

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

26 April 2017



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**SHIRE OF WYNDHAM EAST KIMBERLEY  
ORDINARY COUNCIL MEETING AGENDA  
KUNUNURRA COUNCIL CHAMBERS  
TO BE HELD ON 26 APRIL 2017 AT 5:00PM**

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

Members of the Public are advised that recommendations to Council contained within this Agenda and decisions arising from the Council meeting can be subject to alteration. Applicants and other interested parties should refrain from taking any action until such time as written advice is received confirming Council's decision with respect to any particular issue.

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 5:00pm.

**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
G Hocking	Governance and Communications Officer (Minute Taker)
M Le Riche	Executive Assistant (Minute Taker)

**Gallery**

R Dessert	
A Petherick	Rate Payer
K Wright	Rate Payer
F Heading	SWEK
R Hegarty	Rate Payer
P Bracegirdle	SWEK
M Stewart	SWEK
M Davidson	SWEK
R Storey	
D Spackman	

**3. DECLARATION OF INTEREST**

- Financial Interest  
Nil

- Impartiality Interest

<b>Councillor/Officer</b>	<b>Item</b>	<b>Title</b>	<b>Description of Interest</b>
D Klye	16.2	Legal Claim Finalised	An unresolved complaint has been made against me by the owner of the company which is the subject of this item.
D Klye	16.3	RFT T14-16/17 Provision of Wet and Dry Hire Services for various plant and equipment for a period of one year	I have a personal relationship with on the tenderers for this work. There is also a conflict due to an ongoing legal issue.

- Proximity Interest

Nil

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

Nil

#### **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 March 2017.**

Note: The Minutes of the Ordinary Council Meeting held on 28 March 2017 are provided under separate cover via [www.swek.wa.gov.au](http://www.swek.wa.gov.au)

### **COUNCIL DECISION**

**Minute No: 26/04/2017 – 11653**

**Commissioner resolved:**

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

**Carried 1/0**

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

Nil

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

16.1 Provision of an Off Site Tip Shop for the Shire of Wyndham East Kimberley Landfill Sites

16.2 Legal Claim Finalised

16.3 Request for Tender: T14-16/17 Provision of Wet and Dry Hire Services for Various Plant and Equipment for a Period of One Year

16.4 RFT10 16/17 Lake Argyle Road Redevelopment Stage 2

16.5 Declaration of a Vexatious Customer

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

Nil

## **12. REPORTS**

### **12.1. MATTERS ARISING FROM COMMITTEES OF COUNCIL**

Nil

## 12.2. CHIEF EXECUTIVE OFFICER

### 12.2.1. Draft Filming within the Shire Policy

<b>DATE:</b>	26 April 2017
<b>AUTHOR:</b>	Executive Assistant
<b>RESPONSIBLE OFFICER:</b>	Carl Askew, Chief Executive Officer
<b>DISCLOSURE OF INTERESTS:</b>	Nil

#### VOTING REQUIREMENT

Simple Majority

#### OFFICER'S RECOMMENDATION

**That Council adopts the draft policy Filming within the Shire.**

#### COUNCIL DECISION

**Minute No: 26/04/2017 – 11654**

**Commissioner resolved:**

**That Council adopts the draft policy Filming within the Shire.**

**Carried 1/0**

#### PURPOSE

To provide a consistent approach to the approval and conduct of commercial filming activities within the Shire of Wyndham East Kimberley. The Shire supports commercial filming on land under the management of the Shire of Wyndham East Kimberley which promotes a strong, positive image of the Shire and is carried out in a manner that does not compromise public activities or the day to day operation of the Shire.

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

Advocator - advocate and support initiatives on behalf of the community and the Kimberley  
Leader - plan and provide direction through policy and practices



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

The development of the draft Filming within the Shire policy came about after a number of requests were received for permission to film at a variety of locations within the town of Kununurra during the latter half of the 2015/2016 financial year. One of these requests was Weekend Sunrise. Three of the requests were from organisations making documentaries.

Additionally, some companies have filmed within the Shire boundaries but have not advised the Shire prior to their arrival. A recent example of this was the Today Show visiting the Kimberley in late September. Previously the Shire has also had requests for feature films including, but not limited to Satellite Boy, Mad Bastards, and Australia.

Extensive research was conducted into filming policies of other local governments within Western Australia and other states, as well as the forms used and fees charged. Locally, the Shire of Broome has a Filming in the Shire of Broome Policy and charge \$77 for a filming permit.

Using the policies obtained from other local governments as a base, a Filming within the Shire policy was drafted, along with an application form which was drafted from a template provided by one of the production companies who requested permission to film within Kununurra during June 2016.

The draft policy was tabled to Council at the Ordinary Council Meeting held on 20 December 2016. At the meeting the Commissioner resolved:

**Minute No: 20/12/2016-11558**

**Commissioner resolved:**

**That Council refer the draft Filming within the Shire Policy to a future meeting of Council.**

**Carried 1/0**

The draft policy was reviewed and tabled to Council again at the Ordinary Council Meeting held on 28 February 2017. At the meeting the Commissioner resolved:

**Minute No: 28/02/2017-11613**

**Commissioner resolved:**

**That Council endorse the draft Filming within the Shire Policy to be advertised for public comment for a period of 28 days, inclusive of the removal of point 15 from the Conditions of Permit section.**

**Carried 1/0**

## **STATUTORY IMPLICATIONS**

Shire of Wyndham East Kimberley Property Local Law 2003

### ***Activities needing a permit***

*Section 3.13*

- (1) - A person shall not without a permit -*
  - (c) erect a structure for public amusement or for any performance, whether for gain or otherwise, on local government property;*
  - (g) unless an employee of the local government in the course of her or his duties or on an area set aside for that purpose -*
    - (i) drive or ride or take any vehicle on to local government property; or*
    - (II) park or stop any vehicle on local government property;*
  - (h) conduct a function on local government property;*

## **POLICY IMPLICATIONS**

Nil

## **FINANCIAL IMPLICATIONS**

Event application and facility hire fees would currently be applicable.

Any additional fees or charges would be considered and included as part of the 2017/18 budget and incorporated into the 2017/18 Shire Fees and Charges schedule.

## **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 2.1: A highly valuable East Kimberley economy that maximises social benefits

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

Strategy 2.1.2 : Promote and support major events that benefit locals and attract visitors to the area

Strategy 2.2.4 : Enhance and expand tourism opportunities in the East Kimberley and improve access to significant tourism destinations

## **RISK IMPLICATIONS**

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

**Control:** Review policies and procedures in accordance with review schedule.

## **COMMUNITY ENGAGEMENT**

Engagement has taken place in accordance with the Shire Community Engagement Guidelines and included public advertising of the Policy for a minimum period of 28 days.

The draft policy was publically advertised on the Shire website and in the Kimberley Echo on 9 March 2017 with public comment on the policy concluding at the close of business 6 April 2017. No comments were received prior closing of the comment period, however on comment was received after this time (attachment 3) and was specifically concerned with fees, who they were applicable to, and what the actual fee was.

## **COMMENTS**

The key considerations in the development of this policy were to enable the Shire to be film friendly and encourage filming within the Shire whilst ensuring that filming activities promote a strong, positive image, do not compromise public activities or the day to day operation of the Shire and limit risk to the Shire, the public and the organisations undertaking filming.

It is the intention of the policy, and the Filming Application Form, to act as a supplement to the Public Events Organisational Directive, as it is acknowledged that not all Public Events include filming and not all commercial filming takes place as part of a Public Event.

ScreenWest, in their *Filming in Western Australia* guidelines, advises anyone wishing to film within Western Australia under the subject of Filming on Roads:

*“the relevant local council &/or Main Roads WA must give written permission for any filming activities conducted on public roads/streets”.*

On the topic of Location Permissions and Public Land they also advise:

*“Local councils (and other government agencies) may require approvals in their role as regulator of the land, for example to ensure environmental protection, public safety or management of traffic.”*

ScreenWest further advises potential film makers under the topic of “Local Community Notification:

*“Filmmakers should make arrangements to minimise inconvenience or disadvantage to businesses, residents or the general community, and should do a letter drop to residents and the local community with the details of the filming, with a copy to council for information. The letters should be delivered with enough lead time for people to make further inquiries. The letter should indicate the times and nature of the shoot, conditions of council approval....”*

Since the draft policy originally went to Council in December 2016, the Shire has received a further two requests for filming and notification through ScreenWest that a major Hollywood production will be filmed in the area, as well as a miniseries and a documentary.

At present there is no process for Council to issue permits in regards to filming - which production companies are requesting. This policy seeks to provide that process and the documentation by which film companies can request permits. Through the policy providing a time frame in which applications for permits to be made, it also seeks to allow the Shire to - where possible and appropriate - support and promote (as in Weekend Sunrise) filming events.

### **ATTACHMENTS**

Attachment 1 - Draft Filming within the Shire Policy as advertised

Attachment 2 - Draft Filming Application Form

Attachment 3 - Comment from Mellen Events

## 12.2.2. 2017 Local Government Elections

<b>DATE:</b>	26 April 2017
<b>AUTHOR:</b>	Senior Governance and Risk Officer
<b>RESPONSIBLE OFFICER:</b>	Carl Askew, Chief Executive Officer
<b>FILE NO:</b>	GN.07.14
<b>DISCLOSURE OF INTERESTS:</b>	Nil

### VOTING REQUIREMENT

Absolute Majority

### OFFICER'S RECOMMENDATION

That Council:

1. Declares, in accordance with section 4.20(4) of the *Local Government Act 1995*, the Western Australian Electoral Commissioner to be responsible for the conduct of the 2017 ordinary election together with any other elections or polls which may also be required; and
2. (a) Declares, in accordance with section 4.61(1) of the *Local Government Act 1995*, that the 2017 ordinary election be held as an in person election  
OR  
(b) Declares, in accordance with section 4.61(2) of the *Local Government Act 1995*, that the 2017 ordinary election be held as a postal election

### COUNCIL DECISION

Minute No: 26/04/2017 – 11655

Commissioner resolved:

1. Declares, in accordance with section 4.20(4) of the *Local Government Act 1995*, the Western Australian Electoral Commissioner to be responsible for the conduct of the 2017 ordinary election together with any other elections or polls which may also be required; and
2. Declares, in accordance with section 4.61(2) of the *Local Government Act 1995*, that the 2017 ordinary election be held as a postal election

Carried 1/0

The Commissioner addressed the gallery and requested it be noted in the minutes:

I am most disturbed to hear of the miss information being circulated around the community regarding LG Postal elections.

I advise all attending here this evening of the following facts as provided by the WAEC and will provide the same information to EK Forum hopefully for publication on that site.

The elections for SWEK will be held in October this this year. All electors on the roll will receive an election package for SWEK Election via the post. Included in the package will be:

- A voting paper
- A list of all candidates along with their individual submitted 150 word Profile/ election pitch. All candidates will also have a passport side photo alongside their comments if they provide WAEC one.
- An envelope to insert their completed voting papers in.
- Another reply paid envelope that is to be used to post the papers.

These packages will be posted to all electors 4 weeks prior to Election Day. As of this afternoon there are 3603 registered electors on SWEK roll.

3,169 or 88% have nominated a different postal address to their enrolled address. The packages will be addressed to their postal address in each instance.

The balance of 434 enrolled electors will have their packages posted to their nominated enrolled address.

Ballot boxes will be located at:  
SWEK Kununurra Administration Centre  
SWEK Wyndham Administration Centre  
Kalumburu  
Doon Doon Community

The boxes in the community will be sent out and picked up by the WAEC representative approximately one week from Election Day.

Replacement packages will be available for about three weeks prior to polling day.

On Election Day Kununurra and Wyndham offices will be open from 8am to 6pm and will be staffed to accept ballot papers or issue replacement papers if anyone on the roll did not receive a voting package or if they have spoilt their papers.

Candidates are able to set up outside the polling centre on the day if they so choose in accordance with the regulations which will enable them to interact with voters before they proceed into the polling place to complete their election package or to drop them into the ballot box.

## **PURPOSE**

For Council to appoint the Western Australian Electoral Commission (WAEC) to conduct the 2017 Local Government Ordinary election and for Council to consider the method of conducting the election.

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

Leader - plan and provide direction through policy and practices

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

Council appointed the WAEC to conduct the 2015 Local Government Ordinary election. Prior to this, the last time the Shire of Wyndham East Kimberley used the WAEC for the conduct of an election was in 2003.

It is widely acknowledged that making the Electoral Commissioner responsible for elections enables local government CEOs and staff to remain at arm's-length from potentially contentious aspects of the electoral process and ensure elections are conducted independently, professionally and with absolute impartiality.

The 2015 election was conducted in person and there were 5 vacancies. 13 candidates nominated.

**According to the Election Report provided to the Shire of Wyndham East Kimberley by the WAEC after the election, a total of 1,037 electors cast a ballot paper resulting in 4,571 votes being counted for the election. The participation rate was 22.68% (pg 5).**

As the 2015 election was conducted *in person*, there was an opportunity for early polling, and the Shire's Returning Officer, CEO and several candidates did travel to Kalumburu to provide this service. Early remote polling at Kalumburu indigenous community saw a total of 72 votes taken. There is one other small indigenous community located within the Shire, that being Doon Doon. No visit was made to Doon Doon.

A total of 525 "early votes" were issued by the Shire's administration centres by those wishing to vote early. This indicates that, for over 50% of those who actually voted, the Polling Day was not convenient.

This demonstrates a good argument for the Shire to move to a postal vote.

If the conduct of the 2017 Local Government Ordinary election is determined to be postal, there will be no requirement for "early polling" as electors will receive their voter package and be able to return at their convenience (before polling closes).

There is a small cost difference between the conduct of an in person election versus a postal election.

Information from WAEC:

The pros of postal voting are generally seen as promoting voter participation by making voting more convenient and accessible. For some groups in society (elderly, infirm, travellers), attending a Polling Place can be difficult and, certainly in a Shire the size of Wyndham East Kimberley, this could be considered relevant. While the Shire has two main centres in Wyndham and Kununurra, our largest indigenous community is over 500 kilometres away and extremely isolated - with the only way in and out via one road (usually closed in the wet season) and/or air travel.

The WAEC noted that with the State Election in Western Australia in March 2017, there has been some effort in all communities to get people enrolled to vote and increase participation.

## **STATUTORY IMPLICATIONS**

### **LOCAL GOVERNMENT ACT 1995 - SECT 4.20**

#### **4.20 CEO to be returning officer unless other arrangements made**

- (1) Subject to this section the CEO is the returning officer of a local government for each election.
- (2) A local government may, having first obtained the written agreement of the person concerned and the written approval of the Electoral Commissioner, appoint\* a person other than the CEO to be the returning officer of the local government for —
  - (a) an election; or
  - (b) all elections held while the appointment of the person subsists.

*\* Absolute majority required.*

- (3) An appointment under subsection (2) —
  - (a) is to specify the term of the person's appointment; and
  - (b) has no effect if it is made after the 80<sup>th</sup> day before an election day.
- (4) A local government may, having first obtained the written agreement of the Electoral Commissioner, declare\* the Electoral Commissioner to be responsible for the conduct of an election, or all elections conducted within a particular period of time, and, if such a declaration is made, the Electoral Commissioner is to appoint a person to be the returning officer of the local government for the election or elections.

*\* Absolute majority required.*

- (5) A declaration under subsection (4) has no effect if it is made after the 80<sup>th</sup> day before election day unless a declaration has already been made in respect of an election for the local government and the declaration is in respect of an additional election for the same local government.
- (6) A declaration made under subsection (4) on or before the 80<sup>th</sup> day before election day cannot be rescinded after that 80<sup>th</sup> day.

*[Section 4.20 amended by No. 64 of 1998 s. 19(1); No. 49 of 2004 s. 16(4) and 32(1)-(4).]*



#### **4.61 Choice of methods of conducting election**

- (1) The election can be conducted as a —  
**postal election** which is an election at which the method of casting votes is by posting or delivering them to an electoral officer on or before election day; or  
**voting in person election** which is an election at which the principal method of casting votes is by voting in person on election day but at which votes can also be cast in person before election day, or posted or delivered, in accordance with regulations.
- (2) The local government may decide\* to conduct the election as a postal election.  
*\* Absolute majority required.*
- (3) A decision under subsection (2) has no effect if it is made after the 80<sup>th</sup> day before election day unless a declaration has already been made in respect of an election for the local government and the declaration is in respect of an additional election for the same local government.
- (4) A decision under subsection (2) has no effect unless it is made after a declaration is made under section 4.20(4) that the Electoral Commissioner is to be responsible for the conduct of the election or in conjunction with such a declaration.
- (5) A decision made under subsection (2) on or before the 80<sup>th</sup> day before election day cannot be rescinded after that 80<sup>th</sup> day.
- (6) For the purposes of this Act, the poll for an election is to be regarded as having been held on election day even though the election is conducted as a postal election.
- (7) Unless a resolution under subsection (2) has effect, the election is to be conducted as a voting in person election.

*[Section 4.61 amended by No. 64 of 1998 s. 25; No. 49 of 2004 s. 16(4) and 32(5).]*

#### **POLICY IMPLICATIONS**

Nil

#### **FINANCIAL IMPLICATIONS**

The estimated cost of an in person election conducted by the WA Electoral Commission would be \$23,000 including GST, whereas a postal election is estimated to be \$26,000 including GST.

These costs are estimates only. The final cost will not be known until the final invoice is received after the election.

In the 2015/16 budget \$49,000 was allocated toward election expenses, however less than \$20,000 was invoiced to the Shire from the WA Electoral Commission.

## **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 1.1: Strong community engagement

Objective 1.4: Business innovation, efficiency and improved services

Strategy 1.1.2 : Improve planning processes to ensure broader engagement and identification of relevant issues from all parties.

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 1.4.2 : Improve the efficiency and productivity of Shire services

## **RISK IMPLICATIONS**

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

Control: Review policies and procedures in accordance with review schedule.

## **COMMUNITY ENGAGEMENT**

No community engagement is required, however the Stakeholder Advisory Group have discussed the topic at both their January and March 2017 meetings and provided advice to the Commissioner. There was a majority view that the Shire should consider the option of postal voting as a way to increase convenience and participation rates. The Advisory Group provided a range of suggestions to assist and improve communication and engagement with both local and remote indigenous communities.

## **COMMENTS**

According to the WA Electoral Commission some 76 postal elections were conducted for the 2013 Local Government elections.

*“With voting in local government elections being non-mandatory in Western Australia, postal elections typically result in a higher participation rate by eligible electors than in person ballots, as they offer most electors greater convenience and accessibility.” \**

\* 2013 WAEC Local Government Elections Report, pg 3

The most recent figures for Western Australian Local Government using the WAEC is that some 88 (or 63%) requested provision of the service in 2015.

According to the WA Electoral Commission, Postal Elections were first trialled by four local governments in 1995 and the number of local governments using this service in 2013 had climbed to 76.

In the Kimberley, Broome and Halls Creek are using the WAEC but have remained with the *in person voting*, possibly due to the large number of indigenous communities each local governments have. Broome has 5 remote communities that are visited as early voting centres & Halls Creek has 6 remote communities.

## **ATTACHMENTS**

Attachment 1 - Cost Estimates from the WA Electoral Commission

Attachment 2 - Report from the 2015 LG Election returning officer

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

<b>DATE:</b>	26 April 2017
<b>AUTHOR:</b>	Governance and Communications Officer
<b>RESPONSIBLE OFFICER:</b>	Carl Askew, Chief Executive Officer
<b>DISCLOSURE OF INTERESTS:</b>	Nil

#### **VOTING REQUIREMENT**

Simple Majority

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

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

#### **COUNCIL DECISION**

**Minute No: 26/04/2017 – 11656**

**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 March 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

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

<b>DATE:</b>	26 April 2017
<b>AUTHOR:</b>	Governance and Communications Officer
<b>RESPONSIBLE OFFICER:</b>	Carl Askew, Chief Executive Officer
<b>DISCLOSURE OF INTERESTS:</b>	Nil

#### **VOTING REQUIREMENT**

Simple Majority

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

**That Council receives the report on the application of the Shire of Wyndham East Kimberley Common Seal for the period 24 March 2017 to 20 April 2017.**

#### **COUNCIL DECISION**

**Minute No: 26/04/2017 – 11657**

**Commissioner resolved:**

**That Council receives the report on the application of the Shire of Wyndham East Kimberley Common Seal for the period 24 March 2017 to 20 April 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 24 March 2017 to 20 April 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:

<b>Date of Use</b>	<b>Document</b>
28/03/2017	Lease - Wyndham Child Care Centre, Lot 826 Koolama Street Wyndham: SWEK & Lynette Hill t/a Wyndham Child Care Centre
28/03/2017	Lease - Wyndham Child Care Centre, Lot 827 Koolama Street Wyndham: SWEK & Lynette Hill t/a Wyndham Child Care Centre
28/03/2017	Lease - SWEK & Kimberley Actions Sport Inc. - part lot 707 part reserve 30290

## **ATTACHMENTS**

Nil



## 12.3. COMMUNITY DEVELOPMENT

### 12.3.1. Community Lease - Ord River Magpies

<b>DATE:</b>	26 April 2017
<b>AUTHOR:</b>	Manager Community Services
<b>RESPONSIBLE OFFICER:</b>	Louise Gee, Director Community Development
<b>ASSESSMENT NO:</b>	A7620
<b>FILE NO:</b>	CP.07.22
<b>DISCLOSURE OF INTERESTS:</b>	Nil

#### VOTING REQUIREMENT

Simple Majority

#### OFFICER'S RECOMMENDATION

**That Council authorise the Chief Executive Officer to offer a 10 year lease to the Ord River Magpies Football Club for Part Lot 504 on Plan 61898, Part Reserve 29799, 199 Coolibah Drive Kununurra, subject to the approval of the Minister of Lands.**

#### COUNCIL DECISION

**Minute No: 26/04/2017 – 11658**

**Commissioner resolved:**

**That Council authorise the Chief Executive Officer to offer a 10 year lease to the Ord River Magpies Football Club for Part Lot 504 on Plan 61898, Part Reserve 29799, 199 Coolibah Drive Kununurra, 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 River Magpies Football Club Inc for Part Lot 504 on Plan 61898, Part Reserve 29799, 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 Magpies Football Club Inc (the Club) are located on Lot 504 on Deposited Plan 61898, Reserve 29799 for the purpose of "Recreation, Community Facilities, Caravan Park and Camping Ground". The Clubs' previous sub-lease expired on 30 June 2012 and since then the Club has operated as a tenant at will.

Prior to 1 July 2015, Reserve 29799 was leased to, then occupied as a tenant at will, by the Kununurra Agricultural Society. Under this lease, the Agricultural Society subleased a portion of this Lot to the Ord River Magpies Football Club.

A new Agricultural Society Lease commenced on 1 July 2015, and does not include the existing Ord River Magpies Football Club site, therefore allowing the Shire to enter into lease negotiations directly with the football club.

Officers met with representatives from the Club on 23 February 2016 to discuss general lease terms. From this meeting the Ord River Magpies requested a lease over part Lot 504. The Club also attended a meeting on 9 December 2016 to discuss and workshop with other community groups concerns with the generic community lease template.

The Club were also advised that they were required to submit a Business Plan for a 21 year lease. As yet the Club has not submitted a Business Plan to the Shire.

## **STATUTORY IMPLICATIONS**

The *Local Government Act 1995* provides for leasing under *section 3.58 Disposing of Property* and the *Land Administration Act 1997* provides for the leasing of crown land reserves for one or more purposes of public interest.

### **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 sites that a disposition of land is an exempt disposition if –

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

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

## **POLICY IMPLICATIONS**

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

## **FINANCIAL IMPLICATIONS**

The Ord River Magpies Football Club previously paid no rental to the Shire through the sub-lease arrangement with the Agricultural Society. This will be increased to \$500.00 per annum, excluding GST, indexed for CPI as per *CP/PMG-3780 Leasing of Council Managed Reserve Land - Community* on the execution of the lease.

## **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: Facilities 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

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

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 Magpies Football Club throughout the lease process.

## **COMMENTS**

To date the Club 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.

## **ATTACHMENTS**

Attachment 1 - Draft Lease Ord River Magpies Football Club

### 12.3.3. Policy Review - CP/PMG-3781 Leasing of Council Managed/Owned Land - Commercial

<b>DATE:</b>	26 April 2017
<b>AUTHOR:</b>	Senior Planning Officer
<b>RESPONSIBLE OFFICER:</b>	Louise Gee, Director Community Development
<b>ASSESSMENT NO:</b>	NA
<b>FILE NO:</b>	CM.11.2
<b>DISCLOSURE OF INTERESTS:</b>	Nil

#### **VOTING REQUIREMENT**

Simple Majority

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

**That Council adopt the reviewed Policy *CP/PMG-3781 Leasing of Council Managed/Owned Land – Commercial*, as at Attachment 1.**

#### **COUNCIL DECISION**

Minute No: 26/04/2017 – 11659

Commissioner resolved:

**That Council adopt the reviewed Policy *CP/PMG-3781 Leasing of Council Managed/Owned Land – Commercial*, as at Attachment 1.**

**Carried 1/0**

#### **PURPOSE**

For Council to adopt the draft revised Policy *CP/PMG-3781 Leasing of Council Managed/Owned Land – Commercial*.

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

Leader - plan and provide direction through policy and practices

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

Policy *CP-PMG-3781 Leasing of Council Managed/Owned Land – Commercial* was prepared to complement the community leasing policy, and was adopted by Council at the Ordinary Council Meeting held on 22 September 2015.

**Minute No. 11120**

***That Council adopt the policy CP/PMG-3781 Leasing of Council Managed/Owned Land – Commercial, as amended.***

At the Audit (Finance and Risk) Committee Meeting of 27 February 2017 a recommendation was made for a report to be presented to Council in relation to the alignment of payment arrangements for leases to commence from 1 July. This recommendation was accepted by Council at the 28 March 2017 Ordinary Council Meeting.

Accordingly, it is required to review Policy CP/PMG-3781 in accordance with the above Council decision.

### **STATUTORY IMPLICATIONS**

Local Government Act 1995

Local Government (Functions and General) Regulations 1996

Land Administration Act 1997

Commercial Tenancy (Retail Shops) Agreement Act 1985

### **POLICY IMPLICATIONS**

This item seeks to review an existing policy to specifically guide Council in relation to leasing land for commercial enterprises, which complements policy *CP/PMG-3780 Leasing of Council Managed Reserve Land – Community*.

### **FINANCIAL IMPLICATIONS**

A key objective of the draft commercial leasing policy is to ensure the Shire does not incur any costs in the development and management of Commercial Leases.

### **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**

No community engagement required.

## **COMMENTS**

In accordance with recommendations, initiated at an Audit (Finance and Risk) Committee Meeting, and accepted at the March 2017 Ordinary Council Meeting, it is intended to include the following additional requirement in Clause 3 - Lease Rent of *CP/PMG-3781 Leasing of Council Managed/Owned Land – Commercial*:

*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.*

The same amendment is proposed to be made to *CP/PMG 3780 Leasing of Council Managed Reserve Land - Community*, which Council resolved to advertise at the Ordinary Council Meeting held on 28 March 2017.

A copy of the proposed amendments to this Policy, including a number of minor grammatical changes, are shown highlighted yellow on the draft Policy provided at Attachment 1.

## **ATTACHMENTS**

Attachment 1 - Draft reviewed CP\_PMG-3781 Leasing of Council Managed/Owned Land – Commercial

#### 12.3.4. Temporary Caravan Park Licence - Taylor's Carnival Fun Fair

<b>DATE:</b>	26 April 2017
<b>AUTHOR:</b>	Environmental Health Officer
<b>RESPONSIBLE OFFICER:</b>	Louise Gee, Director Community Development
<b>FILE NO:</b>	PH.12.5
<b>DISCLOSURE OF INTERESTS:</b>	Nil

#### VOTING REQUIREMENT

Simple Majority

#### OFFICER'S RECOMMENDATION

**That Council grant a temporary caravan park licence to Taylor's Carnival for 2 short stay sites at the Kununurra Town Oval from 16 May 2017 to 20 May 2017 subject to the following conditions:**

- 1. Only event participants and staff associated with the Carnival are to be accommodated in the park.**
- 2. Taylors Carnival will utilise the existing ablution facilities at the Kununurra Town Oval.**
- 3. All wastewater (including sullage water) is to be collected and removed from site to be disposed of at an approved wastewater dump point.**
- 4. Rubbish bins are to be sealed and provided within 90 metres of every site. All rubbish to be removed from site and disposed of at an approved waste facility.**
- 5. Fire extinguisher/s are to be located within 90 metres of every site.**



## **COUNCIL DECISION**

Minute No: 26/04/2017 – 11660

Commissioner resolved:

That Council grant a temporary caravan park licence to Taylor's Carnival for 2 short stay sites at the Kununurra Town Oval from 16 May 2017 to 20 May 2017 subject to the following conditions:

1. Only event participants and staff associated with the Carnival are to be accommodated in the park.
2. Taylors Carnival will utilise the existing ablution facilities at the Kununurra Town Oval.
3. All wastewater (including sullage water) is to be collected and removed from site to be disposed of at an approved wastewater dump point.
4. Rubbish bins are to be sealed and provided within 90 metres of every site. All rubbish to be removed from site and disposed of at an approved waste facility.
5. Fire extinguisher/s are to be located within 90 metres of every site.

Carried 1/0

## **PURPOSE**

For Council to consider an application made by Taylor's Carnival for a Temporary Caravan Park and Camping Ground Licence at the Kununurra Town Oval.

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

Regulator - enforce state legislation and local laws

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

The Taylor's Carnival Fun Fair is an annual event held at the Town Oval in Kununurra and Wyndham. In 2017 the event will only run from 17 May to 19 May 2017 in Kununurra. As part of the event a number of participants travel to Kununurra to take part in the carnival. The Taylor's Carnival Fun Fair have applied for a temporary caravan park and camping ground licence from Tuesday 16 May to Saturday 20 May 2017 at the Kununurra Town Oval.

## **STATUTORY IMPLICATIONS**

*Caravan Parks and Camping Grounds Act 1995 (the Act)*

*s. 7(5) Before granting a licence a local government must ensure that —*

- (a) the applicant has complied with the requirements of this Act;*
- (b) the applicant is the owner of the land on which the facility is situated, or is to be situated, or has the written approval of the owner of that land to apply for a licence.*

Caravan Parks and Camping Grounds Regulations 1997 (the Regulations)

*r. 47. Applications not dealt with within time are taken to be refused*

*(1) If within —*

- (a) 63 days of receiving an application for a licence; or*
- (b) 35 days of receiving an application for a renewal of a licence, the local government to which the application was made has not informed the applicant whether or not the application has been granted, the applicant may give the chief executive officer of the local government a notice requiring the local government to inform the applicant, within 14 days, whether or not the application is granted.*

*(2) If within 14 days after receiving a notice referred to in subregulation (1), the local government has not informed the applicant whether or not the application is granted, the local government is to be taken to have refused the application and the applicant may make an application for review to the State Administrative Tribunal under section 27 of the Act.*

*r. 54 Temporary licence*

*(1) A local government may, on payment of the fee set out in item 3 of Schedule 3, grant a temporary licence for a facility which is to remain in force for such period of less than one year, as is provided in the licence.*

*(2) A local government is to endorse on a temporary licence for a facility as conditions of the licence —*

- (a) the maximum number of sites that may be used at the facility;*
- (b) the maximum number of sites of particular types that may be used at the facility and*
- (c) the services and facilities that are to be provided.*

**POLICY IMPLICATIONS**

Council Policy CP/HTH-3762 Licensing of Temporary Caravan Parks and Camping Grounds provides guidelines for the approval of temporary licences. The Policy provides for reduction in amenity and requirements of the Regulations which is considered appropriate as temporary licences are usually issued only for a short time.

**FINANCIAL IMPLICATIONS**

If Taylor's Carnival Fun Fair is granted a temporary licence they will be invoiced for a licence fee to be calculated in accordance with Schedule 3 of the Regulations. For 2 short stay sites for 5 days the minimum fee of \$100 will be applicable.

**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 2.4: Access to appropriate health, family and community services

Strategy 2.4.2 : Ensure community compliance with Environmental Health regulations

### **RISK IMPLICATIONS**

Risk: Failure to comply with minimum health and safety standards resulting in illness or injury to members of the public.

Control: Inspection by Shire officer and compliance with minimum requirements based on legislative requirements for Nature Based Parks.

### **COMMUNITY ENGAGEMENT**

No community engagement is required.

### **COMMENTS**

The proposed licence meets the requirements and intentions of Council Policy *CP/HTH-3762 Licensing of Temporary Caravan Parks and Camping Grounds*. The licenced area will be occupied only by event staff and participants who stay on site with their equipment.

### **ATTACHMENTS**

No attachments

## 12.4. CORPORATE SERVICES

### 12.4.1. Schedule of Fees and Charges for 2017/18

<b>DATE:</b>	26 April 2017
<b>AUTHOR:</b>	Coordinator Financial Management
<b>RESPONSIBLE OFFICER:</b>	Director Corporate Services, Vernon Lawrence
<b>ASSESSMENT NO:</b>	
<b>FILE NO:</b>	FM.05.14
<b>DISCLOSURE OF INTERESTS:</b>	NIL

#### VOTING REQUIREMENT 1

Absolute Majority

#### OFFICER'S RECOMMENDATION 1

1. That Council adopts the proposed Fees and Charges for 2017/18 outlined in Attachment 1 to be effective from either 1 July 2017 or 1 January 2018, whichever date is indicated in Attachment 1.
2. Requests the Chief Executive Officer to give local public notice of the Council's intention to impose the Schedule of Fees and Charges 2017/2018, to apply from 1 July 2017, in accordance with *section 6.19* of the *Local Government Act 1995*.
3. Pursuant to *section 6.16* of the *Local Government Act 1995*, adopts the fees and charges for 2017/18 outlined in Attachment 1, effective from 1 January 2018 relating to Aerodromes:
  - a. Fixed wing aircraft – MTOW - All fixed wing aircraft – per tonne pro rata - \$29.30 (including GST) and All fixed wing aircraft – one landing fee is applicable per one hour session of training circuits or one hour maintenance check flights - \$29.30 (including GST)
  - b. Fixed wing aircraft – General Aviation (GA) - All fixed wing aircraft – per tonne pro rata - \$20.20 (including GST) and All fixed wing aircraft – one landing fee is applicable per one hour session of training circuits or one hour maintenance check flights - \$20.20 (including GST)
  - c. Rotary Wing Aircraft - All fixed wing aircraft – per tonne pro rata - \$15.20 (including GST) and All fixed wing aircraft – one landing fee is applicable per one hour session of training circuits or one hour maintenance check flights - \$15.20 (including GST)

4. Pursuant to section 67 of the *Waste Avoidance and Resources Recovery Act 2007*, imposes the following charges for the 2017/18 financial year effective from 1 July 2017:
  - a. An annual waste receptacle charge of \$307.00 for one (1) service per week of verge collection waste from a 240 Litre mobile garbage bin;
  - b. An annual waste receptacle charge of \$507.00 for each additional service one (1) per week of verge collection waste from one (1) 240 Litre mobile garbage bin;
  - c. An annual waste receptacle charge of \$507.00 for one (1) service per week of verge collection waste from a 240 Litre mobile garbage bin; for exempt / non rateable properties.
5. That Council pursuant to section 53 of the *Cemeteries Act 1986* adopts the fees and charges for the Seven Mile Cemetery, Nine Mile Cemetery, Afghan Cemetery, Pioneer Cemetery, Gully Cemetery, Kununurra Cemetery, and other cemetery associated fees as specified in Attachment 1.
6. Pursuant to Regulation 53 of the *Building Regulations 2012*, a Swimming Pool Inspection Levy of \$14.36 is set on each owner or occupier of land on which there is a swimming pool, for the 2017/18 financial year.
7. Pursuant to Section 6.51(1) and subject to Section 6.51(4) of the *Local Government Act 1995* and Regulation 70 of the *Local Government (Financial Management) Regulations 1996*, imposes an interest rate of 9% for rates (and charges) and costs of proceedings to recover such charges that remain unpaid after becoming due and payable (excluding eligible pensioners and seniors).
8. Pursuant to Section 6.45 of the *Local Government Act 1995* and Regulation 68 of the *Local Government (Financial Management) Regulations 1996*, imposes an interest rate of 5.5% where the owner has elected to pay rates and service charges through an instalment option (excluding eligible pensioners and seniors).
9. Pursuant to Section 6.45 of the *Local Government Act 1995* and Regulation 67 of the *Local Government (Financial Management) Regulations 1996*, imposes an instalment administration charge of \$11.80 per instalment after the initial instalment is paid.
10. Pursuant to Section 6.45 of the *Local Government Act 1995* and Regulation 67 of the *Local Government (Financial Management) Regulations 1996*, impose a flat fee of \$59.70 plus administration charge of \$9.80 per instalment of payment arrangement on any ratepayer who wishes to negotiate a special payment arrangements.

## **COUNCIL DECISION**

Minute No: 26/04/2017 – 11661

Commissioner resolved:

1. That Council adopts the proposed Fees and Charges for 2017/18 outlined in Attachment 1 to be effective from either 1 July 2017 or 1 January 2018, whichever date is indicated in Attachment 1.
2. Requests the Chief Executive Officer to give local public notice of the Council's intention to impose the Schedule of Fees and Charges 2017/2018, to apply from 1 July 2017, in accordance with *section 6.19* of the *Local Government Act 1995*.
3. Pursuant to *section 6.16* of the *Local Government Act 1995*, adopts the fees and charges for 2017/18 outlined in Attachment 1, effective from 1 January 2018 relating to Aerodromes:
  - a. Fixed wing aircraft – MTOW - All fixed wing aircraft – per tonne pro rata - \$29.30 (including GST) and All fixed wing aircraft – one landing fee is applicable per one hour session of training circuits or one hour maintenance check flights - \$29.30 (including GST)
  - b. Fixed wing aircraft – General Aviation (GA) - All fixed wing aircraft – per tonne pro rata - \$20.20 (including GST) and All fixed wing aircraft – one landing fee is applicable per one hour session of training circuits or one hour maintenance check flights - \$20.20 (including GST)
  - c. Rotary Wing Aircraft - All fixed wing aircraft – per tonne pro rata - \$15.20 (including GST) and All fixed wing aircraft – one landing fee is applicable per one hour session of training circuits or one hour maintenance check flights - \$15.20 (including GST)
5. Pursuant to *section 67* of the *Waste Avoidance and Resources Recovery Act 2007*, imposes the following charges for the 2017/18 financial year effective from 1 July 2017:
  - A. An annual waste receptacle charge of \$307.00 for one (1) service per week of verge collection waste from a 240 Litre mobile garbage bin;
  - B. An annual waste receptacle charge of \$507.00 for each additional service one (1) per week of verge collection waste from one (1) 240 Litre mobile garbage bin;
  - C. An annual waste receptacle charge of \$507.00 for one (1) service per week of verge collection waste from a 240 Litre mobile garbage bin; for exempt / non rateable properties.
6. That Council pursuant to *section 53* of the *Cemeteries Act 1986* adopts the fees and charges for the Seven Mile Cemetery, Nine Mile Cemetery, Afghan Cemetery, Pioneer Cemetery, Gully Cemetery, Kununurra Cemetery, and other cemetery associated fees as specified in Attachment 1.

7. Pursuant to Regulation 53 of the *Building Regulations 2012*, a Swimming Pool Inspection Levy of \$14.36 is set on each owner or occupier of land on which there is a swimming pool, for the 2017/18 financial year.

8. Pursuant to Section 6.51(1) and subject to Section 6.51(4) of the *Local Government Act 1995* and Regulation 70 of the *Local Government (Financial Management) Regulations 1996*, imposes an interest rate of 9% for rates (and charges) and costs of proceedings to recover such charges that remain unpaid after becoming due and payable (excluding eligible pensioners and seniors).

9. Pursuant to Section 6.45 of the *Local Government Act 1995* and Regulation 68 of the *Local Government (Financial Management) Regulations 1996*, imposes an interest rate of 5.5% where the owner has elected to pay rates and service charges through an instalment option (excluding eligible pensioners and seniors).

10. Pursuant to Section 6.45 of the *Local Government Act 1995* and Regulation 67 of the *Local Government (Financial Management) Regulations 1996*, imposes an instalment administration charge of \$11.80 per instalment after the initial instalment is paid.

Pursuant to Section 6.45 of the *Local Government Act 1995* and Regulation 67 of the *Local Government (Financial Management) Regulations 1996*, impose a flat fee of \$59.70 plus administration charge of \$9.80 per instalment of payment arrangement on any ratepayer who wishes to negotiate a special payment arrangements.

Carried 1/0

## **VOTING REQUIREMENT 2**

Absolute Majority

## **OFFICER'S RECOMMENDATION 2**

1. 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

## **COUNCIL DECISION**

Minute No: 26/04/2017 – 11662

Commissioner resolved:

1. 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 1/0

## **PURPOSE**

For the Council to consider the adoption of the 2017/18 fees and charges to commence from 1 July 2017, or 1 January 2018 in relation to some of the aerodrome-related fees; to be incorporated into the 2017/18 Annual Budget.

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

Provider - provide physical infrastructure and essential services

Regulator - enforce state legislation and local laws

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

Council is requested to adopt the Schedule of Fees and Charges for the 2017/2018 financial year. In accordance with *section 6.16(1)* of the *Local Government Act 1995*, 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 a number of charges, which are applicable from 1 July 2017, and therefore it is recommended that the proposed Schedule of Fees and Charges is adopted prior to the adoption of the annual budget so that all fees can apply from 1 July 2017.

All fees and charges have been reviewed by Council Officers with their recommended changes incorporated in the draft Schedule of Fees and Charges for consideration and if adopted will be used by Shire officers when compiling the 2017/2018 draft Budget.

## **STATUTORY IMPLICATIONS**

### **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.

#### 6.35. Minimum payment

(1) Subject to this section, a local government may impose on any rateable land in its district a minimum payment which is greater than the general rate which would otherwise be payable on that land.

(2) A minimum payment is to be a general minimum but, subject to subsection (3), a lesser minimum may be imposed in respect of any portion of the district.

(3) In applying subsection (2) the local government is to ensure the general minimum is imposed on not less than —

(a) 50% of the total number of separately rated properties in the district; or

(b) 50% of the number of properties in each category referred to in subsection (6), on which a minimum payment is imposed.

(4) A minimum payment is not to be imposed on more than the prescribed percentage of —

(a) the number of separately rated properties in the district; or

(b) the number of properties in each category referred to in subsection (6), unless the general minimum does not exceed the prescribed amount.

(5) If a local government imposes a differential general rate on any land on the basis that the land is vacant land it may, with the approval of the Minister, impose a minimum payment in a manner that does not comply with subsections (2), (3) and

(4) for that land.

(6) For the purposes of this section a minimum payment is to be applied separately, in accordance with the principles set forth in subsections (2), (3) and (4) in respect of each of the following categories —

(a) to land rated on gross rental value; and

(b) to land rated on unimproved value; and

(c) to each differential rating category where a differential general rate is imposed.

[Section 6.35 amended by No. 49 of 2004 s. 61.]

## **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).*

## **Local Government (Financial Management) Regulations 1996**

### **Part 5 – Rates and service charges**

#### **53. Amount prescribed for minimum payment (Act s. 6.35(4))**

*The amount prescribed for the purposes of section 6.35(4) is \$200.*

## **Waste Avoidance and Resource Recovery Act 2007**

### **Part 6, Division 3 – Local laws and local government rates, fees and charges**

#### **66. Local government may impose waste collection rate**

(1) *A local government may impose on rateable land within its district, and cause to be collected, an annual rate for the purpose of providing for the proper performance of all or any of the waste services it provides*

(2) *The annual rate must not exceed —*

(a) *12 cents in the dollar on the gross rental value; or*

(b) *where the system of valuation on the basis of the unimproved value is adopted, 3 cents in the dollar on the unimproved value of the land in fee simple.*

(3) *The provisions of the Local Government Act 1995 relating to the making, payment and recovery of general rates apply with respect to rates referred to in subsection(1).*

#### **67. Local government may impose receptacle charge**

(1) *A local government may, in lieu of, or in addition to a rate under section 66, provide for the proper disposal of waste, whether within its district or not, by making an annual charge per waste receptacle, payable in one sum or by equal monthly or other instalments in advance, in respect of premises provided with a waste service by the local government.*

(2) *The charge is to be imposed on the owner (as defined in section 64(1)) or occupier, as the local government may decide, of any premises provided with a waste service by the local government.*

(3) *The provisions of the Local Government Act 1995 relating to the recovery of general rates apply with respect to a charge referred to in subsection (1).*

(4) *In the case of premises being erected and becoming occupied during the year for which payment is to be made, the charge for the service provided is to be the sum that proportionately represents the period between the occupation of the premises and the end of the year for which payment is made.*

(5) *Notice of any charge made under this section may be included in any notice of rates imposed under section 66 or the Local Government Act 1995, but the omission to give notice*

*of a charge does not affect the validity of the charge or the power of the local government to recover the charge.*

*(6) A charge may be limited to premises in a particular portion of the area under the control of the local government.*

*(7) Charges under this section may be imposed in respect of and are to be payable for all premises in respect of which a waste service is provided, whether such premises are rateable or not.*

*(8) A local government may make different charges for waste services rendered in different portions of its district.*

*68. Fees and charges fixed by local government Nothing in this Part prevents or restricts a local government from imposing or recovering a fee or charge in respect of waste services under the Local Government Act 1995 section 6.16.*

## **Cemeteries Act 1986**

### **Part II – Cemeteries**

*6. Local governments to perform functions of a Board Where an order is made or is deemed to have been made under section 5 vesting the care, control and management of a cemetery in a local government, the local government shall, subject to this Act and to any necessary modifications, perform and be subject to the duties imposed on Boards under this Act and may exercise the powers conferred on Boards under this Act; and references in this Act to a Board or Boards shall be construed accordingly in relation to such a local government as the case may require.*

### **Part VIII – Local laws, by-laws and regulations**

#### **53. Fees and charges**

*(1) A Board may by resolution set fees and charges for any of the following purposes*

- 
- (a) issuing a funeral director's licence;*
- (b) issuing a single funeral permit;*
- (c) digging or opening a grave;*
- (d) a grant or renewal of a grant of a right of burial;*
- (e) permission to erect new or additional memorials and for supervising such work;*
- (f) cremation;*
- (g) conducting a funeral;*
- (h) inspection of registers and issue of extracts or certified copies therefrom;*
- (i) registration of the assignment or bequest of a right of burial;*
- (j) exhumation;*
- (k) maintenance of graves;*
- (l) extraordinary services provided for funerals;*
- (m) disposal of ashes;*
- (n) the provision of memorials; and*
- (o) any other purpose necessary for the effective administration of this Act.*

*(2) A fee or charge set by a resolution under subsection (1) shall not come into effect until not less than 14 days' notice of the fee or charge has been given in the Gazette.*

*(3) Fees and charges set under this section shall be payable to the Board and*

recoverable as a debt in a court of competent jurisdiction.

(4) The Minister may, by order published in the Gazette, amend or revoke a fee or charge set by a Board under this section if the Minister considers the fee or charge to be unreasonable.

## **POLICY IMPLICATIONS**

Insert

## **FINANCIAL IMPLICATIONS**

The setting of fees and charges for 2017/18 will have no impact on the current year position, however it has significant financial implications for 2017/18 and in some cases for 2018/19 also, particularly in relation to some of the airport-related fees. The outcomes essentially determine the increases in pricing for significant sources of Shire revenue for the coming financial year.

For example, the 2016/17 Adopted Budget incorporated an estimated \$7.692 million for fees and charges with \$2.715 million associated with waste management and \$3.560 million associated with the airport.

### **2017/18 annual waste receptacle charges**

Local Governments have a statutory obligation under the Waste Avoidance and Resource Recovery Act 2007 to collect domestic waste. The Act permits recovery of the cost of providing this service through a separate charge.

Proposed 2017/18 waste receptacle charges are listed in the table below:

<b>Charge Type</b>	<b>Description</b>	<b>2016/17</b>	<b>2017/18</b>
An annual waste receptacle charge	one (1) service per week of verge collection waste 240 Litre mobile garbage bin	\$ 302.80	\$ 307.00
An annual waste receptacle charge (Additional Service)	one (1) service per week of verge collection waste 240 Litre mobile garbage bin	\$ 531.80	\$ 507.00
An annual waste receptacle charge (exempt / non rateable properties)	one (1) service per week of verge collection waste 240 Litre mobile garbage bin	\$531.80	\$ 507.00

## **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

Strategy 2.2.8 : Support and advocate for further development of the East Kimberley regional airport to attract more aircraft and greater competition

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

Strategy 2.3.2 : Plan, design and budget for sustainable infrastructure

## **RISK IMPLICATIONS**

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

Control: Review policies and procedures.

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

Control: Current budget and service levels.

## **COMMUNITY ENGAGEMENT**

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

- Shire officers
- Council briefing conducted in April 2017.

Section 6.19 of the *Local Government Act 1995* requires the Shire to give local public notice of the intention to impose fees and charges and the date from which the fees or charges will be imposed.

Along with local public notice, the Shire will also distribute general notices to many of the current debtors to ensure that they take any change into account in their future planning.

## **COMMENTS**

The Shire currently has approximately 700 fees (including statutory fees) generating \$7.691 million in 2015/16, compared to rating income of \$9.951 million for the same period. It is clear that revenue from fees and charges is significant and therefore needs to be reviewed on a regular basis.

The setting of the Fees and Charges was completed in accordance with the Council Policy *CP/FIN-3211 Fees and Charges Pricing*. The intent of the Policy acknowledges that there are competing priorities between community service obligations, maintaining infrastructure and ensuring that the community is not unduly burdened. However, financial resources, largely comprised of rate revenue and fees and charges, are limited. Therefore, the Policy seeks to ensure that the Shire's fees and charges are determined utilising key principles that ensure fair and reasonable charging to the community for the goods and services that the Shire provides, therefore seeking the appropriate balance between these priorities.

Officers reviewed the fees and charges for 2016/17 utilising this Policy and where possible, the overarching principles and basis as outlined below:

<i>Benefits</i>	<i>Pricing Basis</i>
<i>1. Public Benefit – service provides a broad community benefit and therefore full cost recovery should not apply. Partial cost recovery could apply in some circumstances.</i>	<i>Zero To Partial Cost Recovery</i>
<i>2. Private Benefit – service benefits particular users making a contribution to their individual income, welfare or profits generally without any broader benefits to the community.*</i>	<i>Full Cost Recovery</i>
<i>3. Shared Benefit – service provides both community benefits and a private benefit</i>	<i>Partial Cost Recovery</i>
<i>4. Regulatory – fee or charge fixed by legislation</i>	<i>100% of Regulatory Fee or Charge</i>

*\* Note that for the Private Benefit Category, 2 additional Pricing Basis classifications may be considered by Council being:*

- 1. Full Cost Recovery + Possible Markup*
- 2. Full Cost Recovery + Possible Future Consideration*

The discussions for fees and charges were centred on what basis to use as a local Government as a predictor of price changes over time. Australian Bureau of Statistics (ABS) when calculating the Consumer Price Index (CPI) uses a basket of goods based on the same commodity categories and is not reflective of the mix of business activities of a local government.

The Local Government Cost Index is still considered the most appropriate methodology to utilise as a base in as it takes expenditure items like road construction, machinery and equipment, and street lighting.

In 2016/17 the Shire adopted a 2.55% (1.5% x 0.7 Kimberley factor) average increase to Fees and Charges when the Local Government Cost Index was 1.5%. CPI for the same period was 1.3%. Local Government Cost Index data for the three quarters to December 2016 show a 0.9% increase in the index. This suggests that annualised index at the end of the March quarter will be around the 1.2% level. The Local Government Cost Index increase based on Western Australian Local Government Association (WALGA) Economic Briefing from February 2017 showed that the change in the index for the December 2015 to December 2016 period was 1%.

Shire officers recognise that the prior year increase was higher than the forecast Local Government Cost Index and have therefore used 1% as a basis when determining increases which is estimated to be lower than the forecast Local Government Cost Index for the 2017/18 year. However, the majority of Recreation and Culture fees and charges have remained unchanged for community benefit.

The Shire introduced the provision of waste vouchers with the distribution of Rates Notices for the 2013/14 financial year as a result of no longer accepting 'free' domestic waste from 1 October 2013. In 2016/17, yellow domestic waste vouchers were provided to those properties within the GRV Residential, UV Rural Residential, UV Rural Agriculture 1 and UV Rural Agriculture 2 rating categories. Properties in all other rate categories did not receive a yellow domestic waste voucher. The issuing of yellow domestic waste vouchers for the 2017/18 financial year will remain unchanged. The funding for these vouchers will be provided for in the rates model.

Red domestic waste vouchers are provided to properties within the GRV Residential, UV Rural Residential, UV Rural Agriculture 1 and UV Rural Agriculture 2 rating categories where a waste collection service is not provided. These vouchers were provided free of charge in the 2016/17 year. This practice is regarded as inequitable as other ratepayers who receive a service have to pay for it. Officers propose that for the 2017/18 year that Red Vouchers for domestic waste are provided to to the same rate categories that received them in the 2016/17 year but at a fee that is 50% of the domestic waste service fee. Properties in all other rating categories are not entitled to receive a Red Voucher for domestic waste. Red Vouchers for domestic waste will no longer be issued free of charge and the relevant fee payable is now listed in the fees and charges schedule in attachment 1.

## **ATTACHMENTS**

Attachment 1 - Schedule of Fees and Charges for 2017/18



## 12.4.2. 2017/18 Budget - Strategic Rating Policy, Rates Modelling, Advertising and Community Engagement

<b>DATE:</b>	26 April 2017
<b>AUTHOR:</b>	Director Corporate Services
<b>RESPONSIBLE OFFICER:</b>	Vernon Lawrence, Director Corporate Services
<b>FILE NO:</b>	
<b>DISCLOSURE OF INTERESTS:</b>	Nil

### VOTING REQUIREMENT

Simple Majority

### OFFICER'S RECOMMENDATION

That Council:

1. Endorse the revised Council Policy *CP/FIN-3200 Strategic Rating*;
2. Endorse the 2017/18 Rating Model as follows, with the intention of seeking public submissions thereon and thereafter striking the rates as part of the 2017/18 Budget adoption, subject to receiving Ministerial approval where required by legislation;

Rating Category	Total Properties	Total Rateable Value of Properties	Proposed Minimum Payment	Rate in the Dollar (cents)	% of Properties on Minimum Payments	Proposed Rates Revenue Budget 2016/17
GRV - Residential	1,687	48,988,374	1,112	9.53	3.00%	4,681,188
GRV - Other Vacant	124	821,650	1,112	14.30	78.23%	176,540
GRV - Commercial	186	14,850,154	1,112	12.40	11.83%	1,850,408
GRV - Industrial	177	9,121,530	1,112	11.44	3.95%	1,047,391
UV - Rural Residential	185	51,149,000	1,112	1.00	0.00%	511,490
UV - Pastoral	24	6,203,351	1,112	5.44	4.17%	337,624
UV - Commercial/Industrial	59	14,368,560	1,112	0.69	45.76%	117,218
UV - Rural Agriculture 1	80	75,530,309	1,112	0.97	1.25%	733,659

UV - Rural Agriculture 2	109	57,381,000	1,112	0.69	0.00%	395,929
UV - Mining	68	1,671,154	1,112	28.21	47.06%	494,051
UV - Mining Vacant	47	472,250	310	14.11	48.94%	69,551
UV - Other	2	526,000	1,112	0.65	0.00%	3,419
<b>TOTALS</b>	<b>2,748</b>	<b>281,083,332</b>				<b>\$10,418,443</b>
					Add Ex-Gratia Rates	\$5,420
						<b>\$10,423,863</b>

3. That Council endorses for advertising for a minimum of twenty-one (21) days and seeks public submissions on:
- a. Council Policy *CP/FIN-3200 Strategic Rating* (Attachment 2) that outlines the principles which underpin the proposed 2017/18 rating model, including the Object of and Reasons for Differential Rates;
  - b. The Draft 2017/18 Rate Modelling (Attachment 1) 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 2017 for the 2017/18 financial year in accordance with section 6.36 of the *Local Government Act 1995*.

## COUNCIL DECISION

Minute No: 26/04/2017 – 11663

Commissioner resolved:

That Council:

1. Endorse the revised Council Policy *CP/FIN-3200 Strategic Rating*;
2. Endorse the 2017/18 Rating Model as follows, with the intention of seeking public submissions thereon and thereafter striking the rates as part of the 2017/18 Budget adoption, subject to receiving Ministerial approval where required by legislation;

Rating Category	Total Properties	Total Rateable Value of Properties	Proposed Minimum Payment	Rate in the Dollar (cents)	% of Properties on Minimum Payments	Proposed Rates Revenue Budget 2016/17
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<b>TOTALS</b>	<b>2,748</b>	<b>281,083,332</b>				<b>\$10,418,443</b>

Add Ex-Gratia Rates

\$5,420

\$10,423,863

3. That Council endorses for advertising for a minimum of twenty-one (21) days and seeks public submissions on:

a. Council Policy *CP/FIN-3200 Strategic Rating (Attachment 2)* that outlines the principles which underpin the proposed 2017/18 rating model, including the Object of and Reasons for Differential Rates;

b. The Draft 2017/18 Rate Modelling (Attachment 1) 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 2017 for the 2017/18 financial year in accordance with section 6.36 of the *Local Government Act 1995*.

Carried 1/0

## **PURPOSE**

For the Council to consider the amendments to Council Policy *CP/FIN-3200 Strategic Rating* and the rating model prepared based on the updated Policy. For the Council to further endorse advertising and community engagement on Council Policy *CP/FIN-3200 Strategic Rating* and the rating model.

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

Regulator - enforce state legislation and local laws

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

Rates revenue is a substantial source of discretionary revenue for the Shire of Wyndham East Kimberley, accounting for approximately 43.7% of the total operating revenue in the adopted 2016/17 Budget. The *Local Government Act 1995* (the Act) empowers local governments to impose differential general rates and minimum payments on rateable land.

The Shire of Wyndham East Kimberley has adopted a differential general rate and general minimum payments for a number of years. The imposition of differential rates is a conscious decision by the Council to redistribute the rate burden in its district by imposing a higher impost on some ratepayers and a lower impost on others.

The overall objective of a rating model is to provide for the net funding requirements of the Shire's services, activities, financing costs and the current and future capital requirements of the Shire as outlined in the Strategic Community Plan, Long Term Financial Plan and Corporate Business Plan. Asset management is a significant challenge for all local

governments and any rating model must also support asset renewal and replacement requirements in line with defined service levels.

In accordance with the Act, the Minister for Local Government is authorised to approve the following in relation to rates:

- The imposition of a differential general rate which is twice the lowest differential general rate imposed by a local government;
- A minimum payment on vacant land that does not comply with legislative provisions;
- Changes in the method of valuation of land; and
- Land exempt from rates.

The Department of Local Government and Communities has developed a range of policies and application forms to ensure that local governments provide all the necessary information.

The Council adopted a revised *Strategic Rating Policy* during 2014/15 which utilised five (5) principles (these continued to be applied in the current planning considerations) in the development of the rating methodology being:

1. Equity
2. Incentive
3. Administrative Efficiency
4. Compliance
5. Sustainability.

The differential rates applied ensure greater equity and contribution of rates according to land use, zoning or a combination of these. The 2014/15 financial year was the first year that the differential rating model (including minimum payments) attempted to align with the current Town Planning Scheme No. 7 Kununurra and Environs (TPS7) and the current Town Planning Scheme No. 6 Wyndham Townsite (TPS6) in an effort to ensure greater equity across the rating differential categories.

Although the current Town Planning Schemes are under review, the Policy is quite clear in that it will not only be reviewed on an annual basis, but that where TPS6 or TPS7 are amended or superseded, the Policy will be reviewed and the new zones and land uses will be considered when amending the rating model for the following financial year.

After consideration of the rating principles and the alignment of the rating differential model to the Town Planning Schemes, there has been no amendments to the current differential rating categories, however there has been a review of the objects of and reasons for the differential rates proposed in 2017/18.

Rates are calculated by multiplying the valuation (either GRV or UV), provided by Landgate (the Valuer-General), with a rate in the dollar, imposed by the Council. When Landgate revalue properties, the Shire can adjust the rate in the dollar to offset significant fluctuations in valuation.

The GRV Residential rating category is still classified as the “base rate” from which all other differential rates that hold a GRV value are calculated. Multipliers are then applied to three (3) of the GRV categories in order to determine the revised rate in the dollar. For example, a multiplier of 1.5 times the base rate in the dollar will be applied to GRV Other Vacant land; for 2016/17 a multiplier of 1.3 times the base rate in the dollar for GRV Commercial and 1.2 times for GRV Industrial. It is the intention for the multiplier to be increased for the GRV Commercial rate in the dollar to reach 2 times the base rate and be capped and the GRV Industrial rate in the dollar reach 1.7 times the base rate and be capped in future.

These multipliers have remained the same since 2015/16, in part, to recognise the downturn in the economy and to provide some alleviation of the rates burden on businesses, both commercial and industrial, that are experiencing this downturn the most.

As also outlined in the Policy, it is intended that the UV Rural Residential and the UV Commercial/Industrial rating categories are transitional. The intent is for the Shire to work through the legislative process required to have GRV values placed on these land parcels given what the land is being used for. This is quite a lengthy process, and could take some time to achieve dependent upon the resources of the Valuer-General, but would certainly ensure that the rating model is as equitable as possible. The risk of undertaking the process and formally applying to the Minister for the land to be GRV valued may be a reduction in revenue depending upon the valuations that are provided by the Valuer-General. Any reduction in revenue would ultimately need to be made up through a higher rate in the dollar being applied to compensate.

## **STATUTORY IMPLICATIONS**

### ***Local Government Act 1995***

#### ***Part 5***

#### ***Division 6 – Disclosure of financial interests***

##### **5.63. Some interests need not be disclosed**

- (1) *Sections 5.65, 5.70 and 5.71 do not apply to a relevant person who has any of the following interests in a matter —*
- (a) *an interest common to a significant number of electors or ratepayers; or*
  - (b) *an interest in the imposition of any rate, charge or fee by the local government; or*
  - (c) *an interest relating to a fee, reimbursement of an expense or an allowance to which section 5.98, 5.98A, 5.99, 5.99A, 5.100 or 5.101(2) refers...*

**Local Government Act 1995**

**Part 6**

**Division 6 – Rates and service charges**

**6.33. Differential general rates**

- (1) A local government may impose differential general rates according to any, or a combination, of the following characteristics —
- (a) the purpose for which the land is zoned under a local planning scheme in force under the Planning and Development Act 2005;
  - (b) the predominant purpose for which the land is held or used as determined by the local government;
  - (c) whether or not the land is vacant land; or
  - (d) any other characteristic or combination of characteristics prescribed.
- (2) Regulations may —
- (a) specify the characteristics under subsection (1) which a local government is to use; or
  - (b) limit the characteristics under subsection (1) which a local government is permitted to use.
- (3) In imposing a differential general rate a local government is not to, without the approval of the Minister, impose a differential general rate which is more than twice the lowest differential general rate imposed by it.
- (4) If during the financial year, the characteristics of any land which form the basis for the imposition of a differential general rate have changed, the local government is not to, on account of that change, amend the assessment of rates payable on that land in respect of that financial year but this subsection does not apply in any case where section 6.40(1)(a) applies.

**6.35. Minimum payment**

- (1) Subject to this section, a local government may impose on any rateable land in its district a minimum payment which is greater than the general rate which would otherwise be payable on that land.
- (2) A minimum payment is to be a general minimum but, subject to subsection (3), a lesser minimum may be imposed in respect of any portion of the district.
- (3) In applying subsection (2) the local government is to ensure the general minimum is imposed on not less than
- (a) 50% of the total number of separately rated properties in the district; or
  - (b) 50% of the number of properties in each category referred to in subsection (6),
- on which a minimum payment is imposed.

- (4) *A minimum payment is not to be imposed on more than the prescribed percentage of* □
- (a) *the number of separately rated properties in the district; or*
  - (b) *the number of properties in each category referred to in subsection (6),*
- unless the general minimum does not exceed the prescribed amount.*
- (5) *If a local government imposes a differential general rate on any land on the basis that the land is vacant land it may, with the approval of the Minister, impose a minimum payment in a manner that does not comply with subsections (2), (3) and (4) for that land.*
- (6) *For the purposes of this section a minimum payment is to be applied separately, in accordance with the principles set forth in subsections (2), (3) and (4) in respect of each of the following categories* □
- (a) *to land rated on gross rental value;*
  - (b) *to land rated on unimproved value; and*
  - (c) *to each differential rating category where a differential general rate is imposed.*

#### 6.36. Local government to give notice of certain rates

- (1) *Before imposing any differential general rates or a minimum payment applying to a differential rate category under section 6.35(6)(c) a local government is to give local public notice of its intention to do so.*
- (2) *A local government is required to ensure that a notice referred to in subsection (1) is published in sufficient time to allow compliance with the requirements specified in this section and section 6.2(1).*
- (3) *A notice referred to in subsection (1)*
- (a) *may be published within the period of 2 months preceding the commencement of the financial year to which the proposed rates are to apply on the basis of the local government's estimate of the budget deficiency;*
  - (b) *is to contain* □
    - (i) *details of each rate or minimum payment the local government intends to impose;*
    - (ii) *an invitation for submissions to be made by an elector or a ratepayer in respect of the proposed rate or minimum payment and any related matters within 21 days (or such longer period as is specified in the notice) of the notice; and*
    - (iii) *any further information in relation to the matters specified in subparagraphs (i) and (ii) which may be prescribed; and*
  - (c) *is to advise electors and ratepayers of the time and place where a document describing the objects of, and reasons for, each proposed rate and minimum payment may be inspected.*



(4) *The local government is required to consider any submissions received before imposing the proposed rate or minimum payment with or without modification.*

(5) *Where a local government* □

(a) *in an emergency, proposes to impose a supplementary general rate or specified area rate under section 6.32(3)(a); or*

(b) *proposes to modify the proposed rates or minimum payments after considering any submissions under subsection (4),*

*it is not required to give local public notice of that proposed supplementary general rate, specified area rate, modified rate or minimum payment.*

### **Local Government (Financial Management) Regulations 1996**

#### **52A. Differential general rates — s. 6.33(1)(d)**

*6.33 (1)(d) For the purposes of section 6.33(1)(d), the following are prescribed characteristics —*

(a) *whether or not the land is situated in a townsite as defined in the Land Administration Act 1997 section 3(1);*

(b) *whether or not the land is situated in a particular part of the district of the local government.*

### **POLICY IMPLICATIONS**

The proposed differential general rates and minimum payments in the rate model are based on the Council's revised Policy *CP/FIN-3200 Strategic Rating* that aligns the rating model closely to the current Town Planning Scheme No. 7 Kununurra and Environs (TPS7) and the current Town Planning Scheme No. 6 Wyndham Townsite (TPS6) in terms of land use.

If there are modifications to the differential general rates or minimum payments from those proposed, then Council Policy *CP/FIN-3200 Strategic Rating* may need to also be amended to reflect the modifications.

It should be noted that Council's Policy *CP/FIN-3200 Strategic Rating* incorporates references to Council Policy *CP FIN-3208 Rates Exemptions for Charitable Organisations (Non-Rateable Land)*; however there are no subsequent amendments required.

## **FINANCIAL IMPLICATIONS**

The differential general rates and minimum payments per the rating model are expected to yield total net rate revenue of \$10,423,863. (\$10,418,443 plus ex-gratia rates of \$5,420). The overall increase in total rate revenue is 2.12%

The rate revenue generated is based on a natural growth of 0.9% and an average rate increase of 1.2%.

## **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 1.4.2 : Improve the efficiency and productivity of Shire services

Strategy 1.4.3 : Maintain Council's long term financial viability

## **RISK IMPLICATIONS**

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

Control: Current budget and service levels.

## **COMMUNITY ENGAGEMENT**

Engagement will take place in accordance with the Shire's Community Engagement Guidelines.

In accordance with legislative requirements it is proposed to provide local public notice of the proposed rates in the dollar for a period of 21 days and seek public submissions.

Public notification will include the following:-

- Local public notice in the Kimberley Echo on 4 May;
- A copy of the Notice to Impose Differential General Rates and Minimum Payments for 2017/18 placed on the Coles noticeboard on 4 May;
- The Shire's Facebook page and website on 4 May;
- Media Release on 4 May;
- A copy of the Notice to Impose Differential General Rates and Minimum Payments for 2017/18, including Council Policy *CP/FIN-3200 Strategic Rating* placed on the

Shire's website, public noticeboards at the Civic Centres and Libraries in both Kununurra and Wyndham on 4 May.

## **COMMENTS**

The rate setting process is governed by the Council Policy *CP/FIN-3200 Strategic Rating*. This Policy allows for the rate in the dollar to be determined on a differential basis and for the application of multipliers for the categories GRV Other Vacant, GRV Commercial and GRV Industrial. The policy also allows for the application of a Kimberly loading of 70%. The rates modelling undertaken processed various scenarios where the multipliers and the Kimberly loading were included individually and together. This together with the proposed increase in the rate in the dollar and natural growth of 0.9% yielded gross revenue increases ranging from 2.12% to 5.2%.

The process requires Officers to determine the rate in the dollar based on the Policy as it exists. However, Shire Officers are of the opinion that the local economy has not recovered sufficiently to consider increases that are more than what the estimate of the movement in the Local Government Cost Index is likely to be. Officers are therefore proposing not to use the multipliers of the Kimberley loading for the 2017/18 year. The reasons for doing so are detailed below. As this is a departure from the Policy as it stands, the necessary changes to the Council Policy *CP/FIN-3200 Strategic Rating* have been made to reflect this view. The use of the multipliers and the Kimberley loading will be re-evaluated in the 2018/19 rates modelling process.

### **Proposed rate in the dollar**

While the proposed percentage rate increase in the dollar generally subject to the most scrutiny there are other aspects of setting the rate in the dollar that need to be highlighted. Changes to the rates base occur when the total number of rateable properties and the mix between the categories do vary on a year to year basis. Also the valuations placed on properties by Landgate can change between financial years due to changes in circumstances with the affected properties.

The Shire has received valuation schedules from Landgate during the year that have impacted on the total valuation, the total number of rateable properties and consequently the total rate revenue generated when the model is applied. Officers do not process any interim rates within 35 days prior to the 30th of June as the due date would be in the new financial year. These adjustments are generally not material in setting the rate in the dollar, but get taken into account when the actual rates are run.

The natural growth in rate revenue is calculated to be 0.9% for the 2017/18 financial year. This is determined by applying the 2016/17 rates across the most recent valuation schedules from Landgate. This generally reflects the changes in valuations due to construction activity, new subdivisions and any significant valuation changes in individual properties. The additional revenue that this growth generates is there to pay for the additional services required due to the growth. It should also be noted that the Gross Rental Values applied were undertaken in August 2013 which came into effect from 1 July 2014 (2014/15 financial

year). The next general revaluation for Gross Rental Values will be undertaken in August 2017 which will come into effect from 1 July 2018 (2018/19 financial year). While it may be anticipated that valuations would be reduced given the current economy, the Council will be required to adjust the rate in the dollar accordingly in order to achieve the overall rates yield required to deliver services.

In deciding the actual rate in the dollar there are a number of indicators that can be used. The most popular one is the Consumer Price Index (CPI). The CPI is an index determined by the Australian Bureau of Statistics that is the rate of change in prices on a basket of goods measured on a quarterly basis. A notable exclusion from CPI is fuel costs. This basket of goods and the exclusions does not reflect the components of costs that the Shire incur in delivering our services. However, the Perth CPI data for the 2016 calendar year shows an increase of 1.02% for the year. The index for the year ended March 2017 is not expected to vary materially from this amount.

A more accurate measure of the Shire's cost profile is the Local Government Cost Index (LGCI). The LGCI uses a combination of the CPI and the General Construction Index WA (70 per cent and 30 per cent respectively). These percentages are based on the 'bundle of goods' relating to local government and reflects the proportion of general construction activity in the form of works such as roads, bridges and facilities for recreation and community. The LGCI therefore provides an indication of those changes in costs that relate more closely to function of local government.

The Shire utilises the March year over year forecast data in order to remain consistent with prior periods. The forecast made in May 2016 for 2017/18 based on March 2016 data was for a 1.9% increase in costs. Data for March 2017 is not available as yet but data for each of the quarters ending June 2016, September 2016 and December 2016 are available. The movement in each of these quarters is 0.3% giving a total for the three quarters of 0.9%. Extrapolating this data we estimate that the actual data for the 2016/17 year will show costs have risen by 1.2%.

The forecast from May 2016 of 1.9% increase in LGCI for the 2017/18 year does not appear that it will materialise due to the economy remaining sluggish. It is estimated that when the data is published for the March quarter that the LGCI forecast for the 2017/18 year will be in the 1.2% to 1.5% range. Shire officers are proposing a rate increase at the lower end of this estimate as they do not anticipate any change in the number of services delivered by the Shire nor any change in the service levels for the 2017/18 financial year.

The base rate in the dollar is adjusted by a multiplier effect for the GRV Other Vacant, GRV Commercial and GRV Industrial rating categories. For the 2016/17 budget these were set at 1.5, 1.3 and 1.2 respectively. While GRV Other Vacant has reached the cap set out in the Council Policy *CP/FIN-3200 Strategic Rating* GRV Commercial and GRV Industrial have not. It is proposed that these multipliers remain the same for the 2017/18 year to recognise that the local economy has not yet shown any significant signs of recovery.

The table below is an excerpt of the rating model, the full model demonstrating 1.2% is provided in Attachment 1. This also highlights that with the natural growth of 0.9% and a

1.2% increase across all rating categories, the overall rates yield would increase by approximately 2.12% (2016/17 – 2.41%).

The table below also reflects the rate in the dollar along with the average weekly increase if the recommended 1.2% increase in the rate in the dollar is adopted:

**Council Policy CP/FIN-3200 Strategic Rating**

There are three main changes that have been made to the Council Policy CP/FIN-3200 Strategic Rating. The first change is that at the Ordinary Council Meeting on 28 February 2017 (Minute No: 11619). Community Organisations that had previously applied for rate concessions can now apply for a rate rebate under Council Policy CP/COM-3582 Community Grant Scheme. The paragraph 1.6 Rates Concessions has been amended to reflect this.

The second change is that the rate in the dollar and the minimum payments have been removed from the Policy itself. This continues to allow the Policy to determine the method and principles that underline the setting of the rate in the dollar without having to be amended for actual changes in the rates. Any changes to the policy would then only reflect changes to the principles that underlie the Policy and the method of calculation.

The third change is the change to the multipliers. The multipliers for the categories GRV Other Vacant, GRV Commercial and GRV Industrial will remain the same as for the 2016/17 year. It is noted that it remains the intention for Council increase the multipliers for the GRV Commercial and GRV Industrial categories in future years to a maximum of 2 and 1.7 respectively.

The Council Policy CP/FIN-3200 Strategic Rating levies rates based on the land use, zoning or a combination of these. Town Planning Scheme No. 7 Kununurra and Environs, and Town Planning Scheme No. 6 Wyndham Townsite are utilised to this end. However, the draft Local Planning Scheme No. 9 is in the process of being approved. It is highly unlikely that this will be concluded before the end of the current financial year and so the rates modelling has been conducted on the current schemes as they are being applied.

Differential Rating Category	Proposed Rates Revenue 2017/18 \$	Average Rates Payable 2017/18 \$	Average Weekly Increase / (Decrease) Compared to 2016/17 \$
GRV Residential	4,681,188	2,774.86	0.95
GRV Other Vacant	176,540	1,423.51	0.62
GRV Commercial	1,852,029	9,948.43	(8.07)
GRV Industrial	1,047,755	5,917.47	3.20
UV Rural Residential	511,490	2,764.81	0.53

UV Pastoral	337,624	14,067.66	3.63
UV Commercial/Industrial	117,218	1,986.74	0.44
UV Rural Agriculture 1	733,659	9,170.74	1.82
UV Rural Agriculture 2	395,929	3,632.38	1.01
UV Mining	494,051	7,265.46	1.23
UV Mining Vacant	69,551	1,479.80	9.56
UV Other	3,419	1,709.50	0.51
<b>Sub-Total</b>	<b>10,418,443</b>		
Plus: Ex-Gratia Rates	5,420		
<b>TOTAL</b>	<b>10,423,863</b>		

#### Other Factors

In prior years the rate in the dollar included what is termed a “Kimberley loading” of approximately 70%. This was applied on top of the LCGI in recognition that it is more expensive for the Shire to operate in the Kimberley in comparison to the main metropolitan areas and that the LGCI is not a regionalised index. In 2016/17 this loading was not applied as a concession in recognition of the downturn in the local economy.

It is recommended that the “Kimberley loading” again not be applied in 2017/18. However, Shire officers are in the process of compiling detailed asset management plans and a long term financial plan. These plans will provide more detail on the cash requirements to maintain and renew the current stock of infrastructure assets and the necessary cash flow to ensure financial sustainability. These plans will inform future year’s rate in the dollar decisions.

Another factor to consider is the funding relating to issuing of “Yellow Tip Vouchers”. Discussions held have indicated that removing the Yellow Tip Vouchers will probably create angst in the community. Based on data collected in the 2016/17 year officers predict that retaining these vouchers will have an impact of lost revenue to the extent of approximately \$30,000 for the current year. As the cost of this service comes out of the Waste Management Reserve, it is considered prudent for \$30,000 of municipal funds to be allocated to the Reserve to fund this service for the 2017/18 financial year as part of the adoption of the budget. No change to the rate in the dollar is proposed to fund this amount. Consideration will be given to operational savings to compensate for this as part of the budget deliberations.

### Summary

The rating model that is proposed considers a range of factors in determining the rate in the dollar. The revenue that the proposed rate in the dollar will raise will be sufficient for the Shire to meet its statutory obligations and maintain Shire services at current service levels.

### **ATTACHMENTS**

Attachment 1 - Proposed Rates Model for 2017/18

Attachment 2 - Rate Model with multiplier for 2017/18

Attachment 3 - Rate Model with Kimberley loading for 2017/18

Attachment 4 - Rate Model with Kimberley loading and multiplier for 2017/18

Attachment 5 - Council Policy CP/FIN-3200 Strategic Rating - track changes

Attachment 6 - Council Policy CP/FIN-3200 Strategic Rating

### 12.4.3. Amendments to CP/FIN-3204 Purchasing

<b>DATE:</b>	26 April 2017
<b>AUTHOR:</b>	Jesse Johnson, Senior Procurement and Contracts Officer
<b>RESPONSIBLE OFFICER:</b>	Vernon Lawrence, Director Corporate Services
<b>DISCLOSURE OF INTERESTS:</b>	Nil

#### VOTING REQUIREMENT

Simple Majority

#### OFFICER'S RECOMMENDATION

**That Council adopts the revised Policy - *CP/FIN-3204 Purchasing*.**

#### COUNCIL DECISION

**Minute No: 26/04/2017 – 11664**

**Commissioner resolved:**

**That Council adopts the revised Policy - *CP/FIN-3204 Purchasing*.**

**Carried 1/0**

#### PURPOSE

To adopt the revised Policy *CP/FIN-3204 Purchasing* following necessary amendments.

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

Leader - plan and provide direction through policy and practices

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

The *Local Government (Functions and General) Regulations 1996*, Part 4 outlines the requirement for Local Governments to prepare, adopt and implement a purchasing policy for purchasing considerations with a value less than \$150,000.

The *CP/FIN-3204 Purchasing* was first adopted by Council on the 18 June 2013 and was last revised on the 24 January 2017 to reflect changes associated with the development of the Purchasing Organisational Directives, the implementation of an Electronic Procurement Portal and The Moore Stephens *Review of Risk Management, Legislative Compliance and Internal Controls Report December 2016*



## **STATUTORY IMPLICATIONS**

Nil

## **POLICY IMPLICATIONS**

To adopt the revised Policy *CP/FIN-3204 Purchasing* following necessary amendments.

## **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

Strategy 1.4.2 : Improve the efficiency and productivity of Shire services

Strategy 1.4.3 : Maintain Council's long term financial viability

Strategy 1.4.4 : Deliver cost effective and efficient corporate services

## **RISK IMPLICATIONS**

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

Control: Review policies and procedures in accordance with review schedule.

## **COMMUNITY ENGAGEMENT**

No community engagement is required.

## **COMMENTS**

Revisions to Policy *CP/FIN-3204 Purchasing* have been necessitated by a number of contributing factors since the last policy review in January 2017, these are:

1. Lack of clarity around tender exemptions and whether tender exemptions were also quotations exempt; and
2. Necessary quotation exemptions for specific service requirements.

It was identified that the *CP/FIN-3204 Purchasing* lacked clarity around tender exemptions and whether specific tender exemptions were also quotations exempt. The following tender exemptions were identified as also requiring a quotations exemption:

1. An emergency situation as defined by the *Act*.

It was ascertained that in an emergency situation (as defined by the *Act*), quotations are not required prior to seeking emergency goods or services and can be sought directly from available suppliers to address emergency provision requirements.

It was also identified that some tender exemptions required a quotations exemption, however a single quotation should still be sought from the supplier as a means to assess cost implications and budget provisions prior to engagement. These exemption were identified as follows:

1. A purchase from a West Australian Local Government Association (WALGA) Business Service; and
2. The goods or services are being purchased from, supplied by or obtained through the State or Commonwealth government (or any of its agencies) or a local government.

WALGA offers six business services under its members subscription service. These services are available to assist local governments in performing their duties and are available to all members under their subscription or on a fee for service basis. It was ascertained that such services were unique to WALGA and therefore should be quotations exempt as well as tender exempt. A single quotation should still be sought when seeking services from a WALGA Business Service as a means to assess cost implications and budget provisions prior to engagement. The quotation would still require approval from a purchasing officer with the appropriate purchasing delegation and the purchase would still need to follow all other requirements of the *CP/FIN-3204 Purchasing*.

Goods or services are sometimes procured from a State or Commonwealth government (or any of its agencies) or a local government and in such instances multiple quotations cannot be obtained as the good or service is unique to the particular government entity. The purchase of such goods or services requires a quotations exemption, however it was ascertained that a single quotation should be sought from the State, Commonwealth or local government prior to engagement as a means to ascertain cost implications and necessary budget provisions. The quotation would still require approval from a purchasing officer with the appropriate purchasing delegation and the purchase would still need to follow all other requirements of the *CP/FIN-3204 Purchasing*.

It was also identified that a number of recurring service requirements also require a quotations exemption. These are as follows:

1. Newspaper advertising;
2. Advertising for Shire Recruitment;
3. Statewide public notice advertisement that are required by Legislation;
4. Motor vehicle repairs that are identified as part of a vehicle service or additional motor vehicle repairs that are identified as part of pre-arranged repair work;
5. Purchases which are necessary to not void warranty provisions; and
6. Purchases from plant and / or equipment authorized dealers.

Newspaper advertising is a necessary requirement for the Shire when advertising public tenders, public notices, information days, community events etc. with the necessary publication dependant on the advertising requirement. In the instances where the purchase exceeds \$1000.00 two quotation are required for compliance with the purchasing policy despite there being only a single local newspaper or a preferred statewide publication. The Purchasing Policy has now been revised to allow for a single quotation is to be sought from the relevant publication as a means to ascertain cost implications and budget provisions prior to engagement.

Advertising for Shire recruitment is necessary both in newspapers and online recruitment websites. In the instances where the purchase exceeds \$1000.00 two quotation are required for compliance with the purchasing policy despite there being preferred advertising outlets aka seek.com for government advertising. The Purchasing Policy has now been revised to allow for a single quotation is to be sought from the relevant publication or web provider as a means to ascertain cost implications and budget provisions prior to engagement.

Motor vehicle repairs have repetitively been identified as part of vehicle servicing or prearranged repair work. Historically a quote has been sought in accordance with the Purchasing Policy to engage a supplier for servicing or repair work. If additional works or repairs exceeding \$1000.00 are identified during the service or prearranged repair work, a second quote needs to be obtained to ensure compliance with the purchasing policy. Logistically this offers challenges if the vehicle is not drivable or is currently being serviced or repaired by the current repairer. The Purchasing Policy has now been revised to allow a single quotation is to be sought from the repairer as a means to ascertain the additional costs prior to authorizing the repairs.

In the case of plant and equipment product warranties, purchases are often necessary to ensure the maintenance of warranties. In the instances where the purchase exceeds \$1000.00 two quotation are required for compliance with the purchasing policy. The Purchasing Policy has now been revised to allow a single quotation is to be sought from the authorized warranty provider as a means to ascertain the additional costs and budget availability prior to authorizing the warranty requirements.

Purchases from plant and / or equipment Authorised Dealers are necessary to ensure the supply of genuine parts and servicing for appropriate asset maintenance and warranty requirements. In the instances where the purchase exceeds \$1000.00 two quotation are required for compliance with the purchasing policy despite the requirement for equipment servicing or parts purchase to be supplied by an Authorised Dealer. The Purchasing Policy has now been revised to allow a single quotation is to be sought from the authorized service agent as a means to ascertain the additional costs prior to authorizing the repairs

## **ATTACHMENTS**

Attachment 1 - Revised *CP/FIN-3204 Purchasing*

Attachment 2 - Revised *CP/FIN-3204 Purchasing* - track changes

#### 12.4.4. 2017/18 Elected Member Allowances and Entitlements

DATE:	26 April 2017
AUTHOR:	Coordinator Financial Management
RESPONSIBLE OFFICER:	Vernon Lawrence - Director Corporate Services
ASSESSMENT NO:	
FILE NO:	FM.05.14
DISCLOSURE OF INTERESTS:	NIL

#### VOTING REQUIREMENT

Absolute Majority

#### OFFICER'S RECOMMENDATION

That Council:

1. Adopts the revised Council Policy *CP/CNC-3141 Elected Member Allowances and Entitlements* noting the inclusion of reimbursements would now apply to:
  - a. Council briefings and workshops;
  - b. Training and conferences; and
  - c. Any meeting where the Councillor is nominated as the Council's representative.
2. For the 2017/18 financial year, adopt the maximum Salaries and Allowances Tribunal (SAT) determination levels so that:
3. Pursuant to section 5.99 of the *Local Government Act 1995*, adopts the following annual fees for payment of elected members in lieu of individual meeting attendance fees:

i.President	\$30,841
ii.Councillors	\$23,000
4. Pursuant to section 5.98(5) of the *Local Government Act 1995*, adopts the following annual local government allowance to be paid in addition to the annual meeting allowance:

i.President	\$62,727
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5. Pursuant to section 5.98(5) of the *Local Government Act 1995*, adopts the following annual local government allowance to be paid in addition to the annual meeting allowance:

i.Deputy President	\$15,682
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## **COUNCIL DECISION**

Minute No: 26/04/2017 – 11665

Commissioner resolved:

That Council:

1. Adopts the revised Council Policy *CP/CNC-3141 Elected Member Allowances and Entitlements* noting the inclusion of reimbursements would now apply to:
  - a. The President's Annual Meeting Attendance Fee is 70% of the yearly maximum Salaries and Allowances Tribunal (SAT) determination.
  - b. The Elected Members Annual Meeting Attendance Fee is 70% of the yearly maximum Salaries and Allowances Tribunal (SAT) determination.
  - c. The President's Annual Allowance is 70% of the yearly maximum Salaries and Allowances Tribunal (SAT) determination.
  - d. The Deputy President's Annual Allowance is 25% of the President's Allowance.
  - e. The Elected Members will receive an ICT Allowance of \$2,400 per annum.

For the 2017/18 financial year, adopt the maximum Salaries and Allowances Tribunal (SAT) determination levels so that:

2. Pursuant to section 5.99 of the *Local Government Act 1995*, adopts the following annual fees for payment of elected members in lieu of individual meeting attendance fees:
  - I. President \$21,589
  - II. Councillors \$16,100
3. Pursuant to section 5.98(5) of the *Local Government Act 1995*, adopts the following annual local government allowance to be paid in addition to the annual meeting allowance:
  - I. President \$43,909
4. Pursuant to section 5.98(5) of the *Local Government Act 1995*, adopts the following annual local government allowance to be paid in addition to the annual meeting allowance:
  - II. Deputy President \$10,977

Carried 1/0

## **THE REASON FOR VARYING OFFICER'S RECCOMENDATION:**

In considering the officers recommendation, based up the previous council decision the Commissioner considered it more appropriate to endorse Elected Members Allowances and Entitlements at 70% of the maximum SAT determination and hence resolved to change the officer's recommendation.

## **PURPOSE**

For the Council to consider the adoption of the 2017/18 Elected Member fees and allowances effective from 1 July 2017 to be incorporated into the 2017/18 Annual Budget.

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

Regulator - enforce state legislation and local laws

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

*The Salaries and Allowances Act 1975 ('the SA Act')* requires the Salaries and Allowances Tribunal ('the Tribunal') to at intervals of not more than 12 months, to inquire into and determine the amount of remuneration, or the minimum and maximum amounts of remuneration, to be paid or provided to CEO's and the allowances paid to Elected Members.

The Tribunal on the 11 April 2017 has determined a no increase in remuneration or reclassification of the Shire remuneration band effective 1 July 2017.

The CEO's current Total Remuneration Package and Allowances are within the recommended range, therefore there is no adjustment required.

This report requests Council to endorse the Elected Members to receive the annual attendance fees and allowances in lieu of Council meeting and Committee meeting attendance fees within the Band range. The OCM held on the 15 September 2016 resolved to revise the Council Policy CP/CNC-3141 Elected Member Allowances and Entitlements with modifications to section 2 to specify that;

- a. The President's Annual Meeting Attendance Fee is 100% of the yearly maximum Salaries and Allowances Tribunal (SAT) determination.
- b. The Elected Members Annual Meeting Attendance Fee is 100% of the yearly maximum Salaries and Allowances Tribunal (SAT) determination.
- c. The President's Annual Allowance is 100% of the yearly maximum Salaries and Allowances Tribunal (SAT) determination.
- d. The Deputy President's Annual Allowance is 25% of the President's Allowance.
- e. The Elected Members will forgo receipt of the ICT Allowance

## **COUNCIL DECISION**

**Minute No: 11490**

**Moved: Cr B Robinson**

**Seconded: Cr S Cooke**

**That Council, in accordance with Regulation 10 of the *Local Government (Administration) Regulations 1996*, change the decision made at the Ordinary Meeting of Council on 29 March 2016 outlined in Minute No: 11296 to:**

**That the Council:**

- 1. 1. Adopts the revised Council Policy CP/CNC-3141 Elected Member Allowances**

and Entitlements with modifications to section 2 to specify that:

- a. The President's Annual Meeting Attendance Fee is 100% of the yearly maximum Salaries and Allowances Tribunal (SAT) determination.
  - b. The Elected Members Annual Meeting Attendance Fee is 100% of the yearly maximum Salaries and Allowances Tribunal (SAT) determination.
  - c. The President's Annual Allowance is 100% of the yearly maximum Salaries and Allowances Tribunal (SAT) determination.
  - d. The Deputy President's Annual Allowance is 25% of the President's Allowance.
  - e. The Elected Members will forgo receipt of the ICT Allowance.
2. For the 2016/17 financial year, adopt the maximum Salaries and Allowances Tribunal (SAT) determination levels so that:
- a. Pursuant to section 5.99 of the Local Government Act 1995, the following annual fees for payment of elected members in lieu of individual meeting attendance fees are to be paid:
    - i. President \$30,841
    - ii. Councillors \$23,000
  - b. Pursuant to section 5.98(5) of the Local Government Act 1995, the following annual local government allowance is to be paid in addition to the annual meeting allowance:
    - i. President \$62,727
  - c. Pursuant to section 5.98(5) of the Local Government Act 1995, the following annual local government allowance is to be paid in addition to the annual meeting allowance:
    - i. Deputy President \$15,681.75
3. Notes that the changes to Minute No: 11296 will result in a total budget impact of \$113,102.75 as outlined in the table below with the variation to be sourced from the unallocated funds, recognising that there will be a reduced amount transferred to the Asset Management Reserve accordingly:

Description	2016/17 Adopted in Minute No: 11296		2016/17 Proposed		Variation Increase
	Individual Members	All Members	Individual Members	All Members	Shire Impact
Annual Attendance Fees for a Council Member other than the President	\$15,683	\$125,464	\$23,000	\$184,000	\$58,536
Annual Attendance Fee for a Council Member who holds the office of President	\$15,683	\$15,683	\$30,841	\$30,841	\$15,158
Annual Allowance for a President	\$31,200	\$31,200	\$62,727	\$62,727	\$31,527
Annual Allowance for a Deputy President (25%)	\$7,800	\$7,800	\$15,681.75	\$15,681.75	\$7,881.75
ICT Allowance	Nil	Nil	Nil	Nil	Nil
<b>TOTAL</b>		<b>\$180,147</b>		<b>\$293,249.75</b>	<b>\$113,102.75</b>

4. Requests the Chief Executive Officer, or their delegate, to make the appropriate adjustments to the 2016/17 Budget accordingly.

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

Chief Executive Officer's performance review adopted at the OCM held on 31 January 2017.

## COUNCIL DECISION

Minute No: 31/01/2017-11600

Commissioner resolved:  
That Council:

1. Notes that a review of the Chief Executive Officer's performance has been undertaken.
2. Endorses the finding that Mr Askew's performance has met performance requirements as the CEO of the Shire of Wyndham East Kimberley and is rated as satisfactory.
3. Approves an increase to Mr Askew's total reward package by 1.5% to \$273,321 pa, effective from 29 September 2016 in accordance with the terms of the contract of employment between the Council and the CEO, and noting the Salaries and Allowances Determination of 12 April 2016.
4. Approves an increase to the Regional/Isolation allowance to \$25,000 pa effective from 29 September 2016 in accordance with the terms of the contract of employment between Council and the CEO, and noting the Salaries and Allowances Determination of 12 April 2016.
5. Endorses the key result areas and actions for 1 February to 30 September 2017.
6. Endorses the Terms of Reference for Council's CEO Performance Review Committee.

Carried 1/0

## STATUTORY IMPLICATIONS

Local Government Act 1995

Part 5

Division 6 – Disclosure of financial interests

### 5.63. Some interests need not be disclosed

(1) Sections 5.65, 5.70 and 5.71 do not apply to a relevant person who has any of the following interests in a matter —

- (a) an interest common to a significant number of electors or ratepayers; or
- (b) an interest in the imposition of any rate, charge or fee by the local government; or
- (c) an interest relating to a fee, reimbursement of an expense or an allowance to which section 5.98, 5.98A, 5.99, 5.99A, 5.100 or 5.101(2) refers...



## **Division 8 – Local government payments and gifts to members**

### 5.98. Fees etc. for council members

*(1A) In this section —*

*determined means determined by the Salaries and Allowances Tribunal under the Salaries and Allowances Act 1975 section 7B.*

*(1) A council member who attends a council or committee meeting is entitled to be paid*

*—*

*(a) the fee determined for attending a council or committee meeting; or*

*(b) where the local government has set a fee within the range determined for council or committee meeting attendance fees, that fee.*

*(2A) A council member who attends a meeting of a prescribed type at the request of the council is entitled to be paid —*

*(a) the fee determined for attending a meeting of that type; or*

*(b) where the local government has set a fee within the range determined for meetings of that type, that fee.*

*(2) A council member who incurs an expense of a kind prescribed as being an expense —*

*(a) to be reimbursed by all local governments; or*

*(b) which may be approved by any local government for reimbursement by the local government and which has been approved by the local government for reimbursement, is entitled to be reimbursed for the expense in accordance with subsection (3).*

*(3) A council member to whom subsection (2) applies is to be reimbursed for the expense —*

*(a) where the extent of reimbursement for the expense has been determined, to that extent; or*

*(b) where the local government has set the extent to which the expense can be reimbursed and that extent is within the range determined for reimbursement, to that extent.*

*(4) If an expense is of a kind that may be approved by a local government for reimbursement, then the local government may approve reimbursement of the expense either generally or in a particular case but nothing in this subsection limits the application of subsection (3) where the local government has approved reimbursement of the expense in a particular case.*

*(5) The mayor or president of a local government is entitled, in addition to any entitlement that he or she has under subsection (1) or (2), to be paid —*

*(a) the annual local government allowance determined for mayors or presidents; or*

*(b) where the local government has set an annual local government allowance within the range determined for annual local government allowances for mayors or presidents, that allowance.*

*(6) A local government cannot —*

*(a) make any payment to; or*

*(b) reimburse an expense of, a person who is a council member or a mayor or president in that person's capacity as council member, mayor or president unless the payment or reimbursement is in accordance with this Division.*

*(7) A reference in this section to a committee meeting is a reference to a meeting of a committee comprising —*

*(a) council members only; or*

*(b) council members and employees.*

#### 5.98A. Allowance for deputy mayor or deputy president

(1) A local government may decide\* to pay the deputy mayor or deputy president of the local government an allowance of up to the percentage that is determined by the Salaries and Allowances Tribunal under the Salaries and Allowances Act 1975 section 7B of the annual local government allowance to which the mayor or president is entitled under section 5.98(5).

\* Absolute majority required.

(2) An allowance under subsection (1) is to be paid in addition to any amount to which the deputy mayor or deputy president is entitled under section 5.98.

#### 5.99. Annual fee for council members in lieu of fees for attending meetings

A local government may decide\* that instead of paying council members a fee referred to in section 5.98(1), it will instead pay all council members who attend council or committee meetings —

(a) the annual fee determined by the Salaries and Allowances Tribunal under the Salaries and Allowances Act 1975 section 7B; or

(b) where the local government has set a fee within the range for annual fees determined by that Tribunal under that section, that fee.

\* Absolute majority required.

#### 5.99A. Allowances for council members in lieu of reimbursement of expenses

A local government may decide\* that instead of reimbursing council members under section 5.98(2) for all of a particular type of expense it will instead pay all council members —

(a) the annual allowance determined by the Salaries and Allowances Tribunal under the Salaries and Allowances Act 1975 section 7B for that type of expense; or

(b) where the local government has set an allowance within the range determined by the Salaries and Allowances Tribunal under the Salaries and Allowances Act 1975 section 7B for annual allowances for that type of expense, an allowance of that amount, and only reimburse the member for expenses of that type in excess of the amount of the allowance.

\* Absolute majority required.

### **Local Government (Administration) Regulations 1996**

#### **Part 8 – Local government payments and gifts to members**

##### 30. Meeting attendance fees (Act s. 5.98(1) and (2A))

(3A) Each of the following meetings is a meeting of a prescribed type for the purposes of section 5.98(2A) —

(a) meeting of a WALGA Zone, where the council member is representing a local government as a delegate elected or appointed by the local government;

(b) meeting of a Regional Road Group established by Main Roads Western Australia, where the council member is representing a local government as a delegate elected or appointed by the local government;

(c) council meeting of a regional local government where the council member is the deputy of a member of the regional local government and is attending in the place of the member of the regional local government;

(d) meeting other than a council or committee meeting where the council member is attending at the request of a Minister of the Crown who is attending the meeting;

(e) meeting other than a council meeting or committee meeting where the council member is representing a local government as a delegate elected or appointed by the local government.

(3C) A council member is not entitled to be paid a fee for attending a meeting of a type referred to in subregulation (3A) if —

(a) the person who organises the meeting pays the council member a fee for attending the meeting; or

(b) the council member is paid an annual fee in accordance with section 5.99; or

(c) if the meeting is a meeting referred to in subregulation (3A)(c), the member of the regional local government is paid an annual fee in accordance with section 5.99.

### 31. Expenses to be reimbursed (Act s. 5.98(2)(a) and (3))

(1) For the purposes of section 5.98(2)(a), the kinds of expenses that are to be reimbursed by all local governments are —

(a) rental charges incurred by a council member in relation to one telephone and one facsimile machine; and

(b) child care and travel costs incurred by a council member because of the member's attendance at a council meeting or a meeting of a committee of which he or she is also a member.

### 32. Expenses that may be approved for reimbursement (Act s. 5.98(2)(b) and (3))

(1) For the purposes of section 5.98(2)(b), the kinds of expenses that may be approved by any local government for reimbursement by the local government are

—

(a) an expense incurred by a council member in performing a function under the express authority of the local government; and

(b) an expense incurred by a council member to whom paragraph (a) applies by reason of the council member being accompanied by not more than one other person while performing the function if, having regard to the nature of the function, the local government considers that it is appropriate for the council member to be accompanied by that other person; and

(c) an expense incurred by a council member in performing a function in his or her capacity as a council member.

## **POLICY IMPLICATIONS**

Council Policy CP/CNC-3141 Elected Member Allowances and Entitlements

## **FINANCIAL IMPLICATIONS**

The adoption of the 2017/18 Elected Member fees and allowances will not have any financial implications on the current 2016/17 Budget, however it will establish a base position in 2017/18.

These Elected Members allowances will need to be included in the 2017-2018 budget as follows:

Description	2016/1 Adopted in Minute No: 11490		2017/18 Proposed		2017/18 Proposed from 21/10/2017	
	Individual Members	All Members	Individual Members	All Members	Individual Members	All Members
Annual Attendance Fees for a Council Member other than the President (8 Councilors)	23,000	184,000	23,000	184,000	15,879	127,036
Annual Attendance Fee for a Council Member who holds the office of President	30,841	30,841	30,841	30,841	21,293	21,293
Annual Allowance for a President	62,727	62,727	62,727	62,727	43,307	43,307
Annual Allowance for a Deputy President (25%)	15,682	15,682	15,682	15,682	10,827	10,827
ICT Allowance	Nil	Nil	Nil	Nil	Nil	Nil
<b>TOTAL</b>	<b>132,250</b>	<b>293,250</b>	<b>132,250</b>	<b>293,250</b>	<b>91,307</b>	<b>202,463</b>

## **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.

**Control:** Review policies and procedures in accordance with review schedule.

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

**Control:** Current budget and service levels.

## **COMMUNITY ENGAGEMENT**

Engagement has taken place in accordance with the Shire & Community Engagement Guidelines and includes discussions between Shire officers and the Commissioner during Budget Briefings during April 2017.

## **COMMENTS**

Every 12 months, under *The Salaries and Allowances Act 1975* the The Tribunal is required to inquire into and determine the amount of remuneration and the minimum and maximum and allowances that should be paid to CEO's and the allowances paid to Elected Members.

The annual review and subsequent determination undertaken by the State Administrative Tribunal was be released in April 2017. The Tribunal has determined that Elected Members annual attendance fees and allowances remain unchanged for the 2017/18 financial year.

Elected Members at the Council Meeting held on 15 September 2016 resolved to adopt the maximum amount entitled for Sitting Fees and Allowances. In accordance with the April 2016 determination of the Salaries and Allowances Tribunal on Local Government Elected Council Members pursuant to section 7(B) of the *State Administrative Tribunal Act 1975*. In accordance with this policy the Shire officers have recommended to adopt 100% of the maximum allowable Annual Meeting Attendance Fees and Annual Allowances.

Elected Members are required to attend meetings, read agenda papers and reports and to liaise with residents in meeting their representational obligations, provide strategic leadership and guidance and carry out civic and ceremonial duties.

## **ATTACHMENTS**

Attachment 1 - Council Policy CP-FIN-3141 Elected Member Allowances and Entitlements

Attachment 2 - Local Government CEO and EM Determination 12 April 2017 Final

#### 12.4.5. List Of Accounts Paid From Municipal Fund and Trust Fund

<b>DATE:</b>	26 April 2017
<b>AUTHOR:</b>	Creditors Officer
<b>RESPONSIBLE OFFICER:</b>	Vernon Lawrence, Director Corporate Services
<b>FILE NO:</b>	FM.09.5
<b>DISCLOSURE OF INTERESTS:</b>	Nil

#### VOTING REQUIREMENT

Simple Majority

#### OFFICER'S RECOMMENDATION

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

<b>Municipal EFT 128555 – 128867 (02 Mar - 30 Mar 17)</b>	<b>\$ 1,196,853.82</b>
<b>Municipal cheques 51521 - 51541 (02 Mar - 30 Mar 17)</b>	<b>\$ 101,269.69</b>
<b>Trust cheques 1013 - 1024 (10 Mar - 30 Mar 17)</b>	<b>\$ 3,200.06</b>
<b>Trust EFT 501348 - 5011369 (01 Mar – 31 Mar 17)</b>	<b>\$ 27,020.45</b>
<b>Payroll (01 Mar - 31 Mar 17)</b>	<b>\$ 685,408.23</b>
<b>Direct bank debits (01 Mar - 31 Mar 17)</b>	<b>\$ 95,833.86</b>
<b>TOTAL</b>	<b>\$ 2,109,586.11</b>

## **COUNCIL DECISION**

Minute No: 26/04/2017 – 11666

Commissioner resolved:

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

Municipal EFT 128555 – 128867 (02 Mar - 30 Mar 17)	\$ 1,196,853.82
Municipal cheques 51521 - 51541 (02 Mar - 30 Mar 17)	\$ 101,269.69
Trust cheques 1013 - 1024 (10 Mar - 30 Mar 17)	\$ 3,200.06
Trust EFT 501348 - 5011369 (01 Mar – 31 Mar 17)	\$ 27,020.45
Payroll (01 Mar - 31 Mar 17)	\$ 685,408.23
Direct bank debits (01 Mar - 31 Mar 17)	\$ 95,833.86
<b>TOTAL</b>	<b>\$ 2,109,586.11</b>
	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 March 2017



#### 12.4.6. Monthly Statement of Financial Activity for the Period Ended 31 March 2017

<b>DATE:</b>	26 April 2017
<b>AUTHOR:</b>	Asset Management Accountant
<b>RESPONSIBLE OFFICER:</b>	Vernon Lawrence, Director Corporate Services
<b>FILE NO:</b>	FM.09.5
<b>DISCLOSURE OF INTERESTS:</b>	Nil

#### **VOTING REQUIREMENT**

Simple Majority

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

**That Council receives the monthly financial report as at 31 March 2017.**

#### **COUNCIL DECISION**

**Minute No: 26/04/2017 – 11667**

**Commissioner resolved:**

**That Council receives the monthly financial report as at 31 March 2017.**

**Carried 1/0**

#### **PURPOSE**

For Council to receive the monthly financial report for the period ended 31 March 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 31 March 2017.

**12.5. INFRASTRUCTURE**

Nil

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

Nil

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

Nil

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

Nil

**16. MATTERS BEHIND CLOSED DOORS**

**COUNCIL DECISION**

**Minute No: 26/04/2017 – 11668**

**Commissioner resolved:**

**That the Council move into camera with relevant staff to remain.**

**Carried 1/0**

Council moved into camera at 5.31pm.

## 16.1. Provision Of An Offsite Tip Shop For The Shire Of Wyndham East Kimberley Landfill Sites

<b>DATE:</b>	26 April 2017
<b>AUTHOR:</b>	Director Infrastructure
<b>RESPONSIBLE OFFICER:</b>	David Klye, Director Infrastructure
<b>FILE NO:</b>	CM.16.227
<b>DISCLOSURE OF INTERESTS:</b>	Nil

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

### 5.23. Meetings generally open to public

- (1) *Subject to subsection (2), the following are to be open to members of the public*
- (a) *all council meetings; and*
  - (b) *all meetings of any committee to which a local government power or duty has been delegated.*
- (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: 26/04/2017 – 11669**

**Commissioner resolved:**

**That Council;**

- 1. Accept the Tender from East Kimberley Job Pathways for the provision of offsite tip shops at Kununurra and Wyndham for the disposal of recycled items from the Shire of Wyndham East Kimberley landfill sites.**
- 2. Notes that a specific agreement is being drawn up by the Shire's lawyers to provide for the unique nature of the proposed agreement.**
- 3. Authorises the CEO and the Commissioner, on behalf of the Shire, to execute an agreement with East Kimberley Job Pathways for the provision of offsite tip shops at Kununurra and Wyndham for the disposal of recycled items from the Shire of Wyndham East Kimberley landfill sites for three years plus two optional one year extensions at zero cost.**

**Carried 1/0**

## **PURPOSE**

For Council to consider Tenders for the provision of reclamation and recycling activities at the Shire of Wyndham East Kimberley landfill sites including provision of an offsite tip shop for items salvaged from the landfill sites.

Mr D Klye Director of Infrastructure declared an impartiality interest due to an unresolved complaint which had been made against him by the owner of the company which is the subject of the item, and left the room at 5.37pm.

## 16.2. Legal Claim Finalised

<b>DATE:</b>	26 April 2017
<b>AUTHOR:</b>	Director Infrastructure
<b>RESPONSIBLE OFFICER:</b>	David Klye, Director Infrastructure
<b>FILE NO:</b>	LS.01.6
<b>DISCLOSURE OF INTERESTS:</b>	David Klye, Director Infrastructure discloses an impartiality interest in this matter. The nature of the interest is that Mark Northover of Martinjinni Pty Ltd trading as Ord River Contracting lodged a formal complaint against me in early 2015 which remains unresolved. As a consequence, there may be a perception that my impartiality on the matter may be affected. I declare that I am able to and will treat this matter on its merits and provide impartial, objective professional advice where required.

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

### 5.23. Meetings generally open to public

- (1) *Subject to subsection (2), the following are to be open to members of the public*
  - (a) *all council meetings; and*
  - (b) *all meetings of any committee to which a local government power or duty has been delegated.*
- (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: 26/04/2017 – 11670**

**Commissioner resolved:**

**That Council notes:**

- 1. That Ord River Contracting withdrew its General Procedure Claim against the Shire on 17 October 2016;**
- 2. The Court made an order on 7 December 2016 in Kununurra awarding costs of \$15,398 to the Shire;**
- 3. The latest offer from Ord River Contracting in relation to the matter of costs, reject the offer and instruct our lawyers to pursue costs as awarded by the court in December 2016.**

**Carried 1/0**

#### **PURPOSE**

To update Council in relation to the finalisation of a General Procedure Claim lodged against the Shire in December 2014 in relation to Tender T16. 2014



### 16.3. Request For Tender: T14-16/17 Provision Of Wet And Dry Hire Services For Various Plant And Equipment For A Period Of One Year

<b>DATE:</b>	26 April 2016
<b>AUTHOR:</b>	Senior Procurement and Contracts Officer
<b>RESPONSIBLE OFFICER:</b>	Vernon Lawrence, Director Corporate Services
<b>FILE NO:</b>	CM.16.226
<b>DISCLOSURE OF INTERESTS:</b>	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

- (1) *Subject to subsection (2), the following are to be open to members of the public*
  - (a) *all council meetings; and*
  - (b) *all meetings of any committee to which a local government power or duty has been delegated.*
- (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: 26/04/2017 – 11671**

**Commissioner resolved:**

**That Council;**

- 1. Accept the tender submitted by Guerinoni Nominees Pty Ltd T/A Guerinoni & Son of 9 Mango Street, Kununurra WA 6743, for the following separable portion categories of Tender T14-16/17:  
Category 3: Excavator Wet Hire;  
Category 4: Grader Wet Hire;  
Category 5: Water Cart Wet Hire; and  
Category 6: Roller Wet Hire.**

**In accordance with the tender documentation and the submitted schedule of rates.**

- 2. Enter into a contract with Guerinoni Nominees Pty Ltd T/A Guerinoni & Son of 9 Mango Street, Kununurra WA 6743, for the following separable portion categories of Tender T14-16/17:  
Category 3: Excavator Wet Hire;  
Category 4: Grader Wet Hire;  
Category 5: Water Cart Wet Hire; and  
Category 6: Roller Wet Hire.**

**In accordance with the tender documentation and the submitted schedule of rates.**

- 3. Grants approval to enter into a one year contract extension with Guerinoni Nominees Pty Ltd T/A Guerinoni & Son of 9 Mango Street, Kununurra WA 6743 for the following separable portion categories of Tender T14-16/17:  
Category 3: Excavator Wet Hire;  
Category 4: Grader Wet Hire;  
Category 5: Water Cart Wet Hire; and  
Category 6: Roller Wet Hire.**

**In accordance with the tender documentation and the submitted schedule of rates. Action of the one year contract extension is at the absolute discretion of the Shire and is also to be based on satisfactory performance during the original one year contract term.**

4. **Accept the tender submitted by Camlismar Investments Pty Ltd of Lot 22 Weaber Plains Road, Kununurra WA 6743 for the following separable portion categories of Tender T14-16/17:**

**Category 1: Dozer Wet Hire.**

**In accordance with the tender documentation and the submitted schedule of rates.**

5. **Enter into a contract with by Camlismar Investments Pty Ltd of Lot 22 Weaber Plains Road, Kununurra WA 6743, for the following separable portion categories of Tender T14 16/17:**

**Category 1: Dozer Wet Hire.**

**In accordance with the tender documentation and the submitted schedule of rates.**

6. **Grants approval to enter into a one year contract extension with Camlismar Investments Pty Ltd of Lot 22 Weaber Plains Road, Kununurra WA 6743 for the following separable portion categories of Tender T14-16/17:**

**Category 1: Dozer Wet Hire.**

**In accordance with the tender documentation and the submitted schedule of rates. Action of the one year contract extension is at the absolute discretion of the Shire and is also to be based on satisfactory performance during the original one year contract term.**

7. **Accept the tender submitted by JAB Management Pty Ltd T/A JAB Industries of 15 Eucalyptus Close, Kununurra WA 6743 for the following separable portion categories of Tender T14-16/17:**

**Category 2: Loader / Tipper Wet Hire.**

**In accordance with the tender documentation and the submitted schedule of rates.**

8. **Enter into a contract with JAB Management Pty Ltd T/A JAB Industries of 15 Eucalyptus Close, Kununurra WA 6743, for the following separable portion categories of Tender T14 16/17:**

**Category 2: Loader / Tipper Wet Hire.**

**In accordance with the tender documentation and the submitted schedule of rates.**

9. **Grants approval to enter into a one year contract extension with JAB Management Pty Ltd T/A JAB Industries of 15 Eucalyptus Close, Kununurra WA 6743 for the following separable portion categories of Tender T14-16/17:**

**Category 2: Loader / Tipper Wet Hire.**

**In accordance with the tender documentation and the submitted schedule of rates. Action of the one year contract extension is at the absolute discretion of the Shire and is also to be based on satisfactory performance during the original one year contract term.**

10. **Accept the tender submitted by Martell Road Maintenance of 659-661 Mills Road, Kununurra WA 6743 for the following separable portion categories of Tender T14-16/17:**

**Category 8: Road Repair / Pot Hole Repair Wet Hire.**

In accordance with the tender documentation and the submitted schedule of rates.

11. Enter into a contract with Martell Road Maintenance of 659-661 Mills Road, Kununurra WA 6743, for the following separable portion categories of Tender T14 16/17:

Category 8: Road Repair / Pot Hole Repair Wet Hire.

In accordance with the tender documentation and the submitted schedule of rates.

12. Grants approval to enter into a one year contract extension with Martell Road Maintenance of 659-661 Mills Road, Kununurra WA 6743, for the following separable portion categories of Tender T14-16/17:

Category 8: Road Repair / Pot Hole Repair Wet Hire.

In accordance with the tender documentation and the submitted schedule of rates. Action of the one year contract extension is at the absolute discretion of the Shire and is also to be based on satisfactory performance during the original one year contract term.

13. Accept the tender submitted by Western Ag Pty Ltd T/A Kewdale Hire of 7 Burchell Way, Kewdale WA 6105 for the following separable portion categories of Tender T14-16/17:

Category 9: Excavator Dry Hire.

In accordance with the tender documentation and the submitted schedule of rates.

14. Enters into a contract with Western Ag Pty Ltd T/A Kewdale Hire of 7 Burchell Way, Kewdale WA 6105 for the following separable portion categories of Tender T14 16/17:

Category 9: Excavator Dry Hire.

In accordance with the tender documentation and the submitted schedule of rates.

15. Grants approval to enter into a one year contract extension with Western Ag Pty Ltd T/A Kewdale Hire of 7 Burchell Way, Kewdale WA 6105, for the following separable portion categories of Tender T14-16/17:

Category 9: Excavator Dry Hire

In accordance with the tender documentation and the submitted schedule of rates. Action of the one year contract extension is at the absolute discretion of the Shire and is also to be based on satisfactory performance during the original one year contract term.

Carried 1/0

## **PURPOSE**

To provide the Council with details of the Tenders received for T14-16/17 Provision of Wet and Dry Hire Services for Various Plant and Equipment for a Period of One Year, to consider the results of the Tender assessment and to consider the recommendations for Tender award.

## 16.4. RFT10 16/17 - Lake Argyle Road Redevelopment Stage 2

<b>DATE:</b>	12 April 2017
<b>AUTHOR:</b>	Manager Engineering Services
<b>RESPONSIBLE OFFICER:</b>	David Klye - Director Infrastructure
<b>FILE NO:</b>	CM.16.220
<b>DISCLOSURE OF INTERESTS:</b>	Nil

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

### 5.23. Meetings generally open to public

- (1) *Subject to subsection (2), the following are to be open to members of the public*
  - (a) *all council meetings; and*
  - (b) *all meetings of any committee to which a local government power or duty has been delegated.*
- (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: 26/04/2017 – 11672**

**Commissioner resolved:**

**That Council;**

- 1. Accept the tender submitted by JAB Management Pty Ltd Trading as JAB Industries of 15 Eucalyptus Close, Kununurra WA 6743, for Tender T10-16/17 - Stage 2 Lake Argyle Road Improvements, in accordance with the tender documentation and for the fixed lump sum price of \$708,405.38 excluding GST; and**
- 2. Enter into a contract with JAB Management Pty Ltd Trading as JAB Industries of 15 Eucalyptus Close, Kununurra WA 6743, for Tender T10-16/17 - Stage 2 Lake Argyle Road Improvements, in accordance with the tender documentation and for the fixed lump sum price of \$708,405.38 excluding GST.**

**Carried 1/0**

## **PURPOSE**

To consider the Tenders received for T10-16/17 and make recommendations for the award of Tender.

## 16.5. Declaration Of Vexatious Customer

<b>DATE:</b>	26 April 2017
<b>AUTHOR:</b>	Senior Governance & Risk Officer
<b>RESPONSIBLE OFFICER:</b>	Chief Executive Officer
<b>FILE NO:</b>	GN.09.1
<b>DISCLOSURE OF INTERESTS:</b>	N/A

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

### 5.23. Meetings generally open to public

- (1) *Subject to subsection (2), the following are to be open to members of the public*
- (a) *all council meetings; and*
  - (b) *all meetings of any committee to which a local government power or duty has been delegated.*
- (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: 26/04/2017 – 11673**

**Commissioner resolved:**

**That Council refer the matter to the administration for clarification.**

**Carried 1/0**

## **PURPOSE**

The purpose of this item is to inform Council that the CEO intends to declare a customer to be vexatious as per Council Policy CP-CS-3281.



**COUNCIL DECISION**

**Minute No: 26/04/2017 – 11674**

**Commissioner resolved:**

**That Council move to come out of camera at 5.51pm.**

**Carried 1/0**

The gallery and remaining staff returned to the Council Chambers at 5.51pm.

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 6.01pm.