



SHIRE OF WYNDHAM | EAST KIMBERLEY

AGENDA ORDINARY COUNCIL MEETING

26 May 2020

DISCLAIMER

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

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

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

Signed on behalf of Council



VERNON LAWRENCE

ACTING CHIEF EXECUTIVE OFFICER

NOTES

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

C O N T E N T S

1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS	4
2. RECORD OF ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE (PREVIOUSLY APPROVED)	4
3. DECLARATION OF INTEREST	4
4. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE	4
5. PUBLIC QUESTION TIME	4
6. APPLICATIONS FOR LEAVE OF ABSENCE	4
7. PETITIONS.....	4
8. CONFIRMATION OF MINUTES	5
9. ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION	5
10. MATTERS FOR WHICH THE MEETING MAY BE CLOSED.....	5
11. DEPUTATIONS / PRESENTATIONS / SUBMISSIONS.....	5
12. REPORTS	6
12.1. MATTERS ARISING FROM COMMITTEES OF COUNCIL	6
12.1.1. Consideration of Recommendations Contained within the Minutes of the Audit (Finance and Risk) Committee of 11 May 2020.....	6
12.2. CHIEF EXECUTIVE OFFICER.....	10
12.2.1. Standing Item - Outstanding Actions from Previous Council Resolutions	10
12.3. PLANNING AND COMMUNITY DEVELOPMENT	12
12.3.1. KLC Redevelopment & Business Plan.....	12
12.3.2. Waringarri Radio Poles	17
12.4. CORPORATE SERVICES	20
12.4.1. COVID-19 Reserve Funding	20
12.4.2. Monthly Financial Report April 2020	26
12.4.3. List of Accounts Paid From Municipal Fund and Trust Fund.....	28
12.4.4. Advertising of Rates and Fees and Charges and for 2020/21	31
12.5. INFRASTRUCTURE	43
13. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN	43
14. QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN	43
15. URGENT BUSINESS APPROVED BY THE PERSON PRESIDING OR BY DECISION	43
16. MATTERS BEHIND CLOSED DOORS	43
17. CLOSURE	43

**SHIRE OF WYNDHAM EAST KIMBERLEY
ORDINARY COUNCIL MEETING AGENDA
KUNUNURRA COUNCIL CHAMBERS
TO BE HELD ON TUESDAY 26 MAY 2020 AT 5:00PM**

1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

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

3. DECLARATION OF INTEREST

- Financial Interest

- Impartiality Interest

- Proximity Interest

4. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

NIL

5. PUBLIC QUESTION TIME

6. APPLICATIONS FOR LEAVE OF ABSENCE

7. PETITIONS

8. CONFIRMATION OF MINUTES

OFFICER'S RECOMMENDATION

That Council confirms the Minutes of the Ordinary Council Meeting held on 28 April 2020.

Note: The Minutes of the Ordinary Council Meeting held on 28 April 2020 are provided under separate cover via www.swek.wa.gov.au

OFFICER'S RECOMMENDATION

That Council confirms the Minutes of the Special Council Meeting held on 07 May 2020.

Note: The Minutes of the Special Council Meeting held on 07 May 2020 are provided under separate cover via www.swek.wa.gov.au

9. ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION

10. MATTERS FOR WHICH THE MEETING MAY BE CLOSED

11. DEPUTATIONS / PRESENTATIONS / SUBMISSIONS

12. REPORTS

12.1. MATTERS ARISING FROM COMMITTEES OF COUNCIL

12.1.1. Consideration of Recommendations Contained within the Minutes of the Audit (Finance and Risk) Committee of 11 May 2020

DATE:	26 May 2020
AUTHOR:	Acting Director Corporate Services
RESPONSIBLE OFFICER:	Vernon Lawrence, Acting Chief Executive Officer
ASSESSMENT NO:	Various - As Detailed in the Minutes of the 11 May 2020 Audit (Finance and Risk) Committee meeting
FILE NO:	Various - As Detailed in the Minutes of the 11 May 2020 Audit (Finance and Risk) Committee meeting
DISCLOSURE OF INTERESTS:	NIL

VOTING REQUIREMENT

Simple Majority

COMMITTEE RECOMMENDATION 1

That Council, with reference to Item 7.1 *“Standing Item - Sundry Debtors”* as detailed in the 11 May 2020 Audit (Finance and Risk) Committee Agenda/Minutes, accept that the actions being undertaken by the administration in regard to sundry debtors including sundry debts in legal process are sufficient and appropriate.

VOTING REQUIREMENT

Simple Majority

COMMITTEE RECOMMENDATION 2

That Council, with reference to Item 7.2 *“Standing Item - Insurance Claims”* as detailed in the 11 May 2020 Audit (Finance and Risk) Committee Agenda/Minutes, note the Insurance Claims Report and associated attachments attached to the Agenda of the 11 May 2020 Audit (Finance and Risk) Committee meeting.

VOTING REQUIREMENT

Simple Majority

COMMITTEE RECOMMENDATION 3

That Council, with reference to Item 7.3 “*Standing Item - Rates Debtors*” as detailed in the 11 May 2020 Audit (Finance and Risk) Committee Agenda/Minutes, accept the report that the actions being undertaken by the administration in regard to rates debtors, including rates debts in legal process are sufficient and appropriate.

VOTING REQUIREMENT

Simple Majority

COMMITTEE RECOMMENDATION 4

That Council, with reference to Item 7.4 “*Standing Item - Leases*” as detailed in the 11 May 2020 Audit (Finance and Risk) Committee Agenda/Minutes, note the Confidential Lease Schedule and the New and Renewal Lease Schedule attached to the Agenda of the 11 May 2020 Audit (Finance and Risk) Committee Meeting.

VOTING REQUIREMENT

Simple Majority

COMMITTEE RECOMMENDATION 5

That Council, with reference to Item 7.5 “*Audit Strategy Memorandum for the Financial Year Ended 30 June 2020*” as detailed in the 11 May 2020 Audit (Finance and Risk) Committee Agenda/Minutes:

- 1. Note the contents of the report and the confidential attachment Audit Strategy Memorandum 30 June 2020 attached to the 11 May 2020 Audit (Finance and Risk) Committee Agenda/Minutes; and**
- 2. Endorse the changes to CP/FIN-3201 Significant Accounting Policies attached to the 11 May 2020 Audit (Finance and Risk) Committee Agenda/Minutes.**

VOTING REQUIREMENT

Simple Majority

COMMITTEE RECOMMENDATION 6

That Council, with reference to Item 7.6 “*Strategic Risk Register*” as detailed in the 11 May 2020 Audit (Finance and Risk) Committee Agenda/Minutes, note the Quarterly Strategic Risk Report for Quarter 3 attached to the 11 May 2020 Audit (Finance and Risk) Committee Agenda/Minutes.

PURPOSE

To consider the recommendations from the Audit (Finance and Risk) Committee made at its meeting held on 11 May 2020.

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 11 May 2020..

STATUTORY IMPLICATIONS

Various - detailed within the Minutes of the 11 May 2020 Audit (Finance and Risk) Committee meeting.

POLICY IMPLICATIONS

Various - detailed within the Minutes of the 11 May 2020 Audit (Finance and Risk) Committee meeting.

FINANCIAL IMPLICATIONS

Various - detailed within the Minutes of the 11 May 2020 Audit (Finance and Risk) Committee meeting and confidential attachments to the Agenda.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2017-2027

Focus Area 4: Civic Leadership

Goal 4.4: Sustainably maintain the Shire's financial viability

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

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

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

RISK IMPLICATIONS

Various - detailed within the Minutes of the 11 May 2020 Audit (Finance and Risk) Committee meeting and confidential attachments to the Agenda.

COMMUNITY ENGAGEMENT

Various - detailed within the Minutes of the 11 May 2020 Audit (Finance and Risk) Committee meeting and confidential attachments to the Agenda.

COMMENTS

Various - detailed within the Minutes of the 11 May 2020 Audit (Finance and Risk) Committee meeting and confidential attachments to the Agenda.

ATTACHMENTS

NIL

12.2. CHIEF EXECUTIVE OFFICER

12.2.1. Standing Item - Outstanding Actions from Previous Council Resolutions

DATE:	26 May 2020
AUTHOR:	Executive Officer to the CEO
RESPONSIBLE OFFICER:	Vernon Lawrence, Acting Chief Executive Officer
DISCLOSURE OF INTERESTS:	NIL

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

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

PURPOSE

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

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 2017-2027

Focus Area 4: Civic Leadership

Goal 4.2: Good decision making through engagement with the community

Strategy 4.2.2: Ensure community input informs planning and decision making

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

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

RISK IMPLICATIONS

NIL

COMMUNITY ENGAGEMENT

No community engagement is required.

COMMENTS

An update of actions from the April 2020 Council resolutions are detailed in Attachment 1.

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

ATTACHMENTS

Attachment 1 - Council Action Register - April 2020

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

12.3. PLANNING AND COMMUNITY DEVELOPMENT

12.3.1. KLC Redevelopment & Business Plan

DATE:	26 May 2020
AUTHOR:	Acting Manager Community Development
RESPONSIBLE OFFICER:	Nick Kearns, Director Planning and Community Development
FILE NO:	CP.06.14
DISCLOSURE OF INTERESTS:	NIL

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council adopts the Kununurra Aquatic and Leisure Centre Redevelopment Business Case.

PURPOSE

For Council to adopt the business case for the redevelopment of the Kununurra Leisure Centre.

NATURE OF COUNCIL'S ROLE IN THE MATTER

Provider - provide physical infrastructure and essential services

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

Kununurra Aquatic and Leisure Centre redevelopment

Council authorised the preparation of a business case for the redevelopment of the Kununurra Leisure Centre in April 2019. The 132 page document, with appendices, substantiates Council's previous decision with respect to agreeing to redevelop the leisure centre on the current site in October 2018 – to reconfigure and improve a range of sporting facilities and programmable areas as well as to achieve compliance with the Disability Discrimination Act. The Business case also verifies Council's previous belief in relation to the centre's overall importance to the local and regional population.

The primary purpose of the Business Case and associated documents is to provide a compelling argument to support funding applications for the redevelopment. It had also been

specifically requested by the Department of Local Government, Sport and Cultural Industries as a prerequisite for future funding applications. In light of this the document:

- Quantifies social and economic benefits associated with the project.
- Establishes the financial benefits of any redevelopment.
- Provides an evidence based strategic approach for future development of the Kununurra Leisure Centre.
- Addresses the disability access issues within the facility.
- Provides an evidence based strategic approach for the future funding applications in relation to the redevelopment of the Kununurra Leisure and water park.

Assessment of options

The report includes an assessment of benefits and issues against four options:

1. Do nothing
2. Staged construction of new aquatic area and priority centre refurbishment
3. Redevelopment in line with the approved concept plan
4. Development on a new site

Of the above options, 2 and 3 are achievable and will provide considerably improved facilities, with the latter providing the greatest benefit with respect to the community and which forms the basis for the cost benefit analysis, being the preferred option.

Cost benefit analysis

The Cost Benefit Analysis, at page 75 of the document, quantifies a wide range of benefits associated with the preferred option and also accounts for recurrent expenditure and replacement cost. Operating expenditure for the upgraded facility is expected to increase moderately over the replacement period and be largely off-set by an increase in revenues from attendance. Otherwise, the analysis provided points to high values attributable to the project, balanced against the need to contain operating costs. Irrespective of this, the analysis more than justifies Council's previous decision to redevelop and enhance the facility at this location.

Other project benefits

The business case identifies a range of economic benefits associated with the project through job creation – particularly at the construction stage – as well as for tourism, local industry (and suppliers), which will be important as businesses recover in light of the recent COVID-19 restrictions and associated economic contraction. It also supports a wide range of improved lifestyle factors. The project aligns with key strategic documents which cover this region such as the State Planning Strategy, Regional Development Strategy and the Kimberley Regional Investment Blueprint and with a number of Shire strategies.

The funding strategy, which forms an attachment to the main report, documents a range of funding options available to the Shire and related considerations.

A copy of the business case is at Attachment 1 and relevant supporting documents at Attachments 2 and 3. A copy of the approved concept plan (Design Report) is provided at Attachment 4.

STATUTORY IMPLICATIONS

There are no statutory implications associated with the adoption of the business case.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

The preferred option is estimated to cost \$22,326,541 but is inclusive of a 'district loading' of \$7,726,913 and additional (unallocated) fees of \$1,604,922, which may be reduced by sourcing (principally) local suppliers. So by comparison, it is estimated that this project constructed in Perth would cost \$12,994,706.

Most of the capital cost would need to be sourced externally, from the State and Federal Government.

The analysis of operating costs and maintenance shows an increase over the life of the upgraded asset, as would be expected, but also shows these costs being largely off-set by increases in attendance and memberships. This is further explained in the analysis of sustainability of the facility which generally indicates a minor increase in annual renewal and maintenance costs – between the existing and proposed.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2017-2027

Focus Area 1: Healthy vibrant active communities

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

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

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

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

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

Strategy 2.2.2: Ensure energy efficiency options are considered to reduce the Shire's costs

Goal 4.2: Good decision making through engagement with the community

Strategy 4.4.2: Secure the maximum grant assistance available, whilst ensuring the greatest relevant benefit to the community

Corporate Business Plan - *Action 448 KLC - Renewal of Kununurra Leisure Centre*

RISK IMPLICATIONS

The following risks are highlighted:

- Failure to provide community services which meet the needs and expectations of the community to support social cohesion and participation, notably that the current main pool is close to failing structurally.
- Lack of a planned approach to project design and approvals resulting in increased cost and poor delivery.
- Failure to optimise opportunities for external funding which is critical to capital needs.
- Failure to properly consider recurrent and ongoing operational or life-cycle costing.

These risks are believed to be adequately mitigated through adoption of this business case.

COMMUNITY ENGAGEMENT

A copy of the business plan was sent to major stakeholders for comment including Royal Lifesaving WA, Department of Local Government, Sports and Cultural Industries (DLGSC) as well as the Minister Office (Minister and senior Officers). A copy of the correspondence from Royal Lifesaving WA can be found in Attachment 5.

Additional engagement with key stakeholders for the purpose of making minor improvements to the concept (additional storage etc) is proposed to be undertaken which will then be presented to Council. Otherwise, the Shire's previous engagement shows that there is strong community and stakeholder support for what is proposed as well as to redevelop on the current location.

COMMENTS

The presented business case is felt to provide considered and informed advice with regard to justifying the merits of the proposed upgrade to the Kununurra Leisure Centre in line with the concept previously approved by Council. It provides a comprehensive assessment of the benefits associated with each option available to Council - to recommend a preferred option - and then to quantify the benefits of that (preferred) option within a cost-benefit framework, which includes capital, recurrent and replacement (life-cycle) costs. The project, furthermore, would greatly benefit the construction industry and suppliers and meet a range of social and lifestyle considerations, which align with State Government and Shire strategies, including the Shire's Strategic Community Plan and as actioned within the current Corporate Business Plan.

The document includes an analysis of risk, which can be managed at the design and construction phase and is strongly supported by stakeholders and users of the facility and the broader community, and will fundamentally address the problems associated with operating this aging facility where the main pool has reached the end of its serviceable life.

The report is recommended for adoption.

ATTACHMENTS

Attachment 1 - Kununurra Aquatic and Leisure Centre Redevelopment Business Case

Attachment 2 - Kununurra Aquatic & Leisure Centre Cost Benefit Analysis Report

Attachment 3 - Funding strategy - Kununurra Aquatic and Leisure Centre

Attachment 4 - Donovan and Payne KLC Aquatic Redevelopment Design Report

Attachment 5 - Royal Lifesaving WA correspondence (email)

12.3.2. Waringarri Radio Poles

DATE:	26 May 2020
AUTHOR:	Acting Manager Community Development
RESPONSIBLE OFFICER:	Nick Kearns, Director Planning and Community Development
ASSESSMENT NO:	A2152
FILE NO:	CS.12.7
DISCLOSURE OF INTERESTS:	NIL

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council authorises Waringarri Media Aboriginal Corporation to install four radio sound poles at an agreed location in White Gum Park, subject to all relevant approvals being obtained and subject to a Memorandum of Understanding (MoU) being approved by the Chief Executive Officer and entered into to ensure that:

- 1. Waringarri Media Aboriginal Corporation is responsible for all ongoing operational and maintenance costs;**
- 2. The structures and equipment are appropriately insured;**
- 3. A complaints process is established to ensure any complaints are reported and reviewed regularly by both organisations within the first 12 months of installation, focusing on broadcast times (9am to 5pm) and days broadcast, or to cease broadcasts; and**
- 4. The Shire has the ability to determine the operating hours and to change volume or switch off equipment if required.**

PURPOSE

To consider a proposal to authorise Waringarri Media Aboriginal Corporation (WMAC) to install and operate solar (radio) sound poles in White Gum Park, in line with an approved Memorandum of Understanding (MoU).

NATURE OF COUNCIL'S ROLE IN THE MATTER

Facilitator - bring stakeholders together

Landowner - owns the land on which the sound poles will be erected.

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

Waringarri Media Aboriginal Corporation approached the Shire in 2017 proposing to install four solar sound (radio) poles at White Gum Park for the purpose of celebrating Waringarri

Media's 30 years Anniversary. The proposal was to install the poles close to the skate park and broadcast a mix of music and community announcements between 9am and 5pm daily. A copy of the submission from Waringarri media Aboriginal Corporation is at Attachment 1. The submission includes a design of the solar powered pole, on which speakers would be attached, with each having an approximate height of 6 metres.

The Shire conducted community engagement in October 2017 in accordance with the Community Engagement Guidelines and received 14 submissions against the proposal, being:

1. Potential increase in antisocial behaviour.
2. Potential decrease in house/land value.
3. Feelings of music and announcements being imposed on the community.
4. Some members of the community did not like the idea of the music playing all day and considerations could be made to play the music for short periods of time – 30min.
5. Commercial content was also an issue. Suggestions were made for ABC or other non-commercial stations.

For the purpose of identifying alternative sites, being either Celebrity Tree Park or Swim Beach, additional community engagement was undertaken and a further 100 submissions were received. Notably, neither of these suggested locations appeared preferred. Copies of all submissions received are provided as a summary at Attachment 2.

Since the community engagement, Waringarri Media Aboriginal Corporation have restated their preference to locate the sound poles within White Gum Park, but subject to restrictions with regard to where they will be installed, placement (or direction) of speakers, and to ensure that the Shire has some control over speaker volumes and switching, if required, which would be covered by a Memorandum of Understanding (MoU) entered into by both organisations.

STATUTORY IMPLICATIONS

NIL

POLICY IMPLICATIONS

The project, and the partnering agency being Waringarri Media Aboriginal Corporation, is identified as a high priority action of the Shire's *Recreation Space Action plan 2017-2021* adopted in September 2017.

FINANCIAL IMPLICATIONS

NIL. All installation and operating costs would be met by the proponent.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2017-2027

Focus Area 4: Civic Leadership

Goal 4.2: Good decision making through engagement with the community

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

Strategy 4.2.2: Ensure community input informs planning and decision making

Strategy 4.2.3: Ensure community awareness of issues, activities and decisions affecting the Shire

RISK IMPLICATIONS

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

Control: The proposal, which is a priority action for Council, has potential to support positive social outcomes providing that there are measures in place and that there are sufficient review mechanisms in the form of a formal agreement (MoU).

COMMUNITY ENGAGEMENT

Engagement was undertaken in line with the Shire's Community Engagement Guidelines.

COMMENTS

It is considered that the project proposal could provide the following benefits:

- Community announcements;
- Community news service information;
- Ability for Waringarri Media to broadcast live onsite for special events such as NAIDOC, youth and recreational events;
- Shared space for people to listen to music while recreating; and
- Promotion of the local area, businesses and culture.

Most of the issues raised in submissions relevant to this location can be addressed through careful siting, which would see the poles installed close to White Gum Street and the skate park, as well as to direct speakers towards this direction also. Further, the Shire will require that it has the right to control the volume of the broadcast as well as the hours of operation to limit the impact on neighbouring properties. CCTV has also been recently installed in this area and will monitor any antisocial behaviour that may arise out of the installation of the sound poles.

The entering into an MoU will clarify each organisation's responsibility, particularly to ensure that all costs are borne by the proponent and that the Shire has ability to control the volume or turn off the broadcast if it is deemed necessary and furthermore to imbed a complaints process to enable the installation to be reviewed within the first 12 months of its operation. The exact details, within the parameters agreed to by Council, will be negotiated and approved by the Chief Executive Officer.

The proposal is recommended for approval.

ATTACHMENTS

Attachment 1 - WMAC Music in the Park (Sound Poles) Project Scope

Attachment 2 - Community Feedback Information WMAC Sound Poles

12.4. CORPORATE SERVICES

12.4.1. COVID-19 Reserve Funding

DATE:	26 May 2020
AUTHOR:	Acting Director Corporate Services
RESPONSIBLE OFFICER:	Felicity Heading, Acting Director Corporate Services
FILE NO:	FM.05.20
DISCLOSURE OF INTERESTS:	NIL

VOTING REQUIREMENT

Absolute Majority

OFFICER'S RECOMMENDATION

That Council:

- 1. Note the changes to the Local Government (Financial Management) Regulations 1996, Section18(c) with respect to local public notice not being required for change of use of money in a reserve account during a declared state of emergency;**
- 2. Agree to establish a new Reserve being "COVID-19 Response Reserve" with the purpose of funding operational and capital works programs that can be performed by local businesses; and**
- 3. Agree to the transfer of funds from existing reserves to the COVID-19 Response Reserve as part of the financial year end procedures as at 30 June 2020 as estimated in Attachment 1.**

PURPOSE

To request Council to endorse the proposed action for Shire Officers to repurpose a portion of the existing Reserve Funds into a consolidated single COVID-19 Response Reserve to fund initiatives in response to the COVID-19 Pandemic as part of the Shires budget process.

NATURE OF COUNCIL'S ROLE IN THE MATTER

Lead - plan and provide direction through policy and practices

Fund - Provide funds or other resources

Regulate - Responsible for the enforcement of statutory requirements

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

The COVID-19 pandemic has required the Shire to develop two separate responses to its impact. The first and most immediate response was in respect of the medical emergency and

how it affects the provision of Shire services to the community. This aspect has been dealt with at both Council Briefings and at Ordinary Council Meetings. The second response required is to address the economic effects that have arisen in the wake of the pandemic.

Shire Officers have considered the financial effects on both the organisation and the community. With respect to the community Council has adopted the COVID-19 Financial Hardship Policy to assist those members of the community who owe the Shire funds, to apply for relief when in financial difficulty. Shire Officers are also considering as part of the budget process additional recommendations to reduce and or waive some fees and charges to assist community groups and small businesses.

A further consideration for Shire Officers is to review its procurement processes to ensure that a significant amount of its operational and capital works spend is placed with local businesses. This will certainly mean that compromises in the procurement process will have to be made. A greater emphasis will need to be placed on whether a supplier is a local or not. This does bring into question compliance issues with current procurement regulations. Advice from WALGA, the Shires legal advisors and the Department of Local Government, Sport and Cultural Industries will be sought as required.

A significant component of the Shires Annual Budget is its Capital Works Program. Shire Officers have been working towards this program being driven by asset management plans and forward capital works programs. A major portion of these works are large scale projects that are often awarded to contractors outside of the Shire boundaries. If the Shire is to focus on local businesses then it is evident that its capital works program and its procurement processes will have to be altered in order to support local business.

The Shire has a large amount of funds that underpin its capital works program in Reserves. The Department of Local Government, Sport and Cultural Industries has encouraged all local governments to repurpose their Reserves to support their local economy. This report analyses the Reserves and suggests transfers of funds to a Covid-19 Response Reserve that will support capital works programs utilising local contractors.

The Department of Local Government amended the Local Government (Financial Management) Regulations 1996 to include “*exemptions from the requirement for a local government to give local public notice of a change of use of money set aside in a Reserve Account (this currently requires one month s public notice). During a state of emergency in a local government district or part of a district, a further exemption is being provided to allow the local government to change the use of money required to address a need arising from the hazard or from the impact or consequences of the hazard to which the state of emergency declaration relates. This decision, and the reasons for it, must be recorded in the formal minutes of the council.*”

STATUTORY IMPLICATIONS

Local Government Act 1995 Part 6 Division 3

6.11. Reserve accounts

(1) *Subject to subsection (5), where a local government wishes to set aside money for use for a purpose in a future financial year, it is to establish and maintain a reserve account for each such purpose.*

(2) *Subject to subsection (3), before a local government —*

(a) changes the purpose of a reserve account; or*

(b) uses the money in a reserve account for another purpose,*

it must give one month's local public notice of the proposed change of purpose or proposed use.

** Absolute majority required.*

*(3) A local government is not required to give local public notice under subsection (2) —
(a) Where the change of purpose or of proposed use of money has been disclosed in the annual budget of the local government for that financial year; or*

(b) in such other circumstances as are prescribed.

(4) A change of purpose of, or use of money in, a reserve account is to be disclosed in the annual financial report for the year in which the change occurs.

(5) Regulations may prescribe the circumstances and the manner in which a local government may set aside money for use for a purpose in a future financial year without the requirement to establish and maintain a reserve account.

Local Government (Financial Management) Regulations 1996 Part 2 - General financial management

18. When local public notice not required for change of use of money in reserve account (Act s. 6.11(3)(b))

A local government is not required to give local public notice of a proposed change of use of money in a reserve account —

(a) where the money is to be used to meet expenditure authorised by the mayor or president under section 6.8(1)(c); or

(b) where the total amount to be so used does not exceed \$5 000 in a financial year; or

(c) where each of the following conditions is satisfied —

(i) a decision to change the use of the money is made while there is in force a state of emergency declaration applying to the district, or part of the district, of the local government;

(ii) the local government considers that the change of use is required to address a need arising from the hazard, or from the impact or consequences of the hazard, to which the state of emergency declaration relates;

(iii) the decision and the reasons for it are recorded in the minutes of the meeting at which the decision is made.

[Regulation 18 amended: SL 2020/35 r. 5]

Amendments of Regulation 18 mentioned above:

During a state of emergency in a local government district or part of a district, a further exemption is being provided to allow the local government to change the 'use of money' required to address a need arising from the hazard or from the impact or consequences of the hazard to which the state of emergency declaration relates. This decision, and the reasons for it, must be recorded in the formal minutes of the council.

POLICY IMPLICATIONS

There are no specific policy implications that impact on the consideration of this report however there is a need to meet good governance principles in assessing the request.

FINANCIAL IMPLICATIONS

The financial implications of this report in so far as the Reserves are concerned is neutral for the current financial year. The recommendation is that an amount determined on the basis estimated in the attachment be transferred to a Reserve to be utilised in the 2020-2021 financial year to fund the Shires support of local business. The use of the funds from the Covid-19 Response Reserve will be detailed in the 2020-2021 Annual Budget or in reports to Council as and when suitable projects require authorisation.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2017-2027

Focus Area 3: Economic Prosperity

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

Strategy 3.1.4 Plan for current and future business and infrastructure land use needs.

Goal 3.2 To be business friendly and the Shire of choice for inward investment in the Kimberley.

Strategy 3.2.3 Minimise the bureaucracy placed on business and provide efficient and effective approval processes.

Strategy 3.2.4 Support the identification and development of investment opportunities that create jobs.

Focus Area 4: Civic Leadership.

Goal 4.4: Sustainably maintain the Shire's financial viability.

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

RISK IMPLICATIONS

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

Controls: Implementation of Long Term Financial Plan and Annual Budget

COMMUNITY ENGAGEMENT

Community consultation will be conducted to gather community input as to what projects supporting local business are regarded as being important. This will be undertaken as part of broader community consultation being undertaken to establish the impact of COVID-19 on the community and to determine appropriate responses.

COMMENTS

A detailed analysis of the Reserves is in Attachment 1 to this report. The table shows an indicative amount of what the Shire can place in a COVID-19 Response Reserve that can support both operational and capital works projects.

The analysis shows some reserves have not been repurposed for the COVID-19 response. The main items are the Airport Reserve, the Waste Management Reserve, Goomig Farmlands Reserve, the Childcare Reserve and the Property Reserve. The Airport Reserve exists to ensure the financial sustainability of the operations and for it to meet its asset management obligations. The Airport is not subsidised by the ratepayer. The coming year is going to present a number of COVID-19 challenges which will impact its revenue streams significantly. Any shortfall in operations funding will come from the Reserve. As it is critical community infrastructure we also consider that the reserve needs to be preserved for future upgrades to the infrastructure.

With respect to the Waste Management Reserve, the Shire has to provide for future closure costs of two landfill sites and the establishment of a new landfill site in Kununurra. It is therefore prudent for the Shire to preserve the funds in the reserve for the considerable future expenditure the Shire is expected to have to meet.

The Goomig Farmlands Road Reserve is funds that have been provided to the Shire for a specific purpose. Shire Officers consider that it is prudent to preserve these funds as the costs associated with any renewal and upgrade works in the Goomig Farmlands area will be considerable. The Property Reserve holds funds which have been received from the disposal of property. Again it is prudent for the Shire to preserve these funds for any future property transactions that will arise requiring a contribution from the Shire.

The Childcare Reserve has been established to retain the net cash flow from the Ewin Centre for future rehabilitation and development of the site. The Shire is aware that there are expansion plans for the centre and it is prudent to hold these funds to assist with the future development of the site.

There are a number of reserves where Shire Officers are suggesting a 50% allocation to the COVID-19 Reserve. These are mainly where there are underlying buildings for which the Shire has an obligation to maintain. It is prudent to keep some funds available for specific renewal and upgrade works to these buildings.

The remaining Reserve balances are considered to be available to fund projects to support our local community in response to COVID-19. The current estimate is \$3.33 million but that is contingent upon one or more factors. Firstly, the closing position in the Attachment is a budgeted position and therefore we will have to determine the actual reserve balances at financial year end before we have a clear idea of what the quantum of funds available for a COVID-19 response will be. Secondly, we will have to obtain authorisation in some circumstances to repurpose grant funding that has been tied to projects for the COVID-19 response. Finally we will need to take into account the total financial position of the Shire after we have a better understanding of what financial assistance from both State and Federal Governments will look like.

It should be noted that the proposed repurposing of reserves does not impact on the overall Asset Management Planning and asset maintenance programs. Routine asset maintenance will continue to be undertaken as part of normal operations and will be provided for in the budget subject to seeing if there is a viable local alternative. With respect to the Asset Management Plans and the Forward Capital Works Programs, the priority of these projects will be reassessed to ensure those projects that best fit with our Covid-19 response are prioritised to best support local businesses. All projects over the Forward Capital Works

Program will be completed but the timing of when they will be done will change with the Covid-19 response.

ATTACHMENTS

Attachment 1 - Repurpose of Reserves

12.4.2. Monthly Financial Report April 2020

DATE:	26 May 2020
AUTHOR:	Acting Director Corporate Services
RESPONSIBLE OFFICER:	Felicity Heading, Acting Director Corporate Services
FILE NO:	FM.09.25
DISCLOSURE OF INTERESTS:	NIL

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council receive the Monthly Financial Report for the period ended 30 April 2020.

PURPOSE

For Council to receive the Monthly Financial Report for the period ended 30 April 2020.

NATURE OF COUNCIL'S ROLE IN THE MATTER

Regulator - enforce state legislation and local laws

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

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

At the 25 June 2019 Ordinary Council Meeting, the Council resolved the following:

COUNCIL DECISION

Minute Number: 25/06/2019-118046

Moved: Cr G Lodge

Seconded: Cr J Farquhar

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

Carried 9/0

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

STATUTORY IMPLICATIONS

Local Government Act 1995, Section 6.4.

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

POLICY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

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

STRATEGIC IMPLICATIONS

Strategic Community Plan 2017-2027

Focus Area 4: Civic Leadership

Goal 4.4: Sustainably maintain the Shire's financial viability

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

RISK IMPLICATIONS

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

Control: Annual audit performed.

COMMUNITY ENGAGEMENT

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

No community engagement is required.

COMMENTS

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

The impact of Covid-19 has not had a significant impact on the overall financial position of the Shire as at 30 April 2020. However revenue and debt collections have reduced sharply with this being off-set by operational savings. Shire Officers and the Executive Management Team are closely monitoring the cash flow of the Shire and have modified some of our internal processes to assist in this regard.

ATTACHMENTS

Attachment 1 - Monthly Financial Report April 2020

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

DATE:	26 May 2020
AUTHOR:	Creditors Officer
RESPONSIBLE OFFICER:	Felicity Heading, Acting Director Corporate Services
FILE NO:	FM.09.25
DISCLOSURE OF INTERESTS:	NIL

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council receive the list of accounts paid from the Municipal and Trust funds for April 2020, being:

Municipal EFT 137569 - 137723 (03/04/2020-30/04/2020)	\$ 1,150,589.49
Trust EFT 501983 - 501989 (01/04/2020 - 28/04/2020)	\$ 3,248.60
Payroll (08/04/2020 - 22/04/2020)	\$ 478,072.12
Direct Bank Debits	\$ 110,576.60
Total	\$ 1,742,486.81

PURPOSE

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

NATURE OF COUNCIL'S ROLE IN THE MATTER

Regulator - Responsible for the enforcement of statutory requirements.

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

In accordance with Council's Delegations Register 2019/20 which was adopted by Council on 27 August 2019, the Council has delegated to the CEO the exercise of its power under Regulations 12 and 13 of the *Local Government (Financial Management) Regulations 1996* to make payments from Municipal Fund and Trust Fund.

STATUTORY IMPLICATIONS

Local Government Act 1995 – Section 5.42

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

POLICY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

There are no financial implications arising out of the preparation of this report. The financial implications arising from the payments made from the Municipal and Trust funds have been provided for in the 2019/20 Adopted Budget and any subsequent amendments thereto. This report provides for the ongoing management of the Shire’s funds by providing the Council with sufficient information to monitor and review those payments made.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2017-2027.

Focus Area 4: Civic Leadership

Goal 4.4: Sustainably maintain the Shire’s financial viability

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

RISK IMPLICATIONS

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

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

COMMUNITY ENGAGEMENT

No community engagement is required.

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

Attachment 1 - List of Accounts Paid April 2020

12.4.4. Advertising of Rates and Fees and Charges and for 2020/21

DATE:	26 May 2020
AUTHOR:	Acting Director Corporate Services
RESPONSIBLE OFFICER:	Felicity Heading, Acting Director Corporate Services
FILE NO:	FM.05.20
DISCLOSURE OF INTERESTS:	NIL

VOTING REQUIREMENT

Absolute Majority

OFFICER'S RECOMMENDATION

That Council:

1. Pursuant to section 6.16 and 6.18 of the *Local Government Act 1995*, adopt the amended Schedule of Fees and Charges for 2020/21 outlined in attachment 1 to be effective from either 1 July 2020 or 1 January 2021, whichever date is applicable as indicated in the attachment; and
2. Request the Chief Executive Officer to give local public notice of Council's intention to impose the Schedule of Fees and Charges 2020/21, to apply from 1 July 2020 or 1 January 2021 as applicable, in accordance with section 6.19 of the *Local Government Act 1995*; and
3. Pursuant to Section 6.13 of the *Local Government Act 1995*, impose interest at 8% on any amount of money (other than rates and service charges) which is owed to the Shire and has been owed for a period of 35 days in accordance with Council Policy CP/FIN-3214-Sundry Debt Collection.
4. Pursuant to amendment SL 2020/57 (clause 8) to Section 6.13 of the *Local Government Act 1995*, a person who is considered to be suffering financial hardship as a consequence of the COVID-19 Pandemic in accordance with Council Policy CP/FIN-3219 COVID-19 Financial Hardship - Rates and Sundry Debtors is not required to pay interest on any amount of money (other than rates and services charges) which is owed to the Shire.
5. Pursuant to amendment SL 2020/57 (clause 13) to Section 6.45 of the *Local Government Act 1995*, the imposition of an additional charge (including an amount by way of interest) where payment of a rate or service charge is made by instalments does not apply to a person who is considered to be suffering financial hardship as a consequence of the COVID-19 Pandemic in accordance with Council Policy CP/FIN-3219 COVID-19 Financial Hardship - Rates and Sundry Debtors.

6. Pursuant to amendment SL 2020/57 (clause 14) to Section 6.51 of the *Local Government Act 1995*, the imposition of interest on overdue rates and services charges does not apply to a person who is considered to be suffering financial hardship as a consequence of the COVID-19 Pandemic in accordance with Council Policy CP/FIN-3219 COVID-19 Financial Hardship - Rates and Sundry Debtors.
7. Notes the changes to the dates for advertising of the Proposed Differential General Rates and Minimum Payments and the closing dates for Public Submissions as follows:
 - Public Notice period commenced on Thursday 14 May 2020
 - The closing date for Public Submissions is Friday 5 June 2020.
8. Reschedules the Special Council Meeting from 2 June 2020 to 9 June 2020 to:
 - a. Consider Public Submissions received in relation to the the Proposed Differential General Rates and Minimum Payments and Strategic Rating Policy;
 - b. Endorse Council Policy CP/FIN-3200 Strategic Rating including the 2020/21 Rating Model, with the intention of striking rates as part of the 2020/21 Budget adoption;
 - c. Request the CEO, or their delegate to seek Ministerial approval where required by legislation.

PURPOSE

For Council to consider adopting the amended Schedule of Fees and Charges for 2020/21 to commence from 1 July 2020 or 1 January 2021 whichever is applicable, as indicated in Attachment 1 to this report, including interest charges levied under section 6.13 and incorporating changes required under amendments to the *Local Government Act 1995* in relation to the charging of interest and other charges for persons considered to be in financial hardship due to the COVID-19 pandemic.

For Council to further authorise the Chief Executive Officer to give local public notice of Council's intention to impose the Schedule of Fees and Charges 2020/21 from the applicable dates and for Council to note the changes to the date for advertising the proposed differential general rates and minimum payments and the closing date for public submissions.

NATURE OF COUNCIL'S ROLE IN THE MATTER

Lead - plan and provide direction through policy and practices

Fund - Provide funds or other resources

Regulate - Responsible for the enforcement of statutory requirements

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

Council adopts the Schedule of Fees and Charges on an annual basis in accordance with section 6.16(1) of the *Local Government Act 1995*. In terms of this section the Council may impose and recover a fee or charge for any goods or services it provides or proposes to provide, other than a service for which a service charge is imposed. The Council has approximately 700 different fees and charges. Some of these fees and charges can be implemented from 1 July 2020 and it is therefore recommended that the proposed Fees and Charges are adopted prior to the adoption of the annual budget.

At the Ordinary Council Meeting on 24 March 2020 Council resolved to adopt the Schedule of Fees and Charges for 2020/21 with a 0% increase from the 2019/20 Fees and Charges as follows:

COUNCIL DECISION

Minute Number: 24/03/2020-118190

Moved: Cr T Chafer

Seconded: Cr M McKittrick

That Council:

- 1. Pursuant to section 6.16 and 6.18 of the Local Government Act 1995, adopt the proposed Schedule of Fees and Charges for 2020/21 outlined in Attachment 1 to be effective from either 1 July 2020 or 1 January 2021, whichever date is applicable as indicated in the attachment, subject to:**
 - All Fees and Charges that have been increased by 1.5% from the 2019/20 Fee or Charge be amended to reflect a 0% increase; and**
- 2. Request the Chief Executive Officer to give local public notice of the Council's intention to impose the Schedule of Fees and Charges 2020/21, to apply from 1 July 2020 or 1 January 2021 as applicable, in accordance with section 6.19 of the Local Government Act 1995; and**
- 3. Pursuant to Section 6.13 of the Local Government Act 1995, impose interest at 9% on any amount of money (other than rates and service charges) which is owed to Shire and has been owed for a period of 35 days in accordance with Council Policy CP/FIN-3214-Sundry Debt Collection.**

Carried 9/0

At the Ordinary Council Meeting on 24 March 2020 Council resolved the following (table excluded):

COUNCIL DECISION

Minute Number: 24/03/2020-118183

Moved: Cr T Chafer

Seconded: Cr A Petherick

That Council:

- 1. Endorse the revised Council Policy CP/FIN-3200 Strategic Rating;**
- 2. Endorse the 2020/21 Rating Model as follows, with the intention of seeking public submissions thereon and thereafter reporting to Council before striking the rates as part of the 2020/21 Budget adoption, subject to receiving Ministerial approval where required by legislation;**
- 3. Endorse for advertising for a minimum of twenty-one (21) days and seek public submissions on:**
 - a. Council Policy CP/FIN-3200 Strategic Rating (Attachment 1) that outlines the principles which underpin the proposed 2020/21 rating model, including the Object of and Reasons for Differential Rates;**
 - b. The 2020/21 Rating Model (Attachment 2) which incorporates the Object of and Reasons for Differential Rates, along with the proposed differential rates and minimum payments to be applied from 1 July 2020 for the 2020/21 financial year in accordance with section 6.36 of the Local Government Act 1995.**
- 4. Hold a Special Council Meeting on 2 June 2020 to:**
 - a. Consider Public Submissions received in relation to the Proposed Differential General Rates and Minimum Payments and Strategic Rating Policy;**
 - b. Endorse Council Policy CP/FIN-3200 strategy Rating including the 2020/21 Rating Model, with the intention of striking rates a part of the 2020/21 Budget adoption;**
 - c. Request the CEO, or their delegate to seek Ministerial approval where required by legislation.**

Carried: 9/0

On 30 April 2020 advice was received from the Department of Local Government, Sport and Cultural Industries recommending that local governments not commence advertising of rates and charges pending amendments to the *Local Government Act 1995* under *Local Government (COVID-19 Response) Order 2020*.

On 8 May 2020 *Local Government (COVID-19 Response) Order 2020 SL 2020/57* was gazetted bringing into effect amendments to the *Local Government Act 1995* that impact on (amongst other things) the setting of interest and instalment charges for rates and the setting of fees and charges for the 2020/21 financial year.

In accordance with the recommendation of the Department of Local Government, Sport and Cultural Industries, advertising of the Differential General Rates and Minimum payments was deferred by one week and subsequently commenced on 14 May 2020 with the closing date for submissions of 5 June 2020.

In addition to this, the advertising of the Schedule of Fees and Charges 2020/21 was postponed to enable amendments to be made to the Schedule to incorporate changes required due to the amendments to the *Local Government Act 1995*.

STATUTORY IMPLICATIONS

The following section of the *Local Government Act 1995* is relevant to the setting of penalty interest for sundry debtors:

Local Government Act 1995

Part 6, Division 4 — General financial provisions

6.13 Interest on money owing to local governments

(1) Subject to any other written law, a local government may resolve to require a person to pay interest at the rate set in its annual budget on any amount of money (other than rates and service charges) which —*

(a) that person owes to the local government; and

(b) has been owed for the period of time referred to in subsection (6).

** Absolute majority required.*

(2) A resolution under subsection (1) is to be included in the annual budget.

(3) The rate of interest that may be set by the local government under this section is not to exceed the rate for the time being prescribed as the maximum rate of interest that may be set for the purposes of this section.

(4) Where a local government imposes interest under subsection (1) on any outstanding amount of money the local government is not to also impose an additional charge in relation to that amount.

(5) Accrued interest is, for the purpose of its recovery, taken to form part of the money owed to the local government on which it is charged.

(6) A local government is not to impose interest on any amount of money under subsection (1) until the money has been owed to the local government for the period of time set by the local government in its annual budget (not being less than 35 days) after the date which is stated on the relevant account for payment as being the date the account was issued.

(7) Regulations may provide for the method of calculation of interest.

[Section 6.13 modified: SL 2020/57 1M.]

The following amendments were made to Section 6.13 of the Local Government Act 1995 effective 8 May 2020 as follows:

Local Government (COVID-19 Response) Order 2020 SL 2020/57

8. Section 6.13 modified (interest on money owing to local governments)

(1) Section 6.13 is modified as set out in this clause in relation to a resolution of a local government under section 6.13(1) that is to be included in its 2020/21 annual budget.

(2) The resolution —

(a) cannot require a person who is considered by the local government to be suffering financial hardship as consequence of the COVID-19 pandemic to pay interest; and

(b) is to specify that the requirement to pay interest does not apply to a person who is considered by the local government to be suffering financial hardship as a consequence of the COVID-19 pandemic.

(3) The rate of interest that may be set by the local government under section 6.13 in its 2020/21 annual budget is not to exceed 8%.

(4) Subclause (3) applies despite the Local Government (Financial Management) Regulations 1996 regulation 19A.

The following sections of the *Local Government Act 1995* are relevant to the charging of interest on rates instalments and penalty interest on overdue rates and service charges:

Local Government Act 1995

Part 6, Division 6 — Rates and service charges

6.45. Options for payment of rates or service charges

A rate or service charge is ordinarily payable to a local government by a single payment but the person liable for the payment of a rate or service charge may elect to make that payment to a local government, subject to subsection (3), by —

(a) 4 equal or nearly equal instalments; or

(b) such other method of payment by instalments as is set forth in the local government's annual budget.

(2) Where, during a financial year, a rate notice is given after a reassessment of rates under section 6.40 the person to whom the notice is given may pay the rate or service charge —

(a) by a single payment; or

(b) by such instalments as are remaining under subsection (1)(a) or (b) for the remainder of that financial year.

(3) A local government may impose an additional charge (including an amount by way of interest) where payment of a rate or service charge is made by instalments and that additional charge is, for the purpose of its recovery, taken to be a rate or service charge, as the case requires, that is due and payable.

(4) Regulations may —

- (a) provide for the manner of making an election to pay by instalments under subsection (1) or (2); and
 - (b) prescribe circumstances in which payments may or may not be made by instalments; and
 - (c) prohibit or regulate any matters relating to payments by instalments; and
 - (d) provide for the time when, and manner in which, instalments are to be paid; and
 - (e) prescribe the maximum amount (including the maximum interest component) which may be imposed under subsection (3) by way of an additional charge; and
 - (f) provide for any other matter relating to the payment of rates or service charges.
- [Section 6.45 modified: SL 2020/57 1M.]

The following amendments were made to Section 6.45 of the Local Government Act 1995 effective 8 May 2020 as follows:

Local Government (COVID-19 Response) Order 2020 SL 2020/57

13. Section 6.45 modified (options for payment of rates or service charges)

(1) In this clause —

financial hardship policy, in relation to a local government, means a policy addressing the manner in which the local government will deal with financial hardship that may be suffered by ratepayers and other persons who are required to make payments to the local government.

(2) Section 6.45 is modified as set out in this clause in relation to payment by instalments of a rate or service charge imposed by a local government in the 2020/21 financial year.

(3) The local government cannot impose an additional charge (including an amount by way of interest) under section 6.45(3) in respect of payment by instalments made by an excluded person.

(4) If the local government has not adopted a financial hardship policy, the maximum rate of interest that may be imposed by the local government under section 6.45(3) is 3%.

(5) Subclause (4) applies despite the Local Government (Financial Management) Regulations 1996 regulation 68.

6.51. Accrual of interest on overdue rates or service charges

(1) A local government may at the time of imposing a rate or service charge resolve* to impose interest (at the rate set in its annual budget) on —

(a) a rate or service charge (or any instalment of a rate or service charge); and

(b) any costs of proceedings to recover any such charge,

that remains unpaid after becoming due and payable.

* Absolute majority required.

(2) The rate of interest that may be set by the local government under this section is not to exceed the rate for the time being prescribed as the maximum rate of interest that may be set for the purposes of this section.

(3) Accrued interest is, for the purpose of its recovery, taken to be a rate or service charge, as the case requires, that is due and payable.

- (4) If a person is entitled under the Rates and Charges (Rebates and Deferments) Act 1992 or under this Act (if the local government in a particular case so resolves) to a rebate or deferment in respect of a rate or service charge —
- (a) no interest is to accrue in respect of that rate or service charge payable by that person; and
 - (b) no additional charge is to be imposed under section 6.45(3) on that person.

The following amendments were made to Section 6.51 of the Local Government Act 1995 effective 8 May 2020 as follows:

Local Government (COVID-19 Response) Order 2020 SL 2020/57

14. Section 6.51 modified (accrual of interest on overdue rates or service charges)

(1) Section 6.51 is modified as set out in this clause in relation to a resolution made under section 6.51(1) by a local government at the time of imposing a rate or service charge for the 2020/21 financial year.

(2) The resolution —

(a) cannot impose interest in respect of a rate or service charge payable by an excluded person; and

(b) is to specify that the imposition of interest does not apply in respect of a rate or service charge payable by an excluded person.

(3) The rate of interest that may be set by the local government under section 6.51 is not to exceed 8%.

(4) Subclause (3) applies despite the Local Government (Financial Management) Regulations 1996 regulation 70.

The following sections of the *Local Government Act 1995* are relevant to the setting of fees and charges.

Local Government Act 1995

Part 6, Division 2 – Annual Budget

6.2. Local government to prepare annual budget

(1) During the period from 1 June in a financial year to 31 August in the next financial year,

or such extended time as the Minister allows, each local government is to prepare and adopt*, in the form and manner prescribed, a budget for its municipal fund for the financial

year ending on the 30 June next following that 31 August.

* Absolute majority required.

(4) The annual budget is to incorporate —

(c) the fees and charges proposed to be imposed by the local government...

Local Government Act 1995

Part 6, Division 5 – Financing local government activities

6.16 Imposition of fees and charges

(1) A local government may impose* and recover a fee or charge for any goods and service

it provides or proposed to provide, other than a service for which a service charge is imposed.

* Absolute majority required.

(2) A fee or charge may be imposed for the following —

(a) providing the use of, or allowing admission to, any property or facility wholly or partly owned, controlled, managed or maintained by the local government;

(b) supplying a service or carrying out work at the request of a person;

(c) subject to section 5.94, providing information from local government records;

(d) receiving an application for approval, granting an approval, making an inspection and issuing a licence, permit, authorisation or certificate;

(e) supplying goods;

(f) such other service as may be prescribed.

(3) Fees and charges are to be imposed when adopting the annual budget but may be —

(a) imposed* during a financial year; and

(b) amended* from time to time during a financial year.

* Absolute majority required.

6.17 Setting level of fees and charges

(1) In determining the amount of a fee or charge for a service or for goods a local government is required to take into consideration the following factors —

(a) the cost to the local government of providing the service or goods; and

(b) the importance of the service or goods to the community; and

(c) the price at which the service or goods could be provided by an alternative provider.

(2) A higher fee or charge or additional fee or charge may be imposed for an expedited service or supply of goods if it is requested that the service or goods be provided urgently.

(3) The basis for determining a fee or charge is not to be limited to the cost of providing the

service or goods other than a service —

(a) under section 5.96; or

(b) under section 6.16(2)(d); or

(c) prescribed under section 6.16(2)(f), where the regulation prescribing the service also specifies that such a limit is to apply to the fee or charge for the service.

(4) Regulations may —

(a) prohibit the imposition of a fee or charge in prescribed circumstances; or

(b) limit the amount of a fee or charge in prescribed circumstances.

6.18. Effect of other written laws

(1) *If the amount of a fee or charge for a service or for goods is determined under another written law a local government may not —*

(a) determine an amount that is inconsistent with the amount determined under the other written law; or

(b) charge a fee or charge in addition to the amount determined by or under the other written law.

(2) A local government is not to impose a fee or charge for a service or goods under this Act if the imposition of a fee or charge for the service or goods is prohibited under another written law.

6.19. Local government to give notice of fees and charges

If a local government wishes to impose any fees or charges under this Subdivision after the annual budget has been adopted it must, before introducing the fees or charges, give local public notice of —

(a) its intention to do so; and

(b) the date from which it is proposed the fees or charges will be imposed.

Local Government (Financial Management) Regulations 1996

Part 2 – General financial management

5. CEO's duties as to financial management

(1) Efficient systems and procedures are to be established by the CEO of a local government —

(g) to assist in the preparation of budgets, budget reviews, accounts and reports required by

the Act or these regulations.

(2) The CEO is to —

(b) assist the council to undertake reviews of fees and charges regularly (and not less than

once in every financial year).

POLICY IMPLICATIONS

The Schedule of Fees and Charges 2020/21 has been prepared in accordance with Council Policy CP-FIN 3211 Fees and Charges Pricing Policy.

Council Policy CP-FIN 3219 COVID-19 Financial Hardship - Rates and Sundry Debtors is relevant to this item. This policy has been amended to incorporate amendments to the *Local Government Act 1995* in accordance with *Local Government (COVID-19 Response) Order 2020 SL 2020/57*.

FINANCIAL IMPLICATIONS

The setting of fees and charges for 2020/21 has a minor impact on the current financial year in relation to costs associated with implementing the changes to be effective from 1 July

2020. It has significant financial implications for 2020/21 financial year and the setting of the Annual Budget for 2020/21.

At the time of adopting the Schedule of Fees and Charges at the 24 March 2020 Ordinary Council Meeting, the revenue from fees and charges for the 2019/20 financial year was forecast to be on budget at \$8.67 million and the yield for the 2020/21 financial year based on a 0% increase was expected to be a similar amount.

Since that time the COVID-19 pandemic has had an impact resulting in the forecast fees and charges revenue for 2019/20 being revised downwards by \$1.56 million to an estimated \$7.11 million mainly due to a reduction in airport fees and charges and the postponement of the Melbourne flights trial. The likely impact of the COVID-19 pandemic on revenue for 2020/21 is unknown at this stage. This is being considered as part of the budget deliberations and will be taken into account at the time of adopting the budget for 2020/21.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2017-2027

Focus Area 4: Civic Leadership

Goal 4.4: Sustainably maintain the Shire's financial viability

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

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

RISK IMPLICATIONS

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

Controls: Implementation of LTFP and Annual Budget.

Policies updated in accordance with the schedule, operational requirements and changes to legislation.

Annual review of Fees and Charges with reference to the cost of services, service levels and extent of subsidisation by general rate revenue.

COMMUNITY ENGAGEMENT

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

- Local public notice
- Feedback from the community will be considered after local public notice has been given;
- Where material changes are made to fees and charges, notices to current debtors who may be affected will be given.

COMMENTS

The Schedule of Fees and Charges 2020/21 was compiled with reference to Council Policy *CP/FIN-3211 Fees and Charges Pricing*. The policy acknowledges that there are competing priorities between community service obligations, maintaining infrastructure and ensuring that the community is not unduly burdened. It further acknowledges that there are fees in which the Shire has no discretion as they are regulatory fees set by other legislation. In setting the Fees and Charges, Shire officers attempt to ensure that a fair balance is maintained between the service levels provided, the cost of providing those services and the extent of subsidising the services provided.

Since the adoption of the Draft Schedule of Fees and Charges at the 24 March 2020 Ordinary Council Meeting the State Government has introduced amendments to the Local Government Act 1995 to ensure that financial relief is provided to ratepayers and debtors of local governments who are suffering financial hardship as a result of the COVID-19 pandemic.

The Amended Schedule of Fees and Charges provided at Attachment 1 has been determined applying a 0% increase on the 2019/20 fees and charges in accordance with Council resolution 24/03/2020-118190 with minor amendments to incorporate the changes to the *Local Government Act 1995* outlined in the statutory implications above.

ATTACHMENTS

Attachment 1 - Amended Schedule of Fees and Charges 2020-21

12.5. INFRASTRUCTURE

NIL

13. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

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

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

16. MATTERS BEHIND CLOSED DOORS

17. CLOSURE