduced to the draft Scheme at 4.27 (Local Horticulture zone) stating:

In considering an application for development approval, the local government must ensure that the proposed development is consistent with and will not conflict with the viability of intensive agricultural and horticultural pursuits on the property and within the locality.

Clause 4.27.1

This table sets out Minimum Setbacks for the zone. It has been modified to:

Agricultural land uses - 20m, Incidental development (non-agricultural) – 40m and not within 70m of any residence on any adjoining property

Clause 4.27.2

This clause provides that the local government may only permit the development and use of the land for certain non-agricultural uses:

Community Purpose;
Exhibition Centre;
Bed and Breakfast;
Restaurant;
Educational establishment;
Brewery; and
Farm Stay.

if:

- (a) An established horticultural or intensive agricultural activity is being carried out on the property, with a minimum of 50% of the land under cultivation.
- (b) The proposed development is to remain incidental and subordinate to the established horticultural or intensive agricultural activity on the property.
- (c) The proposed development is not located on any part of the property utilised for agricultural or horticultural pursuits, and sited so it will not bisect existing or potential agricultural and horticultural areas on the property.

(d) Prior to the local government advertising and making a determination on the proposed development the applicant shall submit:

- (i) A detailed management plan addressing how potential conflicts, impacts and compatibility with existing and potential agricultural land uses – both internal and external to the site – are to be managed. The management plan should detail measures to manage the following impacts:

- dust and noise;

- visual amenity;

- biosecurity; and

- ensuring the continued agricultural/horticultural activity on the land.

- (ii) A detailed landscaping plan in accordance with the Guidelines for Separation of Agricultural and Residential Land Uses, Department of Health - August 2012 regarding establishment of vegetation buffers. The vegetation buffer shall also provide an appropriate visual screen from both the road and neighbouring properties.

(e) As part of the advertising process the local government will seek comment on any application from the Department of Agriculture and Food and other relevant agencies or stakeholders, and surrounding landowners.

(f) Prior to the construction of any proposed development landscaping in accordance with the approved landscaping plan should be commenced.

(g) Prior to occupation or use of any approved development:

- (i) Relevant officers shall inspect the development to ensure biosecurity information is displayed in a prominent place;

- (ii) Relevant officers shall inspect procedures to ensure that all employees are made aware of the biosecurity issues and preventative measures prior to commencement of operation; and

- (iii) Landscaping must be established in accordance with the approved landscaping plan.

(h) A register of guests staying in any approved accommodation is to be provided to the local government upon request.

Chalet and Cabin are no longer included as uses within the draft Scheme, and instead are included in the definition of Farm Stay (modified following advertising) as follows:

farm stay means land and buildings utilised for short stay tourist accommodation comprising a maximum of two chalets or cabins located no further than 30 metres from the external wall of an existing residential dwelling and such cabins/chalets will not exceed 50m².

Requirement or Matter	Comment
<p>Rural Agriculture 2 zone objectives.</p> <p><i>a) To ensure the adequate supply of land for intensive agricultural and horticultural holdings in localities of adequate water supply and suitable soil types;</i></p> <p><i>b) To promote the use of these lots for the production of horticultural crops and associated uses.</i></p>	<p>Council refused the initial application on the basis that the proposal did not comply with the requirements under TPS 7 for incidental development, and because DAFWA considered the property to be Priority Agricultural Land, and therefore would be compromised by the introduction of tourist accommodation. However, the SAT determined that Council could approve the development, and directed Council to reconsider the application.</p>
<p>Cl. 5.20.1 Setbacks - for incidental development in the Rural Agriculture 2 zone these shall be 20m, 35m and 35m to the front, side and rear boundaries.</p>	<p>Development previously approved meets minimum setback distances as stipulated in TPS 7.</p>
<p>Cl. 5.20.2 (a) Management Plan</p>	<p>The existing Management Plan was approved by Council following amendments being made to address concerns raised by the Shire, adjoining landowners and the Department of Agriculture and Food WA (DAFWA) in relation to land use conflict and biosecurity.</p>
<p>Cl. 5.20.2 (b) Agriculture Impact Statement in accordance with State Planning Policy (SPP) 2.5</p>	<p>The applicant submitted an Agriculture Impact Statement as part of their original application. The requirement for an AIS has been removed from the updated (2015) SPP 2.5. This is reflected in draft LPS No. 9 in which the requirement has been removed. The proposed development area is not currently under cultivation. The chalets were approved to be located at the front of the property to ensure the development would not fragment the potential agricultural use of the lot, and to ensure that the chalets are located as far as possible from the sandalwood plantation located to the rear of the property on which aerial spraying is undertaken</p>
<p>Cl. 5.20.2(c) The proposed development remains as a subordinate use in scale, scope and intensity to the predominant agricultural nature of the site.</p>	<p>SAT determined that Council could approve the development, as the development would still be subordinate to the predominant agricultural <i>nature</i> of the site, even though only approximately a third of the lot was under cultivation. However, a condition was included on the development approval to state that the chalet development must remain subordinate at all times.</p>

<p>property utilised for agricultural or horticultural pursuits, and sited so it will not bisect existing or potential agricultural and horticultural areas on the property.</p> <p>((ii) A detailed landscaping plan in accordance with the Guidelines for Separation of Agricultural and Residential Land Uses, Department of Health - August 2012 regarding establishment of vegetation buffers. The vegetation buffer shall also provide an appropriate visual screen from both the road and neighbouring properties.</p> <p>(f) Prior to the construction of any proposed development landscaping in accordance with the approved landscaping plan should be commenced.</p> <p>(g) Prior to occupation or use of any approved development:</p> <p>(iii) Landscaping must be established in accordance with the approved landscaping plan.</p> <p>(h) A register of guests staying in any approved accommodation is to be provided to the local government upon request.</p>	<p>the front of the property to ensure that it does not bisect existing or potential horticultural areas of the property.</p> <p>(d) (ii) the Department of Health '<i>Guidelines for Separation of Agricultural and Residential Land Uses</i>' must be considered under the draft Scheme. This document outlines where and why buffers should be established. In regards to the proposal, it is acknowledged that the Guidelines are not intended for single residential dwellings. However a 40m vegetated buffer between agricultural uses and sensitive uses including accommodation (e.g. hotels, motels, caravan parks) is specified. It is noted that a landscaping plan formed part of the approval and conditions imposed to ensure a vegetated buffer be provided in accordance with the Guidelines, and to provided visual screening.</p> <p>(f) the draft Scheme requires that landscaping in accordance with the approved landscaping plan should be commenced, prior to the construction of proposed development. No planting in accordance with this approved landscaping plan has commenced to date.</p> <p>(g) the draft Scheme also requires that landscaping must be established in accordance with the approved landscaping plan prior to occupation or use of any approved development.</p> <p>- An additional change in the draft Scheme is that Chalet and Cabin have been removed as land use terms, and instead have been included in a refined definition of Farm Stay - <i>"means land and buildings utilised for short stay tourist accommodation comprising a maximum of two chalets or cabins located no further than 30 meters from the external wall of an existing residential dwelling and such cabins/chalets will not exceed 50m² internal floor area"</i> (draft LPS No. 9) In TPS 7 Farm Stay allows a <i>maximum of two 'self contained two bedroom cottages' not exceeding 80m² internal floor area.</i></p> <p>It is considered that the proposal is inconsistent with a number of elements within this clause, however that additional conditions may be considered in order to capture the intent of the new Scheme provisions if an extension of the term is considered warranted.</p>
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POLICY IMPLICATIONS

State Planning Policy (SPP) 2.5 – Land Use Planning in Rural Areas

The objectives of SPP 2.5 are to:

- (a) support existing, expanded and future primary production through the protection of rural land, particularly priority agricultural land and land required for animal premises and/or the production of food;
- (b) provide investment security for existing, expanded and future primary production and promote economic growth and regional development on rural land for rural land uses;
- (c) outside of the Perth and Peel planning regions, secure significant basic raw material resources and provide for their extraction;
- (d) provide a planning framework that comprehensively considers rural land and land uses, and facilitates consistent and timely decision-making;
- (e) avoid and minimise land use conflicts;
- (f) promote sustainable settlement in, and adjacent to, existing urban areas; and
- (g) protect and sustainably manage environmental, landscape and water resource assets.

Local Planning Strategy (2006)

A Local Planning Strategy provides the strategic framework upon which planning for a local government area is based and administered through its local Town Planning Scheme. The current strategy was adopted 20 September 2005. In regards to priority agricultural land (PAL) the strategy provides that it is important that these areas are not intruded upon by conflicting land uses. It is further noted in the document that increasing pressure to accommodate other land uses is evident in the Shire. Thus overall a balance between economic diversification and land preservation is outlined.

PAL is specifically mentioned in regards to planning implications for the economy and employment at Chapter 4.5 - Employment and the Economy:

4.5.6 Planning Implications provide that *“Land that is identified as prime agricultural land needs to be protected from competing land use. The functionality and longevity of key industries such as agriculture and mining, as well as the encouragement of newer, burgeoning markets in tourism, need to be assured within the Shire (p.46)”*.

It is also identified, in section 5.10.1.1 of the LPS, that in some circumstances diversification of uses within the Agricultural zones is necessary to further supplement farmer’s incomes:

Diversification of lands uses in agricultural zones is generally not supported due to the potential loss of productive PAL, the impact on management and operational practices and the potential externalisation of these impacts. However, where farmers and producers are seeking to supplement incomes to ensure viability of the principal agricultural land use, there is some scope for allowing subordinate land uses only, or uses that are wholly incidental or dependant on the principal agricultural use of land.

When specifically addressing the diversification of Rural Agriculture 1 and 2 zones, the LPS acknowledges that these zones are more sensitive to the intrusion of other land uses and that they are a finite and infrastructure intensive resource.

The LPS outlines that a number of factors including the use of machinery, operational hours and chemicals may be incompatible with the introduction of other uses, however identifies that there is some capacity, with appropriate development controls, to introduce some subordinate land uses to diversify the income of farmers and ensure their economic viability. Typical scheme land use and development controls appropriate for these zones to ensure that uses remain subordinate include:

- *Limit accommodation to low key uses such as bed and breakfast or farm stay*
- *Control accommodation numbers via Scheme provisions (One accommodation unit or bedroom in Rural Agriculture 1 zone, Two accommodation units or bedrooms in Rural Ag 2 zone)*
- *Limit uses to those that are subordinate to agricultural uses to ensure that principal use of the site remains agriculture in subsequent Scheme*

The key summary points of the LPS that relate to this application are as follows:

- *Land that is considered PAL should not be developed for anything that may prejudice its continued use for these purposes. Consultation in relation to the identification of PAL will be conducted in conjunction with the Department of Agriculture.*
- *Other uses may be permitted within these areas provided that they are subordinate to, are incidental to, or relate to the predominant agricultural use of the land. These uses must not have a detrimental impact on the operations of or threaten the productivity of agricultural land use and development in the locality. Assessment would need to include consideration of access, scale, buffer distances and issues of sustainability, and any other relevant factors.*
- *Ensure diversified uses are not permitted unless subordinate to principal agricultural uses, and are not permitted unless there is a clear benefit to providing viability to a site under existing cultivation.*

Draft Local Planning Strategy (2015)

The draft Strategy, notes that priority agricultural land is not mapped or well defined within the Shire, which could enable inappropriate land uses to erode the area of high quality agricultural land available for priority agricultural production, such as horticulture.

A key objective in the draft Strategy, in relation to economic development and employment, is to “*identify and protect land that is suitable for agriculture (including horticulture and pastoral development) and to facilitate the development of land for that use*”.

The draft Strategy also identifies that within local horticultural areas, scheme provisions should consider diversification of uses to facilitate complementary tourism development and non-agricultural business development. Scheme provisions and policy should manage potential land use conflicts, along with risk of pest incursion and biosecurity impacts where non-

agricultural uses are unmanaged or uncontrolled. Additional scheme provisions are necessary within a new local horticulture zone to provide guidance for non-agricultural uses and protect these areas for horticultural production.

FINANCIAL IMPLICATIONS

The applicant has paid the relevant extension of term of development approval fee of \$73.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2012-2022

Goal 1: Strong leadership and governance that underpins a more strategic approach to community engagement, regional development and organisational sustainability

Objective 1.4: Business innovation, efficiency and improved services

Strategy 1.4.1 : Ensure legislative compliance and follow best practice principles in planning and service delivery

Goal 2: Greater returns from regional investment to ensure sustainable provision of appropriate physical and social infrastructure

Objective 2.2: Maintenance of economic diversity and greater community returns from investment in the region

Strategy 2.2.2 : Support agricultural opportunities.

Goal 3: Protection and enhancement of lifestyle values, community facilities and the environment to provide safe and inviting communities.

Objective 3.3: Towns are safe and inviting for locals and tourists

Strategy 3.3.8 : Ensure quality, consistent and responsive development and building assessment approval processes and enforcement.

RISK IMPLICATIONS

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

COMMUNITY ENGAGEMENT

No community engagement is required.

COMMENTS

The applicant originally requested an extension of 6 months, however has recently requested to amend this to an extension of 12 months on the basis that due to the large wet season the ground is still sodden and the wet season is still not over. The applicant has stated that the ground will take at least a month after the wet to dry out enough to support a prime mover and other heavy machinery, and it could be May before work can be commenced.

The applicant has stated that one of the proposed chalet buildings (Chalet 1) is currently in Wyndham, awaiting to be transported. Although planting in accordance with the approved landscape plan has not commenced, the applicant has advised that plants have been purchased for this purpose and are stored in the nursery onsite awaiting to be planted.

During SAT mediation it was determined that the proposed chalet development could be approved under the current Scheme, subject to conditions.

However, in considering this request for an extension to the term of the development approval, it is noted that the Shire's draft Local Planning Scheme No. 9 is currently being reviewed by the Department of Planning and is anticipated to be finalised within the next 6 months.

While the application can be approved under the current Scheme, there are a number of differences between TPS No. 7 and the draft Scheme as described in the Statutory Implications section of this report.

The main difference is that under draft LPS No. 9, a Chalet has been included in the definition of Farm Stay in the draft Scheme, and is more restrictive than the current definition in TPS No. 7. The proposed Farm Stay definition allows a *“maximum of two chalets or cabins located no further than 30 meters from the external wall of an existing residential dwelling and such cabins/chalets will not exceed 50m² internal floor area.”*

The definition of Chalet in TPS 7 does not include any restriction on the floor area permitted, and does not include a requirement for chalets to be located in proximity to the main residence. Clause 5.20.2(e) of TPS 7, also permitted a maximum of 3 accommodation units. As such the development approval granted was for 3 chalets ranging from 60.5m² - 72m² in floor area, to be located at the front of the property.

Other differences are in relation to Cl. 4.27 of the draft Scheme, which (in addition to other matters already included in TPS 7) will require that:

- Non-agricultural development is setback a minimum of 40 metres from side and rear boundaries. (Cl.4.27.1)
- An established horticultural or intensive agricultural activity is being carried out on the property, with a minimum of 50% of the land under cultivation. (Cl. 4.27.2(a))
- A detailed landscaping plan be prepared in accordance with the Guidelines for Separation of Agricultural and Residential Land Uses (Department of Health - August 2012) regarding establishment of vegetation buffers, and for this buffer to also provide an appropriate visual screen from both the road and neighbouring properties.(Cl. 4.27.2(c)(ii))
- Landscaping in accordance with the approved landscaping plan is commenced prior to the construction of any proposed development.(Cl. 4.27.2(f))
- Landscaping is established in accordance with the approved landscaping plan prior to use or occupation of the approved development.(Cl. 4.27.2(g)(iii))

In relation to existing horticultural or intensive agricultural activity, it is noted that the current area used for horticultural/agricultural purposes is less than 50%, at approximately 38%.

In regard to landscaping it is noted that a landscape plan was approved in accordance with the Department of Health Guidelines on vegetation buffers.

Resolving these differences relates to Council giving 'due regard' as included at cl. 67 of the *Planning and Development Regulations 2015*. This means that Council must give proper, genuine and realistic consideration to the draft Scheme. In doing so, the determination should ensure consistent, proper and orderly planning within the Shire.

Therefore, although a conflict does arise between the current and draft Scheme provision and definitions, this does not restrict the ability of the Council to determine the application and apply conditions.

Conclusion

The applicant has indicated that one of the proposed chalets can be placed onsite once a building permit is issued, and ground conditions permit, and that plants have been obtained to undertake planting in accordance with the approved landscape plan.

On this basis, it is considered that development can be substantially commenced within a relatively short timeframe.

Further, it is considered that to give the due regard to the draft Scheme, it is reasonable to limit the development to a maximum of two (2) chalets. It is also considered reasonable to apply conditions to reflect clause 4.27.1 to require a minimum setback of 40 metres from side and rear boundaries, and clause 4.27.2 (a) to require a minimum of 50% of the property to be under cultivation. At present, approximately 1.2ha of the subject lot must be further cultivated in order to satisfy this requirement.

It is also considered appropriate for the proposed chalets to still be located at the front of the property, to ensure that it will not bisect the existing horticultural areas on the property.

It is also noted that the draft Scheme may be finalised within the next 3 - 6 months, and therefore it is considered appropriate to grant a 6 month extension to the term of the development approval in the interim. If the development is not substantially commenced within this additional 6 month period, the approval will lapse and be of no further effect. This will then allow the Shire to consider any new applications under the new Scheme provisions when it comes into force.

For the reasons identified in this report, the proposed development is able to satisfy the requirements of orderly and proper planning in the interim. It is therefore recommended that an extension of 6 months be granted subject to conditions.

ATTACHMENTS

Attachment 1 - Applicant's' initial request for extension of time

Attachment 2 - Development Approval 112/13

Attachment 3 - Revised Floor Plan - Chalet 1

12.3.7. Draft Kununurra Civic and East Lily Creek Precinct Structure Plans

DATE:	14 March 2017
AUTHOR:	Director Community Development
RESPONSIBLE OFFICER:	Louise Gee, Director Community Development
FILE NO:	LP.02.49, LP.02.66
DISCLOSURE OF INTERESTS:	Nil

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council:-

- 1. Note the submissions received on the draft Kununurra Civic Precinct Structure Plan and draft East Lily Creek Structure Plan during the public notice period (Attachment 1 and 2).**
- 2. Note the letter received by the Western Australian Planning Commission dated 21 July 2016 (Attachment 3) advising the Shire that the preparation of the Kununurra Civic Centre Structure Plan is to proceed concurrently with, or subsequent to, the Kununurra Regional Growth Plan.**
- 3. Request the Chief Executive Officer to advise the Western Australian Planning Commission and organisations/persons who provided a submission on the draft Kununurra Civic Precinct Structure Plan and draft East Lily Creek Structure Plan that further development of the structure plans will not be undertaken until the Kununurra Regional Growth Plan has been endorsed by Council.**
- 4. Request the Chief Executive Officer in consultation with the Department of Sport and Recreation to engage a consultant to develop a concept design to assess whether the existing site of the Kununurra Aquatic and Leisure Facility would allow for the construction of a new facility to address future needs within current site limitations. The development of the concept design will be undertaken utilising grant funding to the value of \$25,000 received by the Shire from the Department of Sport and Recreation.**

COUNCIL DECISION

Minute No: 28/03/2017 – 11641

Commissioner resolved:

That Council:-

- 1. Note the submissions received on the draft Kununurra Civic Precinct Structure Plan and draft East Lily Creek Structure Plan during the public notice period (Attachment 1 and 2).**
- 2. Note the letter received by the Western Australian Planning Commission dated 21 July 2016 (Attachment 3) advising the Shire that the preparation of the Kununurra Civic Centre Structure Plan is to proceed concurrently with, or subsequent to, the Kununurra Regional Growth Plan.**
- 3. Request the Chief Executive Officer to advise the Western Australian Planning Commission and organisations/persons who provided a submission on the draft Kununurra Civic Precinct Structure Plan and draft East Lily Creek Structure Plan that further development of the structure plans will not be undertaken until the Kununurra Regional Growth Plan has been endorsed by Council.**
- 4. Request the Chief Executive Officer in consultation with the Department of Sport and Recreation to engage a consultant to develop a concept design to assess whether the existing site of the Kununurra Aquatic and Leisure Facility would allow for the construction of a new facility to address future needs within current site limitations. The development of the concept design will be undertaken utilising grant funding to the value of \$25,000 received by the Shire from the Department of Sport and Recreation.**

Carried 1/0

PURPOSE

To provide Council with the submissions received following the advertisement of the draft Kununurra Civic Precinct and draft East Lily Creek Structure Plans in accordance with Schedule 2, Part 4, Clause 18 of the *Planning and Development (Local Planning Schemes) Regulation 2015*.

NATURE OF COUNCIL'S ROLE IN THE MATTER

Leader - plan and provide direction through policy and practices.

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

At the 28 June 2016 Ordinary Council Meeting Council resolved as follows:-

COUNCIL DECISION

Minute No: 11400

Moved: Cr B Robinson

Seconded: Cr S Cooke

That Council requests the Chief Executive Officer to advertise the draft Kununurra Civic Precinct and East Lily Creek Structure Plans in accordance with Schedule 2, Part 4, Clause 18 of the *Planning and Development (Local Planning Schemes) Regulation 2015*.

Carried 6/3

**For: Cr J Parker, Cr K Wright, Cr S Cooke, Cr N Perry, Cr E Bolto, Cr B Robinson
Against: Cr S Rushby, Cr D Spackman, Cr A Petherick**

A public notice of the proposed Structure Plans was advertised in the Kimberley Echo advising that the Structure Plans were available for inspection at the Shire of Wyndham East Kimberley Administration Centre at 20 Coolibah Drive Kununurra and Koolama Street, Wyndham; and the Kununurra School and Community Library. The draft Structure Plans were also available to be viewed on the Shire of Wyndham East Kimberley website.

Notice was also provided to public authorities/service agencies; indigenous corporations; key industry and community groups; and affected land owners.

Submissions on the Structure Plans were requested to be lodged in writing on or before 3 August 2016.

STATUTORY IMPLICATIONS

Shire of Wyndham East Kimberley Town Planning Scheme No. 7 Kununurra and Environs

6.7 STRUCTURE PLAN PREPARATION AND ADOPTION

6.7.1 Overall Planning Areas

It is a requirement of this scheme that the subdivision and development of land within the Overall Planning Areas as shown on the Scheme Map takes place only after comprehensive planning in accordance with the objectives of each area.

6.7.2 The Council, before supporting or approving any proposal for subdivision or development or any land within the Overall Planning Area, shall require the

preparation of a Structure Plan for the whole of the area or for any particular part or parts as considered appropriate by the Council.

Planning and Development (Local Planning Schemes) Regulations 2015 pursuant to Schedule 2, Part 4, Clause 16 and Clause 18.

Part 4 — Structure plans

16. Preparation of structure plan

- (1) A structure plan must -
 - (a) be prepared in a manner and form approved by the Commission; and
 - (b) include any maps, information or other material required by the Commission; and
 - (c) unless the Commission otherwise agrees, set out the following information -
 - (i) the key attributes and constraints of the area covered by the plan including the natural environment, landform and the topography of the area;
 - (ii) the planning context for the area covered by the plan and the neighbourhood and region within which the area is located;
 - (iii) any major land uses, zoning or reserves proposed by the plan;
 - (iv) estimates of the future number of lots in the area covered by the plan and the extent to which the plan provides for dwellings, retail floor space or other land uses;
 - (v) the population impacts that are expected to result from the implementation of the plan;
 - (vi) the extent to which the plan provides for the coordination of key transport and other infrastructure;
 - (vii) the proposed staging of the subdivision or development covered by the plan.
- (2) The local government may prepare a structure plan in the circumstances set out in clause 15.
- (3) A person may make an application to the local government for a structure plan prepared by the person in the circumstances set out in clause 15 to be assessed and advertised if the person is-
 - (a) a person who is the owner of any or all of the land in the area to which the plan relates; or
 - (b) an agent of a person referred to in paragraph (a).

18. Advertising structure plan

- (1) The local government must, within 28 days of preparing a structure plan or accepting an application for a structure plan to be assessed and advertised -
 - (a) advertise the proposed structure plan in accordance with subclause (2); and
 - (b) seek comments in relation to the proposed structure plan from any public authority or utility service provider that the local government considers appropriate; and
 - (c) provide to the Commission -
 - (i) a copy of the proposed structure plan and all accompanying material; and
 - (ii) details of the advertising and consultation arrangements for the plan.

- (2) The local government must advertise the structure plan in one or more of the following ways -
- (a) by giving notice of the proposed structure plan to owners and occupiers who, in the opinion of the local government, are likely to be affected by the approval of the structure plan, including a statement that submissions may be made to the local government by a specified day being a day not less than 14 days and not more than 28 days, or a later day approved by the Commission, from the day on which the notice is given to the person;
 - (b) by publishing a notice of the proposed structure plan in a newspaper circulating in the Scheme area including a statement that submissions may be made to the local government by a specified day being a day not less than 14 days and not more than 28 days, or a later day approved by the Commission, from the day on which the notice is published;
 - (c) by publishing a notice of the proposed structure plan on the local government website including a statement that submissions may be made to the local government by a specified day being a day not less than 14 days and not more than 28 days, or a later day approved by the Commission, from the day on which the notice is published;
 - (d) by erecting a sign or signs in a conspicuous place on the land the subject of the proposed structure plan giving notice of the proposed plan for a period of not less than 14 days and not more than 28 days from the day on which the sign is erected including on each sign a statement that submissions may be made to the local government by a specified day being a day not less than 14 days and not more than 28 days, or a later day approved by the Commission, from the day on which the sign is erected.
- (3) The local government -
- (a) must make a structure plan advertised under subclause (2) and the material accompanying it available for public inspection during business hours at the offices of the local government; and
 - (b) may publish the structure plan and the material accompanying it on the website of the local government.
- (4) If a local government fails to advertise a structure plan in accordance with this clause, the Commission may take reasonable steps to ensure that the plan is advertised.
- (5) All costs incurred by the Commission in the exercise of the power conferred by subclause (4) may, with the approval of the Minister, be recovered from the local government as a debt due to the Commission.

POLICY IMPLICATIONS

There are no direct Policy implications for the Shire.

FINANCIAL IMPLICATIONS

Expenditure to-date for this project has been \$78,814.00; it is estimated that an additional expenditure of \$5,000.00 will be required to finalise the works undertaken i.e. review of submissions. If Council resolves not to progress the finalisation of the draft Structure Plans until the completion of the Kununurra Regional Growth Plan further funding will not be required until 2017/18.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2012-2022

Goal 2: Greater returns from regional investment to ensure sustainable provision of appropriate physical and social infrastructure

Objective 2.2: Maintenance of economic diversity and greater community returns from investment in the region

Strategy 2.2.1 : Promote the expansion of residential and industrial land

RISK IMPLICATIONS

Risk: Failure to comply with legislative requirements

Control: Review of draft documents by state statutory authority to identify and address any non-compliance

COMMUNITY ENGAGEMENT

Engagement has taken place in accordance with the Shire's Community Engagement Guidelines and statutory requirements regarding the advertisement of structure plans as outlined in *Schedule 2, Part 4, Clause 18 of the Planning and Development (Local Planning Schemes) Regulations 2015*.

Public notice's of the availability of the Structure Plans for inspection at the Shire of Wyndham East Kimberley Administration Centre's at Kununurra and Wyndham; and the Kununurra School and Community Library were advertised in the Kimberley Echo on 7 July 2016, 17 July 2016, 21 July 2016 and 28 July 2016.

Notification letters regarding the availability of the Structure Plans for inspection and comment were sent to public authorities/state agencies; indigenous groups; key industry/community groups; and affected land owners.

Submissions on the Structure Plans were received up to 3 August 2016. Attachment 1 and Attachment 2 outline the content of the submissions received on the structure plans; a response has also been provided against the submitted comments.

COMMENTS

Kununurra Regional Growth Plan

The submissions on the structure plans received during the public notice period have identified that the following additional studies should be completed prior to the finalisation of the plans:-

1. A Local Water Management Strategy
2. Mapping of Bushfire Attack Level and referral to Department of Fire and Emergency Services for comment.

The Western Australian Planning Commission advised the Shire on 21 July 2016 (refer Attachment 3) that the “preparation of the Civic Centre Structure Plan should proceed concurrently with, or subsequent to, the Kununurra Regional Growth Plan.” The Kununurra Civic Centre Structure Plan has identified future land uses in the sub-precinct where the existing Kununurra Aquatic and Leisure Facility and Town Oval are located. These uses have been incorporated in the East Lily Creek Structure Plan. Therefore it is not possible to progress these structure plans in isolation of each other. It is therefore recommended that the identified additional studies not be undertaken at this stage, but are further considered following the finalisation of the Kununurra Regional Growth Plan. It should be noted that LandCorp also considered in their submission on the structure plans that they should “be considered more broadly in the context of the proposed Growth Plan as part of the Regional Centres Development Plan”. It is the Shire’s understanding that the preparation of the Kununurra Regional Growth Plan should be commenced in April 2017.

Location of New Kununurra Aquatic and Leisure Facility

Submissions received from the Shire of Wyndham East Kimberley Ratepayers Association, LandCorp and discussions with the Department of Sport and Recreation have raised concerns around the proposed removal of the existing Kununurra Aquatic and Leisure Facility from the Town Centre and its relocation to East Lily Creek.

A Preliminary Business Case for a new aquatic and leisure facility for the Kununurra community and surrounding areas was prepared in May 2015. At the 28 July 2015 Ordinary Council Meeting, Council resolved as follows:-

“ That Council receive and endorse the Aquatic and Leisure Facility Development Preliminary Business Case.”

The preparation of the Preliminary Business Case was undertaken in conjunction with the development of the draft Kununurra Civic Precinct and East Lily Creek Structure Plans. As outlined above, the existing aquatic and leisure facility is located within the draft Kununurra Civic Precinct Structure Plan area, whilst the draft East Lily Creek Structure Plan area has the potential to accommodate a new and expanded aquatic and leisure facility.

The Shire has been planning to replace the existing aquatic and leisure facilities for a number of years. The existing facilities have either reached or are reaching the end of their

useful life, having being built in 1984. In particular there have been ongoing issues with the 25 metre pool relating to the high water table and the pool ground level being below that of the surrounding areas.

The Preliminary Business Case considered a range of locations for the replacement of the aquatic and leisure facility within the town of Kununurra, as well as the social and economic impacts of the options. The identified preferred option is to develop a new aquatic and leisure facility within the draft East Lily Creek Structure Plan to replace the aging and constrained facilities in the Town Centre.

To progress the development of a new Aquatic and Leisure Facility \$270,000 was included in the adopted 2016/17 Budget to prepare a Project Definition Plan (geotechnical and site assessment; Master Plan; risk assessment; cost estimates). The total cost to undertake the required Project Definition work was estimated at \$470,000, it was the intent that Shire funds would be leveraged to obtain contributing grant funding.

In 2016 the Shire received a grant of \$25,000 from the Department of Sport and Recreation as a contribution towards the additional Project Definition (Master Plan) works required to plan for a new aquatic and leisure facility at East Lily Creek. A condition of this grant funding was that it be expended by 30 June 2017. To date the Shire has not been successful in securing additional grant funding.

After consideration of the submissions received during the public notice period for the structure plans, and further discussions with the Department of Sport and Recreation the Department has agreed that the grant funding of \$25,000 may be utilised to undertake a concept design and cost estimate to assess whether the existing site of the Kununurra Aquatic and Leisure Facility would allow for the construction of a new facility to address future needs within current site limitations. It is considered that this assessment will assist the Shire and the community when considering the further progression / modification of the developed structure plans.

The concept design will be required to incorporate the following facilities:-

Dry side - Leisure Centre

1. A redesign of the current building to include the following:-
 - 2 x indoor multipurpose courts, one with a stage for performing arts and community events. Courts should be designed to maximise the use of floor space and include removable/movable seating options.
 - Gym approximately 400sqm (current size 287 sqm)
 - Dedicated group fitness room
 - Increased storage options for community groups and Shire equipment
 - 4 x Office space
 - New entry point and reception area
 - Kiosk/Commercial kitchen
 - 3 x squash courts and foyer
 - Improved parking area for members and guests
 - Change rooms to service pool side

- Change rooms to service dry side activities
- Dedicated First Aid Room complying with Health Regulation requirements

Note - Disability access must be considered for all entry/exit points as well as change room facilities.

Wet side

- 8 lane, 25m lap pool with accessible ramp and retractable shade structure
- Leisure and splash pool with beach entry, water features and mega soaker dumping bucket
- Program pool - learn to swim with shade structure
- Plant room and equipment upgrade, including solar heating options for all pools.

ATTACHMENTS

Attachment 1 - Submissions on Kununurra Civic Centre Structure Plan

Attachment 2 - Submissions on East Lily Creek Structure Plan

Attachment 3 - Letter from Western Australian Planning Commission - 21 July 2016

12.3.8. Unnamed Creek Crossing, Victoria Highway

DATE:	28 March 2017
AUTHOR:	Senior Planning Officer
RESPONSIBLE OFFICER:	Louise Gee, Director Community Development
FILE NO:	LP.03.2
DISCLOSURE OF INTERESTS:	Nil

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council resolve to undertake community consultation in relation to the proposal for naming an unnamed creek crossing on the Victoria Highway, previously signposted as "Philchowski's Crossing"

COUNCIL DECISION

Minute No: 28/03/2017 - 11642

Commissioner resolved:

That Council resolve to undertake community consultation in relation to the proposal for naming an unnamed creek crossing on the Victoria Highway, previously signposted as "Philchowski's Crossing" to Gulberang Creek.

Carried 1/0

REASON FOR VARYING OFFICER'S RECOMMENDATION

To ensure clarity in relation to the proposed new name.

PURPOSE

For Council to consider the alternative name nominated by the MG Corporation Prescribed Body Corporate in response to the proposal to formally name an unnamed creek crossing to "Philchowski Crossing".

NATURE OF COUNCIL'S ROLE IN THE MATTER

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

Facilitator - bring stakeholders together

Regulator - enforce state legislation and local laws

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

At the Ordinary Council Meeting of 24 March 2015, Council initiated the process to formally name an unnamed creek crossing, located approximately 25km east on the Victoria Highway in-between Kununurra and the Northern Territory border, to "Philchowski Crossing", and resolved as follows:

Minute No. 10843A

Moved: Cr K Wright

Seconded: Cr D Spackman

That Council:

- 1. Directs the Acting Chief Executive Officer to write to the MG Corporation to seek advice from the relevant Traditional Owners on the proposed formal naming of 'Philchowski Crossing', and potential indigenous naming of the creek.**
- 2. Directs the Acting Chief Executive Officer to undertake research and compile supporting documentation to demonstrate Philchowski's contribution to the community or historical significance.**
- 3. Endorses the proposed formal naming of 'Philchowski Crossing', and advises the Geographic Names Committee of its endorsement, subject to adequate supporting documentation being compiled and no objection being received from Traditional Owners.**

Carried Unanimously 8/0

A copy of the previous Ordinary Council Meeting item and decision are provided as Attachment 1.

Accordingly, correspondence was sent to the MG Corporation to seek advice from the relevant Traditional Owners, and a response has recently been received, advising that the MG Prescribed Body Corporate (PBC) do not endorse the formalisation of the name "Philchowski Crossing", and propose the alternative name of "Gulbooding's Crossing".

The objection by the PBC, is on the basis that Philchowski was killed at this location (by Gulbooding) following the former's abuse of Aboriginal people in the area. A copy of the correspondence from the MG Corporation is provided at Attachment 2. However, this advice also states, in the second and last paragraphs, that it was agreed that the crossing should

be called 'Galbeeram Crossing'. Within the meeting minutes excerpt it was also recorded that "Gulberang" is the Miriwoong word for the area.

Officers wrote to the MG Corporation to seek further advice as to whether they would instead support the Miriwoong name for the site (Galbeeram or Gulberang), rather than a commemorative name, particularly as the name they have provided as Philchowski's killer (Gulbooding) differs from that indicated by Tom Stephen's initial request (Woolambine) which appears to only differ in spelling from that indicated in the article by Bruce Shaw (Wallambain).

In October 2016 the MG Corporation advised that the matter had again been considered at the PBC meeting held on 22 September 2016 at which the MG PBC Directors and Garrayel agreed that the unnamed crossing should be named after its location, rather than an individual. As such, the PBC Directors passed a resolution endorsing the naming of the crossing as "Gulberang Crossing".

Following the original request from the Honorable Tom Stephens, he provided a copy of an article, which was to be published in the Boab Bulletin in April 2015, which includes further information provided by historian Cathie Clement. This article is provided at Attachment 3.

Officers have investigated the matter further and sourced a number of articles from the State Library which includes an article titled '*The Tale of Wallambain and Philchowski*' by Bruce Shaw which is summarised to be a '*discussion of Aboriginal oral traditions versus European written versions of the murder of Philchowski*'. A copy of this article, which aligns with the theory that Philchowski was killed by Wallambain (Woolabine), is provided at Attachment 4.

A copy of entry on Philchowski in a book titled 'More Lonely Graves of Western Australia' is also provided at Attachment 5.

Shire Officers' have also previously approached the Kununurra Historical Society Inc. (KHS) to see if they could provide any further historical information regarding the people and the site. The KHS has advised that if the Shire has any budget to do so, they would be prepared to gather all known sources to compile a thorough profile on RA Pilchowski (understood to be Philchowski's real name) and this part of our history. The President of the KHS has personally sourced a considerable amount of material which he believes has great relevance, and from which a '*fairly thorough story could be told as it has been covered from various angles*', which includes material which has not been used in previous histories.

The KHS have since provided an estimate to undertake this work, being \$30/hr, and estimate that the research would involve about 20 hours. The President of the KHS has also commented that from records, Wollambine is definitely the person responsible for the spearing of Pilchowski, and that they have spoken to a number of Local Aboriginal leaders, who agree with this.

STATUTORY IMPLICATIONS

New geographic names require endorsement by the local authority followed by the State Geographic Names Committee (GNC), which is governed by Section 26A of the *Land Administration Act 1997*.

Any person, community group, organisation, government department or local authority can request a new name or an amendment to an existing name, however consultation is required with the relevant local authority.

The GNC has produced a document titled *Policies and Standards for Geographical Naming in WA* which provides a guide for nomenclature of topographic features. Generally, the document recommends that names should be sourced from Indigenous languages identified with the general area; descriptive names appropriate to features; names of pioneers who were relevant to the area; names of people who died during war service; and names associated with historical events connected with the area.

The GNC recognises the significance of the indigenous name and encourages the continued recognition of Indigenous heritage in the community, and is acknowledged by a preference being given to Indigenous names where possible.

The GNC Policies and Standards outline that dual naming shall be considered when a feature already has a name of non-Indigenous origin which is widely accepted within the community. They may occur where a topographical feature has been given an official name which includes both the Indigenous name and the introduced English name.

Dual naming is not considered preferable to one name, and in each case the proposal should be investigated to establish if the Indigenous name would have enough community support to replace the existing name. A dual name must be Indigenous to the local area, and will only be assigned where there is definite evidence, preferably historic, in the form of written or oral tradition that the feature has two names.

The GNC Policies and Standards strongly advise that comment be sought from appropriate local residents and community groups which can be used as supporting information for the local government's consideration. The document also outlines that there must be a genuine effort to encourage public involvement in the decision-making process, and that information must be disseminated to a broad range of stakeholders and interested parties via a variety of methods.

The Policy and Standards outline that any names for topographical features should be researched thoroughly and then referred to relevant community groups and/or local authorities for consultation, which should include, but not be restricted to the following:

- Department of Parks and Wildlife
- Department of Aboriginal Affairs
- Royal Historical Society of WA
- Progress Associations
- Ratepayer Associations

The Policies and Standards document also outlines that proposals to assign a name to commemorate an individual shall only be considered if:

- Such application is in the public interest;
- There is evidence of broad community support for the proposal;
- The person has been deceased for at least two (2) years;
- Where the applicant requesting the new name is not an immediate relative, written permission of the family is obtained;
- The person being honoured by the naming has had either some direct and long-term association twenty (20) or more years, with the feature or has made a significant contribution to the area in which it is located.
- The proposal commemorating an individual with an outstanding national or international reputation has had a direct association with the area in which it is located. If the person has not been directly associated with the area the name shall not be considered.

The GNC recognises the significance of historic commemorative naming and encourages the continued recognition of outstanding achievements and events within the community. The following policies apply to all commemorative naming proposals:

- All commemorative name proposals shall meet the same criteria required of any other name proposal;
- A proposed commemorative name must be supported by the wider community and reach beyond a single local government, person or special interest group;
- A commemorative name shall not be used to commemorate victims of, or mark the location of, accidents or tragedies;
- Prior or current ownership of land does not confer the right or entitlement to apply a commemorative name;
- The use of unofficial commemorative names used in publications, or in landscape dedications or markers, is no assurance that they will be adopted into official names records; and

A commemorative name shall not be considered for adoption if a well-established and acceptable name already exists for the feature.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

There are likely to be minor costs associated with advertising, with the main cost likely to be between \$200 - \$300 for the placement of an advert in the Kimberley Echo.

The Kununurra Historical Society Inc. has advised that they have additional materials in relation to RA Pilchowski which could be compiled to create a thorough story if the Shire has

a budget available. They have provided an hourly rate of \$30/hr and estimate 20 hours of work left to do, so estimate \$600 to undertake further research.

There also may be larger cost implications should a heritage consultant be required to be engaged, or further investigation is required.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2012-2022

Goal 1: Strong leadership and governance that underpins a more strategic approach to community engagement, regional development and organisational sustainability.

Goal 3: Protection and enhancement of lifestyle values, community facilities and the environment to provide safe and inviting communities.

Objective 1.1: Strong community engagement

Objective 1.4: Business innovation, efficiency and improved services

Objective 3.4: Enhancement of community facilities

Strategy 1.1.1: Investigate and implement options to encourage and integrate community input in Council planning, policies and decisions making.

Strategy 1.4.1 : Ensure legislative compliance and follow best practice principles in planning and service delivery

Strategy 3.4.2 : Consider cultural values in all planning and design phases

RISK IMPLICATIONS

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

COMMUNITY ENGAGEMENT

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

Consultation with the relevant traditional owners and the Kununurra Historical Society and other people and organisations that can assist with garnering required historical information.

Additional engagement will take place in accordance with the Shire's Community Engagement Guidelines and will include:

A newspaper advertisement in the Kimberley Echo and notice via the Shire's Facebook page with information and submission forms available at:

- The Shire's Offices in Kununurra and Wyndham,
- The Shire's website,
- The Kununurra Community and School Library and

- Notification letters being sent to any relevant individuals, community groups or agencies that may have an interest in this proposition.

giving a period of 45 days for the community to comment.

Referral to the Stakeholder Advisory Group for comment.

COMMENTS

It is noted that the naming of the site as 'Philchowskis Crossing' is commonly known within the community, and has been referred to as such for a significant number of years, however there is a local indigenous name associated with the area.

It is also acknowledged that across the Kimberley indigenous knowledge and indigenous place names have been lost since colonisation, and that establishing original place names in common use, helps preserve some of this knowledge base, and also pays respect to indigenous culture.

In discussions with Shire Officers' the Geographic Names Committee (GNC) has advised that dual naming is generally not supported, however have advised that if an indigenous name is proposed it should be for the topographical feature itself, i.e. the creek, rather than the crossing.

The GNC had previously advised that as the crossing has been known locally for a significant number of years (understood to be at least 40 years) as Philchowski's Crossing, that a resolution of Council will be required along with adequate supporting documentation to outline Philchowski's contribution' to the community or historical significance, however that evidence of community support for the proposal is not required.

As the MG Corporation has advised that the PBC Directors and Garralyel do not support the proposed naming of 'Philchowski Crossing' and have suggested an alternative name, any renaming application must include evidence of community consultation (copies of responses and the information disseminated into the Community) in support for the change.

Accordingly, it is recommended that the alternative name as nominated by the MG Corporation be advertised in accordance with the *Policies and Standards for Geographical Naming in WA*.

Prior to commencing community consultation, Shire Officers' will obtain supporting information from the MG Corporation, in relation to the area known as "Gulberang".

ATTACHMENTS

Attachment 1 - Item 13.4.5 - OCM 24 March 2015

Attachment 2 - Correspondence from the MG Corporation

Attachment 3 - Copy of article

Attachment 4 - 'The Tale of Wallambain and Philchowski', *Aboriginal History*

Attachment 5 - Extract from 'More Lonely Graves of Western Australia'

12.4. CORPORATE SERVICES

12.4.1. 2016/17 Mid Year Budget Review Report

DATE:	28 March 2017
AUTHOR:	Coordinator Financial Management
RESPONSIBLE OFFICER:	Vernon Lawrence, Director Corporate Services
FILE NO:	FM.05.13
DISCLOSURE OF INTERESTS:	Nil

VOTING REQUIREMENT

Absolute Majority

OFFICER'S RECOMMENDATION

That Council:

- 1. Receives the Mid-Year Budget Review Report for the period ended 31 January 2017;**
- 2. Adopts the 2016/17 revised budget position and associated budget amendments;**
- 3. Approves the transfer of any surplus to the Asset Management Reserve to ensure that informed decisions can be made throughout the 2017/18 budget process and funds then applied accordingly. The reserve transfer is to be conducted at year end if a Closing Funding Surplus is achieved.**

COUNCIL DECISION

Minute No: 28/03/2017 - 11643

Commissioner resolved:

That Council:

- 1. Receives the Mid-Year Budget Review Report for the period ended 31 January 2017;**
- 2. Adopts the 2016/17 revised budget position and associated budget amendments;**
- 3. Approves the transfer of any surplus to the Asset Management Reserve to ensure that informed decisions can be made throughout the 2017/18 budget process and funds then applied accordingly. The reserve transfer is to be conducted at year end if a Closing Funding Surplus is achieved.**

Carried 1/0

PURPOSE

To consider and adopt the proposed amendments to the 2016/17 Budget as a result of the Mid-Year Budget Review process.

NATURE OF COUNCIL'S ROLE IN THE MATTER

Regulator - enforce state legislation and local laws

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

The Department of Local Government and Communities has issued Circular No. 06/2006 to provide local governments with information about the budget review process. The following paragraphs are key points from the circular:

A budget review is a detailed comparison of the year to date actual results with the adopted budget. It establishes whether a local government continues meeting its budget commitments: is in receipt of income and incurs expenditure in accordance with the adopted budget.

Regulation 34 of the Financial Management (Local Government) Regulation 1996 requires as follows:

(1) Between 1 January and 31 March in each financial year a local government is to carry out a review of its annual budget for that year.

(2A) The review of an annual budget for a financial year must —

(a) consider the local government's financial performance in the period beginning on 1 July and ending no earlier than 31 December in that financial year; and

(b) consider the local government's financial position as at the date of the review; and

(c) review the outcomes for the end of that financial year that are forecast in the budget.

(2) Within 30 days after a review of the annual budget of a local government is carried out it is to be submitted to the council.

(3) A council is to consider a review submitted to it and is to determine whether or not to adopt the review, any parts of the review or any recommendations made in the review.*

**Absolute majority required.*

(4) Within 30 days after a council has made a determination, a copy of the review and determination is to be provided to the Department.

Officers have completed a review of the Shire's 2016/17 budget. This review is now presented to Council and the outcome of that review is to be adopted by Council. As part of the process Officers have examined the operations of the Shire for the 2016-17 financial year to date identifying the reasons for significant variances and the action required to address them.

The attached review compares the year to date YTD Budget with YTD Actual and commentary is provided where the material variance exceeds the +/-10% and \$20k threshold limits as outlined the adopted budget. Officers have ensured that Council resolutions presented during the 2016-17 financial year have been incorporated in this Mid-Year Budget Review. Changes to the Adopted Budget are proposed by Officers where they believe that circumstances have occurred that impact permanently on the budget position for the financial year under review.

STATUTORY IMPLICATIONS

6.8. Expenditure from municipal fund not included in annual budget

- 1) *A local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure —*
 - a) *is incurred in a financial year before the adoption of the annual budget by the local government; or*
 - b) *is authorised in advance by resolution*;*
 - c) *is authorised in advance by the mayor or president in an emergency.*

** Absolute majority required.*

*(1a) In subsection (1) — **additional purpose** means a purpose for which no expenditure estimate is included in the local government's annual budget.*

- 2) *Where expenditure has been incurred by a local government —*
 - a) *pursuant to subsection (1)(a), it is to be included in the annual budget for that financial year; an*
 - b) *pursuant to subsection (1)(c), it is to be reported to the next ordinary meeting of the council*
 - c) *[Section 6.8 amended by No. 1 of 1998 s. 19.]*

Local Government (Financial Management) Regulations 1996 32. Amounts which may be excluded when calculating budget deficiency (Act s. 6.2(3))

A local government may exclude from the calculation of the budget deficiency —

- a) *money borrowed or to be borrowed, to the extent that it is proposed in the annual budget to remain unspent at the end of the financial year; and*
- b) *reserves, to the extent that they are proposed in the annual budget to remain unspent at the end of the financial year; and*
- c) *in relation to a land transaction or trading undertaking, assets and liabilities, to the extent to which they are proposed in the annual budget to remain restricted to the purposes of the land transaction or trading undertaking at the end of the financial year; and*
- d) *any proposed amounts of depreciation of non-current assets; and*
- e) *assets from grants or gifts or non-cash revenue or expenditure; and*
- f) *current liabilities which, by their nature, are restricted, to the extent that they are proposed in the annual budget to remain uncleared at the end of the financial year; and*
- g) *any other current assets which, by their nature, are restricted, to the extent that they are proposed in the annual budget to remain unused at the end of the financial year.*

33A. Review of Budget - Local Government (Financial Management) Regulations 1996

(1) Between 1 January and 31 March in each financial year a local government is to carry out a review of its annual budget for that year.

(2A) The review of an annual budget for a financial year must —

(a) consider the local government's financial performance in the period beginning on 1 July and ending no earlier than 31 December in that financial year; and

(b) consider the local government's financial position as at the date of the review; and

(c) review the outcomes for the end of that financial year that are forecast in the budget.

(2) Within 30 days after a review of the annual budget of a local government is carried out it is to be submitted to the council.

(3) A council is to consider a review submitted to it and is to determine whether or not to adopt the review, any parts of the review or any recommendations made in the review.*

**Absolute majority required.*

(4) Within 30 days after a council has made a determination, a copy of the review and determination is to be provided to the Department.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

After taking into account all adjustments considered to be permanent changes to the budget position for the 2016/17 financial year detailed in the mid-year Budget Review Report, together with any matters arising from finalisation of the 2015/16 financial year, the overall position of the Shire is forecast to be an increase of \$161,944 at year end in the Closing Funding Surplus.

The Officer recommends that any surplus identified as part of this process remaining at the end of the financial year, is transferred to the Asset Management Reserve in the first instance as the savings have predominantly attributed from projects relating to recreation and leisure assets. The identification of this surplus will ensure that informed decisions can be made throughout the 2017/18 budget process and funds can then be applied accordingly.

Another financial implication is that the Adopted Budget position of \$1,891,300 to be transferred from Reserves is estimated to be reduced by \$1,491,568.

Officers have ensured that Council resolutions presented during the financial year have been considered in the mid-year Budget Review Report. A summary of the financial implications is tabled below;

	YTD Budget	YTD Actual	Variance Permanent - Impact to municipal funds	Variance Permanent - No impact to municipal funds
Net current assets at start of financial year surplus/(deficit)	2,939,845	1,900,334	60,489	(1,100,000)
Revenue from operating activities	8,001,151	8,080,735	(242,576)	169,990
Expenditure from operating activities	(16,860,216)	(14,469,443)	538,098	1,452,169
Operating activities excluded from budget	4,221,565	4,312,383	0	0
Capital Expenditure	(3,091,824)	(2,748,099)	(194,067)	1,201,203
Non-operating grants, subsidies and contributions	1,526,858	1,244,542	0	(231,794)
Other Investment activities	144,000	144,000	0	0
Financing activities	(562,089)	(561,025)	0	0
Reserve transfers - (to / from)	(50,740)	(100,180)	0	(1,491,568)
Estimated amount to be raised from general rates	10,151,361	10,219,505	0	0
Closing Funding Surplus(Deficit)	6,419,912	8,022,752	161,944	0

The adjusted budget change

STRATEGIC IMPLICATIONS

Strategic Community Plan 2012-2022

Goal 1: Strong leadership and governance that underpins a more strategic approach to community engagement, regional development and organisational sustainability

Objective 1.4: Business innovation, efficiency and improved services

Strategy 1.4.1 : Ensure legislative compliance and follow best practice principles in planning and service delivery

RISK IMPLICATIONS

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

Control: Annual financial audit.

Risk: Inability to deliver levels of service expected by the community.

Control: Current budget and service levels.

COMMUNITY ENGAGEMENT

No community engagement is required.

COMMENTS

The 2016/17 Annual Budget was presented at the Special Council Meeting held on the 15 September 2016 and a balanced Closing Funding Surplus was adopted. At 31 January 2017 the Shire's overall Closing Funding Surplus is forecasted to be \$161,944 by financial year end. The Adopted Budget anticipated a net transfer from Reserves of \$1,891,300. This review estimates that this amount will be reduced by \$1,491,568 resulting in a greatly reduced transfer from Reserves by the financial year end. This is mainly due to timing issues related to capital works projects.

An analysis of the Statements of Financial Activity for the period ended 31 January 2017 identifies the Operating Revenue Year to Date (YTD) Actual at \$8,080,735 which is \$79,584 higher than the YTD Budget. This additional income primarily relates to the Recreation and Culture, Economic Services, Governance and Transport Programs. This more than offset the reduction in income in the Community Amenities and Housing and Law Programs.

Operating Expenditure for the same period is \$14,469,443 which is \$2,390,773 lower than the YTD Budget. This decrease is primarily due to the timing of projects in the Transport Services Program (\$1,827,883). The major portion of the variance in the Transport program relates to an audit adjustment that occurred after balance sheet date and after the budget was adopted but prior to the financial statements being signed. The audit adjustment of \$1,100,000 required expenditure budgeted for in the 2016/17 financial year to be recognised in the 2015/16 financial year as a known liability.

Other significant areas of reduced Operational Expenditure were in Governance (\$318,019), Community Amenities (\$340,035) and Economic Services (\$47,192). Individual items of note in these areas are the reduction in Councillor Fees, Allowances and Mediation Expenses. Other significant savings relate to design and feasibility study of a new recreation facility, maintenance for D2 Drain and staffing vacancies.

Capital Revenue YTD Actual is \$1,244,542 which is \$282,316 below the YTD Budget. This variance relates to the timing of grant funding income from Recreation Boating Facilities Scheme, Royalties for Regions and Department of Sport and Recreation.

Capital Expenditure YTD Actual is \$2,748,099 which is \$343,725 below the YTD Budget. This variance relates to the timing of a number of projects outlined in Attachment 1, Note 2 - Explanation of Material Variances at 2.4.

Funding required from Reserves per the adopted budget is \$1,891,300. The requested budget amendment is a reduction on the required reserves by \$1,491,568. This variance relates to the timing of capital expenditure projects that trigger unspent loan borrowings and reserve transfers. Until this expenditure is incurred the revenue will not be received.

Overall the Shire's Closing Funding Surplus (being the net Operations, Capital, and Financing position) is YTD Actual \$8,022,752 which is \$1,602,840 higher than YTD Budget. The significant factors in the increased YTD net position of relate primarily to the timing of both Operating Expenditure (excluding non cash items) and Capital expenditure. It is anticipated that the gap between the YTD Budget and the YTD Actual positions will narrow by the end of the financial year.

The Budget Review Report in the Attachment details the financial information provided in the commentary above.

ATTACHMENTS

Attachment 1 - 2016/17 Budget Review Report

12.4.2. List Of Accounts Paid From Municipal Fund and Trust Fund

DATE:	28 March 2017
AUTHOR:	Creditors Officer
RESPONSIBLE OFFICER:	Vernon Lawrence, Director Corporate Services
FILE NO:	FM.09.5
DISCLOSURE OF INTERESTS:	Nil

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council receives the listing of accounts paid from the Municipal and Trust funds, being:		
Municipal EFT 128366 – 128554 (02 Feb - 21 Feb 17)	\$	557,208.80
Municipal cheques 51497 - 51520 (02 Feb - 21 Feb 17)	\$	106,003.99
Trust cheques 1002 - 1012 (17 Feb - 28 Feb 17)	\$	2,706.35
Trust EFT 501332 - 501347 (02 Feb – 28 Feb 17)	\$	12,664.95
Payroll (01 Feb - 20 Feb 17)	\$	437,061.10
Direct bank debits (01Feb - 21 Feb 17)	\$	14,557.08
TOTAL	\$	1,130,202.27

COUNCIL DECISION

Minute No: 28/03/2017 - 11644

Commissioner resolved:

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

Municipal EFT 128366 – 128554 (02 Feb - 21 Feb 17)	\$	557,208.80
Municipal cheques 51497 - 51520 (02 Feb - 21 Feb 17)	\$	106,003.99
Trust cheques 1002 - 1012 (17 Feb - 28 Feb 17)	\$	2,706.35
Trust EFT 501332 - 501347 (02 Feb – 28 Feb 17)	\$	12,664.95
Payroll (01 Feb - 20 Feb 17)	\$	437,061.10
Direct bank debits (01Feb - 21 Feb 17)	\$	14,557.08
TOTAL	\$	1,130,202.27
		Carried 1/0

PURPOSE

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

NATURE OF COUNCIL'S ROLE IN THE MATTER

Regulator - enforce state legislation and local laws.

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

In accordance with Council's Delegations Register 2016/17 which was adopted by the Council on the 30 August 2016, the Council has delegated to the CEO the exercise of its power under regulations 12 and 13 of the *Local Government (Financial Management) Regulations 1996* to make payments from Municipal Fund and Trust Fund.

STATUTORY IMPLICATIONS

Local Government Act 1995 – section 5.42

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

POLICY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

Ongoing management of the Shire's funds by providing the Council with sufficient information to monitor and review payments made.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2012-2022.

Goal 1: Strong leadership and governance that underpins a more strategic approach to community engagement, regional development and organisational sustainability.

Objective 1.4: Business innovation, efficiency and improved services.

Strategy 1.4.1 : Ensure legislative compliance and follow best practice principles in planning and service delivery.

Strategy 1.4.3 : Maintain Council's long term financial viability.

RISK IMPLICATIONS

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

Controls: Annual Financial Audit.

Annual Compliance Return to Department of Local Government.

COMMUNITY ENGAGEMENT

No community engagement is required.

COMMENTS

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

ATTACHMENTS - Item 12.4.2

Attachment 1 - List Of Accounts Paid February 2017

12.4.3. Monthly Statement of Financial Activity for the Period Ended 28 February 2017

DATE:	28 March 2017
AUTHOR:	Asset Management Accountant
RESPONSIBLE OFFICER:	Vernon Lawrence, Director Corporate Services
FILE NO:	FM.09.5
DISCLOSURE OF INTERESTS:	Nil

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council receives the monthly financial report as at 28 February 2017.

COUNCIL DECISION

Minute No: 28/03/2017 - 11645

Commissioner resolved:

That Council receives the monthly financial report as at 28 February 2017.

Carried 1/0

PURPOSE

For Council to receive the monthly financial report for the period ended 28 February 2017.

NATURE OF COUNCIL'S ROLE IN THE MATTER

Regulator - enforce state legislation and local laws

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

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

At the 15 September 2016 Ordinary Council Meeting, the Council resolved the following:

COUNCIL DECISION

Minute No: 11491

Moved: Cr B Robinson

Seconded: Cr N Perry

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

Carried 9/0

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

STATUTORY IMPLICATIONS

Local Government Act 1995, Section 6.4.

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

POLICY IMPLICATIONS

No policy implications apply in the preparation of the report.

FINANCIAL IMPLICATIONS

Monthly financial reporting is a primary financial management and control process; it provides the Council with the ability to oversee the Shire's financial performance against budgeted target.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2012-2022

Goal 1: Strong leadership and governance that underpins a more strategic approach to community engagement, regional development and organisational sustainability

Objective 1.4: Business innovation, efficiency and improved services

Strategy 1.4.1 : Ensure legislative compliance and follow best practice principles in planning and service delivery

RISK IMPLICATIONS

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

COMMUNITY ENGAGEMENT

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

No community engagement is required.

COMMENTS

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

ATTACHMENTS

Attachment 1 - Monthly Financial Report as at 28 February 2017.

12.5. INFRASTRUCTURE

12.5.1. Proposed Great Northern Highway Widening at Maggies Jump-up

DATE:	28 March 2017
AUTHOR:	Director Infrastructure
RESPONSIBLE OFFICER:	David Klye, Director Infrastructure
FILE NO:	RD.07.23
DISCLOSURE OF INTERESTS:	Nil

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council advise Main Roads Western Australia that the Shire has no objection to the proposed widening of the Great Northern Highway, Reserve 42155 at Maggies Jump to facilitate the proposed road improvement works.

COUNCIL DECISION

Minute No: 28/03/2017 - 11646

Commissioner resolved:

That Council advise Main Roads Western Australia that the Shire has no objection to the proposed widening of the Great Northern Highway, Reserve 42155 at Maggies Jump to facilitate the proposed road improvement works.

Carried 1/0

PURPOSE

To seek formal Council support for proposed widening of the Great Northern Highway in to Reserve 42155 at Maggies Jump to be undertaken by Main Roads Western Australia.

NATURE OF COUNCIL'S ROLE IN THE MATTER

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

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

Nil

STATUTORY IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Strategic Community Plan 2012-2022

Goal 3: Protection and enhancement of lifestyle values, community facilities and the environment to provide safe and inviting communities.

Objective 1.2: Alignment of regional and local priorities with other agencies and community groups

Objective 3.3: Towns are safe and inviting for locals and tourists

Strategy 1.3.1 : Actively provide input to decision making at the Regional, State and Federal levels on behalf of the community

Strategy 2.3.1 : Manage and maintain assets in a strategic and cost effective manner

RISK IMPLICATIONS

Nil

COMMUNITY ENGAGEMENT

No community engagement is required.

COMMENTS

Main Roads Western Australia are progressing a project to upgrade the last section of the Great Northern Highway known as the Wyndham spur. The works include alignment improvement works at Maggie's Jump up. As part of this work and prior to dedicating the widenings as a road, the Department of Lands will require Main Roads Western Australia to provide evidence that consultation has taken place with the Local Government.

The land that will be affected by the proposed road widenings is Reserve 42155 and UCL. Reserve 42155 is set aside for the purpose of 'Conservation of Flora and Fauna', with a management order granted in favour of the National Parks and Nature Conservation Authority (DPaW).

The Shire administration is not aware of any reason why the proposed road widening should proceed.

The attached Main Roads Drawing Number 1660-107 depicts the land requirements for the proposed road widenings along the Great Northern Highway at Maggies Jump.

ATTACHMENTS

Attachment 1 - Drawing Number D1660-107

12.5.2. Provision of improved power supply and revised scheduling of air conditioning upgrade to East Kimberley Regional Airport Terminal

DATE:	28 March 2017
AUTHOR:	Manager East Kimberley Regional Airport
RESPONSIBLE OFFICER:	David Klye, Director Infrastructure
FILE NO:	TT.04.12
DISCLOSURE OF INTERESTS:	Nil

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council;

- 1. Defer the project Air Conditioning Plant Replacement - East Kimberley Regional Airport and reconsider the project in the 207/18 budget deliberations.**
- 2. Approves the development of a project to provide for an upgraded power supply to the East Kimberley Regional Airport terminal building.**
- 3. Approves the reallocation of \$130,000 from GL 04120743 in the 2016-17 Shire budget for the replacement of Terminal Air-conditioning, to provide for East Kimberley Regional Airport Terminal Power Supply Upgrade.**
- 4. Approves the return of funds not expended on the air conditioning upgrade and the power supply upgrade, from GL 04120743 to the Airport Reserve.**

COUNCIL DECISION

Minute No: 28/03/2017 - 11647

Commissioner resolved:

That Council;

- 1. Defer the project Air Conditioning Plant Replacement - East Kimberley Regional Airport and reconsider the project in the 2017/18 budget deliberations.**
- 2. Approves the development of a project to provide for an upgraded power supply to the East Kimberley Regional Airport terminal building.**
- 3. Approves the reallocation of \$130,000 from GL 04120743 in the 2016-17 Shire budget for the replacement of Terminal Air-conditioning, to provide for East Kimberley Regional Airport Terminal Power Supply Upgrade.**
- 4. Approves the return of funds not expended on the air conditioning upgrade and the power supply upgrade, from GL 04120743 to the Airport Reserve.**

Carried 1/0

PURPOSE

This report addresses the need and seeks Council's support to prepare a specification and tender works to increase the power supply available to the East Kimberley Regional Airport Terminal.

NATURE OF COUNCIL'S ROLE IN THE MATTER

Funder - provide funds or other resources

Provider - provide physical infrastructure and essential services

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL

The Council has included the replacement of the older air conditioning units in East Kimberley Regional Airport (EKRA) Terminal as part of the adopted 2016-17 Capital Works Program. A report on the location of the Condenser Units was considered at the 28 February 2017 Meeting when it was resolved:

COUNCIL DECISION

Minute No: 28/02/2017-11623

Commissioner resolved:

- 1. That the Air Conditioning Plant Replacement at East Kimberley Regional Airport include the heavy equipment being installed in a low prominence ground level location close to the Terminal.**

- 2. The Officer's report be included in the Minutes with all budget references and figures redacted.**

Carried 1/0

Detailed investigations to finalise the Specification and prepare Tender documentation for the air conditioning are well advanced. However testing of the power supply to the Terminal has identified that the cable is insufficient for current needs and an augmented distribution line is needed as a matter of urgency and prior to installing the new units.

STATUTORY IMPLICATIONS

The Shire has an obligation to ensure that adequate utility services are provided to its buildings and facilities.

POLICY IMPLICATIONS

The necessary works need to be undertaken in accordance with the Shire's Purchasing Policy.

FINANCIAL IMPLICATIONS

The cost of electricity supply augmentation is not contained in any current program and as such additional funds need to be allocated. Cost estimates are addressed later in this report and will be confirmed by site investigations and market tested through a commercial tender.

As an interim measure it is proposed with the support of Council to access funding currently allocated for the air conditioning replacement and defer the project implementation for reconsideration in 2017-18 Budget.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2012-2022

Goal 2: Greater returns from regional investment to ensure sustainable provision of appropriate physical and social infrastructure.

Objective 2.3: Assets are appropriate for their intended purpose and factor in whole of life costing and maintenance.

Strategy 2.3.1 : Manage and maintain assets in a strategic and cost effective manner.

RISK IMPLICATIONS

The wider risk implications are as follows:

Risk: Inability to deliver levels of service expected by the community.

Control: Develop agreed standards of service and communicate with the community.

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

Control: Increased accountability to the Audit (Finance and Risk) Committee.

COMMUNITY ENGAGEMENT

No community engagement is required.

COMMENTS

As part of the detailed investigations for the replacement of older air conditioning units at the EKRA Terminal the current power supply was monitored and the results raise concerns with its adequacy for both existing demands and the minor increase anticipated through the new equipment.

Preliminary details have been collated from existing drawings, site verification and logging of power demand. A full power supply review and an upgrade design is beyond the scope of works for the air conditioning.

The main power supply to the Airport Terminal is illustrated on the plan forming Attachment 1. This includes an underground Horizon line from Victoria Highway to the Substation adjoining the Works Depot. A short supply cable is then provided to Site Main Switchboard and an underground cable (some 185m) links to Terminal Building Main Switchboard.

Works will likely involve replacing the supply cable to Site Main Switchboard and either providing a parallel cable or total replacement to Terminal Building Main Switchboard. Associated matters could include replacing the submain circuit breaker.

Due to the preliminary nature of investigations to date only broad costs can be identified. To cover the technical investigations, assessment of design options, materials, freight and labour it is estimated that between \$70,000 - \$130,000 is needed.

As the above works will necessitate deferring the installation of the replacement air conditioning units it is proposed that a portion of the unexpended funds be allocated to the power supply upgrade. This will not impact the completion of the air conditioning specification/supporting documentation and its full funding can be addressed as part of 2017-18 Budget that is currently being progressed.

ATTACHMENTS

Attachment 1 - Terminal Power Supply - East Kimberley Regional Airport

12.5.3. Firebreak Order 2017 - 2018

DATE:	28 March 2017
AUTHOR:	Senior Ranger and Emergency Services Coordinator
RESPONSIBLE OFFICER:	David Klye, Director Infrastructure
FILE NO:	ES.03.1
DISCLOSURE OF INTERESTS:	Nil

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council;

1. In accordance with Part III, Division 6, Section 33 of the *Bush Fires Act 1954*, adopt the Shire of Wyndham East Kimberley 2017/2018 Firebreak Order, effective immediately.
2. Give notice of this order in a newspaper circulating in the local district as well as through social media and pamphlet distribution.
3. Advertise the Firebreak Order 2017/2018 in the Government Gazette.

COUNCIL DECISION

Minute No: 28/03/2017 - 11648

Commissioner resolved:

That Council;

1. In accordance with Part III, Division 6, Section 33 of the *Bush Fires Act 1954*, adopt the Shire of Wyndham East Kimberley 2017/2018 Firebreak Order, effective immediately.
2. Give notice of this order in a newspaper circulating in the local district as well as through social media and pamphlet distribution.
3. Advertise the Firebreak Order 2017/2018 in the Government Gazette.

Carried 1/0

PURPOSE

For Council to adopt the 2017/2018 Firebreak Order for the Shire of Wyndham East Kimberley that is to apply for the period 1 April 2017 until 14 January 2018.

NATURE OF COUNCIL'S ROLE IN THE MATTER

Leader - plan and provide direction through policy and practices
Provider - provide physical infrastructure and essential services
Regulator - enforce state legislation and local laws

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

In order to enable the annual Firebreak Order to be gazetted and formally issued to all property owners Council is required to consider and adopt an annual Firebreak Order.

STATUTORY IMPLICATIONS

The recommendation of this report has been prepared in accordance with the *Bush Fires Act 1954*.

Part III – Prevention of Bush Fires
Division 6 – General Restrictions, Prohibitions and Offences
Section 33 – Local Government May Require Occupier of Land to Plough or Clear Firebreak

POLICY IMPLICATIONS

This matter has been assessed in accordance with Policy CP/REM – 3620 - Firebreaks.

FINANCIAL IMPLICATIONS

There are minor administrative fees associated with Government Gazette advertising as well as costs associated with producing the Firebreak and Householder Hazard Reduction Notice, Newspaper advertising and a Post Office Box drop. These costs can be accommodated within the 2016/17 budget.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2012-2022

Goal 3: Protection and enhancement of lifestyle values, community facilities and the environment to provide safe and inviting communities.

Objective 1.2: Alignment of regional and local priorities with other agencies and community groups

Objective 3.3: Towns are safe and inviting for locals and tourists

Strategy 1.4.1 : Ensure legislative compliance and follow best practice principles in planning and service delivery

Strategy 1.4.2 : Improve the efficiency and productivity of Shire services

Strategy 3.3.10 : Adopt a partnership approach for emergency and fire management planning, preparedness, response and recovery.

RISK IMPLICATIONS

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

Control: Annual Financial Audit. Annual Compliance Return to Department of Local Government. Review policies and procedures in accordance with review schedule.

Risk: Environmental damage and consequential financial liability from poor bushfire management.

Control: Compliance with Emergency Management Act and Bushfire Control Act Administer through local laws, policies and practices. Bushfire prevention measures undertaken eg firebreaks.

Risk: Non compliance with the Emergency Service Act resulting in litigation from affected parties.

Control: Manager Emergency Services appointed. Compliance with Annual Report submission to DEMC.

Risk: Loss of life or serious injury during youth program delivery due to staff not following policies and procedures.

Control: Policies and procedures that meet legislative requirements. Staff training and induction.

COMMUNITY ENGAGEMENT

Community engagement has taken place in accordance with the Shires Community Engagement Guidelines and includes: Public notification by newspaper advertising, social media, Shire website, Post Office Box drop and Government Gazette advertising.

COMMENTS

In the interests of good management and to improve fire control measures throughout the Shire, it is recommended that the Council adopt the firebreak order, "*Shire of Wyndham East Kimberley Firebreak Order and Bushfire Information 2017/2018*" for the Shire which will apply for the period 1 April 2017 until 14 January 2018.

Public notices will be placed in the local newspaper, social media, Shire website and a mail drop will be arranged. The 2017/2018 Firebreak Order will also be advertised in the Government Gazette.

ATTACHMENTS

Attachment 1 - 2017/2018 Firebreak Order

13. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

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

Nil

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

Nil

16. MATTERS BEHIND CLOSED DOORS

COUNCIL DECISION

Minute No: 28/03/2017 - 11649

Commissioner resolved:

That the Council move into camera.

Carried 1/0

Council moved into camera at 5:52pm.

D Klye left Council Chambers at 5:54pm.

16.1. T13 16/17 Periodic Various Grading Of Kalumburu And Port Warrender Roads And Mt Elizabeth And Ellenbrae Access Roads For A Period Of Two Years

DATE:	28 March 2017
AUTHOR:	Project Development Engineer
RESPONSIBLE OFFICER:	David Klye - Director Infrastructure
FILE NO:	CM.16.225
DISCLOSURE OF INTERESTS:	David Klye, Director Infrastructure discloses an impartiality interest. The Director has a personal relationship with one of the Tenderers which may create the perception that his impartiality may be affected. The Director advises that he has had no comment or input into the assessment process.

This item is to be considered behind closed doors as per the *Local Government Act 1995*:

5.23. Meetings generally open to public

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

- (c) *a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting; and*
 - (e) *a matter that if disclosed, would reveal —*
 - (i) *a trade secret; or*
 - (ii) *information that has a commercial value to a person; or*
 - (iii) *information about the business, professional, commercial or financial affairs of a person, where the trade secret or information is held by, or is about, a person other than the local government; and*
- (3) *A decision to close a meeting or part of a meeting and the reason for the decision are to be recorded in the minutes of the meeting.*

VOTING REQUIREMENT

Simple Majority

COUNCIL DECISION

Minute No: 28/03/2017 - 11650

Commissioner resolved:

That Council,

- **Accept the tender submitted by Guerinoni Nominees Pty Ltd trading as Guerinoni & Son of 9 Mango St, Kununurra WA 6743, for Tender T13-16/17 - Periodic Various Grading of Kalumburu and Port Warrender Roads and Mt Elizabeth and Ellenbrae Access Roads For a Period of Two Years, in accordance with the tender documentation and the submitted schedule of rates.**
- **Enter into a contract with Guerinoni Nominees Pty Ltd trading as Guerinoni & Son of 9 Mango St, Kununurra WA 6743, for Tender T13-16/17 - Periodic Various Grading of Kalumburu and Port Warrender Roads and Mt Elizabeth and Ellenbrae Access Roads For a Period of Two Years, in accordance with the tender documentation and the submitted schedule of rates.**
- **Authorise the Chief Executive Officer to approve the optional one year contract extension for T13-16/17 - Periodic Various Grading of Kalumburu and Port Warrender Roads and Mt Elizabeth and Ellenbrae Access Roads with Guerinoni Nominees Pty Ltd trading as Guerinoni & Son of 9 Mango St, Kununurra WA 6743 in accordance with the tender documentation and the submitted schedule of rates in financial year 2018/19 - subject to the one year contract extension shall only be exercised based on satisfactory performance during the original two year contract term.**

Carried 1/0

PURPOSE

To provide the Council with details of the Tenders received for T13-16/17 Periodic Various Grading of Kalumburu and Port Warrender Roads and Mt Elizabeth and Ellenbrae Access Roads for a period of Two Years, to consider the results of the Tender assessment. On the basis that the value of the Contract may exceed \$500,000 the award of contract cannot be approved by the Chief Executive Officer under Delegation 7. A confidential recommendation report will be provided to council for consideration of the award of tender.

16.2. Disposal Of Asset; Weed Harvester

DATE:	28 March 2017
AUTHOR:	Director Infrastructure
RESPONSIBLE OFFICER:	David Klye, Director Infrastructure
FILE NO:	CM.16.213
DISCLOSURE OF INTERESTS:	Nil

This item is to be considered behind closed doors as per the *Local Government Act 1995*:

5.23. **Meetings generally open to public**

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

VOTING REQUIREMENT

Simple Majority

COUNCIL DECISION

Minute No: 28/03/2017 - 11651

Commissioner resolved:

That Council;

- 1. Accept the Tender submitted by Bruce Connell for \$22,000 ex GST for the purchase of Plant item P485 (Weed Harvester) in “as is where is”, unlicensed condition.**
- 2. Direct the funds from the sale of Plant item P485 (Weed Harvester) to the Foreshore Reserve.**

Carried 1/0

PURPOSE

For Council to consider tender submissions for disposal of the Wetland Weed Harvester.

COUNCIL DECISION

Minute No: 28/03/2017 - 11652

Commissioner resolved:

That Council move to come out from camera.

Carried 1/0

The gallery and remaining staff returned to the Council Chambers at 6.24pm

The resolution and voting results of the items considered behind closed doors were read out to members of the public by the Commissioner.

17. CLOSURE

The Commissioner declared the meeting closed at 6.26pm.